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# A BILL FOR AN ACT

RELATING TO CONDOMINIUMS.

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

1           SECTION 1. Section 484-3, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3           "(a) Unless the method of disposition is adopted for the  
4 purpose of evasion of this chapter, or unless the subdivider  
5 files in writing with the director that this chapter shall apply  
6 to the subdivider's subdivision, this chapter shall not apply to  
7 offers or dispositions of an interest in land:

8           (1) By a purchaser of subdivided lands for the purchaser's  
9 own account in a single or isolated transaction;

10          (2) If fewer than twenty separate lots, parcels, units, or  
11 interests in subdivided lands are offered by a person  
12 in a period of twelve months;

13          (3) On which there is a residential, commercial, or  
14 industrial building, or as to which there is a legal  
15 obligation on the part of the seller to construct a  
16 building on the land within two years from the date of  
17 disposition; provided that the obligation to construct



1 shall not be, directly or indirectly, transferred to  
2 or otherwise imposed upon the purchaser;

3 (4) To persons who are engaged in, and are duly licensed  
4 to engage in, the business of construction of  
5 buildings for resale, or to persons who acquire an  
6 interest in subdivided lands for the purpose of  
7 engaging, and do engage in, and are duly licensed to  
8 engage in, the business of construction of buildings  
9 for resale;

10 (5) Pursuant to court order;

11 (6) By any government or government agency;

12 (7) As cemetery lots or interests; or

13 (8) Registered as a condominium property regime pursuant  
14 to chapter 514A[-] or 514B."

15 SECTION 2. Section 514A-1.5, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "~~[+]§514A-1.5[+]~~ **Applicability of chapter.** (a) This  
18 chapter:

19 (1) Shall not apply to condominiums created on or after  
20 July 1, 2006, or that are registered with the  
21 commission pursuant to part IV of chapter 514B; and



1       (2) From and after July 1, 2006, this chapter shall apply  
2       only:

3       (A) To condominiums created prior to July 1, 2006,  
4       except as provided in subsection (b) and sections  
5       514B-22 and 514B-23; and

6       (B) To a developer's sale of condominiums in a  
7       project for which a notice of intention was filed  
8       with the commission prior to July 1, 2006,  
9       pursuant to section 514A-31, except where the  
10       developer elects to register an existing project  
11       with the commission under part IV of chapter  
12       514B, pursuant to section 9(b) of Act 93, Session  
13       Laws of Hawaii 2005.

14       (b) This chapter shall not apply to any condominium  
15       project or association of apartment owners created prior to  
16       May 29, 1963, pursuant to Act 180, Session Laws of Hawaii 1961,  
17       unless all of the owners and holders of liens affecting any of  
18       the apartments in the project have expressly declared that this  
19       chapter shall apply to the property, and shall govern the  
20       rights, interests, and remedies of all persons owning interests  
21       in or liens upon the property; provided that any condominium  
22       project or association of apartment owners created prior to



1 May 29, 1963, pursuant to Act 180, Session Laws of Hawaii 1961,  
2 having seven or more apartments shall register with the  
3 commission and comply with the requirements pursuant to sections  
4 514A-95.1 and 514A-132, except for the fidelity bond  
5 requirement. The express declaration shall be made through the  
6 execution and recordation of a declaration in form and content  
7 required to establish a condominium property regime pursuant to  
8 this chapter."

9 SECTION 3. Section 514B-3, Hawaii Revised Statutes, is  
10 amended by amending the definitions of "association,"  
11 "condominium map," "material change," and "structures" as  
12 follows:

13 "Association" means the unit owners' association organized  
14 under section 514B-102 [-] or prior condominium property regimes  
15 statute.

16 "Condominium map" means, however denominated, a map or plan  
17 of the [~~building or buildings~~] condominium property regime  
18 containing the information required by section 514B-33.

19 "Material change" as used in parts IV and V of this chapter  
20 means any change that directly, substantially, and adversely  
21 affects the use or value of:



- 1 (1) A purchaser's unit or appurtenant limited common  
2 elements; or
- 3 (2) Those amenities of the project available for the  
4 purchaser's use.

5 "Structures" includes but is not limited to buildings."

6 SECTION 4. Section 514B-10, Hawaii Revised Statutes, is  
7 amended by amending subsection (a) to read as follows:

8 "(a) The remedies provided by this chapter shall be  
9 liberally administered to the end that the aggrieved party is  
10 put in as good a position as if the other party had fully  
11 performed. [~~Consequential, special, or punitive~~] Punitive  
12 damages may not be awarded, however, except as specifically  
13 provided in this chapter or by other rule of law."

14 SECTION 5. Section 514B-22, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 "[~~§~~514B-22 [~~§~~] **Applicability to preexisting condominiums.**  
17 Sections 514B-4, 514B-5, 514B-35, 514B-41(c), 514B-46, 514B-72,  
18 and part VI, and section 514B-3 to the extent definitions are  
19 necessary in construing any of those provisions, and all  
20 amendments thereto, apply to all condominiums created in this  
21 State before July 1, 2006; [~~but~~] provided that those sections  
22 (i) apply only with respect to events and circumstances



1 occurring on or after July 1, 2006; and ~~[(e)]~~ (ii) shall not  
2 invalidate existing provisions of the declaration, bylaws,  
3 condominium map, or other constituent documents of those  
4 condominiums if to do so would invalidate the reserved rights of  
5 a developer or be an unreasonable impairment of contract.

6 For purposes of interpreting this chapter, the terms  
7 "condominium property regime" and "horizontal property regime"  
8 shall be deemed to correspond to the term "condominium"; the  
9 term "apartment" shall be deemed to correspond to the term  
10 "unit"; the term "apartment owner" shall be deemed to correspond  
11 to the term "unit owner"; and the term "association of apartment  
12 owners" shall be deemed to correspond to the term  
13 ~~["association"-]~~ "association."

14 SECTION 6. Section 514B-23, Hawaii Revised Statutes, is  
15 amended by amending subsection (b) to read as follows:

16 "(b) An amendment to the declaration, bylaws, condominium  
17 map or other constituent documents authorized by this section  
18 ~~[shall be adopted in conformity with any procedures and~~  
19 ~~requirements for amending the instruments specified by those~~  
20 ~~instruments or, if there are none, in conformity with the~~  
21 ~~amendment procedures of this chapter]~~ may be adopted by the vote  
22 or written consent of a majority of the owners, provided that



1 any amendment adopted pursuant to this section shall not  
2 invalidate the reserved rights of a developer. If an amendment  
3 grants to any person any rights, powers, or privileges permitted  
4 by this chapter, all correlative obligations, liabilities, and  
5 restrictions in this chapter also apply to that person."

