
A BILL FOR AN ACT

RELATING TO CONDOMINIUMS.

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

1 SECTION 1. The legislature finds that condominium
2 ownership is enjoyed by a large number of people in Hawaii, all
3 of whom are members of their condominium unit owners'
4 associations. The legislature further finds that full
5 participation by condominium unit owners in the self-governing
6 condominium association process under existing law on matters
7 such as holding annual meetings to conduct required business,
8 having the authority to terminate managing agent contracts,
9 transparency in association budget and accounting matters, and
10 the efficient processing of requests for association records, is
11 challenging.

12 Therefore, the purpose of this Act is to enhance the
13 effectiveness and efficiency of self-governance in condominium
14 living by amending chapter 514B, Hawaii Revised Statutes, to:

- 15 (1) Require that a duly noticed annual meeting be held at
16 a location convenient and easily accessible to a
17 majority of condominium unit owners;



- 1 (2) Allow for two subsequent duly noticed adjourned annual
2 meetings if there is no quorum present at the initial
3 annual meeting and a reduced quorum requirement if
4 quorum is not met at the third duly noticed adjourned
5 annual meeting;
- 6 (3) Limit association business at an annual meeting
7 conducted with a reduced quorum to the adoption of a
8 tax resolution and the election of a board of
9 directors for positions that have expired and are
10 expiring;
- 11 (4) Restrict the time between the originally-noticed
12 adjourned annual meeting and the reduced-quorum
13 adjourned annual meeting to no longer than ninety
14 days;
- 15 (5) Authorize the board of a condominium association to
16 terminate a managing agent's contract upon a majority
17 vote of the association of unit owners;
- 18 (6) Require a condominium association with fifty or more
19 units to prepare its budget on an accrual basis in
20 accordance with generally accepted accounting
21 principles; and



1 (7) Require the use of standardized forms prescribed or
2 approved by the commission for the condominium unit
3 owner's request for records and the association's
4 response to the request for records.

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

8 **"§514B- Association meetings; failure to obtain a**
9 **quorum.** (a) Any association shall hold an annual meeting to
10 conduct business that shall include but not be limited to the
11 following:

12 (1) Electing, where applicable, to file Internal Revenue
13 Service Form 1120 or 1120-H as may be amended and
14 adopting a tax resolution in accordance with any
15 accompanying revenue ruling as may be amended; and
16 (2) Electing a unit owner to the board of directors to
17 fill any position that is expiring or that has
18 expired.

19 (b) If an association is unable to obtain a quorum at any
20 annual meeting, then the association shall adjourn the annual
21 meeting and shall set another time for the adjourned annual



1 meeting in an attempt to obtain quorum up to two more times
2 within ninety days of the adjourned annual meeting.

3 (c) At the third attempt to obtain quorum, if a quorum is
4 not achieved, that meeting shall then have a quorum requirement
5 of one-half of the requirement as stated in the bylaws.

6 Association business conducted at this meeting with a reduced
7 quorum shall be limited to:

- 8 (1) Electing, where applicable, to file Internal Revenue
9 Service Form 1120 or 1120-H as may be amended and
10 adopting a tax resolution in accordance with any
11 accompanying revenue ruling as may be amended; and
12 (2) Electing a unit owner to the board of directors to
13 fill any position that is expiring or that has
14 expired.

15 An adjourned annual meeting shall be duly noticed in
16 accordance with section 514B-121(c)."

17 SECTION 3. Section 514B-107, Hawaii Revised Statutes, is
18 amended to read as follows:

19 **"§514B-107 Board; limitations.** (a) Members of the board
20 shall be unit owners or co-owners, vendees under an agreement of
21 sale, a trustee of a trust which owns a unit, or an officer,



1 partner, member, or other person authorized to act on behalf of
2 any other legal entity which owns a unit. There shall not be
3 more than one representative on the board from any one unit.

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

6 (c) An owner shall not act as an officer of an association
7 and an employee of the managing agent retained by the
8 association. Any owner who is a board member of an association
9 and an employee of the managing agent retained by the
10 association shall not participate in any discussion regarding a
11 management contract at a board meeting and shall be excluded
12 from any executive session of the board where the management
13 contract or the property manager will be discussed.

14 (d) Directors shall not expend association funds for their
15 travel, directors' fees, and per diem, unless owners are
16 informed and a majority approve of these expenses; provided
17 that, with the approval of the board, directors may be
18 reimbursed for actual expenditures incurred on behalf of the
19 association. The board meeting minutes shall reflect in detail
20 the items and amounts of the reimbursements.



1 (e) Associations at their own expense shall provide all
2 board members with a current copy of the association's
3 declaration, bylaws, house rules, and, annually, a copy of this
4 chapter with amendments.

5 (f) The directors may expend association funds, which
6 shall not be deemed to be compensation to the directors, to
7 educate and train themselves in subject areas directly related
8 to their duties and responsibilities as directors; provided that
9 the approved annual operating budget shall include these
10 expenses as separate line items. These expenses may include
11 registration fees, books, videos, tapes, other educational
12 materials, and economy travel expenses. Except for economy
13 travel expenses within the State, all other travel expenses
14 incurred under this subsection shall be subject to the
15 requirements of subsection (d).

