

JAN 22 2016

A BILL FOR AN ACT

RELATING TO RESIDENTIAL REAL PROPERTY.

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

1 SECTION 1. Chapter 421J, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§421J- Management fees. Fees of persons or entities
5 hired by an association to manage the planned community shall be
6 not more than an amount that reflects a reasonable value for
7 management services rendered by the hired person or entity."

8 SECTION 2. Section 421J-7, Hawaii Revised Statutes, is
9 amended by amending subsection (a) to read as follows:

10 "(a) Association documents, the most current financial
11 statement of the association, and the minutes of the most recent
12 meeting of the board of directors [4], other than minutes of
13 executive sessions[5], shall be made available for examination
14 by any member [~~at no cost, on twenty-four hour loan or during~~
15 ~~reasonable hours.~~];

16 (1) During normal business hours;

17 (2) In hard copy form for a reasonable fee; and



1 (3) As an electronic document as defined in section
2 502-121 through a website maintained by the property
3 management company or by the association, if one
4 exists;
5 provided that the association may, but is not required to, make
6 available the financial statements of the association as an
7 electronic document as defined in section 502-121."

8 SECTION 3. Section 514A-84.5, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§514A-84.5 Availability of project documents.** (a) An
11 accurate copy of the declaration of condominium property regime,
12 the bylaws of the association of apartment owners, the house
13 rules, if any, the master lease, if any, a sample original
14 conveyance document, all public reports and any amendments
15 thereto, and the annual operating budget shall be kept at the
16 managing agent's office.

17 (b) The managing agent shall [~~provide copies of these~~] make
18 the documents listed in subsection (a) available to owners [~~7~~
19 ~~prospective purchasers and their prospective agents during normal~~
20 ~~business hours, upon payment to the managing agent of a reasonable~~
21 ~~charge to defray any administrative or duplicating costs.~~] for



1 review during normal business hours and in hard copy form for a
2 reasonable fee.

3 (c) The managing agent shall make the documents listed in
4 subsection (a) available to owners as an electronic document
5 through a website maintained by the property management company
6 or by the association, if one exists; provided that the managing
7 agent may, but is not required to, make available to owners the
8 annual operating budget of the association as an electronic
9 document; provided further that the managing agent shall not
10 make available to any agent or prospective purchaser the
11 documents listed in subsection (a) as an electronic document.

12 For purposes of this subsection, "electronic document" has
13 the same meaning as defined in section 502-121.

14 (d) ~~[In the event that]~~ If the project is not managed by a
15 managing agent, the ~~[foregoing]~~ requirements of subsections (b)
16 and (c) shall be undertaken by a person or entity~~[, if any,~~
17 ~~employed by the association of apartment owners,~~ to whom the
18 association of apartment owners has delegated this function ~~[is~~
19 delegated]."

20 SECTION 4. Section 514B-152, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§514B-152 Association records; generally. (a) The
2 association shall keep financial and other records sufficiently
3 detailed to enable the association to comply with requests for
4 information and disclosures related to resale of units. Except
5 as otherwise provided by law, all financial and other records
6 shall be made available pursuant to section 514B-154.5 for
7 examination by any unit owner and the owner's authorized agents.
8 Association records shall be stored on the island on which the
9 association's project is located; provided that if original
10 records, including but not limited to invoices, are required to
11 be sent off-island, copies of the records shall be maintained on
12 the island on which the association's project is located.

13 (b) The association shall make the association's financial
14 and other records available to owners and their respective
15 agents for review during normal business hours and in hard copy
16 form for a reasonable fee.

17 The managing agent may, but is not required to, make
18 available to owners the annual operating budget of the
19 association as an electronic document.

20 (c) Notwithstanding chapter 489E to the contrary, the
21 association shall make its records available to owners as an



1 electronic document through a website maintained by the property
2 management company or by the association, if one exists;
3 provided that the association may, but is not required to, make
4 available to owners the financial records of the association as
5 an electronic document; provided further that the association
6 shall not make available to any agent the financial or other
7 records of the association as an electronic document.

8 (d) For purposes of this section, "electronic document"
9 has the same meaning as defined in section 502-121."

10 SECTION 5. Section 514B-153, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "§514B-153 Association records; records to be maintained.

13 (a) An accurate copy of the declaration, bylaws, house rules,
14 if any, master lease, if any, a sample original conveyance
15 document, all public reports and any amendments thereto, and the
16 annual operating budget, shall be kept at the managing agent's
17 office. The managing agent shall make the documents listed in
18 this subsection available to owners and their respective agents
19 for review during normal business hours and in hard copy form
20 for a reasonable fee.



1 (b) The managing agent shall make the documents listed in
2 subsection (a) available to owners as an electronic document
3 through a website maintained by the property management company
4 or by the association, if one exists; provided that the managing
5 agent may, but is not required to, make available to owners the
6 financial records and annual operating budget of the association
7 as an electronic document; provided further that the managing
8 agent shall not make available to any agent the documents listed
9 in subsection (a) as an electronic document.