6 SECTION 7. Section 514B-32, Hawaii Revised Statutes, is  
7 amended by amending subsection (a) to read as follows:

8 "(a) A declaration shall describe or include the  
9 following:

- 10 (1) The land submitted to the condominium property regime;
- 11 (2) The number of the condominium [~~property regime~~] map  
12 filed concurrently with the declaration;
- 13 (3) The number of units in the condominium property  
14 regime;
- 15 (4) The unit number of each unit and common interest  
16 appurtenant to each unit;
- 17 (5) The number of buildings and projects in the  
18 condominium property regime, and the number of stories  
19 and units in each building;
- 20 (6) The permitted and prohibited uses of each unit;
- 21 (7) To the extent not shown on the condominium [~~property~~  
22 ~~regime~~] map, a description of the location and



1 dimensions of the horizontal and vertical boundaries  
2 of any unit. Unit boundaries may be defined by  
3 physical structures or, if a unit boundary is not  
4 defined by a physical structure, by spatial  
5 coordinates;

6 (8) The condominium property regime's common elements;

7 (9) The condominium property regime's limited common  
8 elements, if any, and the unit or units to which each  
9 limited common element is appurtenant;

10 (10) The total percentage of the common interest that is  
11 required to approve rebuilding, repairing, or  
12 restoring the condominium property regime if it is  
13 damaged or destroyed;

14 (11) The total percentage of the common interest, and any  
15 other approvals or consents, that are required to  
16 amend the declaration. Except as otherwise  
17 specifically provided in this chapter, and except for  
18 any amendments made pursuant to reservations set forth  
19 in paragraph (12), the approval of the owners of at  
20 least sixty-seven per cent of the common interest  
21 shall be required for all amendments to the  
22 declaration;





- 1           (12) Any rights that the developer or others reserve  
2                    regarding the condominium property regime, including,  
3                    without limitation, any development rights, and any  
4                    reservations to modify the declaration or condominium  
5                    [~~property regime~~] map. An amendment to the  
6                    declaration made pursuant to the exercise of those  
7                    reserved rights shall require only the consent or  
8                    approval, if any, specified in the reservation; and
- 9           (13) A declaration, subject to the penalties set forth in  
10                   section 514B-69(b), that the condominium property  
11                   regime is in compliance with all zoning and building  
12                   ordinances and codes, and all other permitting  
13                   requirements pursuant to section 514B-5, and  
14                   specifying in the case of a property that includes one  
15                   or more existing structures being converted to  
16                   condominium property regime status:
- 17                   (A) Any variances that have been granted to achieve  
18                   the compliance; and
- 19                   (B) Whether, as the result of the adoption or  
20                   amendment of any ordinances or codes, the project  
21                   presently contains any legal nonconforming  
22                   conditions, uses, or structures; except that a



1 property that is registered pursuant to section  
2 514B-51 shall instead provide this declaration  
3 pursuant to section 514B-54. If a developer is  
4 converting a structure to condominium property  
5 regime status and the structure is not in  
6 compliance with all zoning and building  
7 ordinances and codes, and all other permitting  
8 requirements pursuant to section 514B-5, and the  
9 developer intends to use purchaser's funds  
10 pursuant to the requirements of section 514B-92  
11 or 514B-93 to cure the violation or violations,  
12 then the declaration required by this paragraph  
13 may be qualified to identify with specificity  
14 each violation and the requirement to cure the  
15 violation by a date certain."

16 SECTION 8. Section 514B-33, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 "[~~§~~514B-33 ~~§~~] Condominium [~~property regime~~] map. (a) A  
19 condominium [~~property regime~~] map shall be recorded with the  
20 declaration. The condominium [~~property regime~~] map shall  
21 contain the following:



- 1           (1) A site plan for the condominium property regime,  
2                    depicting the location, layout, and access to a public  
3                    road of all buildings and projects included or  
4                    anticipated to be included in the condominium property  
5                    regime, and depicting access for the units to a public  
6                    road or to a common element leading to a public road;
- 7           (2) Elevations and floor plans of all buildings in the  
8                    condominium property regime;
- 9           (3) The layout, location, boundaries, unit numbers, and  
10                   dimensions of the units;
- 11           (4) To the extent that there is parking in the condominium  
12                   property regime, a parking plan for [~~a project,~~] the  
13                   regime, showing the location, layout, and stall  
14                   numbers of all parking stalls included in [~~the project~~  
15                   and] the condominium property regime;
- 16           (5) Unless specifically described in the declaration, the  
17                   layout, location, and numbers or other identifying  
18                   information of the limited common elements, if any;  
19                   and
- 20           (6) A description in sufficient detail, as may be  
21                   determined by the commission, to identify any land  
22                   area that constitutes a limited common element.



1 (b) The condominium [~~property regime~~] map may contain any  
2 additional information that is not inconsistent with this  
3 chapter."

4 SECTION 9. Section 514B-34, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "[-]§514B-34[+] Condominium [~~property regime~~] map;  
7 certification of architect, engineer, or surveyor. (a) The  
8 condominium [~~property regime~~] map shall bear the statement of a  
9 licensed architect, engineer, or surveyor certifying that the  
10 condominium [~~property regime~~] map is consistent with the plans  
11 of the condominium's building or buildings filed or to be filed  
12 with the government official having jurisdiction over the  
13 issuance of permits for the construction of buildings in the  
14 county in which the condominium property regime is located. If  
15 the building or buildings have been built at the time the  
16 condominium [~~property regime~~] map is recorded, the certification  
17 shall state that, to the best of the architect's, engineer's, or  
18 surveyor's knowledge, the condominium [~~property regime~~] map  
19 depicts the layout, location, dimensions, and numbers of the  
20 units substantially as built. If the building or buildings, or  
21 portions thereof, have not been built at the time the  
22 condominium [~~property regime~~] map is recorded, within thirty



1 days from the completion of construction, the developer shall  
2 execute and record an amendment to the declaration accompanied  
3 by a certification of a licensed architect, engineer, or  
4 surveyor certifying that the condominium [~~property regime~~] map  
5 previously recorded, as amended by the revised pages filed with  
6 the amendment, if any, fully and accurately depicts the layout,  
7 location, boundaries, dimensions, and numbers of the units  
8 substantially as built.

9 (b) If the condominium property regime is a conversion and  
10 the government official having jurisdiction over the issuance of  
11 permits for the construction of buildings in the county in which  
12 the condominium property regime is located is unable to locate  
13 the original permitted construction plans, the certification  
14 need only state that the condominium [~~property regime~~] map  
15 depicts the layout, location, boundaries, dimensions, and  
16 numbers of the units substantially as built. If there are no  
17 buildings, no certification shall be required."

