

JAN 25 2017

A BILL FOR AN ACT

RELATING TO CONDOMINIUMS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that a condominium's
2 board of directors acts on behalf of the association of
3 apartment owners of a condominium, except as otherwise provided
4 in the declaration, bylaws, or by statute. An association's
5 board has broad powers that impact condominium owners,
6 including: adopting and amending budgets for revenues,
7 expenditures, and reserves; hiring and discharging managing
8 agents and other independent contractors; instituting,
9 defending, or intervening in a civil or administrative action;
10 regulating the use, maintenance, repair, replacement, or
11 modification of common elements; imposing and receiving
12 payments, fees, or charges; imposing penalties as specified by
13 statute; and levying fines for violations of the association's
14 declaration, bylaws, or rules.

15 The legislature further finds that managing agents and
16 resident managers, also known as community association managers,
17 are the front line advisors to a condominium's board of



1 directors. Among other requirements, existing law imposes a
2 fiduciary duty upon managing agents and requires managing agents
3 to be licensed real estate brokers. However, resident managers
4 are not regulated under existing law.

5 The legislature notes that because managing agents and
6 resident managers are the principal advisors to condominium
7 associations on essential association matters such as elections,
8 budget and financial matters, contracts, personnel issues, and
9 maintenance and replacement of equipment, it is critical that
10 boards have qualified people to serve in these roles.
11 Establishing licensure requirements for resident managers will
12 meet this need.

13 Accordingly, the purpose of this Act is to require resident
14 managers who will engage in community association management to
15 be licensed by the department of commerce and consumer affairs
16 prior to engaging in community association management on behalf
17 of a condominium association.

18 SECTION 2. Chapter 514B, Hawaii Revised Statutes, is
19 amended by adding a new section to be appropriately designated
20 and to read as follows:



S.B. NO. 1197

1 "§514B- Resident managers; licensure required. (a) No
2 person or entity shall practice, offer to engage, advertise, or
3 announce oneself as qualified to engage in community association
4 management without being licensed by the department of commerce
5 and consumer affairs as a resident manager.

6 (b) The department shall develop a licensing program for
7 resident managers, including requirements for professional
8 practice standards, liability, continuing education, fees,
9 disciplinary actions, and penalties.

10 (c) The department shall adopt rules pursuant to chapter
11 91 to carry out the purposes of this section."

12 SECTION 3. Section 514B-3, Hawaii Revised Statutes, is
13 amended as follows:

14 1. By adding a new definition to be appropriately inserted
15 and to read:

16 "Community association management" means any of the
17 following practices that require substantial specialized
18 knowledge, judgment, or managerial skill when performed by a
19 resident manager on behalf of an association:

20 (1) Controlling or disbursing funds of an association;



- 1 (2) Preparing budgets or other financial documents for an
 - 2 association;
 - 3 (3) Assisting in the noticing or conduct of association
 - 4 meetings;
 - 5 (4) Determining or collecting amounts due to the
 - 6 association;
 - 7 (5) Calculating the votes required for a quorum;
 - 8 (6) Completing forms related to the management of an
 - 9 association;
 - 10 (7) Drafting meeting notices and agendas;
 - 11 (8) Negotiating contracts subject to approval by an
 - 12 association;
 - 13 (9) Coordinating or performing maintenance and other
 - 14 related routine services involved in the operation of
 - 15 an association;
 - 16 (10) Complying with the association's governing documents;
 - 17 and
 - 18 (11) Other related duties.
- 19 "Community association management" shall not include the
- 20 activities of a person who performs clerical or ministerial
- 21 functions under the direct supervision and control of a licensed



1 resident manager or who is charged only with performing the
2 maintenance of an association."

3 2. By amending the definition of "resident manager" to
4 read:

5 ""Resident manager" means any person retained as an
6 employee by the association to [~~manage, on site, the operation~~
7 ~~of the property.~~] conduct on-site community association
8 management for the property."

9 SECTION 4. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 5. This Act shall take effect upon its approval.
12

INTRODUCED BY:

Anna Mercedes K.
Madison J.
Rosely H. Bal

[Signature]
AC Smith

Will Eyo

Michelle

Maureen L. Monroe

Bryan Hunt
[Signature]



S.B. NO. 1197

Report Title:

Condominiums; Resident Managers; Licensure

Description:

Requires resident managers to be licensed by the department of commerce and consumer affairs prior to engaging in community association management for a condominium association. Requires the department to establish the licensure requirements for resident managers.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

