

JAN 21 2022

A BILL FOR AN ACT

RELATING TO CONDOMINIUMS.

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

1 SECTION 1. Section 514B-105, Hawaii Revised Statutes, is
2 amended by amending subsection (d) to read as follows:

3 "(d) No unit owner who requests legal or other information
4 from the association, the board, the managing agent, or their
5 employees or agents, shall be charged for the [reasonable] cost
6 of providing the information [~~unless the association notifies~~
7 ~~the unit owner that it intends to charge the unit owner for the~~
8 ~~reasonable cost. The association shall notify the unit owner in~~
9 ~~writing at least ten days prior to incurring the reasonable cost~~
10 ~~of providing the information, except that no prior notice shall~~
11 ~~be required to assess the reasonable cost of providing~~
12 ~~information on delinquent assessments or in connection with~~
13 ~~proceedings to enforce the law or the association's governing~~
14 ~~documents.~~

15 After being notified of the reasonable cost of providing
16 the information, the unit owner may withdraw the request, in
17 writing. A unit owner who withdraws a request for information



S.B. NO. 2260

1 ~~shall not be charged for the reasonable cost of providing the~~
2 ~~information].~~ In the event of a dispute, direct communication
3 between unit owners and the board of directors or attorneys
4 hired by the association shall be reasonably limited to requests
5 and responses for information pertinent to the dispute."

6 SECTION 2. Section 514B-153, Hawaii Revised Statutes, is
7 amended by amending subsection (e) to read as follows:

8 "(e) The managing agent, resident manager, or board shall
9 keep an accurate and current list of members of the association
10 and their current addresses, and the names and addresses of the
11 vendees under an agreement of sale, if any. The list shall be
12 maintained at a place designated by the board, and a copy shall
13 be available [~~, at cost,~~] to any member of the association as
14 provided in the declaration or bylaws or rules and regulations
15 or, in any case, to any member who furnishes to the managing
16 agent or resident manager or the board a duly executed and
17 acknowledged affidavit stating that the list:

18 (1) Will be used by the owner personally and only for the
19 purpose of soliciting votes or proxies or providing
20 information to other owners with respect to
21 association matters; and



S.B. NO. 2260

1 (2) Shall not be used by the owner or furnished to anyone
2 else for any other purpose.

3 A board may prohibit commercial solicitations.

4 Where the condominium project or any units within the
5 project are subject to a time share plan under chapter 514E, the
6 association shall only be required to maintain in its records
7 the name and address of the time share association as the
8 representative agent for the individual time share owners unless
9 the association receives a request by a time share owner to
10 maintain in its records the name and address of the time share
11 owner."

12 SECTION 3. Section 514B-154, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§514B-154 Association records; availability; disposal;**
15 **prohibitions.** (a) The association's most current financial
16 statement shall be provided to any interested unit owner at no
17 cost or on twenty-four-hour loan, at a convenient location
18 designated by the board. The meeting minutes of the board of
19 directors, once approved, for the current and prior year shall
20 either:



S.B. NO. 2260

1 (1) Be available for examination by apartment owners at no
2 cost or on twenty-four-hour loan at a convenient
3 location at the project, to be determined by the board
4 of directors; or

5 (2) Be transmitted to any apartment owner making a request
6 for the minutes, by the board of directors, the
7 managing agent, or the association's representative,
8 within fifteen days of receipt of the request;
9 provided that the minutes shall be transmitted by
10 mail, electronic mail transmission, or facsimile, by
11 the means indicated by the owner, if the owner
12 indicated a preference at the time of the request [~~+~~
13 and provided further that the owner shall pay a
14 reasonable fee for administrative costs associated
15 with handling the request.

16 ~~Costs incurred by apartment owners pursuant to this subsection~~
17 ~~shall be subject to section 514B-105(d)].~~

18 (b) Financial statements, general ledgers, the accounts
19 receivable ledger, accounts payable ledgers, check ledgers,
20 insurance policies, contracts, and invoices of the association
21 for the duration those records are kept by the association and



1 delinquencies of ninety days or more shall be available for
2 examination by unit owners at convenient hours at a place
3 designated by the board; provided that [+

4 (1) The] the board may require owners to furnish to the
5 association a duly executed and acknowledged affidavit
6 stating that the information is requested in good
7 faith for the protection of the interests of the
8 association, its members, or both [~~+~~and

9 ~~(2) Owners shall pay for administrative costs in excess of~~
10 ~~eight hours per year].~~

11 Copies of these items shall be provided to any owner upon
12 the owner's request [~~+~~provided that the owner pays a reasonable
13 fee for duplication, postage, stationery, and other
14 administrative costs associated with handling the request].

