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S.B. NO. 2962

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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. The purpose of this Act is to amend sections of  
2 Hawaii's condominium law, chapter 514B, Hawaii Revised Statutes,  
3 as enacted in Act 164 (SLH 2004) and Act 93 (SLH 2005) and to  
4 amend sections of chapter 514C, Hawaii Revised Statutes, to make  
5 these sections consistent with the condominium law.

6           SECTION 2. Section 514B-3, Hawaii Revised Statutes, is  
7 amended by amending the definitions of "association,"  
8 "condominium map," "material change," and "structures" as  
9 follows:

10           ""Association" means the unit owners' association organized  
11 under section 514B-102 or prior condominium property regimes  
12 statute.

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

16           "Material change" as used in parts IV and V of this chapter  
17 means any change that directly, substantially, and adversely  
18 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 3. 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 4. 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 those sections apply only with  
22 respect to events and circumstances occurring on or after



1 July 1, 2006 [~~and do not invalidate existing provisions of the~~  
2 ~~declaration, bylaws, condominium map, or other constituent~~  
3 ~~documents of these condominiums~~].

4 For purposes of interpreting this chapter, the terms  
5 "condominium property regime" and "horizontal property regime"  
6 shall be deemed to correspond to the term "condominium"; the  
7 term "apartment" shall be deemed to correspond to the term  
8 "unit"; the term "apartment owner" shall be deemed to correspond  
9 to the term "unit owner"; and the term "association of apartment  
10 owners" shall be deemed to correspond to the term "association".

11 SECTION 5. Section 514B-32, Hawaii Revised Statutes, is  
12 amended by amending subsection (a) to read as follows:

13 "(a) A declaration shall describe or include the  
14 following:

- 15 (1) The land submitted to the condominium property regime;
- 16 (2) The number of the condominium [~~property regime~~] map  
17 filed concurrently with the declaration;
- 18 (3) The number of units in the condominium property  
19 regime;
- 20 (4) The unit number of each unit and common interest  
21 appurtenant to each unit;



- 1           (5) The number of buildings and projects in the  
2                   condominium property regime, and the number of stories  
3                   and units in each building;
- 4           (6) The permitted and prohibited uses of each unit;
- 5           (7) To the extent not shown on the condominium [~~property~~  
6                   ~~regime~~] map, a description of the location and  
7                   dimensions of the horizontal and vertical boundaries  
8                   of any unit. Unit boundaries may be defined by  
9                   physical structures or, if a unit boundary is not  
10                  defined by a physical structure, by spatial  
11                  coordinates;
- 12          (8) The condominium property regime's common elements;
- 13          (9) The condominium property regime's limited common  
14                  elements, if any, and the unit or units to which each  
15                  limited common element is appurtenant;
- 16          (10) The total percentage of the common interest that is  
17                  required to approve rebuilding, repairing, or  
18                  restoring the condominium property regime if it is  
19                  damaged or destroyed;
- 20          (11) The total percentage of the common interest, and any  
21                  other approvals or consents, that are required to  
22                  amend the declaration. Except as otherwise

1 specifically provided in this chapter, and except for  
2 any amendments made pursuant to reservations set forth  
3 in paragraph (12), the approval of the owners of at  
4 least sixty-seven per cent of the common interest  
5 shall be required for all amendments to the  
6 declaration;

7 (12) Any rights that the developer or others reserve  
8 regarding the condominium property regime, including,  
9 without limitation, any development rights, and any  
10 reservations to modify the declaration or condominium  
11 [~~property regime~~] map. An amendment to the  
12 declaration made pursuant to the exercise of those  
13 reserved rights shall require only the consent or  
14 approval, if any, specified in the reservation; and

15 (13) A declaration, subject to the penalties set forth in  
16 section 514B-69(b), that the condominium property  
17 regime is in compliance with all zoning and building  
18 ordinances and codes, and all other permitting  
19 requirements pursuant to section 514B-5, and  
20 specifying in the case of a property that includes one  
21 or more existing structures being converted to  
22 condominium property regime status:



