

A Bill for an Act Relating to Condominiums.

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

SECTION 1. Chapter 514B, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§514B- Voting for elections; cumulative voting. (a) If the bylaws provide for cumulative voting for an election at a meeting, each unit owner present in person or represented by proxy shall have a number of votes equal to the unit owner’s voting percentage multiplied by the number of positions to be filled at the election.

(b) Each unit owner shall be entitled to cumulate the votes of the unit owner and give all of the votes to one nominee or distribute the votes among any or all of the nominees.

(c) The nominee or nominees receiving the highest number of votes under this section, up to the total number of positions to be filled, shall be deemed elected and shall be given the longest term.

(d) This section shall not prevent the filling of vacancies on the board of directors in accordance with this chapter and the association’s governing documents.”

SECTION 2. Section 514B-3, Hawaii Revised Statutes, is amended by amending the definition of “majority” or “majority of unit owners” to read as follows:

““Majority” or “majority of the unit owners” means the owners of units to which are appurtenant more than fifty per cent of the common interests. Any specified percentage of the unit owners means the owners of units to which are appurtenant such percentage of the common interest.”

SECTION 3. Section 514B-23, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) An amendment to the declaration, bylaws, condominium map or other constituent documents authorized by this section may be adopted by the vote or written consent of a majority of the unit owners; provided that any amendment adopted pursuant to this section shall not invalidate the reserved rights of a developer. If an amendment grants to any person any rights, powers, or privileges permitted by this chapter, all correlative obligations, liabilities, and restrictions in this chapter also apply to that person.”

SECTION 4. Section 514B-106, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (b) to read:

“(b) The board may not act on behalf of the association to amend the declaration or bylaws (sections 514B-32(a)(11) and 514B-108(b)(7)), to remove the condominium from the provisions of this chapter (section 514B-47), or to elect members of the board or determine the qualifications, powers and duties, or terms of office of board members (subsection (e)); provided that nothing in this subsection shall be construed to prohibit board members from voting proxies (section 514B-123) to elect members of the board; [~~and~~] provided further that notwithstanding anything to the contrary in the declaration or bylaws, the board may only fill vacancies in its membership to serve until the next annual or duly

noticed or special association meeting[-]; provided further that the notice of the special meeting shall include notice of the election to fill the vacancy, and the meeting date shall be set on a date that allows sufficient time for owners to declare their intentions to run for election and to solicit proxies for that purpose."

2. By amending subsection (e) to read:

"(e) Not later than the termination of any period of developer control, the unit owners shall elect a board of at least three members; provided that projects created after May 18, 1984, with one hundred or more individual units, shall have an elected board of at least nine members unless the membership has amended the bylaws to reduce the number of directors; and provided further that projects with more than one hundred individual units where at least seventy per cent of the unit owners do not reside at the project may amend the bylaws to reduce the board to as few as five members by the written consent of a majority of the unit owners or the vote of a majority of a quorum at any annual meeting or special meeting called for that purpose. The association may rely on its membership records in determining whether a unit is owner-occupied. A decrease in the number of directors shall not deprive an incumbent director of any remaining term of office."

SECTION 5. Section 514B-107, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) Directors shall not expend association funds for their travel, directors' fees, and per diem, unless owners are informed and a majority approve of these expenses; provided that, with the approval of the board, directors may be reimbursed for actual expenditures incurred on behalf of the association. The board meeting minutes shall reflect in detail the items and amounts of the reimbursements."

SECTION 6. Section 514B-143, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

"(g) The board, with the vote or written consent of a majority of the unit owners, may require unit owners to obtain reasonable types and levels of insurance. The liability of a unit owner shall include but not be limited to the deductible of the owner whose unit was damaged, any damage not covered by insurance required by this subsection, as well as the decorating, painting, wall and floor coverings, trim, appliances, equipment, and other furnishings.

If the unit owner does not purchase or produce evidence of insurance requested by the board, the directors may, in good faith, purchase the insurance coverage and charge the reasonable premium cost back to the unit owner. In no event is the association or board liable to any person either with regard to the failure of a unit owner to purchase insurance or a decision by the board not to purchase the insurance for the owner, or with regard to the timing of its purchase of the insurance or the amounts or types of coverages obtained."

SECTION 7. Section 514B-149, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) For purposes of subsection (a), lease rent collections and rental operations shall not include the rental or leasing of common elements that is conducted on behalf of the association or the collection of ground lease rents from individual unit owners of a project and the payment of such ground lease rents to the ground lessor if:

- (1) The collection is allowed by the provisions of the declaration, bylaws, master deed, master lease, or individual unit leases of the project;

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- (2) A management contract requires the managing agent to collect ground lease rents from the individual unit owners and pay the ground lease rents to the ground lessor;
- (3) The system of lease rent collection has been approved at a meeting of the association by a [majority] vote of [all] a majority of the unit owners [~~at a meeting of the association~~]; and
- (4) The managing agent or association does not pay ground lease rent to the ground lessor in excess of actual ground lease rent collected from individual unit owners.”

SECTION 8. Section 514B-150, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The association shall require an annual audit of the association financial accounts and no less than one annual unannounced verification of the association’s cash balance by a public accountant; provided that if the association is comprised of less than twenty units, the annual audit and the annual unannounced cash balance verification may be waived at an association meeting by a [majority] vote of [all] a majority of the unit owners [~~taken at an association meeting~~].”

SECTION 9. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 10. This Act shall take effect on July 1, 2014.

(Approved July 1, 2014.)

Note

1. Edited pursuant to HRS §23G-16.5.