

JAN 24 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-149, Hawaii Revised Statutes, is
2 amended by amending subsection (c) to read as follows:

3 "(c)(1) All funds collected by an association, or by a
4 managing agent for any association, shall be:

5 (A) Deposited in a financial institution, including a
6 federal or community credit union, located in the
7 State, pursuant to a resolution adopted by the
8 board, and whose deposits are insured by an
9 agency of the United States government;

10 (B) Held by a corporation authorized to do business
11 under article 8 of chapter 412;

12 (C) Held by the United States Treasury;

13 (D) Purchased in the name of and held for the benefit
14 of the association through a securities broker
15 that is registered with the Securities and
16 Exchange Commission, that has an office in the
17 State, and the accounts of which are held by



member firms of the New York Stock Exchange or
National Association of Securities Dealers and
insured by the Securities Insurance Protection
Corporation; or

(E) Placed through a federally insured financial
institution located in the State for investment
in certificates of deposit issued through the
Certificate of Deposit Account Registry Service
in federally insured financial institutions
located in the United States[-];

(2) All funds collected by an association, or by a
managing agent for any association, shall be invested
only in:

(A) Deposits, investment certificates, savings
accounts, and certificates of deposit;

(B) Obligations of the United States government, the
State of Hawaii, or their respective agencies;
provided that those obligations shall have stated
maturity dates no more than ten years after the
purchase date unless approved otherwise by a
majority vote of the unit owners at an annual or



1 special meeting of the association or by written
2 consent of a majority of the unit owners;

3 (C) Mutual funds comprised solely of investments in
4 the obligations of the United States government,
5 the State of Hawaii, or their respective
6 agencies; provided that those obligations shall
7 have stated maturity dates no more than ten years
8 after the purchase date unless approved otherwise
9 by a majority vote of the unit owners at an
10 annual or special meeting of the association or
11 by written consent of a majority of the unit
12 owners; or

13 (D) Certificates of deposit issued through the
14 Certificate of Deposit Account Registry Service
15 in an amount at least equal in their market
16 value, but not to exceed their par value, to the
17 amount of the deposit with the depository; and

18 (3) The association shall provide an annual report to the
19 commission listing the financial institutions at which
20 the association maintains accounts. The commission
21 shall make the report available for examination by



1 unit owners and unit owners' authorized agents upon
2 written request;
3 provided that before any investment longer than one year is made
4 by an association, the board must approve the action; and
5 provided further that the board must clearly disclose to owners
6 all investments longer than one year at each year's association
7 annual meeting.

8 Records of the deposits and disbursements shall be
9 disclosed to the commission upon request. All funds collected
10 by an association shall only be disbursed by employees of the
11 association under the supervision of the association's board.
12 All funds collected by a managing agent from an association
13 shall be held in a client trust fund account and shall be
14 disbursed only by the managing agent or the managing agent's
15 employees under the supervision of the association's board."

16 SECTION 2. Section 514B-153, Hawaii Revised Statutes, is
17 amended by amending subsection (b) to read as follows:

18 "(b) The managing agent or board shall keep detailed,
19 accurate records in chronological order, of the receipts and
20 expenditures affecting the common elements, including bids for
21 materials, equipment, and services, specifying and itemizing the



1 maintenance and repair expenses of the common elements and any
2 other expenses incurred. The managing agent or board shall also
3 keep monthly statements indicating the total current delinquent
4 dollar amount of any unpaid assessments for common expenses."

5 SECTION 3. Section 514B-154, Hawaii Revised Statutes, is
6 amended as follows:

7 1. By amending subsections (a) and (b) to read:

8 "(a) The association's most current financial statement
9 shall be provided to any interested unit owner or any owner's
10 authorized agent at no cost or on twenty-four-hour loan, at a
11 convenient location designated by the board[-]; provided that
12 upon an owner's request, the financial statement shall be
13 transmitted by mail, electronic mail, or facsimile, by the means
14 indicated by the owner, if the unit owner indicated a preference
15 at the time of the request; provided further that the owner
16 shall pay a reasonable fee for administrative costs associated
17 with handling the request. A unit owner may notify the
18 commission of an association's failure to make the most current
19 financial statement available. Upon such notice, the commission
20 shall enforce this section pursuant to its enforcement powers
21 granted under sections 514B-65, 514B-68 and 514B-69. The meeting



1 minutes of the board of directors, once approved, for the
2 current and prior year shall either:

