



EXECUTIVE CHAMBERS  
HONOLULU

DAVID Y. IGE  
GOVERNOR

July 3, 2017

**GOV. MSG. NO. 1174**

The Honorable Ronald D. Kouchi,  
President  
and Members of the Senate  
Twenty-Ninth State Legislature  
State Capitol, Room 409  
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,  
Speaker and Members of the  
House of Representatives  
Twenty-Ninth State Legislature  
State Capitol, Room 431  
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on July 3, 2017, the following bill was signed into law:

HB239 HD2 SD1 CD1

RELATING TO CONDOMINIUMS  
**ACT 073 (17)**

Sincerely,

DAVID Y. IGE  
Governor, State of Hawai'i

on JUL 3 2017

HOUSE OF REPRESENTATIVES  
TWENTY-NINTH LEGISLATURE, 2017  
STATE OF HAWAII

ACT 073  
H.B. NO. 239  
H.D. 2  
S.D. 1  
C.D. 1

## 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 existing law on  
2       voting pursuant to a proxy at a meeting of a condominium  
3       association specifies that a standard proxy form must contain  
4       boxes for a condominium owner to check and indicate how a proxy  
5       is given. However, proxy forms may sometimes be returned to an  
6       association's secretary or managing agent with more than one box  
7       checked, or with nothing marked on the proxy form. This  
8       situation may lead to confusion over how the proxy should be  
9       counted.

10       Accordingly, the purpose of this Act is to clarify that if  
11       a proxy is a standard proxy form authorized by an association,  
12       and the proxy is returned with no box checked or more than one  
13       box checked, the proxy shall be counted for quorum purposes  
14       only.

15       SECTION 2. Section 514B-123, Hawaii Revised Statutes, is  
16       amended to read as follows:

17       "§514B-123 Association meetings; voting; proxies. (a) If  
18       only one of several owners of a unit is present at a meeting of



1 the association, that owner is entitled to cast all the votes  
2 allocated to that unit. If more than one of the owners is  
3 present, the votes allocated to that unit may be cast only in  
4 accordance with the agreement of a majority in interest of the  
5 owners, unless the declaration or bylaws expressly provide  
6 otherwise. There is majority agreement if any one of the owners  
7 casts the votes allocated to that unit without protest being  
8 made by any of the other owners of the unit to the person  
9 presiding over the meeting before the polls are closed.

10 (b) Votes allocated to a unit may be cast pursuant to a  
11 proxy duly executed by a unit owner. A unit owner may vote by  
12 mail or electronic transmission through a duly executed proxy.  
13 If a unit is owned by more than one person, each owner of the  
14 unit may vote or register protest to the casting of votes by the  
15 other owners of the unit through a duly executed proxy. In the  
16 absence of protest, any owner may cast the votes allocated to  
17 the unit by proxy. A unit owner may revoke a proxy given  
18 pursuant to this section only by actual notice of revocation to  
19 the secretary of the association or the managing agent. A proxy  
20 is void if it purports to be revocable without notice.



1 (c) No votes allocated to a unit owned by the association  
2 may be cast for the election or reelection of directors.

3 (d) A proxy, to be valid, shall:

4 (1) Be delivered to the secretary of the association or  
5 the managing agent, if any, no later than 4:30 p.m. on  
6 the second business day prior to the date of the  
7 meeting to which it pertains; and

8 (2) Contain at least the name of the association, the date  
9 of the meeting of the association, the printed names  
10 and signatures of the persons giving the proxy, the  
11 unit numbers for which the proxy is given, the names  
12 of persons to whom the proxy is given, and the date  
13 that the proxy is given~~[, and]~~.

14 ~~[(3)]~~ (e) If ~~[(1)]~~ a proxy is a standard proxy form  
15 authorized by the association, the proxy shall comply with the  
16 following additional requirements:

17 (1) The proxy shall contain boxes wherein the owner ~~[has~~  
18 ~~indicated]~~ may indicate that the proxy is given:

19 (A) For quorum purposes only;

20 (B) To the individual whose name is printed on a line  
21 next to this box;



1 (C) To the board as a whole and that the vote is to  
2 be made on the basis of the preference of the  
3 majority of the directors present at the meeting;  
4 or

5 (D) To those directors present at the meeting with  
6 the vote to be shared with each director  
7 receiving an equal percentage ~~[-]~~ i

8 provided that if the proxy is returned with no box or  
9 more than one of the boxes in subparagraphs (A)  
10 through (D) checked, the proxy shall be counted for  
11 quorum purposes only; and

12 (2) The proxy form shall also contain a box wherein the  
13 owner may indicate that the owner wishes to obtain a  
14 copy of the annual audit report required by section  
15 514B-150.