1 (A) Any variances that have been granted to achieve  
2 the compliance; and  
3 (B) Whether, as the result of the adoption or  
4 amendment of any ordinances or codes, the project  
5 presently contains any legal nonconforming  
6 conditions, uses, or structures; except that a  
7 property that is registered pursuant to section  
8 514B-51 shall instead provide this declaration  
9 pursuant to section 514B-54. If a developer is  
10 converting a structure to condominium property  
11 regime status and the structure is not in  
12 compliance with all zoning and building  
13 ordinances and codes, and all other permitting  
14 requirements pursuant to section 514B-5, and the  
15 developer intends to use purchaser's funds  
16 pursuant to the requirements of section 514B-92  
17 or 514B-93 to cure the violation or violations,  
18 then the declaration required by this paragraph  
19 may be qualified to identify with specificity  
20 each violation and the requirement to cure the  
21 violation by a date certain."



1 SECTION 6. Section 514B-33, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "[~~§~~514B-33] Condominium [~~property regime~~] map. (a) A  
4 condominium [~~property regime~~] map shall be recorded with the  
5 declaration. The condominium [~~property regime~~] map shall contain  
6 the following:

- 7 (1) A site plan for the condominium property regime,  
8 depicting the location, layout, and access to a public  
9 road of all buildings and projects included or  
10 anticipated to be included in the condominium property  
11 regime, and depicting access for the units to a public  
12 road or to a common element leading to a public road;
- 13 (2) Elevations and floor plans of all buildings in the  
14 condominium property regime;
- 15 (3) The layout, location, boundaries, unit numbers, and  
16 dimensions of the units;
- 17 (4) To the extent that there is parking in the condominium  
18 property regime, a parking plan for [~~a project~~] the  
19 regime, showing the location, layout, and stall  
20 numbers of all parking stalls included in [~~the project~~  
21 ~~and~~] the condominium property regime;

1 (5) Unless specifically described in the declaration, the  
 2 layout, location, and numbers or other identifying  
 3 information of the limited common elements, if any;  
 4 and

5 (6) A description in sufficient detail, as may be  
 6 determined by the commission, to identify any land  
 7 area that constitutes a limited common element.

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

11 SECTION 7. Section 514B-34, Hawaii Revised Statutes, is  
 12 amended to read as follows:

13 "[~~§~~514B-34] **Condominium [~~property regime~~] map;**  
 14 **certification of architect, engineer, or surveyor.** (a) The  
 15 condominium [~~property regime~~] map shall bear the statement of a  
 16 licensed architect, engineer, or surveyor certifying that the  
 17 condominium [~~property regime~~] map is consistent with the plans  
 18 of the condominium's building or buildings filed or to be filed  
 19 with the government official having jurisdiction over the  
 20 issuance of permits for the construction of buildings in the  
 21 county in which the condominium property regime is located. If  
 22 the building or buildings have been built at the time the



1 condominium [~~property regime~~] map is recorded, the certification  
2 shall state that, to the best of the architect's, engineer's, or  
3 surveyor's knowledge, the condominium [~~property regime~~] map  
4 depicts the layout, location, dimensions, and numbers of the  
5 units substantially as built. If the building or buildings, or  
6 portions thereof, have not been built at the time the  
7 condominium [~~property regime~~] map is recorded, within thirty  
8 days from the completion of construction, the developer shall  
9 execute and record an amendment to the declaration accompanied  
10 by a certification of a licensed architect, engineer, or  
11 surveyor certifying that the condominium [~~property regime~~] map  
12 previously recorded, as amended by the revised pages filed with  
13 the amendment, if any, fully and accurately depicts the layout,  
14 location, boundaries, dimensions, and numbers of the units  
15 substantially as built.

16 (b) If the condominium property regime is a conversion and  
17 the government official having jurisdiction over the issuance of  
18 permits for the construction of buildings in the county in which  
19 the condominium property regime is located is unable to locate  
20 the original permitted construction plans, the certification  
21 need only state that the condominium [~~property regime~~] map  
22 depicts the layout, location, boundaries, dimensions, and



1 numbers of the units substantially as built. If there are no  
2 buildings, no certification shall be required."

