

JAN 23 2014

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# A BILL FOR AN ACT

RELATING TO CONDOMINIUMS.

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

1           SECTION 1. Chapter 514B, Hawaii Revised Statutes, is  
2 amended by adding a new section to subpart B of part VI to be  
3 appropriately designated and to read as follows:

4           "§514B- Association meetings; failure to obtain a  
5 quorum. (a) If a quorum is not present at the first annual  
6 meeting of the association in any year, then the association  
7 shall continue the meeting at least once for no more than ninety  
8 days.

9           (b) If the association does not continue the first meeting  
10 pursuant to subsection (a), then the board of directors shall  
11 call a continuation of the annual meeting within ninety days.

12           (c) The quorum requirement at the continued meeting shall  
13 be reduced to one-half of the requirement as stated in the  
14 bylaws."

15           SECTION 2. Section 514B-104, Hawaii Revised Statutes, is  
16 amended by amending subsection (a) to read as follows:



1        "(a) Except as provided in section 514B-105, and subject  
2 to the provisions of the declaration and bylaws, the  
3 association, even if unincorporated, may:

4            (1) Adopt and amend the declaration, bylaws, and rules and  
5 regulations;

6            (2) Adopt and amend budgets for revenues, expenditures,  
7 and reserves and collect assessments for common  
8 expenses from unit owners, subject to section  
9 514B-148;

10           (3) Hire and discharge [~~managing agents and other~~]  
11 independent contractors, agents, and employees;

12           (4) Institute, defend, or intervene in litigation or  
13 administrative proceedings in its own name on behalf  
14 of itself or two or more unit owners on matters  
15 affecting the condominium. For the purposes of  
16 actions under chapter 480, associations shall be  
17 deemed to be "consumers";

18           (5) Make contracts and incur liabilities;

19           (6) Regulate the use, maintenance, repair, replacement,  
20 and modification of common elements;

21           (7) Cause additional improvements to be made as a part of  
22 the common elements;



- 1           (8) Acquire, hold, encumber, and convey in its own name  
2           any right, title, or interest to real or personal  
3           property; provided that:
- 4           (A) Designation of additional areas to be common  
5           elements or subject to common expenses after the  
6           initial filing of the declaration or bylaws shall  
7           require the approval of at least sixty-seven per  
8           cent of the unit owners;
- 9           (B) If the developer discloses to the initial buyer  
10           in writing that additional areas will be  
11           designated as common elements whether pursuant to  
12           an incremental or phased project or otherwise,  
13           the requirements of this paragraph shall not  
14           apply as to those additional areas; and
- 15           (C) The requirements of this paragraph shall not  
16           apply to the purchase of a unit for a resident  
17           manager, which may be purchased with the approval  
18           of the board;
- 19           (9) Subject to section 514B-38, grant easements, leases,  
20           licenses, and concessions through or over the common  
21           elements and permit encroachments on the common  
22           elements;



- 1           (10) Impose and receive any payments, fees, or charges for  
2           the use, rental, or operation of the common elements,  
3           other than limited common elements described in  
4           section 514B-35(2) and (4), and for services provided  
5           to unit owners;
- 6           (11) Impose charges and penalties, including late fees and  
7           interest, for late payment of assessments and levy  
8           reasonable fines for violations of the declaration,  
9           bylaws, rules, and regulations of the association,  
10          either in accordance with the bylaws or, if the bylaws  
11          are silent, pursuant to a resolution adopted by the  
12          board that establishes a fining procedure that states  
13          the basis for the fine and allows an appeal to the  
14          board of the fine with notice and an opportunity to be  
15          heard and providing that if the fine is paid, the unit  
16          owner shall have the right to initiate a dispute  
17          resolution process as provided by sections 514B-161,  
18          514B-162, or by filing a request for an administrative  
19          hearing under a pilot program administered by the  
20          department of commerce and consumer affairs;
- 21          (12) Impose reasonable charges for the preparation and  
22          recordation of amendments to the declaration,



- 1 documents requested for resale of units, or statements  
2 of unpaid assessments;
- 3 (13) Provide for cumulative voting through a provision in  
4 the bylaws;
- 5 (14) Provide for the indemnification of its officers,  
6 board, committee members, and agents, and maintain  
7 directors' and officers' liability insurance;
- 8 (15) Assign its right to future income, including the right  
9 to receive common expense assessments, but only to the  
10 extent section 514B-105(e) expressly so provides;
- 11 (16) Exercise any other powers conferred by the declaration  
12 or bylaws;
- 13 (17) Exercise all other powers that may be exercised in  
14 this State by legal entities of the same type as the  
15 association, except to the extent inconsistent with  
16 this chapter;
- 17 (18) Exercise any other powers necessary and proper for the  
18 governance and operation of the association; [and]
- 19 (19) By regulation, subject to sections 514B-146, 514B-161,  
20 and 514B-162, require that disputes between the board  
21 and unit owners or between two or more unit owners  
22 regarding the condominium be submitted to nonbinding



1 alternative dispute resolution in the manner described  
 2 in the regulation as a prerequisite to commencement of  
 3 a judicial proceeding[-]; and  
 4 (20) Notwithstanding any provision of law to the contrary,  
 5 beginning July 1, 2014, review the hiring or continued  
 6 employment of a managing agent at an association  
 7 meeting. A managing agent may be discharged subject  
 8 to review under this paragraph if voted on by a  
 9 majority of unit owners present at an association  
 10 meeting. Managing agents discharged under this review  
 11 shall be employed on a month-to-month basis until a  
 12 replacement managing agent is employed."

13 SECTION 3. Statutory material to be repealed is bracketed  
 14 and stricken. New statutory material is underscored.

15 SECTION 4. This Act shall take effect on July 1, 2014.

16 INTRODUCED BY: Michelle Tidani



# S.B. NO. 3127

**Report Title:**

Condominium Associations; Managing Agent; Condominium Boards

**Description:**

Establishes provisions for condominium association annual meetings and quorum requirements. Provides that condominium associations may call for the review and discharge of a managing agent hired by the association upon a majority vote by the association members present. Effective July 1, 2014.

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

