

JAN 23 2025

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 condominium managing
2 agents are third-party licensed real estate brokers or
3 authorized trust corporations contracted by a condominium
4 association to perform certain tasks for the association. These
5 tasks can range from simple accounting to complete management
6 depending on the contract. Typical responsibilities often
7 include overseeing repairs and projects, finances and
8 accounting, and insurance and registration renewals.

9 The legislature further finds that existing law does not
10 require these persons to be familiar with condominium governance
11 laws or the governing documents of an association. This lack of
12 knowledge allows managing agents to act contrary to any of those
13 documents to the detriment of the association and its member
14 unit owners.

15 Accordingly, the purpose of this Act is to require
16 individual managing agents and employees of entity managing



1 agents to be licensed to reduce the corrupt behavior of
2 unscrupulous managing agents.

3 SECTION 2. Section 514B-132, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§514B-132 Managing agents.** (a) Every managing agent
6 shall:

7 (1) Be a:

8 (A) Licensed real estate broker in compliance with
9 chapter 467 and the rules of the commission.

10 With respect to any requirement for a corporate
11 managing agent in any declaration or bylaws
12 recorded before July 1, 2006, any managing agent
13 organized as a limited liability company shall be
14 deemed to be organized as a corporation for the
15 purposes of this paragraph, unless the
16 declaration or bylaws are expressly amended after
17 July 1, 2006, to require that the managing agent
18 be organized as a corporation and not as a
19 limited liability company; or

20 (B) Corporation authorized to do business under
21 article 8 of chapter 412;



- 1 (2) Register with the commission prior to conducting
2 managing agent activity through approval of a
3 completed registration application, payment of fees,
4 and submission of any other additional information set
5 forth by the commission. The registration shall be
6 for a biennial period with termination on December 31
7 of an even-numbered year. The commission shall
8 prescribe a deadline date prior to the termination
9 date for the submission of a completed reregistration
10 application, payment of fees, and any other additional
11 information set forth by the commission. Any managing
12 agent who has not met the submission requirements by
13 the deadline date shall be considered a new applicant
14 for registration and subject to initial registration
15 requirements. The information required to be
16 submitted with any application shall include the name,
17 business address, phone number, and names of
18 associations managed;
- 19 (3) Obtain and keep current a fidelity bond in an amount
20 equal to \$500 multiplied by the aggregate number of
21 units of the association managed by the managing



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



1 bond coverage in a timely manner to the commission,
2 shall result in nonregistration or the automatic
3 termination of the registration, unless an approved
4 exemption or a bond alternative is presently
5 maintained. A managing agent who is unable to obtain
6 a fidelity bond may seek an exemption from the
7 fidelity bond requirement from the commission;

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



1 the real estate recovery fund established under
2 section 467-16, provided that:

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

6 (B) The managing agent is a licensed real estate
7 broker; and

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

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

18 (6) Report immediately in writing to the commission any
19 changes to the information contained on the
20 registration application or any other documents
21 provided for registration. Failure to do so may



1 result in termination of registration and subject the
2 managing agent to initial registration requirements.

3 (b) The commission may deny any registration or
4 reregistration application or terminate a registration without
5 hearing if the fidelity bond and supporting documents fail to
6 meet the requirements of this chapter and the rules adopted
7 pursuant thereto.

8 (c) Every managing agent shall be considered a fiduciary
9 with respect to any property managed by that managing agent.

10 (d) The registration requirements of [~~this section~~]
11 subsection (a) shall not apply to active real estate brokers in
12 compliance with and licensed under chapter 467.

13 (e) If a managing agent receives a request from the
14 commission to distribute any commission-generated information,
15 printed material, or documents to the association, its board, or
16 unit owners, the managing agent shall make the distribution at
17 the cost of the association within a reasonable period of time
18 after receiving the request. The requirements of this
19 subsection shall apply to all managing agents, including
20 unregistered managing agents.



1 (f) Beginning _____, no individual shall provide
2 services to an association in the capacity of an individual
3 managing agent or employee of a managing agent unless that
4 individual holds a license issued by the commission under this
5 subsection. To obtain a license under this subsection, an
6 individual shall provide:

7 (1) An application for licensure;

8 (2) A fee as determined by the commission by rule; and

9 (3) Proof of a current, unencumbered certification as a:

10 (A) Certified Manager of Community Associations by
11 the Community Association Managers International
12 Certification Board;

13 (B) Association Management Specialist by the
14 Community Associations Institute; or

15 (C) Professional Community Association Manager by the
16 Community Associations Institute.

17 (g) All individuals licensed under subsection (f) shall:

18 (1) Act in accordance with the declaration, bylaws, and
19 rules and regulations of the association to which they
20 serve;



S.B. NO. 1623

Report Title:

Condominium Associations; Managing Agents; Employees; Licensure

Description:

Requires individual managing agents and employees of entity managing agents to be licensed and imposes certain duties on these individuals.

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

