
A BILL FOR AN ACT

RELATING TO CONDOMINIUM ASSOCIATIONS.

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

- 1 SECTION 1. Section 514B-32, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:
3 "(a) A declaration shall describe or include the
4 following:
5 (1) The land submitted to the condominium property regime;
6 (2) The number of the condominium map filed concurrently
7 with the declaration;
8 (3) The number of units in the condominium property
9 regime;
10 (4) The unit number of each unit and common interest
11 appurtenant to each unit;
12 (5) The number of buildings and projects in the
13 condominium property regime, and the number of stories
14 and units in each building;
15 (6) The permitted and prohibited uses of each unit;
16 (7) To the extent not shown on the condominium map, a
17 description of the location and dimensions of the



- 1 horizontal and vertical boundaries of any unit. Unit
2 boundaries may be defined by physical structures or,
3 if a unit boundary is not defined by a physical
4 structure, by spatial coordinates;
- 5 (8) The condominium property regime's common elements;
- 6 (9) The condominium property regime's limited common
7 elements, if any, and the unit or units to which each
8 limited common element is appurtenant;
- 9 (10) The total percentage of the common interest that is
10 required to approve rebuilding, repairing, or
11 restoring the condominium property regime if it is
12 damaged or destroyed;
- 13 (11) The total percentage of the common interest, and any
14 other approvals or consents, that are required to
15 amend the declaration. Except as otherwise
16 specifically provided in this chapter, and except for
17 any amendments made pursuant to reservations set forth
18 in paragraph (12), the ~~[approval of the owners of]~~
19 declaration may be amended at any time by the vote or
20 written consent of unit owners representing at least
21 sixty-seven per cent of the common interest ~~[shall be~~



- 1 ~~required for all amendments to the declaration,],~~
2 unless the declaration is amended by the unit owners
3 to require a higher percentage;
- 4 (12) Any rights that the developer or others reserve
5 regarding the condominium property regime, including,
6 without limitation, any development rights, and any
7 reservations to modify the declaration or condominium
8 map. An amendment to the declaration made pursuant to
9 the exercise of those reserved rights shall require
10 only the consent or approval, if any, specified in the
11 reservation; and
- 12 (13) A declaration, subject to the penalties set forth in
13 section 514B-69(b), that the condominium property
14 regime is in compliance with all zoning and building
15 ordinances and codes, and all other permitting
16 requirements pursuant to section 514B-5 and chapter
17 205, including section 205-4.6 where applicable. In
18 the case of a project in the agricultural district
19 classified pursuant to chapter 205, the declaration,
20 subject to the penalties set forth in section 514B-
21 69(b), shall include an additional statement that



1 there are no private restrictions limiting or
2 prohibiting agricultural uses or activities in
3 compliance with section 205-4.6. In the case of a
4 property that includes one or more existing structures
5 being converted to condominium property regime status,
6 the declaration required by this section shall
7 specify:

8 (A) Any variances that have been granted to achieve
9 the compliance; and

10 (B) Whether, as the result of the adoption or
11 amendment of any ordinances or codes, the project
12 presently contains any legal nonconforming
13 conditions, uses, or structures.

14 A property that is registered pursuant to section
15 514B-51 shall instead provide the required declaration
16 pursuant to section 514B-54. If a developer is
17 converting a structure to condominium property regime
18 status and the structure is not in compliance with all
19 zoning and building ordinances and codes, and all
20 other permitting requirements pursuant to section
21 514B-5, and the developer intends to use purchaser's



1 funds pursuant to the requirements of section 514B-92
 2 or 514B-93 to cure the violation or violations, then
 3 the declaration required by this paragraph may be
 4 qualified to identify with specificity each violation
 5 and the requirement to cure the violation by a date
 6 certain."

7 SECTION 2. Section 514B-83, Hawaii Revised Statutes, is
 8 amended by amending subsection (a) to read as follows:

9 "(a) A developer's public report shall contain:

10 (1) The name and address of the project, and the name,
 11 address, telephone number, and electronic mail
 12 address, if any, of the developer or the developer's
 13 agent;

14 (2) A statement of the deadline, pursuant to section
 15 514B-89, for completion of construction or, in the
 16 case of a conversion, for the completion of any
 17 repairs required to comply with section 514B-5, and
 18 the remedies available to the purchaser, including but
 19 not limited to cancellation of the sales contract, if
 20 the completion of construction or repairs does not
 21 occur on or before the completion deadline;



