
A BILL FOR AN ACT

RELATING TO CONDOMINIUMS.

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

1 SECTION 1. Section 514B-3, Hawaii Revised Statutes, is
2 amended by adding a new definition to be appropriately inserted
3 and to read as follows:

4 "De minimis infraction" means a technical violation of a
5 bylaw, rule, or regulation that results in not more than three
6 complaints from separate units within a calendar year, or does
7 not result in a fine of more than \$500 per violation pursuant to
8 the bylaws, rules, or regulations of the association."

9 SECTION 2. Section 514B-104, Hawaii Revised Statutes, is
10 amended to read as follows:

11 **"§514B-104 Association; powers.** (a) Except as provided
12 in section 514B-105, and subject to the provisions of the
13 declaration and bylaws, the association, even if unincorporated,
14 may:

15 (1) Adopt and amend the declaration, bylaws, and rules and
16 regulations;



- 1 (2) Adopt and amend budgets for revenues, expenditures,
2 and reserves and collect assessments for common
3 expenses from unit owners, subject to section
4 514B-148;
- 5 (3) Hire and discharge managing agents and other
6 independent contractors, agents, and employees;
- 7 (4) Institute, defend, or intervene in litigation or
8 administrative proceedings in its own name on behalf
9 of itself or two or more unit owners on matters
10 affecting the condominium. For the purposes of
11 actions under chapter 480, associations shall be
12 deemed to be "consumers";
- 13 (5) Make contracts and incur liabilities;
- 14 (6) Regulate the use, maintenance, repair, replacement,
15 and modification of common elements;
- 16 (7) Cause additional improvements to be made as a part of
17 the common elements;
- 18 (8) Acquire, hold, encumber, and convey in its own name
19 any right, title, or interest to real or personal
20 property; provided that:



1 (A) Designation of additional areas to be common
2 elements or subject to common expenses after the
3 initial filing of the declaration or bylaws shall
4 require the approval of at least sixty-seven per
5 cent of the unit owners;

6 (B) If the developer discloses to the initial buyer
7 in writing that additional areas will be
8 designated as common elements whether pursuant to
9 an incremental or phased project or otherwise,
10 the requirements of this paragraph shall not
11 apply as to those additional areas; and

12 (C) The requirements of this paragraph shall not
13 apply to the purchase of a unit for a resident
14 manager, which may be purchased with the approval
15 of the board;

16 (9) Subject to section 514B-38, grant easements, leases,
17 licenses, and concessions through or over the common
18 elements and permit encroachments on the common
19 elements;

20 (10) Impose and receive any payments, fees, or charges for
21 the use, rental, or operation of the common elements,



1 other than limited common elements described in
2 section 514B-35(2) and (4), and for services provided
3 to unit owners;

4 (11) Impose charges and penalties, including late fees and
5 interest, for late payment of assessments and levy
6 reasonable fines for violations of the declaration,
7 bylaws, rules, and regulations of the association,
8 either ~~[in]~~:

9 (A) In accordance with the bylaws; provided that the
10 bylaws, at a minimum, shall provide a person to
11 whom a charge or penalty is assessed:

12 (i) The right to appeal the charge, penalty, or
13 fine to the board of directors with notice
14 and an opportunity to be heard; and

15 (ii) Written notice of the person's rights under
16 clause (i); or~~[, if]~~

17 (B) If the bylaws are silent, pursuant to a
18 resolution adopted by the board that establishes
19 a fining procedure that states the basis for the
20 fine and allows an appeal to the board of the
21 fine with notice and an opportunity to be heard



1 and providing that if the fine is paid, the unit
2 owner shall have the right to initiate a dispute
3 resolution process as provided by sections
4 514B-161, 514B-162, or by filing a request for an
5 administrative hearing under a pilot program
6 administered by the department of commerce and
7 consumer affairs;

8 (12) Impose reasonable charges for the preparation and
9 recordation of amendments to the declaration,
10 documents requested for resale of units, or statements
11 of unpaid assessments;