18 SECTION 10. Section 514B-38, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 " ~~[§514B-38]~~ **Common elements.** Each unit owner may use  
21 the common elements in accordance with the purposes permitted  
22 under the declaration, subject to:



- 1 (1) The rights of other unit owners to use the common  
2 elements;
- 3 (2) Any owner's exclusive right to use of the limited  
4 common elements as provided in the declaration;
- 5 (3) The right of the owners to amend the declaration to  
6 change the permitted uses of the common elements [~~or~~  
7 ~~to designate any portion of the common elements as a~~  
8 ~~limited common element~~]; provided that subject to  
9 subsection 514B-140(c):
- 10 (A) Changing common element open spaces or landscaped  
11 spaces to other uses shall not require an  
12 amendment to the declaration; and
- 13 (B) Minor additions to or alterations of the common  
14 elements for the benefit of individual units are  
15 permitted if the additions or alterations can be  
16 accomplished without substantial impact on the  
17 interests of other owners in the common elements,  
18 as reasonably determined by the board;
- 19 (4) Any rights reserved in the declaration to amend the  
20 declaration to change the permitted uses of the common  
21 elements;



- 1           (5) The right of the board, on behalf of the association,  
2           to lease or otherwise use for the benefit of the  
3           association those common elements that the board  
4           determines are not actually used by any of the unit  
5           owners for a purpose permitted in the declaration.  
6           Unless the lease is approved by the owners of at least  
7           sixty-seven per cent of the common interest, the lease  
8           shall have a term of no more than five years and may  
9           be terminated by the board or the lessee on no more  
10          than sixty days prior written notice; provided that  
11          the requirements of this paragraph shall not apply to  
12          any leases, licenses, or other agreements entered into  
13          for the purposes authorized by section 514B-140 (d);  
14          and
- 15          (6) The right of the board, on behalf of the association,  
16          to lease or otherwise use for the benefit of the  
17          association those common elements that the board  
18          determines are actually used by one or more unit  
19          owners for a purpose permitted in the declaration.  
20          The lease or use shall be approved by the owners of at  
21          least sixty-seven per cent of the common interest,  
22          including all directly affected unit owners that the



1 board reasonably determines actually use the common  
2 elements, and the owners' mortgagees[-]; provided that  
3 the requirements of this paragraph shall not apply to  
4 any leases, licenses, or other agreements entered into  
5 for the purposes authorized by section 514B-140(d)."

6 SECTION 11. Section 514B-47, Hawaii Revised Statutes, is  
7 amended by amending subsection (c) to read as follows:

8 "(c) Notwithstanding subsections (a) and (b), if the unit  
9 leases for a leasehold condominium property regime (including  
10 condominium conveyance documents, ground leases, or similar  
11 instruments creating a leasehold interest in the land) provide  
12 that:

13 (1) The estate and interest of the unit owner shall cease  
14 and determine upon the acquisition, by an authority  
15 with power of eminent domain of title and right to  
16 possession of any part of the condominium property  
17 regime;

18 (2) The unit owner shall not by reason of the acquisition  
19 or right to possession be entitled to any claim  
20 against the lessor or others for compensation or  
21 indemnity for the unit owner's leasehold interest;





1 (3) All compensation and damages for or on account of any  
2 land shall be payable to and become the sole property  
3 of the lessor;

4 (4) All compensation and damages for or on account of any  
5 buildings or improvements on the demised land shall be  
6 payable to and become the sole property of the unit  
7 owners of the buildings and improvements in accordance  
8 with their interests; and

9 (5) The unit lease rents are reduced in proportion to the  
10 land so acquired or possessed;

11 the lessor and the developer, if the developer retains any  
12 interests or reserved rights in the project, shall file and  
13 record an amendment to the declaration to reflect any  
14 acquisition or right to possession. The consent or joinder of  
15 the unit owners or their respective mortgagees shall not be  
16 required, if the land acquired or possessed constitutes no more  
17 than five per cent of the total land of the condominium property  
18 regime. Upon the recordation of the amendment, the land  
19 acquired or possessed shall cease to be the subject of a  
20 condominium property regime or subject to this chapter. The  
21 lessor shall notify each unit owner in writing of the filing of  
22 the amendment and the rent abatement, if any, to which the unit



1 owner is entitled. The lessor shall provide the association,  
2 through its board, with a copy of the recorded amendment."

3 SECTION 12. Section 514B-58, Hawaii Revised Statutes, is  
4 amended by amending subsection (b) to read as follows:

5 "(b) The developer, its successor, or assign shall be  
6 relieved from filing annual reports pursuant to this section  
7 when the initial sales of all units have been completed [~~and the~~  
8 ~~developer, its successor, or assign has no ownership interest in~~  
9 ~~any unit in the project]~~."

10 SECTION 13. Section 514B-98, Hawaii Revised Statutes, is  
11 amended by amending subsection (a) to read as follows:

12 "(a) The developer may go to sale using either a  
13 chronological system or a lottery system at any time after  
14 issuance of an effective date for a developer's public report  
15 [~~for which the effective date has not expired]~~."

16 SECTION 14. Section 514B-104, Hawaii Revised Statutes, is  
17 amended by amending subsection (a) to read as follows:

18 "(a) Except as provided in section 514B-105, and subject  
19 to the provisions of the declaration and bylaws, the  
20 association, even if unincorporated, may:

21 (1) Adopt and amend the declaration, bylaws, and rules and  
22 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 [~~designation~~]:
- 21                  (A) Designation of additional areas to be common  
22                  elements or subject to common expenses after the



1 initial filing of the declaration or bylaws shall  
2 require the approval of at least sixty-seven per  
3 cent of the unit owners; [~~provided further that~~  
4 ~~if~~]

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

12 (C) The requirements of this paragraph shall not  
13 apply to the purchase of a unit for a resident  
14 manager[~~7~~], which may be purchased with the  
15 approval 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,  
22 other than limited common elements described in



1 section 514B-35(2) and (4), and for services provided  
2 to unit owners;

3 (11) Impose charges and penalties, including late fees and  
4 interest, for late payment of assessments and [~~after~~  
5 ~~notice and an opportunity to be heard,~~] levy  
6 reasonable fines for violations of the declaration,  
7 bylaws, rules, and regulations of the association,  
8 either in accordance with the bylaws or, [~~for~~  
9 ~~condominiums created after May 17, 1983,~~] if the  
10 bylaws are silent, pursuant to a resolution adopted by  
11 the board [~~and approved by sixty seven per cent of all~~  
12 ~~unit owners at an annual meeting of the association or~~  
13 ~~by the written consent of sixty seven per cent of all~~  
14 ~~unit owners,~~] that establishes a fining procedure that  
15 states the basis for the fine and allows an appeal to  
16 the board of the fine with notice and an opportunity  
17 to be heard and providing that the fine is paid, the  
18 unit owner shall have the right to initiate a dispute  
19 resolution process as provided by sections 514B-161,  
20 514B-162, or by filing a request for an administrative  
21 hearing under a pilot program administered by the  
22 department of commerce and consumer affairs;