15 (c) After any association meeting, and not earlier, unit
16 owners shall be permitted to examine proxies, tally sheets,
17 ballots, owners' check-in lists, and the certificate of
18 election; provided that:

19 (1) Owners shall make a request to examine the documents
20 within thirty days after the association meeting; and



1 (2) The board may require owners to furnish to the
2 association a duly executed and acknowledged affidavit
3 stating that the information is requested in good
4 faith for the protection of the interest of the
5 association or its members or both[~~and~~
6 ~~(3) Owners shall pay for administrative costs in excess of~~
7 ~~eight hours per year~~].

8 The documents may be destroyed ninety days after the
9 association meeting; provided that in the event of a contested
10 election, the documents shall be retained until the contested
11 election is resolved. Copies of tally sheets, owners' check-in
12 lists, and the certificates of election from the most recent
13 association meeting shall be provided to any owner upon the
14 owner's request [~~provided that the owner pays a reasonable fee~~
15 ~~for duplicating, postage, stationery, and other administrative~~
16 ~~costs associated with handling the request~~].

17 (d) The managing agent shall provide copies of association
18 records maintained pursuant to this section and sections
19 514B-152 and 514B-153 to owners, prospective purchasers and
20 their prospective agents during normal business hours [~~upon~~
21 ~~payment to the managing agent of a reasonable charge to defray~~



1 ~~any administrative or duplicating costs~~]. If the project is not
2 managed by a managing agent, the foregoing requirements shall be
3 undertaken by a person or entity, if any, employed by the
4 association, to whom this function is delegated.

5 (e) Prior to the organization of the association, any unit
6 owner shall be entitled to inspect as well as receive a copy of
7 the management contract from the entity that manages the
8 operation of the property.

9 (f) Owners may file a written request with the board to
10 examine other documents. The board shall give written
11 authorization or written refusal with an explanation of the
12 refusal within thirty calendar days of receipt of the request.

13 (g) An association may comply with this part by making
14 information available to unit owners, at the option of each unit
15 owner and at no cost to the unit owner for downloading the
16 information, through an internet site.

17 (h) A managing agent retained by one or more associations
18 may dispose of the records of any association [~~which~~] that are
19 more than five years old, except for tax records, which shall be
20 kept for seven years, without liability if the managing agent
21 first provides the board of the association affected with



1 written notice of the managing agent's intent to dispose of the
2 records if not retrieved by the board within sixty days [~~7~~
3 ~~which~~]; provided that the notice shall include an itemized list
4 of the records proposed to be disposed.

5 (i) No person shall knowingly make any false certificate,
6 entry, or memorandum upon any of the books or records of any
7 managing agent or association. No person shall knowingly alter,
8 destroy, mutilate, or conceal any books or records of a managing
9 agent or association.

10 [~~(j) Any fee charged to a member to obtain copies of~~
11 ~~association records under this section shall be reasonable,~~
12 ~~provided that a reasonable fee shall include administrative and~~
13 ~~duplicating costs and shall not exceed \$1 per page, or portion~~
14 ~~thereof, except the fee for pages exceeding eight and one half~~
15 ~~inches by fourteen inches may exceed \$1 per page.] "~~

16 SECTION 4. Section 514B-154.5, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "§514B-154.5 Association documents to be provided. (a)
19 Notwithstanding any other provision in the declaration, bylaws,
20 or house rules, if any, the following documents, records, and
21 information, whether maintained, kept, or required to be



1 provided pursuant to this section or section 514B-152, 514B-153,
2 or 514B-154, shall be made available to any unit owner and the
3 owner's authorized agents by the managing agent, resident
4 manager, board through a board member, or the association's
5 representative:

- 6 (1) All financial and other records sufficiently detailed
7 in order to comply with requests for information and
8 disclosures related to the resale of units;
- 9 (2) An accurate copy of the declaration, bylaws, house
10 rules, if any, master lease, if any, a sample original
11 conveyance document, and all public reports and any
12 amendments thereto;
- 13 (3) Detailed, accurate records in chronological order of
14 the receipts and expenditures affecting the common
15 elements, specifying and itemizing the maintenance and
16 repair expenses of the common elements and any other
17 expenses incurred and monthly statements indicating
18 the total current delinquent dollar amount of any
19 unpaid assessments for common expenses;
- 20 (4) All records and the vouchers authorizing the payments
21 and statements kept and maintained at the address of