12 (13) Provide for cumulative voting through a provision in
13 the bylaws;

14 (14) Provide for the indemnification of its officers,
15 board, committee members, and agents, and maintain
16 directors' and officers' liability insurance;

17 (15) Assign its right to future income, including the right
18 to receive common expense assessments, but only to the
19 extent section 514B-105(e) expressly so provides;

20 (16) Exercise any other powers conferred by the declaration
21 or bylaws;



1 (17) Exercise all other powers that may be exercised in
2 this State by legal entities of the same type as the
3 association, except to the extent inconsistent with
4 this chapter;

5 (18) Exercise any other powers necessary and proper for the
6 governance and operation of the association; and

7 (19) By regulation, subject to sections 514B-146, 514B-161,
8 and 514B-162, require that disputes between the board
9 and unit owners or between two or more unit owners
10 regarding the condominium be submitted to nonbinding
11 alternative dispute resolution in the manner described
12 in the regulation as a prerequisite to commencement of
13 a judicial proceeding.

14 (b) If a tenant of a unit owner violates the declaration,
15 bylaws, or rules and regulations of the association, in addition
16 to exercising any of its powers against the unit owner, the
17 association may:

18 (1) Exercise directly against the tenant the powers
19 described in subsection (a) (11);

20 (2) After giving notice to the tenant and the unit owner
21 and an opportunity to be heard, levy reasonable fines



1 against the tenant for the violation, provided that a
2 unit owner shall be responsible for the conduct of the
3 owner's tenant and for any fines levied against the
4 tenant or any legal fees incurred in enforcing the
5 declaration, bylaws, or rules and regulations of the
6 association against the tenant; and

7 (3) Enforce any other rights against the tenant for the
8 violation which the unit owner as landlord could
9 lawfully have exercised under the lease, including
10 eviction, or which the association could lawfully have
11 exercised directly against the unit owner, or both[-];
12 provided that the association or board of directors, at a
13 minimum, shall afford a person accused of violating the
14 declaration, bylaws, or rules and regulations of the association
15 with the right to appeal any penalty or other remedy under this
16 subsection to the board of directors with notice and an
17 opportunity to be heard; provided further that the person shall
18 be provided with written notice of the person's rights under
19 this paragraph.

20 (c) Notwithstanding any provision of this chapter to the
21 contrary, the association or board of directors shall not



1 enforce against de minimis infractions of association bylaws,
2 rules or regulations.

3 ~~[(e)]~~ (d) The rights granted under subsection (b)(3) may
4 only be exercised if the tenant or unit owner fails to cure the
5 violation within ten days after the association notifies the
6 tenant and unit owner of that violation; provided that no notice
7 shall be required when the breach by the tenant causes or
8 threatens to cause damage to any person or constitutes a
9 violation of section 521-51(1) or 521-51(6).

10 ~~[(d)]~~ (e) Unless a lease otherwise provides, this section
11 does not:

- 12 (1) Affect rights that the unit owner has to enforce the
13 lease or that the association has under other law; or
14 (2) Permit the association to enforce a lease to which it
15 is not a party in the absence of a violation of the
16 declaration, bylaws, or rules and regulations."

17 SECTION 3. This Act does not affect rights and duties that
18 matured, penalties that were incurred, and proceedings that were
19 begun before its effective date.

20 SECTION 4. If any provision of this Act, or the
21 application thereof to any person or circumstance, is held



1 invalid, the invalidity does not affect other provisions or
2 applications of the Act that can be given effect without the
3 invalid provision or application, and to this end the provisions
4 of this Act are severable.

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

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

8

INTRODUCED BY: _____

JAN 17 2025



Report Title:

Condominiums; De Minimis Violations; Enforcement; Notice of Rights; Restrictions

Description:

Prohibits a condominium association or its board of directors from enforcing de minimis violation of association bylaws, rules, or regulations. Defines "de minimis violations". Requires condominium associations to provide persons accused of violations the right to appeal to the board of directors. Requires a condominium to disclose this right of appeal to alleged violators.

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

