

A Bill for an Act Relating to Horizontal Property Regimes.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 514A-15.5, Hawaii Revised Statutes, is amended to read as follows:

“[[]§514A-15.5[]] **[Commercial units; metering.] Metering of utilities.**
(a) Notwithstanding the provisions of section 514A-15, commercial apartments in mixed use projects containing apartments for both residential and commercial use, the construction of which commences after December 31, 1977 shall have a separate meter, or calculations shall be made, or both, to determine the use by the commercial apartments of utilities, including electricity, water, gas, fuel, oil, sewerage, and drainage and the cost of such utilities shall be paid by the owners of such commercial units; provided that the apportionment of such charges

among owners of commercial apartments shall be done in a fair and equitable manner as set forth in the declaration or bylaws.

(b) Subject to any approval requirements and spending limits contained in the declaration or bylaws of an association of apartment owners, the board of directors may authorize the installation of meters to determine the use by the residential and commercial apartments of utilities, including electricity, water, gas, fuel, oil, sewerage and drainage. The cost of metered utilities shall be paid by the owners of such apartments based on actual consumption and may be collected in the same manner as common expense assessments. Owners' maintenance fees shall be adjusted as necessary to avoid any duplication of charges to these owners for the cost of metered utilities."

SECTION 2. Section 514A-83.2, Hawaii Revised Statutes, is amended to read as follows:

"[]§514A-83.2[] Proxies. (a) A proxy, to be valid, must be delivered to the secretary of the association of apartment owners or the managing agent, if any, at least two business days prior to the date of the meeting to which it pertains, and must contain at least: the name of the association of apartment owners, the date of the meeting of the association of apartment owners, the printed name and signature of the person or persons giving the proxy, the apartment or apartments for which the proxy is given, the printed name of the person or entity to whom the proxy is given, and the date that the proxy is given.

(b) [Proxy] A proxy [forms] shall only be valid for the meeting to which the proxy pertains and its adjournments, may designate any person as proxy, and may be limited as the apartment owner desires and indicates.

(c) Proxies may be given to the board of directors as an entity.

(d) Nothing in this section shall affect the holder of any proxy under a first mortgage of record encumbering an apartment or under an agreement of sale affecting an apartment."

SECTION 3. Section 514A-86, Hawaii Revised Statutes, is amended to read as follows:

"[]§514A-86[] Insurance. (a) The association of apartment owners shall purchase and at all times maintain insurance which covers the common elements and, whether or not part of the common elements, all exterior and interior walls, floors, and ceilings, in accordance with the as-built condominium plans and specifications, against loss or damage by fire sufficient to provide for the repair or replacement thereof in the event of such loss or damages. Flood insurance shall also be provided under the federal Flood Disaster Protection Act if the property is located in an identified flood hazard area as designated by the federal Department of Housing and Urban Development. Exterior glass may be insured at the option of the association of apartment owners. The insurance

coverage shall be written on the property in the name of the association of apartment owners. Premiums shall be common expenses. Provision for the insurance shall be without prejudice to the right of each apartment owner to insure his own apartment for his benefit.

(b) The association of apartment owners may purchase and maintain directors' and officers' liability insurance with minimum coverage in such amount as shall be determined by the board of directors. Premiums shall be common expenses.

~~[(b)]~~ (c) Any insurance policy providing the coverage required by [subsection] subsections (a) and (b) shall contain a provision requiring the insurance carrier, at the inception of the policy and on each anniversary date thereof, to provide the board of directors with a written summary, in layman's terms, of the policy. The summary shall include the type of policy, a description of the coverage and the limits thereof, amount of annual premium, and renewal dates. The board of directors shall provide this information to each apartment owner."

SECTION 4. Section 514A-89, Hawaii Revised Statutes, is amended to read as follows:

"§514A-89 Certain work prohibited. No apartment owner shall do any work which could jeopardize the soundness or safety of the property, reduce the value thereof, or impair any easement or hereditament, nor may any apartment owner add any material structure or excavate any additional basement or cellar, without in every such case the consent of seventy-five per cent of the apartment owners, together with the consent of all apartment owners whose apartments or limited common elements appurtenant thereto are directly affected, being first obtained; provided that non-material structural additions to the common elements, including, without limitation, the installation of solar energy devices as defined by section 468B-1, or additions to or alterations of an apartment made within such apartment or within a limited common element appurtenant to and for the exclusive use of the apartment shall require approval only by the board of directors of the association of apartment owners and such percentage, number, or group of apartment owners as may be required by the declaration or bylaws. "Non-material structural additions to the common elements", as used herein, shall mean a structural addition to the common elements which does not jeopardize the soundness or safety of the property, reduce the value thereof, impair any easement or hereditament, detract from the appearance of the project, interfere with or deprive any non-consenting owner of the use or enjoyment of any part of property, or directly affect any non-consenting owner."

SECTION 5. Section 514A-91, Hawaii Revised Statutes, is amended to read as follows:

“[[§514A-91[]] **Joint and several liability of grantor and grantee for unpaid common expenses.** In a voluntary conveyance the grantee of an apartment is jointly and severally liable with the grantor for all unpaid assessments against the latter for his share of the common expenses up to the time of the grant or conveyance, without prejudice to the grantee’s right to recover from the grantor the amounts paid by the grantee therefor. However, any such grantor or grantee is entitled to a statement from the manager or board of directors setting forth the amount of the unpaid assessments against the grantor, and except as to the amount of subsequently dishonored checks mentioned in such statement as having been received within the thirty day period immediately preceding the date of such statement, [neither the grantor nor] the grantee is not liable for, nor is the apartment conveyed subject to a lien for, any unpaid assessments against the grantor in excess of the amount therein set forth.”

SECTION 6. Section 514A-92.2, Hawaii Revised Statutes, is amended to read as follows:

“[[§514A-92.2[]] **Notification of [cost] maintenance fee increases [in common elements].** The manager or board of directors shall notify the apartment owners in writing of maintenance fee increases [in the cost of common expenses] at least thirty days prior to such an increase [in cost to the apartment owners].”

SECTION 7. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 8. This Act shall take effect upon its approval.

(Approved May 29, 1984.)