- 1           (12)   Impose reasonable charges for the preparation and  
2                    recordation of amendments to the declaration,  
3                    documents requested for resale of units, or statements  
4                    of unpaid assessments;
- 5           (13)   Provide for cumulative voting through a provision in  
6                    the bylaws; [~~provided that an owner shall provide~~  
7                    ~~notice of the owner's intent to cumulatively vote~~  
8                    ~~before voting commences;~~]
- 9           (14)   Provide for the indemnification of its officers,  
10                   board, committee members, and agents, and maintain  
11                   directors' and officers' liability insurance;
- 12           (15)   Assign its right to future income, including the right  
13                   to receive common expense assessments, but only to the  
14                   extent section 514B-105(e) expressly so provides;
- 15           (16)   Exercise any other powers conferred by the declaration  
16                   or bylaws;
- 17           (17)   Exercise all other powers that may be exercised in  
18                   this State by legal entities of the same type as the  
19                   association, except to the extent inconsistent with  
20                   this chapter;
- 21           (18)   Exercise any other powers necessary and proper for the  
22                   governance and operation of the association; and



1 (19) By regulation, subject to sections 514B-146, 514B-161,  
2 and 514B-162, require that disputes between the board  
3 and unit owners or between two or more unit owners  
4 regarding the condominium be submitted to nonbinding  
5 alternative dispute resolution in the manner described  
6 in the regulation as a prerequisite to commencement of  
7 a judicial proceeding."

8 SECTION 15. Section 514B-105, Hawaii Revised Statutes, is  
9 amended by amending subsection (e) to read as follows:

10 "(e) Subject to any approval requirements and spending  
11 limits contained in the declaration or bylaws, the association  
12 may authorize the board to borrow money for the repair,  
13 replacement, maintenance, operation, or administration of the  
14 common elements and personal property of the project, or the  
15 making of any additions, alterations, and improvements thereto;  
16 provided that written notice of the purpose and use of the funds  
17 is first sent to all unit owners and owners representing fifty  
18 per cent of the common interest vote or give written consent to  
19 the borrowing. In connection with the borrowing, the board may  
20 grant to the lender the right to assess and collect monthly or  
21 special assessments from the unit owners and to enforce the  
22 payment of the assessments or other sums by statutory lien and



1 foreclosure proceedings. The cost of the borrowing, including,  
2 without limitation, all principal, interest, commitment fees,  
3 and other expenses payable with respect to the borrowing or the  
4 enforcement of the obligations under the borrowing, shall be a  
5 common expense of the project. For purposes of this section,  
6 the financing of insurance premiums by the association within  
7 the policy period shall not be deemed a loan and no lease shall  
8 be deemed a loan if it provides that at the end of the lease the  
9 association may purchase the leased equipment for its fair  
10 market value."

11 SECTION 16. Section 514B-106, Hawaii Revised Statutes, is  
12 amended by amending subsection (e) to read as follows:

13 "(e) Not later than the termination of any period of  
14 developer control, the unit owners shall elect a board of at  
15 least three members; provided that [~~condominiums~~] projects  
16 created after May [~~17,~~] 18, 1984, with one hundred or more  
17 individual units, shall have an elected board of at least nine  
18 members unless [~~at least sixty seven per cent of all unit owners~~  
19 ~~vote by mail ballot, or at a special or annual meeting,~~] the  
20 membership has amended the bylaws to reduce the number of  
21 directors; and provided further that [~~condominiums~~] projects  
22 with more than one hundred individual units where at least





1 ~~[seventy-five]~~ seventy per cent of the unit owners do not reside  
2 ~~[outside of the State]~~ at the project may ~~[have an elected board~~  
3 ~~of at least three members. The board shall elect the officers.~~  
4 ~~Board members and officers shall take office upon election.]~~  
5 amend the bylaws to reduce the board to as few as five members  
6 by the written consent of a majority of owners or the vote of a  
7 majority of a quorum at any annual meeting or special meeting  
8 called for that purpose. The association may rely on its  
9 membership records in determining whether a unit is owner-  
10 occupied. A decrease in the number of directors shall not  
11 deprive an incumbent director of any remaining term of office."

12 SECTION 17. Section 514B-107, Hawaii Revised Statutes, is  
13 amended as follows:

14 1. By amending subsection (a) to read:

15 "(a) Members of the board shall be unit owners or co-  
16 owners, vendees under an agreement of sale, a trustee ~~[or~~  
17 ~~beneficiary]~~ of a trust which owns a unit, ~~[an officer of any~~  
18 ~~corporate owner including a limited liability corporation of a~~  
19 ~~unit, or a representative]~~ or an officer, partner, member, or  
20 other person authorized to act on behalf of any other legal  
21 entity which owns a unit. ~~[The partners in a general~~  
22 partnership and the general partners of a limited partnership or



1 ~~limited liability partnership shall be deemed to be the owners~~  
2 ~~of a unit for the purpose of serving on the board.]~~ There shall  
3 not be more than one representative on the board from any one  
4 unit."

5 2. By amending subsection (c) to read:

6 "(c) An owner shall not act as [~~a director~~] an officer of  
7 an association and an employee of the managing agent retained by  
8 the association. Any owner who is a board member of an  
9 association and an employee of the managing agent retained by  
10 the association shall not participate in any discussion  
11 regarding a management contract at a board meeting and shall be  
12 excluded from any executive session of the board where the  
13 management contract or the property manager will be discussed."

14 SECTION 18. Section 514B-108, Hawaii Revised Statutes, is  
15 amended by amending subsection (b) to read as follows:

16 "(b) The bylaws shall provide for at least the following:

17 (1) The number of members of the board and the titles of  
18 the officers of the association;

19 (2) Election by the board of a president, treasurer,  
20 secretary, and any other officers of the association  
21 the bylaws specify;



- 1           (3) The qualifications, powers and duties, terms of
- 2           office, and manner of electing and removing directors
- 3           and officers and the filling of vacancies;
- 4           (4) Designation of the powers the board or officers may
- 5           delegate to other persons or to a managing agent;
- 6           (5) Designation of the officers who may prepare, execute,
- 7           certify, and record amendments to the declaration on
- 8           behalf of the association;
- 9           (6) The compensation, if any, of the directors;
- 10          (7) Subject to subsection [~~d~~] (e), a method for amending
- 11          the bylaws; and
- 12          (8) The percentage, consistent with this chapter, that is
- 13          required to adopt decisions binding on all unit
- 14          owners; provided that votes allocated to lobby areas,
- 15          swimming pools, recreation areas, saunas, storage
- 16          areas, hallways, trash chutes, laundry chutes, and
- 17          other similar common areas not located inside units
- 18          shall not be cast at any association meeting,
- 19          regardless of their designation in the declaration."

