

ACT 215

S.B. NO. 3113

A Bill for an Act Relating to Real Property.

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

SECTION 1. Chapter 514A, Hawaii Revised Statutes, is amended by adding a new section to part V to be appropriately designated and to read as follows:

“§514A- Mixed use property; representation on the board of directors. (a) The bylaws of an association of apartment owners may be amended to provide that the composition of the board reflect the proportionate number of apartments for a particular use, as set forth in the declaration. For example, an association of apartment owners may provide that for a nine-member board where two thirds of the apartments are for residential use and one third is for commercial use, sixty-six and two-thirds per cent of the nine-member board, or six members, shall be owners of residential use apartments and thirty-three and one-third per cent, or three members, shall be owners of commercial use apartments.

(b) Any proposed bylaws amendment to modify the composition of the board in accordance with subsection (a) may be initiated by:

- (1) A majority vote of the board of directors; or
- (2) A submission of the proposed bylaw amendment to the board of directors from a volunteer apartment owner’s committee accompanied by a petition from twenty-five per cent of the apartment owners of record.

(c) Within thirty days of a decision by the board or receipt of a petition to initiate a bylaws amendment, the board of directors shall mail a ballot with the proposed bylaws amendment to all of the apartment owners of record. For purposes of this section only and notwithstanding section 514A-82(b)(2), the bylaws may be initially amended by a vote or written consent of the majority (at least fifty-one per cent) of the apartment owners; and thereafter by sixty-five per cent of all apartment owners; provided that each of the requirements set forth in this section shall be embodied in the bylaws.

(d) The bylaws, as amended pursuant to this section, shall be recorded in the bureau of conveyances or filed in land court, as the case may be.

(e) Election of the new board of directors in accordance with an amendment adopted pursuant to this section shall be held within sixty days from the date the amended bylaws are recorded pursuant to subsection (d).

(f) As permitted in the bylaws or declaration, the vote of a commercial apartment owner shall be cast and counted only for the commercial seats available on the board of directors and the vote of a residential apartment owner shall be cast and counted only for the residential seats available on the board of directors.

(g) No petition for a bylaw amendment pursuant to subsection (b)(2) to modify the composition of the board shall be distributed to the apartment owners within one year of the distribution of a prior petition to modify the composition of the board pursuant to that subsection.

(h) This section shall not preclude the removal and replacement of any one or more members of the board pursuant to section 514A-82(b)(1). Any removal and replacement shall not affect the proportionate composition of the board as prescribed in the bylaws as amended pursuant to this section.

(i) This section shall be deemed incorporated into the bylaws of all properties subject to this chapter existing as of July 1, 1998, and thereafter.”

SECTION 2. New statutory material is underscored.¹

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

(Approved July 17, 1998.)

Note

1. Edited pursuant to HRS §23G-16.5.