3 (1) Be available for examination by [~~apartment~~] unit
4 owners or owners' authorized agents at no cost or on
5 twenty-four-hour loan at a convenient location at the
6 project, to be determined by the board of directors;
7 or

8 (2) Be transmitted to any [~~apartment~~] unit owner or any
9 owner's authorized agent making a request for the
10 minutes, by the board of directors, the managing
11 agent, or the association's representative, within
12 fifteen days of receipt of the request; provided that
13 the minutes shall be transmitted by mail, electronic
14 mail [~~transmission~~], or facsimile, by the means
15 indicated by the owner, if the owner indicated a
16 preference at the time of the request; and provided
17 further that the owner shall pay a reasonable fee for
18 administrative costs associated with handling the
19 request.

20 Costs incurred by [~~apartment~~] unit owners pursuant to this
21 subsection shall be subject to section 514B-105(d).



1 (b) Financial statements, general ledgers, the accounts
2 receivable ledger, accounts payable ledgers, check ledgers,
3 insurance policies, contracts, and invoices of the association
4 for the duration those records are kept by the association and
5 delinquencies of ninety days or more shall be available for
6 examination by unit owners or owners' authorized agents at
7 convenient hours at a place designated by the board; provided
8 that:

- 9 (1) The board may require owners to furnish to the
10 association a duly executed and acknowledged affidavit
11 stating that the information is requested in good
12 faith for the protection of the interests of the
13 association, its members, or both; and
14 (2) Owners shall pay for administrative costs in excess of
15 eight hours per year.

16 Copies of these items shall be provided to any owner upon
17 the owner's request; provided that the owner pays a reasonable
18 fee for duplication, postage, stationery, and other
19 administrative costs associated with handling the request."

20 2. By amending subsection (g) to read:



1 "(g) An association [~~may~~] shall comply with this part by
2 making information available to unit owners, at the option of
3 each unit owner and at no cost to the unit owner for downloading
4 the information, through an internet site[~~-~~] pursuant to section
5 514B-154.5."

6 SECTION 4. Section 514B-154.5, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "[~~f~~]§514B-154.5[~~t~~] **Association documents to be provided.**

9 (a) Notwithstanding any other provision in the declaration,
10 bylaws, or house rules, if any, the following documents,
11 records, and information, whether maintained, kept, or required
12 to be provided pursuant to this section or section 514B-152,
13 514B-153, or 514B-154, shall be made available to any unit owner
14 and the owner's authorized agents by the managing agent,
15 resident manager, board through a board member, or the
16 association's representative:

17 (1) All financial and other records sufficiently detailed
18 in order to comply with requests for information and
19 disclosures related to the resale of units;

20 (2) An accurate copy of the declaration, bylaws, house
21 rules, if any, master lease, if any, a sample original



1 conveyance document, articles of incorporation, and
2 all public reports and any amendments thereto;
3 provided that a current copy of the association's
4 declaration, bylaws, and house rules, if any, shall be
5 made available to any tenant at no cost or on twenty-
6 four-hour loan;

7 (3) Detailed, accurate records in chronological order of
8 the receipts and expenditures affecting the common
9 elements, including bids for materials, equipment, and
10 services, specifying and itemizing the maintenance and
11 repair expenses of the common elements and any other
12 expenses incurred and monthly statements indicating
13 the total current delinquent dollar amount of any
14 unpaid assessments for common expenses;

15 (4) All records and the vouchers authorizing the payments
16 and statements kept and maintained at the address of
17 the project, or elsewhere within the State as
18 determined by the board, subject to section 514B-152;

19 (5) All signed and executed agreements for managing the
20 operation of the property, expressing the agreement of
21 all parties, including but not limited to financial



1 and accounting obligations, services provided, and any
2 compensation arrangements, including any subsequent
3 amendments;

4 (6) An accurate and current list of members of the
5 condominium association and the members' current
6 addresses and the names and addresses of the vendees
7 under an agreement of sale, if any. A copy of the
8 list shall be available, at cost, to any unit owner or
9 owner's authorized agent who furnishes to the managing
10 agent, resident manager, or the board a duly executed
11 and acknowledged affidavit stating that the list:

12 (A) Shall be used by the unit owner or owner's
13 authorized agent personally and only for the
14 purpose of soliciting votes or proxies or for
15 providing information to other unit owners with
16 respect to association matters; and