20           SECTION 19. Section 514B-109, Hawaii Revised Statutes, is  
21 amended by amending subsections (b) and (c) to read as follows:

1           "(b) Subject to section 514B-23, an association at any  
2 time may restate the declaration or bylaws of the association to  
3 amend the declaration or bylaws as may be required in order to  
4 conform with the provisions of this chapter or of any other  
5 statute, ordinance, or rule enacted by any governmental  
6 authority, or to correct the percentage of common interest for  
7 the project so it totals one hundred per cent, by a resolution  
8 adopted by the board. If the restated declaration is to correct  
9 the percentage of common interest for the project so that it  
10 totals one hundred per cent, the proportion of each unit owner's  
11 percentage of common interest shall remain the same in relation  
12 to the other unit owners. The restated declaration or bylaws  
13 shall be as fully effective for all purposes as if adopted by a  
14 vote or written consent of the unit owners.

15           Any declaration or bylaws restated pursuant to this  
16 subsection shall:

- 17           (1) Identify each portion so restated;
- 18           (2) Contain a statement that those portions have been  
19           restated solely for purposes of information and  
20           convenience;
- 21           (3) Identify the statute, ordinance, or rule implemented  
22           by the amendment; and



1           (4)    Contain a statement that, in the event of any  
2                    conflict, the restated declaration or bylaws shall be  
3                    subordinate to the cited statute, ordinance, or rule.

4           (c)    Upon the adoption of a resolution pursuant to  
5                    subsection (a) or (b), the restated declaration or bylaws shall  
6                    set forth all of the operative provisions of the declaration or  
7                    bylaws, as amended, together with a statement that the restated  
8                    declaration or bylaws correctly sets forth without change the  
9                    corresponding provisions of the declaration or bylaws, as  
10                   amended, and that the restated declaration or bylaws supersede  
11                   the original declaration or bylaws and all prior amendments  
12                   thereto. If the restated declaration corrects the percentage of  
13                   common interest as provided in subsection (b), the restated  
14                   declaration shall also amend the recorded conveyance instruments  
15                   that govern the unit owner's interest in the unit."

16           SECTION 20. Section 514B-123, Hawaii Revised Statutes, is  
17                   amended by amending subsections (a) and (b) to read as follows:

18           "(a)    If only one of several owners of a unit is present at  
19                   a meeting of the association, that owner is entitled to cast all  
20                   the votes allocated to that unit. If more than one of the  
21                   owners is present, the votes allocated to that unit may be cast  
22                   only in accordance with the agreement of a majority in interest



1 of the owners, unless the declaration or bylaws expressly  
2 [~~provides~~] provide otherwise. There is majority agreement if  
3 any one of the owners casts the votes allocated to that unit  
4 without protest being made by any of the other owners of the  
5 unit to the person presiding over the meeting before the polls  
6 are closed.

7 (b) Votes allocated to a unit may be cast pursuant to a  
8 proxy duly executed by a unit owner. A unit owner may vote by  
9 mail or electronic transmission through a duly executed  
10 [~~directed~~] proxy. If a unit is owned by more than one person,  
11 each owner of the unit may vote or register protest to the  
12 casting of votes by the other owners of the unit through a duly  
13 executed proxy. In the absence of protest, any owner may cast  
14 the votes allocated to the unit by proxy. A unit owner may  
15 revoke a proxy given pursuant to this section only by actual  
16 notice of revocation to the secretary of the association or the  
17 managing agent. A proxy is void if it purports to be revocable  
18 without notice."

19 SECTION 21. Section 514B-132, Hawaii Revised Statutes, is  
20 amended by amending subsection (e) to read as follows:

21 "(e) If a managing agent receives a request from the  
22 commission to distribute any commission-generated information,



1 printed material, or documents to the association, its board, or  
2 unit owners, the managing agent shall make the distribution at  
3 the cost of the association within a reasonable period of time  
4 after receiving the request. The requirements of this  
5 subsection apply to all managing agents, including unregistered  
6 managing agents."

7 SECTION 22. Section 514B-137, Hawaii Revised Statutes, is  
8 amended by amending subsection (a) to read as follows:

9 "(a) Except to the extent provided by the declaration or  
10 bylaws, the association is responsible for the operation of the  
11 property, and each unit owner is responsible for maintenance,  
12 repair, and replacement of the owner's unit. Each unit owner  
13 shall afford to the association and the other unit owners, and  
14 to ~~[their agents or employees]~~ employees, independent  
15 contractors, or agents of the association or other unit owners,  
16 during reasonable hours, access through the owner's unit  
17 reasonably necessary for those purposes. [~~if~~] Unless entry is  
18 made pursuant to subsection (b), if damage is inflicted on the  
19 common elements or on any unit through which access is taken,  
20 the unit owner responsible for the damage, or the association,  
21 if it is responsible, is liable for the prompt repair thereof;  
22 provided that the association shall not be responsible to pay



1 the costs of removing or replacing any finished surfaces or  
2 other barriers that impede its ability to maintain and repair  
3 the common elements."

4 SECTION 23. Section 514B-138, Hawaii Revised Statutes, is  
5 amended by amending subsection (d) to read as follows:

6 "(d) If a unit owner fails to follow requirements imposed  
7 by the board pursuant to this section, the association, after  
8 reasonable notice, [~~shall~~] may enter the unit to perform the  
9 requirements with regard to such high-risk components at the  
10 sole cost and expense of the unit owner, which costs and  
11 expenses shall be a lien on the unit as provided in section  
12 514B-146. Nothing in this section shall be deemed to limit the  
13 remedies of the association for damages, or injunctive relief,  
14 or both."

15 SECTION 24. Section 514B-141, Hawaii Revised Statutes, is  
16 amended by amending subsection (c) to read as follows:

17 "(c) Any statute of limitation affecting the association's  
18 right of action against a developer [~~under this chapter~~] is  
19 tolled until the period of developer control terminates. A unit  
20 owner is not precluded from maintaining an action contemplated  
21 by this section because the unit owner is a unit owner or a  
22 member or officer of the association. Liens resulting from





1 judgments against the association are governed by section  
2 514B-147."

