
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
2 high-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 board members of
6 associations of apartment owners (AOAO) possess is not
7 comparable to that of business organizations whose facilities
8 are managed by professional property management companies. The
9 legislature also finds that existing statutory requirements for
10 managing agents are inadequate to protect AOAO board members and
11 unit owners from incompetence, negligence, and lack of property
12 management experience. Concerning qualifications, existing law
13 requires only that managing agents be licensed real estate
14 brokers. The lack of requirements for property management
15 experience may cause AOAO 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 of residential condominium properties with more than one
3 hundred units located in a county with a population greater than
4 five hundred thousand, to be community association managers.

5 SECTION 2. Section 514B-3, Hawaii Revised Statutes, is
6 amended by adding a new definition to be appropriately inserted
7 and to read as follows:

8 "Community association manager" means an individual who
9 possesses a manager credential issued by a nationwide community
10 association management industry trade group."

11 SECTION 3. Section 514B-132, Hawaii Revised Statutes, is
12 amended by amending subsection (a) to read as follows:

13 (a) Every managing agent shall:

14 (1) Be a:

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

17 With respect to any requirement for a corporate
18 managing agent in any declaration or bylaws
19 recorded before July 1, 2006, any managing agent
20 organized as a limited liability company shall be
21 deemed to be organized as a corporation for the



1 purposes of this paragraph, unless the
2 declaration or bylaws are expressly amended after
3 July 1, 2006 to require that the managing agent
4 be organized as a corporation and not as a
5 limited liability company; or
6 (B) Corporation authorized to do business under
7 article 8 of chapter 412;
8 (2) Register with the commission [~~prior to~~] before
9 conducting managing agent activity through approval of
10 a completed registration application, payment of fees,
11 and submission of any other additional information set
12 forth by the commission. The registration shall be
13 for a biennial period with termination on December 31
14 of an even-numbered year. The commission shall
15 prescribe a deadline date [~~prior to~~] before the
16 termination date for the submission of a completed
17 reregistration application, payment of fees, and any
18 other additional information set forth by the
19 commission. Any managing agent who has not met the
20 submission requirements by the deadline date shall be
21 considered a new applicant for registration and



1 subject to initial registration requirements. The
2 information required to be submitted with any
3 application shall include the name, business address,
4 phone number, and names of associations managed;
5 (3) Obtain and keep current a fidelity bond in an amount
6 equal to \$500 multiplied by the aggregate number of
7 units of the association managed by the managing
8 agent; provided that the amount of the fidelity bond
9 shall not be less than \$20,000 nor greater than
10 \$500,000. Upon request by the commission, the
11 managing agent shall provide evidence of a current
12 fidelity bond or a certification statement from an
13 insurance company authorized by the insurance division
14 of the department of commerce and consumer affairs
15 certifying that the fidelity bond is in effect and
16 meets the requirements of this section and the rules
17 adopted by the commission. The managing agent shall
18 permit only employees covered by the fidelity bond to
19 handle or have custody or control of any association
20 funds, except any principals of the managing agent
21 that cannot be covered by the fidelity bond. The



1 fidelity bond shall protect the managing agent against
2 the loss of any association's moneys, securities, or
3 other properties caused by the fraudulent or dishonest
4 acts of employees of the managing agent. Failure to
5 obtain or maintain a fidelity bond in compliance with
6 this chapter and the rules adopted pursuant thereto,
7 including failure to provide evidence of the fidelity
8 bond coverage in a timely manner to the commission,
9 shall result in nonregistration or the automatic
10 termination of the registration, unless an approved
11 exemption or a bond alternative is presently
12 maintained. A managing agent who is unable to obtain
13 a fidelity bond may seek an exemption from the
14 fidelity bond requirement from the commission;

- 15 (4) Act promptly and diligently to recover from the
16 fidelity bond, if the fraud or dishonesty of the
17 managing agent's employees causes a loss to an
18 association, and apply the fidelity bond proceeds, if
19 any, to reduce the association's loss. If more than
20 one association suffers a loss, the managing agent
21 shall divide the proceeds among the associations in



1 proportion to each association's loss. An association
2 may request a court order requiring the managing agent
3 to act promptly and diligently to recover from the
4 fidelity bond. If an association cannot recover its
5 loss from the fidelity bond proceeds of the managing
6 agent, the association may recover by court order from
7 the real estate recovery fund established under
8 section 467-16, provided that:

9 (A) The loss is caused by the fraud,
10 misrepresentation, or deceit of the managing
11 agent or its employees;

12 (B) The managing agent is a licensed real estate
13 broker; and

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

17 (5) Pay a nonrefundable application fee and, upon
18 approval, an initial registration fee, and
19 subsequently pay a reregistration fee, as prescribed
20 by rules adopted by the director of commerce and
21 consumer affairs pursuant to chapter 91. A compliance



1 resolution fee shall also be paid pursuant to section
2 26-9(o) and the rules adopted pursuant thereto; ~~and~~

3 (6) Report immediately in writing to the commission any
4 changes to the information contained on the
5 registration application or any other documents
6 provided for registration. Failure to do so may
7 result in termination of registration and subject the
8 managing agent to initial registration
9 requirements~~[-]~~; and

10 (7) For residential condominium properties with more than
11 one hundred units located in a county with a
12 population greater than five hundred thousand, be a
13 community association manager."

14 SECTION 4. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 5. This Act shall take effect on July 1, 2050.



Report Title:

Condominiums; Managing Agents; Requirements; Community
Association Managers

Description:

Requires managing agents for residential condominium properties with more than one hundred units located in a county with a population greater than 500,000 to possess a community association manager credential from a recognized nationwide community association management industry trade group. Effective 7/1/2050. (SD1)

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