
A BILL FOR AN ACT

RELATING TO CONDOMINIUMS.

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

1 PART I

2 SECTION 1. Section 514B-154.5, Hawaii Revised Statutes, is
3 amended by amending subsection (a) to read as follows:

4 "(a) Notwithstanding any other provision in the
5 declaration, bylaws, or house rules, if any, the following
6 documents, records, and information, whether maintained, kept,
7 or required to be provided pursuant to this section or section
8 514B-152, 514B-153, or 514B-154, shall be made available to any
9 unit owner and the owner's authorized agents by the managing
10 agent, resident manager, board through a board member, or the
11 association's representative:

12 (1) All financial and other records sufficiently detailed
13 in order to comply with requests for information and
14 disclosures related to the resale of units;

15 (2) An accurate copy of the declaration, bylaws, house
16 rules, if any, master lease, if any, a sample original
17 conveyance document, and all public reports and any
18 amendments thereto;



- 1 (3) Detailed, accurate records in chronological order of
2 the receipts and expenditures affecting the common
3 elements, specifying and itemizing the maintenance and
4 repair expenses of the common elements and any other
5 expenses incurred and monthly statements indicating
6 the total current delinquent dollar amount of any
7 unpaid assessments for common expenses;
- 8 (4) All records and the vouchers authorizing the payments
9 and statements kept and maintained at the address of
10 the project, or elsewhere within the State as
11 determined by the board, subject to section 514B-152;
- 12 (5) All signed and executed agreements for managing the
13 operation of the property, expressing the agreement of
14 all parties, including but not limited to financial
15 and accounting obligations, services provided, and any
16 compensation arrangements, including any subsequent
17 amendments;
- 18 (6) An accurate and current list of members of the
19 condominium association and the members' current
20 addresses and the names and addresses of the vendees
21 under an agreement of sale, if any. A copy of the



1 list shall be available, at cost, to any unit owner or
2 owner's authorized agent who furnishes to the managing
3 agent, resident manager, or the board a duly executed
4 and acknowledged affidavit stating that the list:

5 (A) Shall be used by the unit owner or owner's
6 authorized agent personally and only for the
7 purpose of soliciting votes or proxies or for
8 providing information to other unit owners with
9 respect to association matters; and

10 (B) Shall not be used by the unit owner or owner's
11 authorized agent or furnished to anyone else for
12 any other purpose;

13 (7) The association's most current financial statement, at
14 no cost or on twenty-four-hour loan, at a convenient
15 location designated by the board;

16 (8) Meeting minutes of the association, pursuant to
17 section 514B-122;

18 (9) Meeting minutes of the board, pursuant to section
19 514B-126, which shall be:

20 (A) Available for examination by unit owners or
21 owners' authorized agents at no cost or on



1 twenty-four-hour loan at a convenient location at
2 the project, to be determined by the board; or

3 (B) Transmitted to any unit owner or owner's
4 authorized agent making a request for the minutes
5 within fifteen days of receipt of the request by
6 the owner or owner's authorized agent; provided
7 that:

8 (i) The minutes shall be transmitted by mail,
9 electronic mail transmission, or facsimile,
10 by the means indicated by the owner or
11 owner's authorized agent, if the owner or
12 owner's authorized agent indicated a
13 preference at the time of the request; and

14 (ii) The owner or owner's authorized agent shall
15 pay a reasonable fee for administrative
16 costs associated with handling the request,
17 subject to section 514B-105(d);

18 (10) Financial statements, general ledgers, the accounts
19 receivable ledger, accounts payable ledgers, check
20 ledgers, insurance policies, contracts, and invoices
21 of the association for the duration those records are



1 kept by the association, and any documents regarding
2 delinquencies of ninety days or more shall be
3 available for examination by unit owners or owners'
4 authorized agents at convenient hours at a place
5 designated by the board; provided that:

6 (A) The board may require unit owners or owners'
7 authorized agents to furnish to the association a
8 duly executed and acknowledged affidavit stating
9 that the information is requested in good faith
10 for the protection of the interests of the
11 association, its members, or both; and

12 (B) Unit owners or owners' authorized agents shall
13 pay for administrative costs in excess of eight
14 hours per year;

15 (11) Proxies, tally sheets, ballots, unit owners' check-in
16 lists, and the certificate of election subject to
17 section 514B-154(c);

18 (12) Copies of an association's documents, records, and
19 information, whether maintained, kept, or required to
20 be provided pursuant to this section or section
21 514B-152, 514B-153, or 514B-154;



- 1 (13) A copy of the management contract from the entity that
2 manages the operation of the property before the
3 organization of an association; [~~and~~]
- 4 (14) Other documents requested by a unit owner or owner's
5 authorized agent in writing; provided that the board
6 shall give written authorization or written refusal
7 with an explanation of the refusal within thirty
8 calendar days of receipt of a request for documents
9 pursuant to this paragraph[-]; and
- 10 (15) A copy of any contract, written job description, and
11 compensation between the association and any person or
12 entity retained by the association to manage the
13 operation of the property on-site, including but not
14 limited to the general manager, operations manager,
15 resident manager, or site manager; provided that
16 personal information may be redacted from the contract
17 copy, including but not limited to the manager's date
18 of birth, age, signature, social security number,
19 residence address, telephone number, non-business
20 electronic mail address, driver's license number,
21 Hawaii identification card number, bank account



1 number, credit or debit card number, access code or
2 password that would permit access to the manager's
3 financial accounts, or any other information that may
4 be withheld under state or federal law."