3 SECTION 8. Section 514B-38, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "[~~§~~§514B-38~~§~~] **Common elements.** Each unit owner may use  
6 the common elements in accordance with the purposes permitted  
7 under the declaration, subject to:

8 (1) The rights of other unit owners to use the common  
9 elements;

10 (2) Any owner's exclusive right to use of the limited  
11 common elements as provided in the declaration;

12 (3) The right of the owners to amend the declaration to  
13 change the permitted uses of the common elements [~~or~~  
14 ~~to designate any portion of the common elements as a~~  
15 ~~limited common element~~]; provided that: (i) except as  
16 specifically provided in the declaration, changing  
17 common element open spaces or landscaped spaces to  
18 other uses shall not require an amendment to the  
19 declaration; and (ii) subject to subsection  
20 514B-140(c), minor additions to or alterations of the  
21 common elements for the benefit of individual units  
22 are permitted if the additions or alterations can be

1 accomplished without substantial impact on the  
2 interests of other owners in the common elements, as  
3 reasonably determined by the board;

4 (4) Any rights reserved in the declaration to amend the  
5 declaration to change the permitted uses of the common  
6 elements;

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

21 (6) The right of the board, on behalf of the association,  
22 to lease or otherwise use for the benefit of the

1           association those common elements that the board  
 2           determines are actually used by one or more unit  
 3           owners for a purpose permitted in the declaration.  
 4           The lease or use shall be approved by the owners of at  
 5           least sixty-seven per cent of the common interest,  
 6           including all directly affected unit owners that the  
 7           board reasonably determines actually use the common  
 8           elements, and the owners' mortgages[-]; provided that  
 9           the requirements of this paragraph shall not apply to  
 10          any leases, licenses, or other agreements entered into  
 11          for the purposes authorized by subsection  
 12          514B-140(d)."

13           SECTION 9. Section 514B-86, Hawaii Revised Statutes, is  
 14           amended to read as follows:

15           "**[+]§514B-86[+]** **Requirements for binding sales contracts;**

16 **purchaser's right to cancel.** (a) No sales contract for the  
 17 purchase of a unit from a developer shall be binding on the  
 18 developer, prospective purchaser, or purchaser until:

19           (1) The developer has delivered to the prospective  
 20           purchaser:

21           (A) A true copy of the developer's public report  
 22           including all amendments with an effective date



1 issued by the commission. The developer's public  
2 report shall include the report itself, the  
3 condominium project's recorded declaration and  
4 bylaws, house rules if any, a letter-sized  
5 condominium project map, and all amendments.

6 Where it is impractical to include a letter-sized  
7 condominium project map, the prospective  
8 purchaser or purchaser shall be provided a  
9 written notice of an opportunity to examine the  
10 map. The copy of the recorded declaration and  
11 bylaws creating the project shall indicate the  
12 document number or land court document number, or  
13 both, as applicable; and

14 (B) A notice of the prospective purchaser's thirty-  
15 day cancellation right on a form prescribed by  
16 the commission, upon which the prospective  
17 purchaser may indicate that the prospective  
18 purchaser has had an opportunity to read the  
19 developer's public report, understands the  
20 developer's public report, and exercises the  
21 right to cancel or waives the right to cancel;  
22 and



1           (2) The prospective purchaser has waived the right to  
2           cancel or is deemed to have waived the right to  
3           cancel.

4           (b) Purchasers may cancel a sales contract at any time up  
5 to midnight of the thirtieth day after:

6           (1) The date that the purchaser signs the contract; and

7           (2) All of the items specified in subsection (a)(1) have  
8           been delivered to the purchaser.

9           (c) The prospective purchaser may waive the right to  
10 cancel, or shall be deemed to have waived the right to cancel,  
11 by:

12           (1) Checking the waiver box on the cancellation notice and  
13           delivering it to the developer;

14           (2) Letting the thirty-day cancellation period expire  
15           without taking any action to cancel; or

16           (3) Closing the purchase of the unit before the  
17           cancellation period expires.

18           (d) The receipts, return receipts, or cancellation notices  
19 obtained under this section shall be kept on file in possession  
20 of the developer and shall be subject to inspection at any  
21 reasonable time by the commission or its staff or agents for a



1 period of three years from the date the receipt or return  
2 receipt was obtained.

