

ACT 77

H.B. NO. 2460

A Bill for an Act Relating to Condominium Management.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 514A-82, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) In addition to the requirements of subsection (a), the bylaws shall provide for:

- (1) The method of removal from office of directors; that at any regular or special meeting of the apartment owners, any one or more members of the board of directors may be removed by the apartment owners and successors shall then and there be elected for the remainder of the term to fill the vacancies thus created. [Such] The removal and replacement shall be in accordance with all applicable requirements and procedures in the bylaws for the removal and replacement of directors, including, but not limited to, any provisions relating to cumulative voting. If [such] removal and replacement is to occur at a special association meeting, the call for [such] the meeting shall be by the president or by a petition to the secretary or managing agent signed by not less than twenty-five per cent of the apartment owners as shown in the association’s record of ownership; and provided further that if the secretary or managing agent shall fail to send out the notices for the special meeting within fourteen days of receipt of the petition, then the petitioners shall have the authority to set the time, date, and place for the special meeting and to send out the notices for the special meeting in accordance with the requirements of the bylaws. Except as otherwise provided herein, [such] the meeting for the removal and replacement from office of directors shall be scheduled, noticed, and conducted in accordance with the bylaws of the association.
- (2) The bylaws may be amended at any time by the vote or written consent of sixty-five per cent of all apartment owners; provided that each one of the particulars set forth in this section shall be embodied in the bylaws always; and provided further that any proposed bylaws with the rationale for the proposal may be submitted by the board of directors or by a volunteer apartment owners’ committee. If submitted by that committee, it shall be accompanied by a petition signed by not less than twenty-five per cent of the apartment owners

as shown in the association's record of ownership. The proposed bylaws, rationale, and ballots for voting on any proposed bylaw shall be mailed by the board of directors to the owners at the expense of the association for vote or written consent without change within thirty days of the receipt of the petition by the board of directors. The vote or written consent required to adopt the proposed bylaw shall not be less than sixty-five per cent of all apartment owners; provided that the vote or written consent must be obtained within one hundred twenty days after mailing. In the event that the bylaw is duly adopted, then the board shall cause the bylaw amendment to be recorded in the bureau of conveyances or filed in the land court, as the case may be. The volunteer apartment owners' committee shall be precluded from submitting a petition for a proposed bylaw [which] that is substantially similar to that which has been previously mailed to the owners within one year after the original petition was submitted to the board. This subsection shall not preclude any apartment owner or voluntary apartment owners' committee from proposing any bylaw amendment at any annual association meeting.

- (3) Notices of association meetings, whether annual or special, shall be sent to each member of the association of apartment owners at least fourteen days prior to the meeting, and shall contain at least: the date, time, and place of the meeting, the items on the agenda for the meeting, and a standard proxy form authorized by the association, if any.
- (4) No resident manager[,] or managing agent shall solicit, for use by the manager or managing agent, any proxies from any apartment owner of the association of owners [which] that employs the resident manager or managing agent, nor shall the resident manager or managing agent cast any proxy vote at any association meeting except for the purpose of establishing a quorum. No member of a board of directors who uses association funds to solicit proxies shall cast any of these proxy votes for the election or reelection of board members at any association meeting unless the proxy form specifically authorizes the board member to vote for the election or reelection of board directors and the board first posts notice of its intent to solicit proxies in prominent locations within the project at least thirty days prior to its solicitation of proxies; provided that if the board receives within seven days of the posted notice a request by any owner for use of association funds to solicit proxies accompanied by a statement, the board shall[:.] mail to all owners either:
 - (A) [Mail to all owners a] A proxy form containing [either] the names of all owners who have requested the use of association funds for soliciting proxies accompanied by their statements; or
 - (B) [Mail to all owners a] A proxy form containing no names, but accompanied by a list of names of all owners who have requested the use of association funds for soliciting proxies and their statements.

The statement shall not exceed one hundred words, indicating the owner's qualifications to serve on the board and reasons for wanting to receive proxies.

- (5) A director who has a conflict of interest on any issue before the board shall disclose the nature of the conflict of interest prior to a vote on that issue at the board meeting, and the minutes of the meeting shall record the fact that a disclosure was made.
- (6) The apartment owners shall have the irrevocable right, to be exercised by the board of directors, to have access to each apartment from time to time during reasonable hours as may be necessary for the operation of the property or for making emergency repairs therein necessary to prevent damage to the common elements or to another apartment or apartments.
- (7) An owner shall not act as an officer of an association and an employee of the managing agent employed by the association.
- (8) An association's employees shall not engage in selling or renting apartments in the condominium in which they are employed except association-owned units, unless such activity is approved by an affirmative vote of sixty-five per cent of the membership.
- (9) The board of directors shall meet at least once a year. Whenever practicable, notice of all board meetings shall be posted by the resident manager or a member of the board in prominent locations within the project seventy-two hours prior to the meeting or simultaneously with notice to the board of directors.
- (10) Directors shall not expend association funds for their travel, directors' fees, and per diem, unless owners are informed and a majority approve of these expenses.
- (11) Associations at their own expense shall provide all board members with a current copy of the association's declaration, bylaws, house rules, and, annually, a copy of this chapter with amendments.
- (12) The directors may expend association funds, which shall not be deemed to be compensation to the directors, to educate and train themselves in subject areas directly related to their duties and responsibilities as directors; provided that the approved annual operating budget include these expenses as separate line items. These expenses may include registration fees, books, videos, tapes, other educational materials, and economy travel expenses. Except for economy travel expenses within the State, all other travel expenses incurred under this subsection shall be subject to the requirements of subsection 514A-82(b)(10).

The provisions of this subsection shall be deemed incorporated into the bylaws of all condominium projects existing as of January 1, 1988, and all condominium projects created after that date."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 7, 1994.)