1 the project, or elsewhere within the State as
2 determined by the board, subject to section 514B-152;

3 (5) All signed and executed agreements for managing the
4 operation of the property, expressing the agreement of
5 all parties, including but not limited to financial
6 and accounting obligations, services provided, and any
7 compensation arrangements, including any subsequent
8 amendments;

9 (6) An accurate and current list of members of the
10 condominium association and the members' current
11 addresses and the names and addresses of the vendees
12 under an agreement of sale, if any. A copy of the
13 list shall be available, at cost, to any unit owner or
14 owner's authorized agent who furnishes to the managing
15 agent, resident manager, or the board a duly executed
16 and acknowledged affidavit stating that the list:

17 (A) Shall be used by the unit owner or owner's
18 authorized agent personally and only for the
19 purpose of soliciting votes or proxies or for
20 providing information to other unit owners with
21 respect to association matters; and



- 1 (B) Shall not be used by the unit owner or owner's
2 authorized agent or furnished to anyone else for
3 any other purpose;
- 4 (7) The association's most current financial statement, at
5 no cost or on twenty-four-hour loan, at a convenient
6 location designated by the board;
- 7 (8) Meeting minutes of the association, pursuant to
8 section 514B-122;
- 9 (9) Meeting minutes of the board, pursuant to section
10 514B-126, which shall be:
- 11 (A) Available for examination by unit owners or
12 owners' authorized agents at no cost or on
13 twenty-four-hour loan at a convenient location at
14 the project, to be determined by the board; or
- 15 (B) Transmitted to any unit owner or owner's
16 authorized agent making a request for the minutes
17 within fifteen days of receipt of the request by
18 the owner or owner's authorized agent; provided
19 that [+
20 ~~(i)~~ The] the minutes shall be transmitted by
21 mail, electronic mail transmission, or



1 facsimile, by the means indicated by the
2 owner or owner's authorized agent, if the
3 owner or owner's authorized agent indicated
4 a preference at the time of the request;

5 [and

6 ~~(ii) The owner or owner's authorized agent shall~~
7 ~~pay a reasonable fee for administrative~~
8 ~~costs associated with handling the request,~~
9 ~~subject to section 514B 105(d);]~~

10 (10) Financial statements, general ledgers, the accounts
11 receivable ledger, accounts payable ledgers, check
12 ledgers, insurance policies, contracts, and invoices
13 of the association for the duration those records are
14 kept by the association, and any documents regarding
15 delinquencies of ninety days or more shall be
16 available for examination by unit owners or owners'
17 authorized agents at convenient hours at a place
18 designated by the board; provided that [+

19 ~~(A) The] the board may require unit owners or owners'~~
20 authorized agents to furnish to the association a
21 duly executed and acknowledged affidavit stating



1 that the information is requested in good faith
2 for the protection of the interests of the
3 association, its members, or both; [~~and~~
4 ~~(B) Unit owners or owners' authorized agents shall~~
5 ~~pay for administrative costs in excess of eight~~
6 ~~hours per year;]~~

7 (11) Proxies, tally sheets, ballots, unit owners' check-in
8 lists, and the certificate of election subject to
9 section 514B-154(c);

10 (12) Copies of an association's documents, records, and
11 information, whether maintained, kept, or required to
12 be provided pursuant to this section or section
13 514B-152, 514B-153, or 514B-154;

14 (13) A copy of the management contract from the entity that
15 manages the operation of the property before the
16 organization of an association;

17 (14) Other documents requested by a unit owner or owner's
18 authorized agent in writing; provided that the board
19 shall give written authorization or written refusal
20 with an explanation of the refusal within thirty



1 calendar days of receipt of a request for documents
2 pursuant to this paragraph; and

3 (15) A copy of any contract, written job description, and
4 compensation between the association and any person or
5 entity retained by the association to manage the
6 operation of the property on-site, including but not
7 limited to the general manager, operations manager,
8 resident manager, or site manager; provided that
9 personal information may be redacted from the contract
10 copy, including but not limited to the manager's date
11 of birth, age, signature, social security number,
12 residence address, telephone number, non-business
13 electronic mail address, driver's license number,
14 Hawaii identification card number, bank account
15 number, credit or debit card number, access code or
16 password that would permit access to the manager's
17 financial accounts, or any other information that may
18 be withheld under state or federal law.

