

JAN 19 2018

A BILL FOR AN ACT

RELATING TO CONDOMINIUMS.

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

1 SECTION 1. Section 514B-107, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§514B-107 Board; officers; limitations.** (a) Members of
4 the board shall be unit owners or co-owners, vendees under an
5 agreement of sale, a trustee of a trust which owns a unit, or an
6 officer, partner, member, or other person authorized to act on
7 behalf of any other legal entity which owns a unit. There shall
8 not be more than one representative on the board from any one
9 unit.

10 (b) No tenant, resident manager, or employee of a
11 condominium shall serve on its board.

12 For the purposes of this subsection, "tenant" means any
13 person who occupies a dwelling unit for dwelling purposes who is
14 not also an owner of a dwelling unit in the same condominium.

15 (c) An owner shall not act as an officer of an association
16 and an employee of the managing agent retained by the
17 association. Any owner who is a board member of an association



1 and an employee of the managing agent retained by the
2 association shall not participate in any discussion regarding a
3 management contract at a board meeting and shall be excluded
4 from any executive session of the board where the management
5 contract or the property manager will be discussed.

6 (d) Directors shall not expend association funds for their
7 travel, directors' fees, and per diem, unless owners are
8 informed and a majority approve of these expenses; provided
9 that, with the approval of the board, directors may be
10 reimbursed for actual expenditures incurred on behalf of the
11 association. The board meeting minutes shall reflect in detail
12 the items and amounts of the reimbursements.

13 (e) Associations at their own expense shall provide all
14 board members with a current copy of the association's
15 declaration, bylaws, house rules, and, annually, a copy of this
16 chapter with amendments.

17 (f) The directors may expend association funds, which
18 shall not be deemed to be compensation to the directors, to
19 educate and train themselves in subject areas directly related
20 to their duties and responsibilities as directors; provided that
21 the approved annual operating budget shall include these



1 expenses as separate line items. These expenses may include
2 registration fees, books, videos, tapes, other educational
3 materials, and economy travel expenses. Except for economy
4 travel expenses within the State, all other travel expenses
5 incurred under this subsection shall be subject to the
6 requirements of subsection (d).

7 (g) All directors and other officers of an association
8 shall disclose to the board any activity that may reasonably be
9 construed to be a conflict of interest. If the director or
10 officer does not cease the activity that creates the conflict or
11 withdraw from office, the board shall remove the officer or
12 director from office.

13 (h) No attorney shall simultaneously represent the board
14 and the managing agent retained by the association.

15 (i) No member of the board nor the managing agent retained
16 by the association shall purchase a unit at a foreclosure sale
17 resulting from the association's foreclosure on a lien for
18 unpaid assessments or acquire title to the unit by deed in lieu
19 of foreclosure.

20 (j) No association shall enter a contract with a service
21 provider that is owned or operated by:



- 1 (1) A member of the board or an officer of the
- 2 association;
- 3 (2) A person who has a material financial interest with a
- 4 member of the board or an officer of the association;
- 5 or
- 6 (3) A close relative of a member of the board or an
- 7 officer of the association.
- 8 (k) No person, board member, or officer of a person that
- 9 contracts to provide maintenance or management services for the
- 10 association or that participates in the operation of an
- 11 association shall:
- 12 (1) Own more than fifteen per cent of the units within the
- 13 project; or
- 14 (2) Purchase a unit or any other property that is subject
- 15 to a lien by the association.
- 16 (1) No employee of the association or person that
- 17 contracts to provide goods or services to the association or
- 18 condominium, including but not limited to managers and managing
- 19 agents, shall solicit, receive, or accept any undisclosed fee,
- 20 compensation, commission, or gratuity whether in cash or in kind



1 from any third party who provides or solicits to provide goods
2 or services to the association or condominium."

3 SECTION 2. New statutory material is underscored.

4 SECTION 3. This Act shall take effect upon its approval.

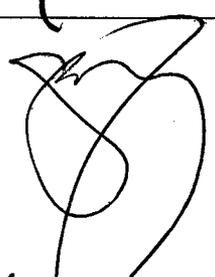
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S.B. NO. 2625

Report Title:

Condominiums; Association of Apartment Owners; Board of Directors; Managing Agent; Conflict of Interest

Description:

Requires officers and directors of associations of apartment owners to disclose activities that could reasonably be construed as a conflict of interest and cease the activity or withdraw from office. Prohibits attorneys from representing both the board and managing agent of the association. Prohibits board members from purchasing units at foreclosure sales resulting from the association's lien for unpaid assessments. Prohibits associations from contracting with service providers that have a close connection to a board member or officer of the association. Prohibits any person who contracts to provide services to the association or participates in the association's operation from owning more than fifteen per cent of the units in a project or from purchasing property that is subject to a lien by the association. Prohibits any employee of an association or person who contracts to provide goods or services to an association from soliciting, receiving, or accepting any undisclosed fee, compensation, commission, or gratuity from a third party who provides goods or services or solicits to provide goods or services to the association.

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