

ACT 160

H.B. NO. 1653

A Bill for an Act Relating to the Requirements for Amendment of the Declaration

and Bylaws of Condominium Associations Under the Horizontal Property Act.
Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 514A-11, Hawaii Revised Statutes, is amended to read as follows:

"§514A-11 Recordation and contents of declaration. The bureau of conveyances and the land court shall immediately set up the mechanics and method by which recordation of a master deed or lease and the declaration may be made. Provisions shall be made for the recordation of instruments affecting the individual apartments on subsequent resales, mortgages, and other encumbrances, as is done with all other real estate recordations; provided that land court certificates of title shall not be issued for apartments. The declaration to which section 514A-20 refers shall express the following particulars:

- (1) Description of the land, whether leased or in fee simple, on which the building or buildings and improvements are or are to be located.
- (2) Description of the building or buildings, stating the number of stories and basements, the number of apartments, and the principal materials of which it or they is or are constructed or to be constructed.
- (3) The apartment number of each apartment, and a statement of its location, approximate area, number of rooms, and immediate common element to which it has access, designated parking stall, if considered a limited common element, and any other data necessary for its proper identification.
- (4) Description of the common elements.
- (5) Description of the limited common elements, if any, stating to which apartments their use is reserved.
- (6) The percentage of undivided interest in the common elements appertaining to each apartment and its owner for all purposes, including voting.
- (7) Statement of the purposes for which the building or buildings and each of the apartments are intended and restricted as to use.
- (8) The name of a person to receive service of process in the cases hereinafter provided, together with the residence or place of business of the person which shall be within the county or city and county in which the property is located.
- (9) Provision as to the percentage of votes by the apartment owners which shall be determinative of whether to rebuild, repair, or restore the property in the event of damage or destruction of all or part of the property.
- (10) Any further details in connection with the property which the person executing the declaration may deem desirable to set forth consistent with this chapter.
- (11) The method by which the declaration may be amended, consistent with this chapter[.], provided that an amendment to the declaration shall require a vote or written consent of not less than seventy-five per cent of all apartment owners.
- (12) Description as to any additions, deletions, modifications, and reservations as to the property.

- (13) In the case of a project which includes one or more existing structures being converted to condominium status, a statement that the project is in compliance with all ordinances, codes, rules, regulations, or other requirements in force at the time of its construction.
- (14) In the case a project which includes one or more existing structures being converted to condominium status, statement of whether any variance has been granted from any ordinance, code, rule, regulation, or other requirement in force at the time of its construction or from any current ordinance, code, rule, regulation, or other requirement."

SECTION 2. Section 514A-81, Hawaii Revised Statutes, is amended to read as follows:

"**[§514A-81]** **Bylaws.** The operation of the property shall be governed by bylaws, a true copy of which shall be [annexed to the declaration and made a part thereof.] recorded in the same manner as the declaration. No [modification of or] amendment to the bylaws is valid unless [set forth in an amendment to the declaration, which] the amendment is duly recorded."

SECTION 3. Section 514A-82, Hawaii Revised Statutes, is amended to read as follows:

"**§514-82 Contents of bylaws.** The bylaws shall provide for at least the following:

- (1) The election of a board of directors, the number of persons constituting the same, and that the terms of at least one-third of the directors shall expire annually; the powers and duties of the board; the compensation, if any, of the directors; the method of removal from office of directors; and whether or not the board may engage the services of a manager or managing agent, or both, and specifying which of the powers and duties granted to the board by this chapter or otherwise may be delegated by the board to either or both of them.
- (2) Method of calling meetings of the apartment owners; what percentage, if other than a majority of apartment owners, constitutes a quorum; and what percentage is, consistent with this chapter, necessary to adopt decisions binding on all apartment owners.
- (3) Election of a president from among the board of directors who shall preside over the meetings of the board of directors and of the association of apartment owners.
- (4) Election of a secretary who shall keep the minute book wherein resolutions shall be recorded.
- (5) Election of a treasurer who shall keep the financial records and books of account.
- (6) Operation of the property, payment of the common expenses, and determination and collection of the common charges.
- (7) Manner of collecting from the apartment owners their share of the common expenses.
- (8) Designation and removal of personnel necessary for the maintenance, repair, and replacement of the common elements.
- (9) Method of adopting and amending administrative rules and regula-

- tions governing the details of the operation and use of the common elements.
- (10) Such restrictions on and requirements respecting the use and maintenance of the apartments and the use of the common elements, not set forth in the declaration, as are designed to prevent unreasonable interference with the use of their respective apartments and of the common elements by the several apartment owners.
 - (11) [Seventy-five per cent of the apartment owners may at any time modify or amend the bylaws,] The bylaws may be amended at any time by the vote or written consent of not less than sixty-five per cent of all apartment owners, but each one of the particulars set forth in this section shall always be embodied in the bylaws.
 - (12) The first meeting of the association of apartment owners shall be held not later than one hundred eighty days after recordation of the first apartment conveyance; provided forty per cent or more of the project has been sold and recorded. If forty per cent of the project is not sold and recorded at the end of one year, an annual meeting shall be called; provided ten per cent of the apartment owners so request.
 - (13) All members of the board of directors shall be owners, co-owners, vendees under an agreement of sale, or an officer of any corporate owner of an apartment. The partners in a general partnership and the general partners of a limited partnership shall be deemed to be the owners of an apartment for this purpose. There shall not be more than one representative on the board of directors from any one apartment.
 - (14) A director shall not vote or cast any proxy vote at any board meeting on any issue in which he has a conflict of interest.
 - (15) No resident manager of the condominium shall serve on the board of directors.
 - (16) The board of directors shall meet at least once a year.
 - (17) Notices of association meetings, whether annual or special, shall be sent to each member of the association of apartment owners at least fourteen days prior to [such] the meeting, and shall contain at least: the date [and], time [of such meeting, the], and place of [such] the meeting, the items on the agenda for [such] the meeting, and a standard proxy form authorized by the association, if any.
 - (18) A proxy form which accompanies a notice of meeting shall be valid for the meeting to which the notice pertains and its adjournment only and may designate any person as proxy and may be limited as the apartment owner desires and indicates.
 - (19) The resident manager or managing agent[,] or board of directors shall keep an accurate and current list of members of the association of apartment owners and their current addresses and the names and addresses of the vendees under an agreement of sale, if any. The list shall be maintained at a place designated by the board of directors.
 - (20) All association and board of directors meetings shall be conducted in accordance with Roberts Rules of Order, or other accepted rules for the conduct of meetings.

- (21) The members of the association of apartment owners may require, by vote at the annual meeting, a yearly audit of the association books by a certified public accountant.
- (22) All meetings of the association of apartment owners shall be held at the address of the condominium project, or elsewhere within the State as determined by the board of directors.
- (23) Notice of the annual board meeting shall be given in a reasonable manner at least fourteen days, if practicable, prior to [such] the meeting.
- (24) That the minutes of meetings of the board of directors[,] and association of apartment owners and the association's financial statements shall be available for examination by apartment owners at convenient hours at a place designated by the board and shall be mailed to any owner upon the owner's request."

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 1, 1982.)