

ACT 14

S.B. NO. 1288

A Bill for an Act Relating to Condominium Voting.

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

SECTION 1. The legislature finds that many condominiums are governed by declarations and bylaws that require secret ballots at their association meetings. This can be unduly burdensome for condominiums that need to ballot with different common interests.

The purpose of this Act is to authorize the use of an electronic voting device at all condominium association meetings regardless of whether a secret ballot is used or required; provided that the board of directors establishes procedures to ensure a reasonable level of ballot secrecy and integrity.

SECTION 2. Section 514B-106, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(f) At any regular or special meeting of the association, any member of the board may be removed and successors shall be elected for the remainder of the term to fill the vacancies thus created. The removal and replacement shall be by a vote of a majority of the unit owners and, otherwise, in accordance with all applicable requirements and procedures in the bylaws for the removal and replacement of directors and, if removal and replacement is to occur at a special meeting, section ~~[514B-121(b)]~~ 514B-121(c).”

SECTION 3. Section 514B-110, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) Election of the new board in accordance with an amendment adopted pursuant to this section shall be held at the next regular meeting of the association or at a meeting called in accordance with section ~~[514B-121(b)]~~ 514B-121(c) for this purpose.”

SECTION 4. Section 514B-121, Hawaii Revised Statutes, is amended to read as follows:

“§514B-121 Association meetings. (a) A meeting of the association shall be held at least once each year.

(b) Notwithstanding any other provision of this chapter or the declaration or bylaws of a condominium to the contrary, at any association meeting the

board may direct the use of an electronic voting device regardless of whether a secret ballot is used or required. Such use shall be subject to the following:

- (1) The electronic voting device and all associated equipment shall be isolated from any connection to an external network, including the Internet;
- (2) The board shall establish reasonable procedures to provide for the secrecy and integrity of the unit owners' votes, including but not limited to procedures that ensure the availability of a printed audit trail containing:
 - (A) The reference number of the electronic voting device;
 - (B) Each common interest voted; and
 - (C) The vote that was tabulated;
- (3) A copy of the printed audit trail shall be available to owners after the meeting in the same manner provided by sections 514B-154 and 514B-154.5; and
- (4) A copy of the procedures established pursuant to paragraph (2) shall be available at no charge to any owner and a copy shall be available at any meeting at which the association uses an electronic voting device.

~~[(b)]~~ (c) Special meetings of the association may be called by the president, a majority of the board, or by a petition to the secretary or managing agent signed by not less than twenty-five per cent of the unit owners as shown in the association's record of ownership; provided that if the secretary or managing agent fails to send out the notices for the special meeting within fourteen days of receipt of the petition, the petitioners shall have the authority to set the time, date, and place for the special meeting and to send out the notices and proxies for the special meeting at the association's expense in accordance with the requirements of the bylaws and of this part; provided further that a special meeting based upon a petition to the secretary or managing agent shall be set no later than sixty days from receipt of the petition.

~~[(e)]~~ (d) Not less than fourteen days in advance of any meeting, the secretary or other officer specified in the bylaws shall cause notice to be:

- (1) Hand-delivered;
- (2) Sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit owner; or
- (3) At the option of the unit owner, expressed in writing, by electronic mail to the electronic mailing address designated in writing by the unit owner.

The notice of any meeting must state the date, time, and place of the meeting and the items on the agenda, including the general nature and rationale of any proposed amendment to the declaration or bylaws, and any proposal to remove a member of the board; provided that this subsection shall not preclude any unit owner from proposing an amendment to the declaration or bylaws or to remove a member of the board at any annual association meeting.

~~[(d)]~~ (e) All association meetings shall be conducted in accordance with the most recent edition of Robert's Rules of Order Newly Revised. If so provided in the declaration or bylaws, meetings may be conducted by any means that allow participation by all unit owners in any deliberation or discussion.

~~[(e)]~~ (f) All association meetings shall be held at the address of the condominium or elsewhere within the State as determined by the board; provided that in the event of a natural disaster, such as a hurricane, an association meeting may be held outside the State."

SECTION 5. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

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

SECTION 7. This Act shall take effect on July 1, 2019.

(Approved April 23, 2019.)