10 For purposes of this subsection, "electronic document" has
11 the same meaning as defined in section 502-121.

12 ~~[(b)]~~ (c) The managing agent or board shall keep, in
13 chronological order, detailed, accurate records ~~[in~~
14 ~~chronological order,~~] of the receipts and expenditures affecting
15 the common elements, specifying and itemizing the maintenance
16 and repair expenses of the common elements and any other
17 expenses incurred. The managing agent or board shall also keep
18 monthly statements indicating the total current delinquent
19 dollar amount of any unpaid assessments for common expenses.

20 ~~[(e)]~~ (d) Subject to section 514B-152, all records and the
21 vouchers authorizing the payments and statements shall be kept



1 and maintained at the address of the project, or elsewhere
2 within the State as determined by the board.

3 ~~[(d)]~~ (e) The developer or affiliate of the developer,
4 board, and managing agent shall ensure that there is a written
5 contract for managing the operation of the property~~[7~~
6 ~~expressing]~~ that expresses the agreements of all parties~~[7]~~ on
7 matters including but not limited to financial and accounting
8 obligations, services provided, and ~~[any]~~ compensation
9 arrangements, including any subsequent amendments. Copies of
10 the executed contract and any amendments shall be provided to
11 all parties to the contract.

12 ~~[(e)]~~ (f) The managing agent, resident manager, or board
13 shall keep an accurate and current list of members of the
14 association and their current addresses, and the names and
15 addresses of the vendees under an agreement of sale, if any.
16 The list shall be maintained at a place designated by the
17 board~~[7]~~ and a copy shall be available, at cost, to any member
18 of the association as provided in the declaration or bylaws or
19 rules and regulations or, in any case, to any member who
20 furnishes to the managing agent ~~[or]~~ , resident manager~~,~~ or the



1 board a duly executed and acknowledged affidavit stating that
2 the list:

3 (1) ~~[Will be]~~ Is to be used by the owner personally and
4 only for the purpose of soliciting votes or proxies or
5 providing information to other owners with respect to
6 association matters; and

7 (2) Shall not be used by the owner or furnished to anyone
8 else for any other purpose.

9 A board may prohibit commercial solicitations.

10 Where the condominium project or any units within the
11 project are subject to a time share plan under chapter 514E, the
12 association shall only be required to maintain in its records
13 the name and address of the time share association as the
14 representative agent for the individual time share owners unless
15 the association receives a request by a time share owner to
16 maintain in its records the name and address of the time share
17 owner.

18 ~~[(f)]~~ (g) The managing agent or resident manager shall not
19 use or distribute any membership list, including for commercial
20 or political purposes, without the prior written consent of the
21 board.



1 ~~[(g)]~~ (h) All membership lists are the property of the
2 association and any membership lists contained in the managing
3 agent's or resident manager's records are subject to subsections
4 ~~[(e)]~~ (f) and ~~[(f)]~~ (g), and this subsection. A managing
5 agent, resident manager, or board ~~[may]~~ shall not use the
6 information contained in the lists to create any separate list
7 for the purpose of evading this section.

8 ~~[(h)]~~ (i) Subsections ~~[(f)]~~ (g) and ~~[(g)]~~ (h) shall not
9 apply to ~~[any]~~ time share ~~[plan]~~ plans regulated under chapter
10 514E.

11 (j) If a project is not managed by a managing agent, the
12 requirements of this section shall be undertaken by the person
13 or entity to whom the association of apartment owners has
14 delegated this function."

15 SECTION 6. Section 514B-154, Hawaii Revised Statutes, is
16 amended by amending subsection (d) to read as follows:

17 "(d) The managing agent shall provide copies of
18 association records maintained pursuant to this section and
19 sections 514B-152 and 514B-153 to owners~~[, prospective~~
20 ~~purchasers and their prospective agents during normal business~~
21 ~~hours, upon payment to the managing agent of a reasonable charge~~



1 ~~to defray any administrative or duplicating costs.]~~ for review
 2 during normal business hours and in hard copy form for a
 3 reasonable fee.

4 The managing agent may, but is not required to, make
 5 available to owners the annual operating budget of the
 6 association as an electronic document as defined in section
 7 502-121.

8 If the project is not managed by a managing agent, the
 9 ~~[feregoing]~~ requirements of this section shall be undertaken by
 10 [a] the person or entity~~[, if any, employed by the association,]~~
 11 to whom the association of apartment owners has delegated this
 12 function ~~[is delegated]."~~

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, 2016.

16 INTRODUCED BY:

W. J. Lafferty
Michael J. Starn
John D. Lafferty
John D. Lafferty
John D. Lafferty



Report Title:

Residential Real Property; Condominiums; Planned Community Associations; Fees; Documents

Description:

Restricts management fees to an amount that reflects a reasonable value for services rendered. Requires that condominium property managers, associations of apartment owners, and planned community associations make association documents available to owners under reasonable terms, including through a property management company's or association's website, if one exists, and for reasonable costs.

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

