
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



1 sixty-seven per cent of the common interest [~~shall be~~
2 ~~required for all amendments to the declaration~~];

3 (12) Any rights that the developer or others reserve
4 regarding the condominium property regime, including,
5 without limitation, any development rights, and any
6 reservations to modify the declaration or condominium
7 map. An amendment to the declaration made pursuant to
8 the exercise of those reserved rights shall require
9 only the consent or approval, if any, specified in the
10 reservation; and

11 (13) A declaration, subject to the penalties set forth in
12 section 514B-69(b), that the condominium property
13 regime is in compliance with all zoning and building
14 ordinances and codes, and all other permitting
15 requirements pursuant to section 514B-5 and chapter
16 205, including section 205-4.6 where applicable. In
17 the case of a project in the agricultural district
18 classified pursuant to chapter 205, the declaration,
19 subject to the penalties set forth in section 514B-
20 69(b), shall include an additional statement that
21 there are no private restrictions limiting or



1 prohibiting agricultural uses or activities in
2 compliance with section 205-4.6. In the case of a
3 property that includes one or more existing structures
4 being converted to condominium property regime status,
5 the declaration required by this section shall
6 specify:

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

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

13 A property that is registered pursuant to section
14 514B-51 shall instead provide the required declaration
15 pursuant to section 514B-54. If a developer is
16 converting a structure to condominium property regime
17 status and the structure is not in compliance with all
18 zoning and building ordinances and codes, and all
19 other permitting requirements pursuant to section
20 514B-5, and the developer intends to use purchaser's
21 funds pursuant to the requirements of section 514B-92



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

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

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

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

13 (2) A statement of the deadline, pursuant to section
14 514B-89, for completion of construction or, in the
15 case of a conversion, for the completion of any
16 repairs required to comply with section 514B-5, and
17 the remedies available to the purchaser, including but
18 not limited to cancellation of the sales contract, if
19 the completion of construction or repairs does not
20 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~~] shall be obtained within three hundred sixty-five
 4 days after mailing for a proposed bylaw submitted by either the
 5 board or a volunteer unit owners group. If the bylaw is duly
 6 adopted, the board shall cause the bylaw amendment to be
 7 recorded. The volunteer unit owners group shall be precluded
 8 from submitting a petition for a proposed bylaw that is
 9 substantially similar to that which has been previously mailed
 10 to the owners within three hundred sixty-five days after the
 11 original petition was 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 subsections (b) and (c) to read:
- 18 "(b) Notwithstanding any other provision of this chapter,
 19 except as provided in subsection (e), or the declaration or
 20 bylaws of a condominium to the contrary, at any association
 21 meeting the board may direct the use of an electronic voting



1 device regardless of whether a secret ballot is used or
2 required. Except as provided in subsection (e), the use shall
3 be subject to the following:

4 (1) The electronic voting device and all associated
5 equipment shall be isolated from any connection to an
6 external network, including the Internet[+], or shall
7 use a form of encryption comparable to that used for
8 secured Internet web browsers;

9 (2) The board shall establish reasonable procedures to
10 provide for the secrecy and integrity of the unit
11 owners' votes, including but not limited to procedures
12 that ensure the availability of a printed audit trail
13 containing:

14 (A) The reference number or Internet address of the
15 electronic voting device;

16 (B) Each common interest voted; and

17 (C) The vote that was tabulated;

18 (3) A copy of the printed audit trail shall be available
19 to owners after the meeting in the same manner
20 provided by sections 514B-154 and 514B-154.5; and



1 (4) A copy of the procedures established pursuant to
2 paragraph (2) shall be available at no charge to any
3 owner and a copy shall be available at any meeting at
4 which the association uses an electronic voting
5 device.

6 ~~[In the event of]~~ If any conflict arises between this
7 subsection and subsection (e), subsection (e) shall control.

8 (c) Special meetings of the association may be called by
9 the president, a majority of the board, or by a petition to the
10 secretary or managing agent signed and dated by not less than
11 twenty-five per cent of the unit owners as shown in the
12 association's record of ownership; provided that if the
13 secretary or managing agent fails to send out the notices for
14 the special meeting within fourteen days of receipt of the
15 petition, the petitioners shall have the authority to set the
16 time, date, and place for the special meeting and to send out
17 the notices and proxies for the special meeting at the
18 association's expense in accordance with the requirements of the
19 bylaws and of this part; provided further that a special meeting
20 based upon a petition to the secretary or managing agent shall
21 be set no later than sixty days from receipt of the petition.