- 1 (3) A breakdown of the annual maintenance fees, which
2 includes the annual reserve contributions based on a
3 reserve study, and the monthly estimated cost for each
4 unit, certified to have been based on generally
5 accepted accounting principles, and a statement
6 regarding when a purchaser shall become obligated to
7 start paying the fees pursuant to section 514B-41(b);
- 8 (4) A description of all warranties for the individual
9 units and the common elements, including the date of
10 initiation and expiration of any such warranties, or a
11 statement that no warranties exist;
- 12 (5) A summary of the permitted uses of the units and, if
13 applicable, the number of units planned to be devoted
14 to a particular use;
- 15 (6) A description of any development rights reserved to
16 the developer or others;
- 17 (7) A declaration, subject to the penalties set forth in
18 section 514B-69(b), that the project is in compliance
19 with all county zoning and building ordinances and
20 codes, chapter 205, including section 205-4.6 where
21 applicable, and all other county permitting



1 requirements applicable to the project, pursuant to
2 sections 514B-5 and 514B-32(a)(13); and
3 (8) Any other facts, documents, or information that would
4 have a material impact on the use or value of a unit
5 or any appurtenant limited common elements or
6 amenities of the project available for an owner's use,
7 or that may be required by the commission."

8 SECTION 3. Section 514B-108, Hawaii Revised Statutes, is
9 amended by amending subsection (e) to read as follows:

10 "(e) The bylaws may be amended at any time by the vote or
11 written consent of at least sixty-seven per cent of all unit
12 owners. Any proposed bylaws together with the detailed
13 rationale for the proposal may be submitted by the board or by a
14 volunteer unit owners group. If submitted by that group, the
15 proposal shall be accompanied by a petition signed and dated by
16 not less than twenty-five per cent of the unit owners as shown
17 in the association's record of ownership. The petition shall be
18 valid only if submitted within one hundred twenty days of the
19 earliest signature. The proposed bylaws, rationale, and ballots
20 for voting on any proposed bylaw shall be mailed by the board to
21 the owners at the expense of the association for vote or written



1 consent without change within thirty days of the receipt of the
2 petition by the board. The vote or written consent, to be
3 valid, must be obtained within three hundred sixty-five days
4 after mailing for a proposed bylaw submitted by either the board
5 or a volunteer unit owners group. If the bylaw is duly adopted,
6 the board shall cause the bylaw amendment to be recorded. The
7 volunteer unit owners group shall be precluded from submitting a
8 petition for a proposed bylaw that is substantially similar to
9 that which has been previously mailed to the owners within three
10 hundred sixty-five days after the original petition was
11 submitted to the board.

12 This subsection shall not preclude any unit owner or
13 volunteer unit owners group from proposing any bylaw amendment
14 at any annual association meeting."

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

17 1. By amending subsection (c) to read:

18 "(c) Special meetings of the association may be called by
19 the president, a majority of the board, or by a petition to the
20 secretary or managing agent signed and dated by not less than
21 twenty-five per cent of the unit owners as shown in the



1 association's record of ownership; provided that if the
2 secretary or managing agent fails to send out the notices for
3 the special meeting within fourteen days of receipt of the
4 petition, the petitioners shall have the authority to set the
5 time, date, and place for the special meeting and to send out
6 the notices and proxies for the special meeting at the
7 association's expense in accordance with the requirements of the
8 bylaws and of this part; provided further that a special meeting
9 based upon a petition to the secretary or managing agent shall
10 be set no later than sixty days from receipt of the petition.
11 The petition shall be valid only if submitted within one hundred
12 twenty days of the earliest signature."

13 2. By amending subsection (e) to read:

14 "(e) All association meetings shall be conducted in
15 accordance with the most recent edition of Robert's Rules of
16 Order Newly Revised. Notwithstanding any provision to the
17 contrary in the association's declaration or bylaws or in
18 subsection (b), electronic meetings and electronic, machine, or
19 mail voting shall be authorized:

20 (1) During any period in which a state of emergency or
21 local state of emergency, declared pursuant to chapter



- 1 127A, is in effect in the county in which the
2 condominium is located;
- 3 (2) For any association meeting for which notice was given
4 while a state of emergency or local state of
5 emergency, declared pursuant to chapter 127A, was in
6 effect for the county in which the condominium is
7 located but is no longer in effect as of the date of
8 the meeting; provided that the meeting is held within
9 sixty days of the date the notice was first given;
10 [~~or~~]
- 11 (3) For any electronic, machine, or mail voting for which
12 notice of voting has been sent while a state of
13 emergency or local state of emergency, declared
14 pursuant to chapter 127A, was in effect for the county
15 in which the condominium is located but is no longer
16 in effect as of the deadline for the electronic,
17 machine, or mail voting; provided that the deadline is
18 within sixty days of the date the notice was first
19 sent; or
- 20 [~~+~~] (4) Whenever otherwise authorized in an association's
21 declaration or bylaws.