16 ~~[(e)]~~ (f) A proxy shall only be valid for the meeting to  
17 which the proxy pertains and its adjournments, may designate any  
18 person as proxy, and may be limited as the unit owner desires  
19 and indicates; provided that no proxy shall be irrevocable  
20 unless coupled with a financial interest in the unit.



1        [~~f~~] (g) A copy, facsimile telecommunication, or other  
2 reliable reproduction of a proxy may be used in lieu of the  
3 original proxy for any and all purposes for which the original  
4 proxy could be used; provided that any copy, facsimile  
5 telecommunication, or other reproduction shall be a complete  
6 reproduction of the entire original proxy.

7        [~~g~~] (h) Nothing in this section shall affect the holder  
8 of any proxy under a first mortgage of record encumbering a unit  
9 or under an agreement of sale affecting a unit.

10       [~~h~~] (i) With respect to the use of association funds to  
11 distribute proxies:

12       (1) Any board that intends to use association funds to  
13 distribute proxies, including the standard proxy form  
14 referred to in subsection [~~d~~](3), (e), shall first  
15 post notice of its intent to distribute proxies in  
16 prominent locations within the project at least  
17 twenty-one days before its distribution of proxies.  
18 If the board receives within seven days of the posted  
19 notice a request by any owner for use of association  
20 funds to solicit proxies accompanied by a statement,  
21 the board shall mail to all owners either:



1 (A) A proxy form containing the names of all owners  
2 who have requested the use of association funds  
3 for soliciting proxies accompanied by their  
4 statements; or

5 (B) A proxy form containing no names, but accompanied  
6 by a list of names of all owners who have  
7 requested the use of association funds for  
8 soliciting proxies and their statements.

9 The statement, which shall be limited to black text on  
10 white paper, shall not exceed one single-sided  
11 8-1/2" x 11" page, indicating the owner's  
12 qualifications to serve on the board or reasons for  
13 wanting to receive proxies; and

14 (2) A board or member of the board may use association  
15 funds to solicit proxies as part of the distribution  
16 of proxies. If a member of the board, as an  
17 individual, seeks to solicit proxies using association  
18 funds, the board member shall proceed as a unit owner  
19 under paragraph (1).

20 [~~(i)~~] (j) No managing agent or resident manager, or their  
21 employees, shall solicit, for use by the managing agent or



1 resident manager, any proxies from any unit owner of the  
2 association that retains the managing agent or employs the  
3 resident manager, nor shall the managing agent or resident  
4 manager cast any proxy vote at any association meeting except  
5 for the purpose of establishing a quorum.

6 ~~[(j)]~~ (k) No board shall adopt any rule prohibiting the  
7 solicitation of proxies or distribution of materials relating to  
8 association matters on the common elements by unit owners;  
9 provided that a board may adopt rules regulating reasonable  
10 time, place, and manner of the solicitations or distributions,  
11 or both."

12 SECTION 3. Section 514B-150, Hawaii Revised Statutes, is  
13 amended by amending subsection (b) to read as follows:

14 "(b) The board shall make available a copy of the annual  
15 audit to each unit owner at least thirty days prior to the  
16 annual meeting which follows the end of the fiscal year. The  
17 board shall not be required to submit a copy of the annual audit  
18 report to an owner if the proxy form issued pursuant to section  
19 ~~[514B-123(d)]~~ 514B-123(e) is not marked to indicate that the  
20 owner wishes to obtain a copy of the report. If the annual





1 audit has not been completed by that date, the board shall make  
2 available:

- 3 (1) An unaudited year end financial statement for the  
4 fiscal year to each unit owner at least thirty days  
5 prior to the annual meeting; and  
6 (2) The annual audit to all owners at the annual meeting,  
7 or as soon as the audit is completed, but not later  
8 than six months after the annual meeting."

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

11 SECTION 5. This Act shall take effect upon its approval.

APPROVED this 3 day of JUL , 2017

*David Y. Ige*

GOVERNOR OF THE STATE OF HAWAII



HB No. 239, HD 2, SD 1, CD 1

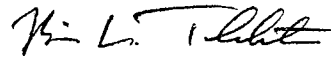
THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 2, 2017  
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Twenty-Ninth Legislature of the State of Hawaii, Regular Session of 2017.



Joseph M. Souki  
Speaker  
House of Representatives



Brian L. Takeshita  
Chief Clerk  
House of Representatives

**THE SENATE OF THE STATE OF HAWAII**

Date: May 2, 2017  
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the  
Senate of the Twenty-ninth Legislature of the State of Hawaii, Regular Session of 2017.



President of the Senate



Clerk of the Senate