3 SECTION 25. Section 514B-143, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 " ~~[+] §514B-143 [.]~~ **Insurance.** (a) Unless otherwise  
6 provided in the declaration or bylaws, ~~[and to the extent~~  
7 ~~reasonably available,]~~ the association shall purchase and at all  
8 times maintain the following:

9 (1) Property insurance:

10 (A) On the common elements;

11 (B) Providing coverage for special form causes of  
12 loss; and

13 (C) In a total amount of not less than the full  
14 insurable replacement cost of the insured  
15 property, less deductibles, but including  
16 coverage for the increased costs of construction  
17 due to building code requirements, at the time  
18 the insurance is purchased and at each renewal  
19 date;

20 (2) Commercial general liability insurance against claims  
21 and liabilities arising in connection with the  
22 ownership, existence, use, or management of the



1 property in a minimum amount of \$1,000,000, or a  
2 greater amount deemed sufficient in the judgment of  
3 the board[, insuring the board, the association, the  
4 management agent, and their respective employees and  
5 agents and all persons acting as agents. The  
6 developer shall be included as an additional insured  
7 in its capacity as a unit owner, managing agent or  
8 resident manager, board member, or officer. The unit  
9 owners shall be included as additional insured parties  
10 but only for claims and liabilities arising in  
11 connection with the ownership, existence, use, or  
12 management of the common elements. The insurance  
13 shall cover claims of one or more insured parties  
14 against other insured parties.]i

15 (3) A fidelity bond, as follows:

16 (A) An association with more than five dwelling units  
17 shall obtain and maintain a fidelity bond  
18 covering persons, including the managing agent  
19 and its employees who control or disburse funds  
20 of the association, in an amount equal to \$500  
21 multiplied by the number of units; provided that  
22 the amount of the fidelity bond required by this



1 paragraph shall not be less than \$20,000 nor  
2 greater than \$200,000; and

3 (B) All management companies that are responsible for  
4 the funds held or administered by the association  
5 shall be covered by a fidelity bond as provided  
6 in section 514B-132(a)(3). The association shall  
7 have standing to make a loss claim against the  
8 bond of the managing agent as a party covered  
9 under the bond~~[, and]~~;

10 and

11 ~~[(c)]~~ (4) The board shall obtain directors and  
12 officers liability coverage at a level deemed  
13 reasonable by the board, if not otherwise  
14 ~~[established]~~ limited by the declaration or bylaws.

15 ~~[Directors and officers liability coverage shall~~  
16 ~~extend to all contracts and other actions taken by the~~  
17 ~~board in their official capacity as directors and~~  
18 ~~officers, but shall exclude actions for which the~~  
19 ~~directors are not entitled to indemnification under~~  
20 ~~chapter 414D or the declaration and bylaws.]~~

21 (b) If a building contains attached units, the insurance  
22 maintained under subsection (a)(1), to the extent reasonably

1 available, shall include the units, the limited common elements,  
2 except as otherwise determined by the board, and the common  
3 elements. The insurance need not cover improvements and  
4 betterments to the units installed by unit owners, but if  
5 improvements and betterments are covered, any increased cost may  
6 be assessed by the association against the units affected.

7 For the purposes of this section, "improvements and  
8 betterments" means all decorating, fixtures, and furnishings  
9 installed or added to and located within the boundaries of the  
10 unit, including electrical fixtures, appliances, air  
11 conditioning and heating equipment, water heaters, or built-in  
12 cabinets installed by unit owners.

13 (c) If a project contains detached units, then  
14 notwithstanding the requirement in this section that  
15 ~~[associations]~~ the association obtain the requisite coverage, if  
16 the board determines that it is in the best interest of the  
17 association to do so, the insurance to be maintained under  
18 subsection (a)(1) may be obtained separately for each unit by  
19 the unit owners; provided that the requirements of subsection  
20 (a)(1) shall be met; and provided further that evidence of such  
21 insurance coverage shall be delivered annually to the



1 association. In such event, the association shall be named as  
2 an additional insured.

3 (d) The board, in the case of a claim for damage to a unit  
4 or the common elements, may:

5 (1) Pay the deductible amount as a common expense;

6 (2) After notice and an opportunity for a hearing, assess  
7 the deductible amount against the owners who caused  
8 the damage or from whose units the damage or cause of  
9 loss originated; or

10 (3) Require the unit owners of the units affected to pay  
11 the deductible amount.

12 (e) The declaration [~~or~~], bylaws, or the board may require  
13 the association to carry any other insurance, including workers'  
14 compensation, employment practices, environmental hazards, and  
15 equipment breakdown, that the board considers appropriate to  
16 protect the association, the unit owners, or officers,  
17 directors, or agents of the association. Flood insurance shall  
18 also be maintained if the property is located in a special flood  
19 hazard area as delineated on flood maps issued by the Federal  
20 Emergency Management Agency. The flood insurance policy shall  
21 comply with the requirements of the National Flood Insurance  
22 Program and the Federal Insurance Administration.



1        [~~(f)~~—Insurance policies carried pursuant to subsections  
2 ~~(a) and (b)~~ shall include each of the following provisions:  
3        ~~(1) Each unit owner and secured party is an insured person  
4            under the policy with respect to liability arising out  
5            of the unit owner's interest in the common elements or  
6            membership in the association;~~  
7        ~~(2) The insurer waives its right to subrogation under the  
8            policy against any unit owner of the condominium or  
9            members of the unit owner's household and against the  
10           association and members of the board; and~~  
11        ~~(3) The unit owner waives the unit owner's right to  
12           subrogation under the association policy against the  
13           association and the board.~~  
14        ~~(g) If at the time of a loss under the policy there is  
15           other insurance in the name of a unit owner covering the same  
16           property covered by the policy, the association's policy shall  
17           be the primary insurance.]~~

18        [~~(h)~~] (f) Any loss covered by the property policy under  
19           subsection (a) (1) shall be adjusted by and with the association.  
20           The insurance proceeds for that loss shall be payable to the  
21           association, or to an insurance trustee designated by the  
22           association for that purpose. The insurance trustee or the



1 association shall hold any insurance proceeds in trust for unit  
2 owners and secured parties as their interests may appear. [The  
3 ~~proceeds shall be disbursed first for the repair or restoration~~  
4 ~~of the damaged common elements, the bare walls, ceilings, and~~  
5 ~~floors of the units, and then to any improvements and~~  
6 ~~betterments the association may insure. Unit owners shall not~~  
7 ~~be entitled to receive any portion of the proceeds unless there~~  
8 ~~is a surplus of proceeds after the common elements and units~~  
9 ~~have been completely repaired or restored or the association has~~  
10 ~~been terminated as trustee.]~~

11        ~~[(i)]~~ (g) The board, ~~[under the declaration or bylaws,]~~  
12 with the vote or written consent of a majority of the owners,  
13 may require unit owners to obtain reasonable types and levels of  
14 insurance ~~[covering their personal liability and compensatory~~  
15 ~~but not consequential damages to another unit caused by the~~  
16 ~~negligence of the owner or the owner's guests, tenants, or~~  
17 ~~invitees, or regardless of any negligence originating from the~~  
18 ~~unit]. The [personal] liability of a unit owner shall include~~  
19 but not be limited to the deductible of the owner whose unit was  
20 damaged, any damage not covered by insurance required by this  
21 subsection, as well as the decorating, painting, wall and floor  
22 coverings, trim, appliances, equipment, and other furnishings.