19 (b) [~~Subject to section 514B-105(d), copies~~] Copies of the
20 items in subsection (a) shall be provided to any unit owner or
21 owner's authorized agent upon the owner's or owner's authorized



1 agent's request [~~; provided that the owner or owner's authorized~~
2 ~~agent pays a reasonable fee for duplication, postage,~~
3 ~~stationery, and other administrative costs associated with~~
4 ~~handling the request]~~.

5 (c) Notwithstanding any provision in the declaration,
6 bylaws, or house rules providing for another period of time, all
7 documents, records, and information listed under subsection (a),
8 whether maintained, kept, or required to be provided pursuant to
9 this section or section 514B-152, 514B-153, or 514B-154, shall
10 be provided no later than thirty days after receipt of a unit
11 owner's or owner's authorized agent's written request, unless a
12 lesser time is provided pursuant to this section or section
13 514B-152, 514B-153, or 514B-154, and except as provided in
14 subsection (a)(14).

15 (d) Any documents, records, and information, whether
16 maintained, kept, or required to be provided pursuant to this
17 section or section 514B-152, 514B-153, or 514B-154, may be made
18 available electronically to the unit owner or owner's authorized
19 agent if the owner or owner's authorized agent requests such in
20 writing.



1 (e) An association may comply with this section or section
2 514B-152, 514B-153, or 514B-154 by making the required
3 documents, records, and information available to unit owners or
4 owners' authorized agents for download through an internet site,
5 at the option of each unit owner or owner's authorized agent and
6 at no cost to the unit owner or owner's authorized agent.

7 ~~[(f) Any fee charged to a unit owner or owner's authorized~~
8 ~~agent to obtain copies of the association's documents, records,~~
9 ~~and information, whether maintained, kept, or required to be~~
10 ~~provided pursuant to this section or section 514B-152, 514B-153,~~
11 ~~or 514B-154, shall be reasonable; provided that a reasonable fee~~
12 ~~shall include administrative and duplicating costs and shall not~~
13 ~~exceed \$1 per page, or portion thereof, except that the fee for~~
14 ~~pages exceeding eight and one half inches by fourteen inches may~~
15 ~~exceed \$1 per page.]~~

16 ~~[(g)]~~ (f) This section shall apply to all condominiums
17 organized under this chapter or any predecessor thereto.

18 ~~[(h)]~~ (g) Nothing in this section shall be construed to
19 create any new requirements for the release of documents,
20 records, or information."



1 SECTION 5. Section 514B-157, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) All costs and expenses, including reasonable
4 attorneys' fees, incurred by or on behalf of the association
5 for:

6 (1) Collecting any delinquent assessments against any
7 owner's unit;

8 (2) Foreclosing any lien thereon; or

9 (3) Enforcing any provision of the declaration, bylaws,
10 house rules, and this chapter, or the rules of the
11 real estate commission;

12 against an owner, occupant, tenant, employee of an owner, or any
13 other person who may in any manner use the property, shall be
14 promptly paid on demand to the association by [~~sueh~~] the person
15 or persons; provided that if the claims upon which the
16 association takes any action are not substantiated, all costs
17 and expenses, including reasonable attorneys' fees, incurred by
18 [~~any sueh~~] the person or persons as a result of the action of
19 the association, shall be promptly paid on demand to [~~sueh~~] the
20 person or persons by the association[-]; provided further that
21 the association shall not be entitled to collect attorney's fees



S.B. NO. 2260

1 in excess of twenty-five per cent of the original amounts or
2 debts owed pursuant to paragraphs (1) through (3); provided
3 further that any balances of attorney's fees shall be paid for
4 with association funds or reserves, and no attorney representing
5 the association shall directly bill individual owners for
6 services rendered to the association, unless otherwise permitted
7 by court order."

8 SECTION 6. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 7. This Act shall take effect upon its approval.

11

INTRODUCED BY:

BTG b/r



S.B. NO. 2260

Report Title:

Condominiums; Associations; Costs; Attorney's Fees; Limitation

Description:

Clarifies that no unit owner or authorized agent who requests legal or other information from the association shall be charged for the cost of the association providing the information. Limits direct communication between unit owners and the board of directors or attorneys hired by the association to reasonable requests and responses for information pertinent to a dispute. Prohibits associations from collecting attorney's fees in excess of twenty-five per cent of any original amounts or debts owed to the association. Prohibits attorneys representing associations from direct billing individual unit owners for services rendered to the association, unless permitted by court order.

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

