

JAN 20 2017

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# 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 condominium  
2 law permits different classes of directors in mixed-use projects  
3 and provides for the removal of directors by a majority of unit  
4 owners. However, clarification is needed in the law regarding  
5 the removal of directors in a mixed-use project.

6           The legislature further finds that existing law specifies  
7 that no votes allocated to a unit owned by a condominium  
8 association may be cast for the election or reelection of  
9 directors. This prohibition may be an issue for mixed-use  
10 condominium projects where directors are elected by different  
11 classes of owners. For example, in a mixed-use project that  
12 contains residential and commercial units, the board of  
13 directors may be comprised of directors elected by residential  
14 unit owners and directors elected by commercial unit owners. A  
15 condominium association who owns the single commercial unit in a  
16 mixed-use project would therefore be unable to elect or reelect  
17 the directors needed to represent that commercial unit.



1 Accordingly, the purpose of this Act is to:

2 (1) Clarify that the removal or replacement of a director  
3 elected by a class of unit owners shall be by a  
4 majority of only the members of that class; and

5 (2) Specify that for an election in a mixed-use  
6 condominium project where directors are elected by  
7 different classes of owners, an association is  
8 permitted to cast a vote or votes allocated to any  
9 nonresidential unit owned by the association where  
10 those eligible to vote in the election are limited to  
11 owners of one or more nonresidential units, including  
12 the nonresidential unit owned by the association.

13 SECTION 2. Section 514B-110, Hawaii Revised Statutes, is  
14 amended by amending subsection (h) to read as follows:

15 "(h) This section shall not preclude the removal and  
16 replacement of any one or more members of the board pursuant to  
17 section 514B-106(f) [-]; provided that any director elected by a  
18 class of unit owners may be removed or replaced only by a vote  
19 of a majority of the common interest represented by that class.

20 Any removal and replacement shall not affect the proportionate



1 composition of the board as prescribed in the bylaws as amended  
2 pursuant to this section."

3 SECTION 3. Section 514B-123, Hawaii Revised Statutes, is  
4 amended by amending subsection (c) to read as follows:

5 "(c) No votes allocated to a unit owned by the association  
6 may be cast for the election or reelection of directors[-];  
7 provided that, notwithstanding section 514B-106(b) or any  
8 provision in an association's declaration or bylaws to the  
9 contrary, in a mixed-use project containing units for  
10 residential and nonresidential use, where the board is comprised  
11 of directors elected by owners of residential units and  
12 directors elected by owners of nonresidential units, the  
13 association, acting by and through its board, may cast the vote  
14 or votes allocated to any nonresidential unit owned by the  
15 association in any election of one or more directors where those  
16 eligible to vote in the election are limited to owners of one or  
17 more nonresidential units, which includes the nonresidential  
18 unit owned by the association."

19 SECTION 4. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.

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# S.B. NO. 393

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

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INTRODUCED BY:

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# S.B. NO. 393

**Report Title:**

Condominiums; Associations; Board of Directors; Mixed-use  
Projects; Elections

**Description:**

Clarifies that the removal or replacement of a director elected by a class of unit owners shall be by a majority of only the members of that class. Specifies that for an election in a mixed-use condominium project where directors are elected by different classes of owners, an association may cast a vote or votes allocated to any nonresidential unit owned by the association where those eligible to vote in the election are limited to owners of one or more nonresidential units, including the nonresidential unit owned by the association.

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