16 (g) Notwithstanding any provision in the declaration or
17 bylaws to the contrary, the board of an association managed by a
18 managing agent shall have the authority to employ, renew, and
19 terminate a managing agent's contract.

20 (h) Notwithstanding any provision in the declaration or
21 bylaws to the contrary, at an association meeting of unit owners



1 a managing agent's contract may be terminated by a vote of a
2 majority of the unit owners of an association. Pursuant to such
3 vote taken by a majority of the unit owners, the board shall
4 terminate a managing agent's contract in accordance with the
5 provisions of the contract. Where any provision of the managing
6 agent's contract relating to the termination of the contract is
7 unconscionable to the unit owners at the time it was entered
8 into, the board may terminate the managing agent's contract
9 without incurring any liability and penalty to the association
10 of unit owners. An example of a termination provision that is
11 unconscionable includes but is not limited to a termination
12 provision requiring the approval vote of eighty per cent of the
13 unit owners. For purposes of this section, "majority of the
14 unit owners" shall have the same meaning as in section 514B-3.

15 (i) Subsection (h) does not apply to an association with
16 units that are one hundred per cent:

17 (1) Intended for commercial use; and

18 (2) Designed and constructed for hotel or resort use that
19 are located on any parcel of real property designated
20 and governed by a county for hotel or resort use
21 pursuant to section 46-4."



1 SECTION 4. Section 514B-121, Hawaii Revised Statutes, is
2 amended by amending subsections (d) and (e) to read as follows:

3 "(d) ~~[All]~~ Except as provided by this chapter, all
4 association meetings shall be conducted in accordance with the
5 most recent edition of Robert's Rules of Order Newly Revised.
6 If so provided in the declaration or bylaws, meetings may be
7 conducted by any means that allow participation by all unit
8 owners in any deliberation or discussion.

9 (e) All association meetings shall be held at the address
10 of the condominium or elsewhere within the State as determined
11 by the board[+] and at a site convenient and readily accessible
12 to the majority of the unit owners; provided that in the event
13 of a natural disaster, such as a hurricane, an association
14 meeting may be held outside the State."

15 SECTION 5. Section 514B-148, Hawaii Revised Statutes, is
16 amended by amending subsection (a) to read as follows:

17 "(a) The budget required under section 514B-144(a) shall
18 include at least the following:

19 (1) The estimated revenues and operating expenses of the
20 association;



- 1 (2) Information as to whether the budget has been prepared
2 on a cash or accrual basis; provided that associations
3 with fifty or more units shall prepare a budget on an
4 accrual basis in accordance with generally accepted
5 accounting principles;
- 6 (3) The total replacement reserves of the association as
7 of the date of the budget;
- 8 (4) The estimated replacement reserves the association
9 will require to maintain the property based on a
10 reserve study performed by the association;
- 11 (5) A general explanation of how the estimated replacement
12 reserves are computed;
- 13 (6) The amount the association must collect for the fiscal
14 year to fund the estimated replacement reserves; and
- 15 (7) Information as to whether the amount the association
16 must collect for the fiscal year to fund the estimated
17 replacement reserves was calculated using a per cent
18 funded or cash flow plan. The method or plan shall
19 not circumvent the estimated replacement reserves
20 amount determined by the reserve study pursuant to
21 paragraph (4)."



1 SECTION 6. Section 514B-154.5, Hawaii Revised Statutes, is
2 amended by amending subsection (c) to read as follows:

3 "(c) Notwithstanding any provision in the declaration,
4 bylaws, or house rules providing for another period of time, all
5 documents, records, and information listed under subsection (a),
6 whether maintained, kept, or required to be provided pursuant to
7 this section or section 514B-152, 514B-153, or 514B-154, shall
8 be provided no later than thirty days after receipt of a unit
9 owner's or owner's authorized agent's written request, unless a
10 lesser time is provided pursuant to this section or section
11 514B-152, 514B-153, or 514B-154, and except as provided in
12 subsection (a)(14). A unit owner's or owner's authorized
13 agent's written request and any response to the written request
14 shall be made on forms prescribed, or approved, by the
15 commission."

16 SECTION 7. This Act does not affect rights and duties that
17 matured, penalties that were incurred, and proceedings that were
18 begun before its effective date.

19 SECTION 8. If any provision of this Act, or the
20 application thereof to any person or circumstance, is held
21 invalid, the invalidity does not affect other provisions or



1 applications of the Act that can be given effect without the
2 invalid provision or application, and to this end the provisions
3 of this Act are severable.

4 SECTION 9. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 10. This Act shall take effect on July 1, 2050.



Report Title:

Condominiums; Owners Associations; Meetings; Managing Agent;
Termination of Contract; Records; Accessibility

Description:

Requires an association of unit owners to adopt a tax resolution and to fill positions on its board of directors for expired or expiring board positions during the association's annual meeting. Allows for rescheduling and reduced quorum requirements if annual meetings cannot be held to adopt a tax resolution or elect a board of directors. Authorizes the termination of a managing agent's service contract by the association in certain circumstances. Establishes requirements for the location of association meetings, the accounting practices of associations, and the request of records by association members. Effective 07/01/2050. (SD1)

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