1 The petition shall be valid only if submitted within one hundred
2 twenty days of the earliest signature."

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

4 "(e) All association meetings shall be conducted in
5 accordance with the most recent edition of Robert's Rules of
6 Order Newly Revised. Notwithstanding any provision to the
7 contrary in the association's declaration or bylaws or in
8 subsection (b), electronic meetings and electronic, machine, or
9 mail voting [~~shall~~] may be authorized[+] by the board of
10 directors in its sole discretion:

11 (1) During any period in which a state of emergency or
12 local state of emergency, declared pursuant to chapter
13 127A, is in effect in the county in which the
14 condominium is located;

15 (2) For any association meeting for which notice was given
16 while a state of emergency or local state of
17 emergency, declared pursuant to chapter 127A, was in
18 effect for the county in which the condominium is
19 located but is no longer in effect as of the date of
20 the meeting; provided that the meeting is held within



1 sixty days of the date the notice was first given;

2 ~~[or]~~

3 (3) For any electronic, machine, or mail voting for which
4 notice of voting has been sent; provided that the
5 electronic, machine, or mail voting deadline is within
6 sixty days of the date the notice was first sent;

7 (4) Whenever approved in advance by:

8 (A) Written consent of a majority of unit owners; or

9 (B) Majority vote at an association meeting; or

10 ~~[+3+]~~ (5) Whenever otherwise authorized in an association's
11 declaration or bylaws.

12 The association shall implement reasonable measures to verify
13 that each person permitted to vote is a member of the
14 association or proxy of a member.

15 As used in this subsection, "mail voting" includes sending
16 or receiving written ballots via mail, courier, or electronic
17 transmission; provided that the transmission is a complete
18 reproduction of the original."

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



1 "(a) Minutes of meetings of the association shall be
2 approved at the next succeeding regular meeting or by the
3 board[, ~~within sixty days after the meeting~~], if authorized by
4 the owners at an annual meeting. If approved by the board,
5 owners shall be given a copy of the approved minutes or notified
6 of the availability of the minutes within thirty days after
7 approval."

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

10 "(d) A proxy, to be valid, shall:

- 11 (1) Be delivered to the secretary of the association or
12 the managing agent, if any, no later than 4:30 p.m.
13 Hawaii-Aleutian Standard Time on the second business
14 day prior to the date of the meeting to which it
15 pertains; and
- 16 (2) Contain at least the name of the association, the date
17 of the meeting of the association, the printed names
18 and signatures of the persons giving the proxy, the
19 unit numbers for which the proxy is given, the names
20 of persons to whom the proxy is given, and the date
21 that the proxy is given."



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

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

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

13 The board may make the rules available to owners on an
14 association website."

15 SECTION 8. Section 514B-148, Hawaii Revised Statutes, is
16 amended as follows:

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

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

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



- 1 (2) Information as to whether the budget has been prepared
2 on a cash or accrual basis;
- 3 (3) The total replacement reserves of the association as
4 of the date of the budget;
- 5 (4) The estimated replacement reserves the association
6 will require to maintain the property based on a
7 reserve study performed by the association; provided
8 that the reserve study shall be performed by an
9 independent, certified reserve study preparer, who
10 shall not be affiliated with the managing agent of the
11 association; provided further that the reserve study
12 shall be prepared or updated at least every three
13 years;
- 14 (5) A general explanation of how the estimated replacement
15 reserves are computed;
- 16 (6) The amount the association must collect for the fiscal
17 year to fund the estimated replacement reserves; and
- 18 (7) Information as to whether the amount the association
19 must collect for the fiscal year to fund the estimated
20 replacement reserves was calculated using a per cent
21 funded or cash flow plan. The method or plan shall



1 not circumvent the estimated replacement reserves
2 amount determined by the reserve study pursuant to
3 paragraph (4)."

4 2. By amending subsection (h) to read:

5 "(h) As used in this section:

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

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

17 "Emergency situation" means any extraordinary expenses:

- 18 (1) Required by an order of a court;
- 19 (2) Necessary to repair or maintain any part of the
- 20 property for which the association is responsible



1 where a threat to personal safety on the property is
2 discovered;

3 (3) Necessary to repair any part of the property for which
4 the association is responsible that could not have
5 been reasonably foreseen by the board in preparing and
6 distributing the annual operating budget;

7 (4) Necessary to respond to any legal or administrative
8 proceeding brought against the association that could
9 not have been reasonably foreseen by the board in
10 preparing and distributing the annual operating
11 budget; or

12 (5) Necessary for the association to obtain adequate
13 insurance for the property [~~which~~] that the
14 association must insure.

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

18 "Replacement reserves" means funds for the upkeep, repair,
19 or replacement of those parts of the property, including but not
20 limited to roofs, walls, decks, paving, and equipment, that the
21 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, 2023.



Report Title:

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

Description:

Clarifies that sixty-seven per cent of unit owners may amend a condominium declaration at any time by vote or written consent. 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; time frame for approval of minutes; and board meeting participation. Requires a condominium association's reserve study to be performed by an independent, certified reserve study preparer not affiliated with the managing agent of the association and prepared or updated at least every three years. Effective 1/1/2023. (SD1)

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