5 PART II

6 SECTION 2. The legislature finds that existing condominium
7 law permits different classes of directors in mixed-use projects
8 and provides for the removal of directors by a majority of unit
9 owners. However, clarification is needed in the law regarding
10 the removal of directors in a mixed-use project.

11 The legislature further finds that existing law specifies
12 that no votes allocated to a unit owned by a condominium
13 association may be cast for the election or reelection of
14 directors. This prohibition may be an issue for mixed-use
15 condominium projects where directors are elected by different
16 classes of owners. For example, in a mixed-use project that
17 contains residential and commercial units, the board of
18 directors may be comprised of directors elected by residential
19 unit owners and directors elected by commercial unit owners. A
20 condominium association that owns the single commercial unit in



1 a mixed-use project would, therefore, be unable to elect or
2 reelect the directors needed to represent that commercial unit.

3 Accordingly, the purpose of this part is to:

- 4 (1) Clarify that the removal or replacement of a director
5 elected by a class of unit owners shall be by a
6 majority of only the members of that class; and
7 (2) Specify that for an election in a mixed-use
8 condominium project where directors are elected by
9 different classes of owners, an association is
10 permitted to cast a vote or votes allocated to any
11 nonresidential unit owned by the association where
12 those eligible to vote in the election are limited to
13 owners of one or more nonresidential units, including
14 the nonresidential unit owned by the association.

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

17 "(h) This section shall not preclude the removal and
18 replacement of any one or more members of the board pursuant to
19 section 514B-106(f) [-]; provided that any director elected by a
20 class of unit owners may be removed or replaced only by a vote
21 of a majority of the common interest represented by that class.



1 Any removal and replacement shall not affect the proportionate
2 composition of the board as prescribed in the bylaws as amended
3 pursuant to this section."

4 SECTION 4. Section 514B-123, Hawaii Revised Statutes, is
5 amended by amending subsection (c) to read as follows:

6 "(c) No votes allocated to a unit owned by the association
7 may be cast for the election or reelection of directors[-];
8 provided that, notwithstanding section 514B-106(b) or any
9 provision in an association's declaration or bylaws to the
10 contrary, in a mixed-use project containing units for
11 residential and nonresidential use, where the board is comprised
12 of directors elected by owners of residential units and
13 directors elected by owners of nonresidential units, the
14 association, acting by and through its board, may cast the vote
15 or votes allocated to any nonresidential unit owned by the
16 association in any election of one or more directors where those
17 eligible to vote in the election are limited to owners of one or
18 more nonresidential units, which includes the nonresidential
19 unit owned by the association."



1 PART III

2 SECTION 5. Section 514B-107, Hawaii Revised Statutes, is
3 amended by amending subsection (b) to read as follows:

4 "(b) No tenant, resident manager, or employee of a
5 condominium shall serve on its board.

6 For the purposes of this subsection, "tenant" means any
7 person who occupies a dwelling unit for dwelling purposes who is
8 not also an owner of a dwelling unit in the same condominium."

9 PART IV

10 SECTION 6. This Act does not affect rights and duties that
11 matured, penalties that were incurred, and proceedings that were
12 begun before its effective date.

13 SECTION 7. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 8. This Act shall take effect on July 1, 2017.



Report Title:

Condominium Associations; Contracts; Resident Managers; General Managers; Operations Managers; Site Managers; Owners; Board of Directors; Mixed-use Projects; Elections; Board Members

Description:

Part I: requires copies of contracts, written job descriptions, and compensation between the association and any person retained to manage the operation of the property on-site to be made available to any unit owner, and allows certain personal information to be redacted from the contracts. Part II: clarifies that in cases where the removal or replacement of a director elected by a class of unit owners is authorized, such removal or replacement may be by a majority of only the members of that class; and specifies that, for an election in a mixed-use condominium project where directors are elected by different classes of owners, an association may cast the vote or votes allocated to any nonresidential unit owned by the association where those eligible to vote in the election are limited to owners of one or more nonresidential units, including the nonresidential unit owned by the association. Part III: clarifies that tenants are prohibited from serving as board members of a condominium association. (HB1498 CD1)

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