3 (e) Whenever a developer's public report is delivered to a  
4 prospective purchaser pursuant to subsection (a), two copies of  
5 the notice of the prospective purchaser's thirty-day  
6 cancellation right required by subsection (a)(1)(B) shall also  
7 be given. One of the copies may be used by the purchaser to  
8 cancel the transaction or waive the purchaser's right to cancel  
9 the transaction."

10 SECTION 10. Section 514B-104, Hawaii Revised Statutes, is  
11 amended by amending subsection (a) to read as follows:

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

15 (1) Adopt and amend the declaration, bylaws, and rules and  
16 regulations;

17 (2) Adopt and amend budgets for revenues, expenditures,  
18 and reserves and collect assessments for common  
19 expenses from unit owners, subject to section  
20 514B-148;

21 (3) Hire and discharge managing agents and other  
22 independent contractors, agents, and employees;



- 1           (4) Institute, defend, or intervene in litigation or  
2           administrative proceedings in its own name on behalf  
3           of itself or two or more unit owners on matters  
4           affecting the condominium. For the purposes of  
5           actions under chapter 480, associations shall be  
6           deemed to be "consumers";
- 7           (5) Make contracts and incur liabilities;
- 8           (6) Regulate the use, maintenance, repair, replacement,  
9           and modification of common elements;
- 10          (7) Cause additional improvements to be made as a part of  
11          the common elements;
- 12          (8) Acquire, hold, encumber, and convey in its own name  
13          any right, title, or interest to real or personal  
14          property; provided that (i) designation of additional  
15          areas to be common elements or subject to common  
16          expenses after the initial filing of the declaration  
17          or bylaws shall require the approval of at least  
18          sixty-seven per cent of the unit owners; [~~provided~~  
19          ~~further that~~] (ii) if the developer discloses to the  
20          initial buyer in writing that additional areas will be  
21          designated as common elements whether pursuant to an  
22          incremental or phased project or otherwise, [~~this~~



1 ~~requirement]~~ the requirements of this paragraph shall  
2 not apply as to those additional areas; and [~~provided~~  
3 ~~further that]~~ (iii) the requirements of this paragraph  
4 shall not apply to the purchase of a unit for a  
5 resident manager[+], which may be purchased with the  
6 approval of the board;

7 (9) Subject to section 514B-38, grant easements, leases,  
8 licenses, and concessions through or over the common  
9 elements and permit encroachments on the common  
10 elements;

11 (10) Impose and receive any payments, fees, or charges for  
12 the use, rental, or operation of the common elements,  
13 other than limited common elements described in  
14 section 514B-35(2) and (4), and for services provided  
15 to unit owners;

16 (11) Impose charges and penalties, including late fees and  
17 interest, for late payment of assessments and[~~, after~~  
18 ~~notice and an opportunity to be heard,~~] levy  
19 reasonable fines for violations of the declaration,  
20 bylaws, rules, and regulations of the association,  
21 either in accordance with the bylaws or, [~~for~~  
22 ~~condominiums created after May 17, 1983,~~] if the

1 bylaws are silent, pursuant to a resolution adopted by  
2 the board [~~and approved by sixty-seven per cent of all~~  
3 ~~unit owners at an annual meeting of the association or~~  
4 ~~by the written consent of sixty-seven per cent of all~~  
5 ~~unit owners;~~] that establishes a fining procedure that  
6 states the basis for the fine and allows an appeal of  
7 the fine with notice and an opportunity to be heard;

8 (12) Impose reasonable charges for the preparation and  
9 recordation of amendments to the declaration,  
10 documents requested for resale of units, or statements  
11 of unpaid assessments;

12 (13) Provide for cumulative voting through a provision in  
13 the bylaws; [~~provided that an owner shall provide~~  
14 ~~notice of the owner's intent to cumulatively vote~~  
15 ~~before voting commences;~~]

16 (14) Provide for the indemnification of its officers,  
17 board, committee members, and agents, and maintain  
18 directors' and officers' liability insurance;

19 (15) Assign its right to future income, including the right  
20 to receive common expense assessments, but only to the  
21 extent section 514B-105(e) expressly so provides;



1 (16) Exercise any other powers conferred by the declaration  
2 or bylaws;

3 (17) Exercise all other powers that may be exercised in  
4 this State by legal entities of the same type as the  
5 association, except to the extent inconsistent with  
6 this chapter;

7 (18) Exercise any other powers necessary and proper for the  
8 governance and operation of the association; and

9 (19) By regulation, subject to sections 514B-146, 514B-161,  
10 and 514B-162, require that disputes between the board  
11 and unit owners or between two or more unit owners  
12 regarding the condominium be submitted to nonbinding  
13 alternative dispute resolution in the manner described  
14 in the regulation as a prerequisite to commencement of  
15 a judicial proceeding."