1           If the unit owner does not purchase or produce evidence of  
2 insurance requested by the board, the directors may, in good  
3 faith, purchase the insurance coverage and charge the reasonable  
4 premium cost back to the unit owner. In no event is the  
5 association or board liable to any person either with regard to  
6 ~~[its]~~ the failure of a unit owner to purchase insurance or a  
7 decision by the board not to purchase the insurance~~[7]~~ for the  
8 owner, or with regard to the timing of its purchase of the  
9 insurance or the amounts or types of coverages obtained.

10           ~~[(j) Contractors and vendors, except public utilities~~  
11 ~~doing business with an association, shall provide certificates~~  
12 ~~of insurance naming the association, its board, and its managing~~  
13 ~~agent as additional insured parties.]~~

14           ~~[(k)]~~ (h) The provisions of this section may be varied or  
15 waived in the case of a ~~[condominium community]~~ project in which  
16 all units are restricted to nonresidential use.

17           ~~[(l) Any insurer defending a liability claim against an~~  
18 ~~association shall notify the association of the terms of the~~  
19 ~~settlement no less than ten days before settling the claim. The~~  
20 ~~association may not veto the settlement unless otherwise~~  
21 ~~provided by contract or statute.] "~~





1 SECTION 26. Section 514B-144, Hawaii Revised Statutes, is  
2 amended as follows:

3 1. By amending subsection (a) to read:

4 "(a) [~~Except as provided in section 514B 41, until the~~  
5 ~~association makes a common expense assessment, the developer~~  
6 ~~shall pay all common expenses. After an assessment has been~~  
7 ~~made by the association, assessments]~~ Assessments shall be made  
8 [~~at least annually,~~] based on a budget adopted and distributed  
9 or made available to unit owners at least annually by the  
10 board."

11 2. By amending subsection (g) to read as follows:

12 "(g) No unit owner may exempt the unit owner from  
13 liability for the unit owner's contribution towards the common  
14 expenses by waiver of the use or enjoyment of any of the common  
15 elements or by abandonment of the unit owner's unit. Subject to  
16 such terms and conditions as may be specified in the declaration  
17 or bylaws, any unit owner, by conveying [~~the unit owner's~~] his  
18 or her unit and common interest to the [~~board~~] association on  
19 behalf of all other unit owners, may exempt [~~the unit owner's~~  
20 ~~self~~] himself or herself from common expenses thereafter  
21 accruing."



1 SECTION 27. Section 514B-145, Hawaii Revised Statutes, is  
2 amended by amending its title and subsection (a) to read as  
3 follows:

4 " [†]§514B-145 [‡] **Association fiscal matters; collection of**  
5 **unpaid assessments from tenants [↵] or rental agents.** (a) If  
6 the owner of a unit rents or leases the unit and is in default  
7 for thirty days or more in the payment of the unit's share of  
8 the common expenses, the board, for as long as the default  
9 continues, may demand in writing and receive each month from any  
10 tenant occupying the unit [↵] or rental agent renting the unit,  
11 an amount sufficient to pay all sums due from the unit owner to  
12 the association, including interest, if any, but the amount  
13 shall not exceed the tenant's rent due each month. The tenant's  
14 payment under this section shall discharge that amount of  
15 payment from the tenant's rent obligation, and any contractual  
16 provision to the contrary shall be void as a matter of law."

17 SECTION 28. Section 514B-151, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 " [†]§514B-151 [‡] **Association fiscal matters; lease rent**  
20 **renegotiation.** (a) Notwithstanding any provision in the  
21 declaration or bylaws, any lease or sublease of the real estate  
22 or of a unit, or of an undivided interest in the real estate to



1 a unit owner, whenever any lease or sublease of the real estate,  
2 a unit, or an undivided interest in the real estate to a unit  
3 owner provides for the periodic renegotiation of lease rent  
4 thereunder, the association shall represent the unit owners in  
5 all negotiations and proceedings, including but not limited to  
6 appraisal or arbitration, for the determination of lease rent;  
7 provided that the association's representation in the  
8 renegotiation of lease rent shall be on behalf of at least two  
9 lessees. All costs and expenses incurred in such representation  
10 shall be a common expense of the association.

11 (b) Notwithstanding subsection (a), if some, but not all  
12 of the unit owners have already purchased the leased fee  
13 interest appurtenant to their units [~~at the time of~~  
14 ~~renegotiation,~~] as of the earlier of any date specified in the  
15 lease or sublease for the commencement of lease rent  
16 renegotiation or nine months prior to the commencement of the  
17 term for which lease rent is to be renegotiated, all costs and  
18 expenses of the renegotiation shall be assessed to the remaining  
19 lessees whose lease rent is to be renegotiated in the same  
20 proportion that the common interest appurtenant to each lessee's  
21 unit bears to the common interest appurtenant to all remaining  
22 lessees' units[-] whose lease rent is to be renegotiated. The



1 unpaid amount of this assessment shall constitute a lien upon  
2 the lessee's unit, which may be collected in accordance with  
3 section 514B-146 in the same manner as an unpaid common expense.

4 (c) In any project where the association is a lessor or  
5 sublessor, the association shall fulfill its obligations under  
6 this section by appointing independent counsel to represent the  
7 lessees in the negotiations and proceedings related to the rent  
8 renegotiation. The lessees' counsel shall act on behalf of the  
9 lessees in accordance with the vote or written consent of a  
10 majority of the lessees casting ballots or submitting written  
11 consents as determined by the ratio that the common interest  
12 appurtenant to each lessee's unit bears to the total common  
13 interest appurtenant to the units of participating lessees.  
14 Nothing in this subsection shall be interpreted to preclude the  
15 lessees from making a decision (by the vote or written consent  
16 of a majority of the lessees as described above) to retain other  
17 counsel or additional professional advisors as may be reasonably  
18 necessary or appropriate to complete the negotiations and  
19 proceedings. In the event of a deadlock among the lessees or  
20 other inability to proceed with the rent renegotiation on behalf  
21 of the lessees, the lessees' counsel may apply to the circuit  
22 court of the judicial circuit in which the condominium is



1 located for instructions. The association shall not instruct or  
2 direct the lessees' counsel or other professional advisors. All  
3 costs and expenses incurred under this subsection shall be  
4 assessed by the association to the lessees as provided in  
5 subsection (a) or (b), as may be applicable.

6 (d) As used in this section, "lessees" or "remaining  
7 lessees" means all unit owners who have not purchased the leased  
8 fee interest appurtenant to their units as of the earlier of any  
9 date specified in the lease or sublease for the commencement of  
10 lease rent negotiation or nine months prior to the commencement  
11 of the term for which lease rent is to be renegotiated. The  
12 board's allocation of expenses under this section shall be final  
13 and binding in the absence of a determination that the board  
14 abused its discretion."

15 SECTION 29. Section 514B-154, Hawaii Revised Statutes, is  
16 amended by amending subsection (g) to read as follows:

17 "(g) An association may comply with this part by making  
18 information available to unit owners, at the option of each unit  
19 owner[7] and at no cost [7] to the unit owner for downloading the  
20 information, through an Internet site."

