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## 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 (AOAO) 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 AOAO board members and unit  
11      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 commercial property  
15      management experience may cause AOAO board members to suffer  
16      losses due to fraud, misrepresentation, or deceit of the  
17      managing agent or its 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;



(3) Obtain and keep current a fidelity bond in an amount equal to \$500 multiplied by the aggregate number of units of the association managed by the managing agent; provided that the amount of the fidelity bond shall not be less than \$20,000 nor greater than \$500,000. Upon request by the commission, the managing agent shall provide evidence of a current fidelity bond or a certification statement from an insurance company authorized by the insurance division of the department of commerce and consumer affairs certifying that the fidelity bond is in effect and meets the requirements of this section and the rules adopted by the commission. The managing agent shall permit only employees covered by the fidelity bond to handle or have custody or control of any association funds, except any principals of the managing agent that cannot be covered by the fidelity bond. The fidelity bond shall protect the managing agent against the loss of any association's moneys, securities, or other properties caused by the fraudulent or dishonest 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 upon its approval.

12 INTRODUCED BY:

*Rinde L. Ching*

JAN 17 2025



# H.B. NO. 591

**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.

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