17 (B) Shall not be used by the unit owner or owner's
18 authorized agent or furnished to anyone else for
19 any other purpose;



(7) The association's most current financial statement, at no cost or on twenty-four-hour loan, at a convenient location designated by the board;

(8) Meeting minutes of the association, pursuant to section 514B-122;

(9) Meeting minutes of the board, pursuant to section 514B-126, which shall be:

(A) Available for examination by unit owners or owners' authorized agents at no cost or on twenty-four-hour loan at a convenient location at the project, to be determined by the board; or

(B) Transmitted to any unit owner or owner's authorized agent making a request for the minutes within fifteen days of receipt of the request by the owner or owner's authorized agent; provided that:

(i) The minutes shall be transmitted by mail, electronic mail transmission, or facsimile, by the means indicated by the owner or owner's authorized agent, if the owner or



owner's authorized agent indicated a
preference at the time of the request; and

(ii) The owner or owner's authorized agent shall
pay a reasonable fee for administrative
costs associated with handling the request,
subject to section 514B-105(d);

(10) Financial statements, annual operating budget and any
proposed budget, general ledgers, the accounts
receivable ledger, accounts payable ledgers, check
ledgers, insurance policies, contracts, and invoices
of the association for the duration those records are
kept by the association, and any documents regarding
delinquencies of ninety days or more shall be
available for examination by unit owners or owners'
authorized agents at convenient hours at a place
designated by the board; provided that:

(A) The board may require unit owners or owners'
authorized agents to furnish to the association a
duly executed and acknowledged affidavit stating
that the information is requested in good faith



1 for the protection of the interests of the
2 association, its members, or both; and

3 (B) Unit owners or owners' authorized agents shall
4 pay for administrative costs in excess of eight
5 hours per year;

6 (11) Proxies, tally sheets, ballots, unit owners' check-in
7 lists, and the certificate of election subject to
8 section 514B-154(c);

9 (12) Copies of an association's documents, records, and
10 information, whether maintained, kept, or required to
11 be provided pursuant to this section or section
12 514B-152, 514B-153, or 514B-154;

13 (13) A copy of the management contract from the entity that
14 manages the operation of the property before the
15 organization of an association;

16 (14) Other documents requested by a unit owner or owner's
17 authorized agent in writing; provided that the board
18 shall give written authorization or written refusal
19 with an explanation of the refusal within thirty
20 calendar days of receipt of a request for documents
21 pursuant to this paragraph; and



1 (15) A copy of any contract, written job description, and
2 compensation between the association and any person or
3 entity retained by the association to manage the
4 operation of the property on-site, including but not
5 limited to the general manager, operations manager,
6 resident manager, or site manager; provided that
7 personal information may be redacted from the contract
8 copy, including but not limited to the manager's date
9 of birth, age, signature, social security number,
10 residence address, telephone number, non-business
11 electronic mail address, driver's license number,
12 Hawaii identification card number, bank account
13 number, credit or debit card number, access code or
14 password that would permit access to the manager's
15 financial accounts, or any other information that may
16 be withheld under state or federal law.

17 (b) Subject to section 514B-105(d), copies of the items in
18 subsection (a) shall be provided to any unit owner or owner's
19 authorized agent upon the owner's or owner's authorized agent's
20 request; provided that the owner or owner's authorized agent



1 pays a reasonable fee for duplication, postage, stationery, and
2 other administrative costs associated with handling the request.

3 (c) Notwithstanding any provision in the declaration,
4 bylaws, or house rules providing for another period of time, all
5 documents, records, and information listed under subsection (a),
6 whether maintained, kept, or required to be provided pursuant to
7 this section or section 514B-152, 514B-153, or 514B-154, shall
8 be provided no later than thirty days after receipt of a unit
9 owner's or owner's authorized agent's written request, unless a
10 lesser time is provided pursuant to this section or section
11 514B-152, 514B-153, or 514B-154, and except as provided in
12 subsection (a)(14).

13 (d) Any documents, records, and information, whether
14 maintained, kept, or required to be provided pursuant to this
15 section or section 514B-152, 514B-153, or 514B-154, ~~[may]~~ shall
16 be made available electronically to the unit owner or owner's
17 authorized agent if the owner or owner's authorized agent
18 requests such in writing.