21 SECTION 30. Section 514C-6, Hawaii Revised Statutes, is  
22 amended by amending subsection (a) to read as follows:



1           "(a) The association of apartment owners or cooperative  
2 housing corporation may purchase the leased fee interest in the  
3 land; provided that at least [~~seventy-five~~] sixty-seven per cent  
4 of the condominium unit lessees or cooperative unit lessees  
5 approve of the purchase. If the seller is also a condominium  
6 unit lessee or cooperative unit lessee, the seller's interest  
7 shall be disregarded in the computation to achieve the [~~seventy-~~  
8 ~~five~~] sixty-seven per cent requirement. As used herein,  
9 [~~seventy-five~~]:

10           (1) Sixty-seven per cent of the condominium unit lessees  
11 means the lessees of units to which [~~seventy-five~~]  
12 sixty-seven per cent of the common interests are  
13 appurtenant; and [~~seventy-five~~]

14           (2) Sixty-seven per cent of the cooperative unit lessees  
15 means shareholders having at least [~~seventy-five~~]  
16 sixty-seven per cent of the shares in the cooperative  
17 housing corporation.

18           If the association of apartment owners or cooperative  
19 housing corporation accepts the seller's offer to purchase the  
20 leased fee interest in the land, the following powers, in  
21 addition to any other powers, shall be conferred upon the  
22 association of owners or cooperative housing corporation:



- 1           (1) To purchase or otherwise acquire, own, improve, use,
- 2                   and otherwise deal in and with the leased fee interest
- 3                   to the land or any or all undivided interests therein;
- 4           (2) To incur liabilities, borrow money, and secure any of
- 5                   its obligations by mortgage or pledge of all or any
- 6                   portion of its property, assessments, and funds;
- 7           (3) To assess, in a fair and equitable manner, the
- 8                   condominium unit lessees or cooperative unit lessees
- 9                   for the expenses incurred in acquiring the leased fee
- 10                  interest to the land, or to service any debt
- 11                  associated therewith; and
- 12           (4) To sell the leased fee interest appurtenant to a
- 13                  condominium unit to any condominium unit lessee or
- 14                  subsequent purchaser of such unit."

15           SECTION 31. Section 514C-22, Hawaii Revised Statutes, is  
 16 amended by amending subsection (d) to read as follows:

17           "(d) If some, but not all, lessees have purchased the  
 18 leased fee interest in their condominium units directly from the  
 19 lessor, (other than purchases by the lessor or the association  
 20 of apartment owners), the association of apartment owners may  
 21 undertake the purchase of all or any part of the leased fee

1 interest in the remaining leasehold condominium units in the  
2 project in accordance with subsection (b); provided that:

3 (1) [~~Seventy-five~~] Sixty-seven per cent of the remaining  
4 lessees approve an amendment to the declaration  
5 authorizing the purchase of the leased fee interest by  
6 the association consistent with the requirements of  
7 this section;

8 (2) All costs and expenses and all proceeds and benefits  
9 of acquiring and holding the leased fee interest and  
10 to service any debt associated therewith shall be  
11 separately assessed or credited to the condominium  
12 units of the remaining lessees in the same ratio that  
13 the common interest appurtenant to each remaining  
14 lessees' apartment bears to the total common interest  
15 appurtenant to all of the remaining lessees'  
16 condominium units;

17 (3) The association of apartment owners shall sell the  
18 leased fee interest in a condominium unit only to the  
19 lessee of the condominium unit or to the permitted  
20 assigns or successors of the lessee; provided that if  
21 the lessee or the lessee's permitted assigns or  
22 successors decline to purchase the leased fee





1 interest, the leased fee interest may be sold to other  
2 persons so long as reasonable disclosure is made of  
3 the association of apartment owners' intent to sell  
4 the leased fee interest to the other persons and the  
5 disclosure includes a statement that the lessees may  
6 have no legal remedy if they subsequently wish to  
7 purchase the leased fee interest and the other persons  
8 refuse to sell or will sell only at a price  
9 unacceptable to the lessees; and

10 (4) The association of apartment owners, through its board  
11 of directors in the exercise of its authority, may  
12 decide not to accept an offer from the lessor to sell  
13 all of the remaining portion of the lessor's interest  
14 to the association of apartment owners on the basis  
15 that the purchase is not financially feasible or is  
16 otherwise not in the best interests of the  
17 association. In that event, the board shall adopt a  
18 resolution containing written findings as to its  
19 reasons for not accepting the offer and shall  
20 distribute the resolution to the remaining lessees."

1 SECTION 32. Act 164, Session Laws of Hawaii 2004, as  
2 amended by Act 93, Session Laws of Hawaii 2005, is amended by  
3 amending section 35 to read as follows:

4 "SECTION 35. This Act shall take effect on July 1, 2006;  
5 provided that:

6 (1) The text of section -146 in part I of this Act  
7 shall be repealed on December 31, 2007, and reenacted  
8 in the form in which it read, as section 514A-90,  
9 Hawaii Revised Statutes, on the day before the  
10 approval of Act 39, Session Laws of Hawaii 2000, but  
11 with the amendments to section 514A-90, Hawaii Revised  
12 Statutes, made by Act 53, Session Laws of Hawaii 2003;

13 (2) Section 28 of this Act shall take effect on July 1,  
14 2004, and shall be repealed on June 30, 2006; and

15 (3) Sections 30 to 33 of this Act shall take effect on  
16 July 1, 2004 [~~and~~

17 ~~(4) If provisions regarding the creation, alteration,~~  
18 ~~termination, registration, and administration of~~  
19 ~~condominiums, and the protection of condominium~~  
20 ~~purchasers, are not adopted effective July 1, 2006,~~  
21 ~~parts I and II of this Act shall be repealed on~~  
22 ~~June 30, 2006]."~~



1 SECTION 33. Act 93, Session Laws of Hawaii 2005, is  
2 amended by repealing section 6.

3 " ~~[SECTION 6. Chapter 514A, Hawaii Revised Statutes, is~~  
4 ~~repealed.]~~ "

5 SECTION 34. Chapter 16-107, subchapter 6, Hawaii  
6 Administrative Rules, shall remain in effect until the real  
7 estate commission adopts rules pursuant to section 514B-61 to  
8 implement section 514B-148, Hawaii Revised Statutes.

9 SECTION 35. Statutory material to be repealed is bracketed  
10 and stricken. New statutory material is underscored.

11 SECTION 36. This Act shall take effect on July 1, 2050.



**Report Title:**

Condominiums

**Description:**

Specifies applicability of chapter 514A, HRS, the condominium law, after effective date of chapter 514B, HRS, the recodified condominium law. Makes substantive and technical amendments to chapter 514B, HRS. Amends section 484-3 and chapter 514C, HRS, for consistency with chapter 514B. (SD1)

