
A BILL FOR AN ACT

RELATING TO MANAGING AGENTS.

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

1 SECTION 1. The legislature finds that residential high-
2 rise properties are held to the same standard as commercial
3 buildings with regard to structural conditions like repairs,
4 maintenance, and reserve requirements. However, the level of
5 experience and expertise that volunteer association of apartment
6 owners board members possess is not comparable to that of
7 business organizations whose facilities are managed by
8 professional property management companies. The legislature
9 also finds that existing statutory requirements for managing
10 agents are inadequate to protect association board members and
11 unit owners from incompetence, negligence, and lack of property
12 management experience. Furthermore, existing law requires only
13 that managing agents be licensed real estate brokers. The lack
14 of requirements for commercial property management experience
15 may cause association board members to suffer losses due to
16 fraud, misrepresentation, or deceit of the managing agent or its
17 employees.



1 Accordingly, the purpose of this Act is to require managing
2 agents for residential condominium properties over seventy-five
3 feet in height to have commercial property management
4 experience.

5 SECTION 2. Section 514B-132, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:

7 "(a) Every managing agent shall:

8 (1) Be a:

9 (A) Licensed real estate broker in compliance with
10 chapter 467 and the rules of the commission.
11 With respect to any requirement for a corporate
12 managing agent in any declaration or bylaws
13 recorded before July 1, 2006, any managing agent
14 organized as a limited liability company shall be
15 deemed to be organized as a corporation for the
16 purposes of this paragraph, unless the
17 declaration or bylaws are expressly amended after
18 July 1, 2006 to require that the managing agent
19 be organized as a corporation and not as a
20 limited liability company; or



1 (B) Corporation authorized to do business under
2 article 8 of chapter 412;
3 (2) Register with the commission [~~prior to~~] before
4 conducting managing agent activity through approval of
5 a completed registration application, payment of fees,
6 and submission of any other additional information set
7 forth by the commission. The registration shall be
8 for a biennial period with termination on December 31
9 of an even-numbered year. The commission shall
10 prescribe a deadline date [~~prior to~~] before the
11 termination date for the submission of a completed
12 reregistration application, payment of fees, and any
13 other additional information set forth by the
14 commission. Any managing agent who has not met the
15 submission requirements by the deadline date shall be
16 considered a new applicant for registration and
17 subject to initial registration requirements. The
18 information required to be submitted with any
19 application shall include the name, business address,
20 phone number, and names of associations managed;



1 (3) Obtain and keep current a fidelity bond in an amount
2 equal to \$500 multiplied by the aggregate number of
3 units of the association managed by the managing
4 agent; provided that the amount of the fidelity bond
5 shall not be less than \$20,000 nor greater than
6 \$500,000. Upon request by the commission, the
7 managing agent shall provide evidence of a current
8 fidelity bond or a certification statement from an
9 insurance company authorized by the insurance division
10 of the department of commerce and consumer affairs
11 certifying that the fidelity bond is in effect and
12 meets the requirements of this section and the rules
13 adopted by the commission. The managing agent shall
14 permit only employees covered by the fidelity bond to
15 handle or have custody or control of any association
16 funds, except any principals of the managing agent
17 that cannot be covered by the fidelity bond. The
18 fidelity bond shall protect the managing agent against
19 the loss of any association's moneys, securities, or
20 other properties caused by the fraudulent or dishonest
21 acts of employees of the managing agent. Failure to



1 obtain or maintain a fidelity bond in compliance with
2 this chapter and the rules adopted pursuant thereto,
3 including failure to provide evidence of the fidelity
4 bond coverage in a timely manner to the commission,
5 shall result in nonregistration or the automatic
6 termination of the registration, unless an approved
7 exemption or a bond alternative is presently
8 maintained. A managing agent who is unable to obtain
9 a fidelity bond may seek an exemption from the
10 fidelity bond requirement from the commission;

11 (4) Act promptly and diligently to recover from the
12 fidelity bond, if the fraud or dishonesty of the
13 managing agent's employees causes a loss to an
14 association, and apply the fidelity bond proceeds, if
15 any, to reduce the association's loss. If more than
16 one association suffers a loss, the managing agent
17 shall divide the proceeds among the associations in
18 proportion to each association's loss. An association
19 may request a court order requiring the managing agent
20 to act promptly and diligently to recover from the
21 fidelity bond. If an association cannot recover its



1 loss from the fidelity bond proceeds of the managing
2 agent, the association may recover by court order from
3 the real estate recovery fund established under
4 section 467-16, provided that:

5 (A) The loss is caused by the fraud,
6 misrepresentation, or deceit of the managing
7 agent or its employees;

8 (B) The managing agent is a licensed real estate
9 broker; and

10 (C) The association fulfills the requirements of
11 sections 467-16 and 467-18 and any applicable
12 rules of the commission;

13 (5) Pay a nonrefundable application fee and, upon
14 approval, an initial registration fee, and
15 subsequently pay a reregistration fee, as prescribed
16 by rules adopted by the director of commerce and
17 consumer affairs pursuant to chapter 91. A compliance
18 resolution fee shall also be paid pursuant to section
19 26-9(o) and the rules adopted pursuant thereto; [and]

20 (6) Report immediately in writing to the commission any
21 changes to the information contained on the



1 registration application or any other documents
2 provided for registration. Failure to do so may
3 result in termination of registration and subject the
4 managing agent to initial registration
5 requirements[-]; and

6 (7) For residential condominium properties that exceed
7 seventy-five feet in height, have experience in
8 commercial property management."

9 SECTION 3. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 4. This Act shall take effect on July 1, 3000.



Report Title:

Condominiums; Managing Agents; Requirements; Commercial Property Management Experience

Description:

Requires managing agents for residential condominium properties over seventy-five feet in height to have commercial property management experience. Effective 7/1/3000. (HD1)

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

