
A BILL FOR AN ACT

RELATING TO REAL PROPERTY.

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

1 SECTION 1. The legislature finds that under existing law,
2 a condominium unit owner is entitled to certain documents
3 regarding the owner's condominium. However, clarification
4 regarding document disclosure is needed for those condominium
5 projects in the State that are registered as time share projects
6 and contain a combination of time share units, transient
7 vacation rentals, and private residential units. The
8 legislature further finds that existing condominium law also
9 needs clarification to ensure that boards of directors of
10 condominium associations remain compliant with the mandatory
11 provisions of the State's condominium laws.

12 The purpose of this Act is to:

13 (1) Clarify that projects registered under the time share
14 law that contain a combination of time share units,
15 transient vacation rentals, and private residential
16 units located in the same project are required to



- 1 provide basic documents that will enable an owner to
2 sell the owner's time share unit;
- 3 (2) Clarify that an owner of a time share unit has the
4 right to receive a list of all time share owners,
5 including contact information, for purposes directly
6 related to the business of a time share owners
7 association or vacation club;
- 8 (3) Specify that a management company of a time share
9 owners association or vacation club board of directors
10 shall provide specific information to owners regarding
11 candidates for election to the board of directors
12 within thirty days prior to the election;
- 13 (4) Specify that no representative of a management company
14 shall have a controlling interest on a board of
15 directors for a time share owners association or
16 vacation club; and
- 17 (5) Clarify that any violation of a mandatory provision of
18 the State's condominium law by a board or its officers
19 and members is a per se violation of the board's
20 fiduciary duty, but providing a safe harbor provision



1 for a board member who votes for compliance during a
2 board meeting.

3 SECTION 2. Chapter 514E, Hawaii Revised Statutes, is
4 amended by adding two new sections to be appropriately
5 designated and to read as follows:

6 "§514E- Association documents to be provided. (a)
7 Notwithstanding any other provision in the declarations,
8 association bylaws, or association rules and regulations, if
9 any, time share projects registered under this chapter that
10 contain a combination of time share units, transient vacation
11 rentals, and private residential units located in the same
12 project shall provide any basic document that an owner may
13 require that will enable an owner to sell the owner's time share
14 unit; provided that a document requested pursuant to this
15 subsection shall be provided within forty-eight hours of a
16 written or electronic request made to the resident manager or
17 property manager, as appropriate.

18 (b) Any owner of a time share unit shall have the right to
19 receive a list of all time share owners and the time share
20 owners' contact information, including physical address and
21 electronic mailing address; provided that this contact



1 information shall be used only for purposes directly related to
2 the business of a time share owners association or vacation
3 club. A management company may charge a reasonable fee to
4 reproduce the list under this subsection.

5 §514E- Time share owners associations; vacation clubs;
6 board of directors; elections. (a) The management company of a
7 time share owners association or vacation club board of
8 directors shall send a list to all owners, including the names,
9 biographies, and contact information, of all candidates seeking
10 election, at least thirty days in advance of any meeting to
11 elect members to the board of directors.

12 (b) No representative of a management company shall have a
13 controlling interest on a board of directors for a time share
14 owners association or vacation club."

15 SECTION 3. Section 514B-106, Hawaii Revised Statutes, is
16 amended by amending subsection (a) to read as follows:

17 "(a) Except as provided in the declaration, the bylaws,
18 subsection (b), or other provisions of this chapter, the board
19 may act in all instances on behalf of the association. In the
20 performance of their duties, officers and members of the board
21 shall owe the association a fiduciary duty and exercise the



1 degree of care and loyalty required of an officer or director of
2 a corporation organized under chapter 414D. Any violation of
3 any mandatory provision of this chapter by a board or its
4 officers and members shall be deemed a per se violation of the
5 fiduciary duty owed pursuant to this subsection; provided that a
6 board member may avoid liability under this subsection by voting
7 against a board action that is in violation of a mandatory
8 provision of this chapter and having that board member's vote
9 recorded in the minutes of a regular or special meeting of the
10 board within forty-five days of the occurrence of the
11 violation."

12 SECTION 4. New statutory material is underscored.

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

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Report Title:

Real Property; Condominiums; Time Share Projects; Association Documents; Board of Directors; Fiduciary Duty

Description:

Clarifies that projects that contain a combination of time share units, transient vacation rentals, and private residential units located in the same project are required to provide basic documents that will enable an owner to sell the owner's time share unit. Clarifies that an owner of a time share unit has the right to receive a list of all time share owners, including contact information, for purposes directly related to the business of a time share owners association or vacation club. Specifies that a management company of a time share owners association or vacation club board of directors must provide specific information to owners regarding candidates for election to the board of directors within thirty days prior to the election and shall not have a controlling interest on the board of directors. Clarifies that any violation of a mandatory provision of the State's condominium law by a board or its officers and members is a per se violation of the board's fiduciary duty. Provides safe harbor for a board member who votes for compliance during a board meeting. (SD1)

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