19 (e) An association ~~[may]~~ having more than fifty units
20 shall comply with this section ~~[or]~~ and section 514B-152,
21 514B-153, or 514B-154 by making the required documents, records,



1 and information available to unit owners or owners' authorized
2 agents for download through an internet site, at the option of
3 each unit owner or owner's authorized agent and at no cost to
4 the unit owner or owner's authorized agent[-]; provided that
5 such documents, records, and information shall be accessible
6 only to unit owners and owners' authorized agents and not to the
7 general public. The internet site shall be an independent
8 website or web portal wholly owned and operated by the
9 association or a website or web portal operated by a third party
10 provider with whom the association owns, leases, rents, or
11 otherwise obtains the right to operate a web page, subpage, web
12 portal, or collection of subpages or web portals on which the
13 association may post the required documents, records, and
14 information and make the documents, records, and information
15 accessible only to unit owners and owners' authorized agents
16 using a username and password authentication. The association
17 shall ensure that any documents, records, and information that is
18 confidential is not posted on the association's website. If
19 confidential information is included in documents required to be
20 posted by this section, then the association shall ensure that
21 such information is redacted prior to posting the documents



1 online. Additionally, the following shall be posted on the
2 internet site:

3 (1) Any management agreement, lease, or other contract to
4 which the association is a party or under which the
5 association or unit owners have an obligation or
6 responsibility;

7 (2) Summaries of all bids for materials, equipment, or
8 services, which shall be maintained on the website for
9 at least five years;

10 (3) The annual operating budget and any proposed budget to
11 be considered at the association's annual meeting;

12 (4) All contracts and transactions between the association
13 and any director, officer, corporation, firm, or
14 association that is not an affiliated association or
15 any other entity in which an association director is
16 also a director or officer and has a financial
17 interest;

18 (5) All known and possible conflicts of interest;

19 (6) Notice and agenda of all association meetings, which
20 shall be posted no later than fifteen days prior to
21 the meeting in plain view on the front page of the



1 internet site or on a separate subpage labeled
2 "Notices" that is conspicuously visible and linked
3 from the front page;

4 (7) Any document containing information to be considered
5 and voted on by unit owners at any meeting, which
6 shall be posted no later than seven days prior to the
7 meeting at which the document will be considered; and

8 (8) Notice and agenda of all board meetings, which shall
9 be posted no later than seventy-two hours prior to the
10 meeting.

11 (f) Any fee charged to a unit owner or owner's authorized
12 agent to obtain copies of the association's documents, records,
13 and information, whether maintained, kept, or required to be
14 provided pursuant to this section or section 514B-152, 514B-153,
15 or 514B-154, shall be reasonable; provided that a reasonable fee
16 shall include administrative and duplicating costs and shall not
17 exceed \$1 per page, or portion thereof, except that the fee for
18 pages exceeding eight and one-half inches by fourteen inches may
19 exceed \$1 per page.

20 (g) This section shall apply to condominiums organized
21 under chapter 514A or 514B.



S.B. NO. 2950

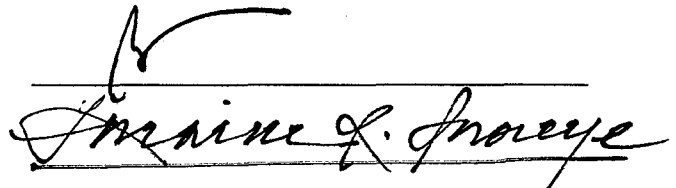
1 (h) ~~[Nothing in this section shall be construed to create~~
 2 ~~any new requirements for the release of documents, records, or~~
 3 ~~information.]~~ A director who is charged with certain crimes
 4 relating to the condominium shall not be given access to
 5 association records without a court order while charges are
 6 pending."

7 SECTION 5. Statutory material to be repealed is bracketed
 8 and stricken. New statutory material is underscored.

9 SECTION 6. This Act shall take effect upon its approval.

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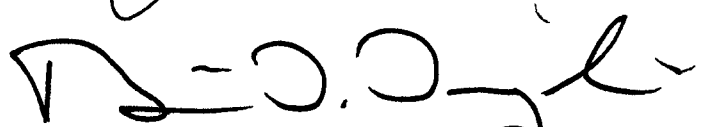
INTRODUCED BY:


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S.B. NO. 2450

Report Title:

Condominiums; Association of Unit Owners; Official Records;
Access to Records; Website

Description:

Requires condominium unit owners' associations to keep additional records and take further actions to make such records available for examination by unit owners and owners' authorized agents. Requires associations to make required documents, records, and information available to owners and owners' authorized agents on a protected internet site.

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