16 SECTION 11. Section 514B-105, Hawaii Revised Statutes, is  
17 amended by amending subsection (e) to read as follows:

18 "(e) Subject to any approval requirements and spending  
19 limits contained in the declaration or bylaws, the association  
20 may authorize the board to borrow money for the repair,  
21 replacement, maintenance, operation, or administration of the  
22 common elements and personal property of the project, or the



1 making of any additions, alterations, and improvements thereto;  
2 provided that written notice of the purpose and use of the funds  
3 is first sent to all unit owners and owners representing fifty  
4 per cent of the common interest vote or give written consent to  
5 the borrowing. In connection with the borrowing, the board may  
6 grant to the lender the right to assess and collect monthly or  
7 special assessments from the unit owners and to enforce the  
8 payment of the assessments or other sums by statutory lien and  
9 foreclosure proceedings. The cost of the borrowing, including,  
10 without limitation, all principal, interest, commitment fees,  
11 and other expenses payable with respect to the borrowing or the  
12 enforcement of the obligations under the borrowing, shall be a  
13 common expense of the project. For purposes of this section,  
14 the financing of insurance premiums by the association within  
15 the policy period shall not be deemed a loan and no lease shall  
16 be deemed a loan if it provides that at the end of the lease the  
17 association may purchase the leased equipment for its fair  
18 market value."

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

21 "(e) Not later than the termination of any period of  
22 developer control, the unit owners shall elect a board of at

1 least three members [~~; provided that condominiums created after~~  
 2 ~~May 17, 1984, with one hundred individual units, shall have an~~  
 3 ~~elected board of at least nine members unless at least~~  
 4 ~~sixty-seven per cent of all unit owners vote by mail ballot, or~~  
 5 ~~at a special or annual meeting, to reduce the number of~~  
 6 ~~directors; and provided further that condominiums with more than~~  
 7 ~~one hundred individual units where at least seventy-five per~~  
 8 ~~cent of the unit owners reside outside of the State may have an~~  
 9 ~~elected board of at least three members. The board shall elect~~  
 10 ~~the officers. Board members and officers shall take office upon~~  
 11 ~~election]."~~

12 SECTION 13. 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."

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

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

12 (1) The number of members of the board and the titles of  
13 the officers of the association;

14 (2) Election by the board of a president, treasurer,  
15 secretary, and any other officers of the association  
16 the bylaws specify;

17 (3) The qualifications, powers and duties, terms of  
18 office, and manner of electing and removing directors  
19 and officers and the filling of vacancies;

20 (4) Designation of the powers the board or officers may  
21 delegate to other persons or to a managing agent;



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

15           SECTION 15. Section 514B-109, Hawaii Revised Statutes, is  
16 amended by amending subsections (b) and (c) to read as follows:

17           "(b) Subject to section 514B-23, an association at any  
18 time may restate the declaration or bylaws of the association to  
19 amend the declaration or bylaws as may be required in order to  
20 conform with the provisions of this chapter or of any other  
21 statute, ordinance, or rule enacted by any governmental  
22 authority, or to correct the percentage of common interest for



1 the project so it totals one hundred per cent, by a resolution  
2 adopted by the board. If the restated declaration is to correct  
3 the percentage of common interest for the project so that it  
4 totals one hundred per cent, the proportion of each unit owner's  
5 percentage of common interest must remain the same in relation  
6 to the other unit owners. The restated declaration or bylaws  
7 shall be as fully effective for all purposes as if adopted by a  
8 vote or written consent of the unit owners.