1 As used in this subsection, "mail voting" includes sending or
2 receiving written ballots via mail, courier, or electronic
3 transmission; provided that the transmission is a complete
4 reproduction of the original."

5 SECTION 5. Section 514B-122, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:

7 "(a) Minutes of meetings of the association shall be
8 approved at the next succeeding regular meeting or by the
9 board[~~, within sixty days after the meeting~~], if authorized by
10 the owners at an annual meeting. If approved by the board,
11 owners shall be given a copy of the approved minutes or notified
12 of the availability of the minutes within thirty days after
13 approval."

14 SECTION 6. Section 514B-123, Hawaii Revised Statutes, is
15 amended by amending subsection (d) to read as follows:

16 "(d) A proxy, to be valid, shall:
17 (1) Be delivered to the secretary of the association or
18 the managing agent, if any, no later than 4:30 p.m.
19 Hawaii-Aleutian Standard Time on the second business
20 day prior to the date of the meeting to which it
21 pertains; and



1 (2) Contain at least the name of the association, the date
 2 of the meeting of the association, the printed names
 3 and signatures of the persons giving the proxy, the
 4 unit numbers for which the proxy is given, the names
 5 of persons to whom the proxy is given, and the date
 6 that the proxy is given."

7 SECTION 7. Section 514B-125, Hawaii Revised Statutes, is
 8 amended by amending subsection (b) to read as follows:

9 "(b) [~~Following any election of board members by the~~
 10 ~~association, the]~~ The board may~~[, at the board's next regular~~
 11 ~~meeting or at a duly noticed special meeting,]~~ establish rules
 12 for owner participation in any deliberation or discussion at
 13 board meetings, other than executive sessions. A board that
 14 establishes such rules pursuant to this subsection:

- 15 (1) Shall notify all owners of these rules; and
- 16 (2) May amend these rules at any regular or duly noticed
 17 special meeting of the board; provided that all owners
 18 shall be notified of any adopted amendments.

19 In lieu of notice, the board may make the rules available to
 20 owners on an association website."



1 SECTION 8. Section 514B-148, Hawaii Revised Statutes, is
2 amended by amending subsection (h) to read as follows:

3 "(h) As used in this section:

4 "Capital expenditure" means an expense that results from
5 the purchase or replacement of an asset whose life is greater
6 than one year, or the addition of an asset that extends the life
7 of an existing asset for a period greater than one year.

8 "Cash flow plan" means a minimum [~~twenty-year~~] thirty-year
9 projection of an association's future income and expense
10 requirements to fund fully its replacement reserves requirements
11 each year during that [~~twenty-year~~] thirty-year period, except
12 in an emergency; provided that it does not include a projection
13 of special assessments or loans during that [~~twenty-year~~]
14 thirty-year period, except in an emergency.

15 "Emergency situation" means any extraordinary expenses:

- 16 (1) Required by an order of a court;
- 17 (2) Necessary to repair or maintain any part of the
18 property for which the association is responsible
19 where a threat to personal safety on the property is
20 discovered;



- 1 (3) Necessary to repair any part of the property for which
2 the association is responsible that could not have
3 been reasonably foreseen by the board in preparing and
4 distributing the annual operating budget;
- 5 (4) Necessary to respond to any legal or administrative
6 proceeding brought against the association that could
7 not have been reasonably foreseen by the board in
8 preparing and distributing the annual operating
9 budget; or
- 10 (5) Necessary for the association to obtain adequate
11 insurance for the property which the association must
12 insure.

13 "Major maintenance" means an expenditure for maintenance or
14 repair that will result in extending the life of an asset for a
15 period greater than one year.

16 "Replacement reserves" means funds for the upkeep, repair,
17 or replacement of those parts of the property, including but not
18 limited to roofs, walls, decks, paving, and equipment, that the
19 association is obligated to maintain."



1 SECTION 9. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 10. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 11. This Act shall take effect on January 1, 2050.

7



H.B. NO. 2272 H.D. 1

Report Title:

Condominium Associations; Unit Owners; Declaration; Notice;
Voting; Petitions; Meetings

Description:

Permits sixty-seven per cent of unit owners to amend a condominium declaration. Requires developers to include annual reserve contributions based on a reserve study. Clarifies time and date requirements for petitions to amend bylaws and call for special meetings; electronic, machine, and mail voting during periods of emergency; time frame for approval of minutes; and board meeting participation. Effective 1/1/2050. (HD1)

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

