

A Bill for an Act Relating to Real Property.

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

SECTION 1. Section 514A-83.2, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) [Proxies may be given to the board of directors; provided that the proxy form shall contain a box wherein the owner may indicate that the owner wishes the vote to be shared with each board member receiving an equal percentage. Proxy forms which are not marked shall be considered a choice by the owner that the vote be made on the basis of the preference of the majority of the board.] All proxy forms, at the minimum, shall contain boxes wherein the owner may indicate that the owner wishes the proxy:

- (1) To be given for quorum purposes only;
- (2) To be given to a specific individual whose name is printed by the owner next to this box;
- (3) To be given to the board of directors as a whole and that the vote be made on the basis of the preference of the majority of the board; or
- (4) To be given to those directors present at the meeting and the vote to be shared with each board member receiving an equal percentage.

A proxy form which does not have a box marked shall be considered a proxy for quorum purposes only.”

SECTION 2. Section 514A-83.3, Hawaii Revised Statutes, is amended to read as follows:

“**§514A-83.3 Membership list.** 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 and a copy shall be available, at cost, to any member of the association as provided in the declaration or bylaws or rules and regulations or, in any case, to any member who furnishes to the resident manager or managing agent or board of directors a duly executed and acknowledged affidavit stating that the list [(A)] (1) will be used by such owner personally and only for the purpose of soliciting votes or proxies or providing information to other owners with respect to association matters, and [(B)] (2) shall not be used by such owner or furnished to anyone else for any other purpose. No board of directors shall adopt any rule prohibiting the solicitation of proxies or distribution of materials relating to association matters on the common elements by apartment owners; provided that a board of directors may adopt rules regulating reasonable time, place, and manner of such solicitations or distributions, or both. A board of directors may prohibit commercial solicitations.”

SECTION 3. Section 514A-96, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The board of directors of the association shall make available a copy of the annual audit to each apartment owner at least thirty days prior to the annual meeting which follows the end of the fiscal year. The board shall provide upon all official proxy forms a box wherein the owner may indicate that the owner wishes to

obtain [either a summary of the annual audit report, or an unabridged] a copy of the annual audit report. The board shall not be required to submit [a summary of the annual audit report or] a copy of the annual audit report to the owner if the proxy form is not marked. If the annual audit has not been completed by that date, the board shall make available:

- (1) An unaudited year end financial statement for the fiscal year to each apartment owner at least thirty days prior to the annual meeting; and
- (2) The annual audit to all owners at the annual meeting, or as soon as the audit is completed, whichever occurs later.

If the association's fiscal year ends less than two months prior to the convening of the annual meeting, the year to date unaudited financial statement may cover the period from the beginning of the association's fiscal year to the end of the month preceding the date on which notice of the annual meeting is mailed."

SECTION 4. The Real Estate Commission shall establish a plan for recodifying chapter 514A, Hawaii Revised Statutes, to make it easier to understand and follow, and submit a report on the plan to the legislature not later than twenty days prior to the convening of the regular session of 1996. The plan shall include but not be limited to:

- (1) Who should actually study and work on the recodification and who should be consulted on the recodification efforts;
- (2) What particular areas should be researched or considered for statutory amendments; and
- (3) Estimating costs and resources needed, sources of funding and examining the possibility of using the condominium management education fund.

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

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

(Approved June 14, 1995.)