



GOV. MSG. NO. 718

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

May 15, 2008

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fourth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on May 15, 2008, the following bill was signed into law:

HB2460 SD1

A BILL FOR AN ACT RELATING TO
CONDOMINIUMS.
(ACT 76)

Sincerely,

JAMES R. AIONA, JR.
Acting Governor

A BILL FOR AN ACT

RELATING TO CONDOMINIUMS.

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

1 SECTION 1. Section 514A-97, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"514A-97 Association of apartment owners funds; handling**
4 **and disbursement.** (a) The funds in the general operating account
5 of the association of apartment owners shall not be commingled
6 with funds of other activities such as lease rent collections and
7 rental operations, nor shall a managing agent commingle any
8 association funds with the managing agent's own funds.

9 (b) For purposes of subsection (a), lease rent collections
10 and rental operations shall not include the rental or leasing of
11 common elements that is conducted on behalf of the association or
12 the collection of ground lease rents from individual apartment
13 owners of a project and the payment of [~~such~~] ground lease rents
14 to the ground lessor; provided that:

15 (1) The collection is allowed by the provisions of the
16 declaration, bylaws, master deed, master lease, or
17 individual apartment leases of the project;



- 1 (2) If a management contract exists, it requires the
2 managing agent to collect ground lease rents from the
3 individual apartment owners and pay the ground lease
4 rents to the ground lessor;
- 5 (3) The system of lease rent collection is approved by a
6 majority vote of all apartment owners at a meeting of
7 the association; and
- 8 (4) No managing agent or association shall pay ground
9 lease rent to the ground lessor in excess of actual
10 ground lease rent collected from individual apartment
11 owners.
- 12 (c) All funds collected by an association, or by a managing
13 agent for any association, shall be:
- 14 (1) Deposited in a financial institution, including a
15 federal or community credit union, located in the
16 State and whose deposits are insured by an agency of
17 the United States government;
- 18 (2) Held by a corporation authorized to do business under
19 article 8 of chapter 412;
- 20 (3) Held by the United States Treasury; [~~or~~]
- 21 (4) Purchased in the name of and held for the benefit of
22 the association through a securities broker that is



1 registered with the Securities and Exchange
2 Commission, has an office in the state, and the
3 accounts of which are held by member firms of the New
4 York Stock Exchange or National Association of
5 Securities Dealers and insured by the Securities
6 Insurance Protection Corporation[-]; or

7 (5) Placed through a federally insured financial
8 institution located in the State for investment in
9 certificates of deposit issued through the Certificate
10 of Deposit Account Registry Service in federally
11 insured financial institutions located in the United
12 States.

13 (d) All funds collected by an association, or by a managing
14 agent for any association, shall be invested only in:

- 15 (1) Demand deposits, investment certificates, and
16 certificates of deposit;
- 17 (2) Obligations of the United States government, the State
18 of Hawaii, or their respective agencies; provided that
19 those obligations shall have stated maturity dates no
20 more than ten years after the purchase date unless
21 approved otherwise by a majority vote of the apartment
22 owners at an annual or special meeting of the



1 association or by written consent of a majority of the
2 apartment owners; [~~or~~]

3 (3) Mutual funds comprised solely of investments in the
4 obligations of the United States government, the State
5 of Hawaii, or their respective agencies; provided that
6 those obligations shall have stated maturity dates no
7 more than ten years after the purchase date unless
8 approved otherwise by a majority vote of the apartment
9 owners at an annual or special meeting of the
10 association or by written consent of a majority of the
11 apartment owners; or

12 (4) Certificates of deposit issued through the Certificate
13 of Deposit Account Registry Service in an amount at
14 least equal in their market value, but not to exceed
15 their par value, to the amount of the deposit with the
16 depository;

17 provided that before any investment longer than one year is made
18 by an association, the board [~~must~~] shall approve the action;
19 and provided further that the board [~~must~~] shall clearly
20 disclose to owners all investments longer than one year at each
21 year's association annual meeting.



1 Records of the deposits and disbursements shall be disclosed
2 to the commission upon request. All funds collected by an
3 association shall only be disbursed by employees of the
4 association under the supervision of the association's board of
5 directors. All funds collected by a managing agent from an
6 association shall be held in a client trust fund account and shall
7 be disbursed only by the managing agent or the managing agent's
8 employees under the supervision of the association's board of
9 directors. The commission may draft rules governing the handling
10 and disbursement of condominium association funds.

11 ~~(d)~~ (e) A managing agent or board of directors shall not
12 transfer association funds by telephone between accounts,
13 including but not limited to the general operating account and
14 reserve fund account.

15 ~~(e)~~ (f) A managing agent shall keep and disburse funds
16 collected on behalf of the condominium owners in strict compliance
17 with any agreement made with the condominium owners, chapter 467,
18 the rules of the commission, and all other applicable laws.

19 ~~(f)~~ (g) Any person who embezzles or knowingly misapplies
20 association funds received by a managing agent or association of
21 apartment owners shall be guilty of a class C felony."



1 SECTION 2. Section 514B-149, Hawaii Revised Statutes, is
2 amended by amending subsection (c) to read as follows:

3 "(c) (1) All funds collected by an association, or by a
4 managing agent for any association, shall be:

5 (A) Deposited in a financial institution, including a
6 federal or community credit union, located in the
7 State, pursuant to a resolution adopted by the
8 board, and whose deposits are insured by an
9 agency of the United States government;

10 (B) Held by a corporation authorized to do business
11 under article 8 of chapter 412;

12 (C) Held by the United States Treasury; [~~or~~]

13 (D) Purchased in the name of and held for the benefit
14 of the association through a securities broker
15 that is registered with the Securities and
16 Exchange Commission, that has an office in the
17 State, and the accounts of which are held by
18 member firms of the New York Stock Exchange or
19 National Association of Securities Dealers and
20 insured by the Securities Insurance Protection
21 Corporation[-]; or



1 (E) Placed through a federally insured financial
2 institution located in the State for investment
3 in certificates of deposit issued through the
4 Certificate of Deposit Account Registry Service
5 in federally insured financial institutions
6 located in the United States.

7 (2) All funds collected by an association, or by a
8 managing agent for any association, shall be invested
9 only in:

10 (A) Deposits, investment certificates, savings
11 accounts, and certificates of deposit;

12 (B) Obligations of the United States government, the
13 State of Hawaii, or their respective agencies;
14 provided that those obligations shall have stated
15 maturity dates no more than ten years after the
16 purchase date unless approved otherwise by a
17 majority vote of the unit owners at an annual or
18 special meeting of the association or by written
19 consent of a majority of the unit owners; ~~[e]~~

20 (C) Mutual funds comprised solely of investments in
21 the obligations of the United States government,
22 the State of Hawaii, or their respective



1 agencies; provided that those obligations shall
2 have stated maturity dates no more than ten years
3 after the purchase date unless approved otherwise
4 by a majority vote of the unit owners at an
5 annual or special meeting of the association or
6 by written consent of a majority of the unit
7 owners; or

8 (D) Certificates of deposit issued through the
9 Certificate of Deposit Account Registry Service
10 in an amount at least equal in their market
11 value, but not to exceed their par value, to the
12 amount of the deposit with the depository;

13 provided that before any investment longer than one year is made
14 by an association, the board must approve the action; and
15 provided further that the board must clearly disclose to owners
16 all investments longer than one year at each year's association
17 annual meeting.

18 Records of the deposits and disbursements shall be
19 disclosed to the commission upon request. All funds collected
20 by an association shall only be disbursed by employees of the
21 association under the supervision of the association's board.

22 All funds collected by a managing agent from an association



1 shall be held in a client trust fund account and shall be
2 disbursed only by the managing agent or the managing agent's
3 employees under the supervision of the association's board."

4 SECTION 3. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 4. This Act shall take effect upon its approval.

APPROVED this 15 day of MAY, 2008



JAMES R. AIONA JR.

ACTING GOVERNOR

GOVERNOR OF THE STATE OF HAWAII