9 Any declaration or bylaws restated pursuant to this  
10 subsection shall:

- 11 (1) Identify each portion so restated;
  - 12 (2) Contain a statement that those portions have been  
13 restated solely for purposes of information and  
14 convenience;
  - 15 (3) Identify the statute, ordinance, or rule implemented  
16 by the amendment; and
  - 17 (4) Contain a statement that, in the event of any  
18 conflict, the restated declaration or bylaws shall be  
19 subordinate to the cited statute, ordinance, or rule.
- 20 (c) Upon the adoption of a resolution pursuant to  
21 subsection (a) or (b), the restated declaration or bylaws shall  
22 set forth all of the operative provisions of the declaration or





1 bylaws, as amended, together with a statement that the restated  
2 declaration or bylaws correctly sets forth without change the  
3 corresponding provisions of the declaration or bylaws, as  
4 amended, and that the restated declaration or bylaws supersede  
5 the original declaration or bylaws and all prior amendments  
6 thereto. If the restated declaration corrects the percentage of  
7 common interest as provided in subsection (b), the restated  
8 declaration shall also amend the recorded conveyance instruments  
9 that govern the unit owner's interest in the unit."

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

12 "(a) If only one of several owners of a unit is present at  
13 a meeting of the association, that owner is entitled to cast all  
14 the votes allocated to that unit. If more than one of the  
15 owners is present, the votes allocated to that unit may be cast  
16 only in accordance with the agreement of a majority in interest  
17 of the owners, unless the declaration or bylaws expressly  
18 [~~provides~~] provide otherwise. There is majority agreement if  
19 any one of the owners casts the votes allocated to that unit  
20 without protest being made by any of the other owners of the  
21 unit to the person presiding over the meeting before the polls  
22 are closed.



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

13 SECTION 17. Section 514B-132, Hawaii Revised Statutes, is  
14 amended by amending subsection (e) to read as follows:

15 "(e) If a managing agent receives a request from the  
16 commission to distribute any commission-generated information,  
17 printed material, or documents to the association, its board, or  
18 unit owners, the managing agent shall make the distribution at  
19 the cost of the association within a reasonable period of time  
20 after receiving the request. The requirements of this  
21 subsection apply to all managing agents, including unregistered  
22 managing agents."

1 SECTION 18. Section 514B-137, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

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

20 SECTION 19. Section 514B-138, Hawaii Revised Statutes, is  
21 amended by amending subsection (d) to read as follows:



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

10           SECTION 20. Section 514B-141, Hawaii Revised Statutes, is  
11 amended by amending subsection (c) to read as follows:

12           "(c) Any statute of limitation affecting the association's  
13 right of action against a developer [~~under this chapter~~] is  
14 tolled until the period of developer control terminates. A unit  
15 owner is not precluded from maintaining an action contemplated  
16 by this section because the unit owner is a unit owner or a  
17 member or officer of the association. Liens resulting from  
18 judgments against the association are governed by section  
19 514B-147."

20           SECTION 21. Section 514B-143, Hawaii Revised Statutes, is  
21 amended to read as follows:



1           "~~§514B-143~~ **Insurance.** (a) Unless otherwise  
2 provided in the declaration or bylaws, [~~and to the extent~~  
3 ~~reasonably available,~~] the association shall purchase and at all  
4 times maintain the following:

5           (1) Property insurance:

6                 (A) On the common elements;

7                 (B) Providing coverage for special form causes of  
8 loss; and

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

16           (2) Commercial general liability insurance against claims  
17 and liabilities arising in connection with the  
18 ownership, existence, use, or management of the  
19 property in a minimum amount of \$1,000,000, or a  
20 greater amount deemed sufficient in the judgment of  
21 the board[~~, insuring the board, the association, the~~  
22 ~~management agent, and their respective employees and~~

1 ~~agents and all persons acting as agents. The~~  
2 ~~developer shall be included as an additional insured~~  
3 ~~in its capacity as a unit owner, managing agent or~~  
4 ~~resident manager, board member, or officer. The unit~~  
5 ~~owners shall be included as additional insured parties~~  
6 ~~but only for claims and liabilities arising in~~  
7 ~~connection with the ownership, existence, use, or~~  
8 ~~management of the common elements. The insurance~~  
9 ~~shall cover claims of one or more insured parties~~  
10 ~~against other insured parties.];~~

11 (3) A fidelity bond, as follows:

12 (A) An association with more than five dwelling units  
13 shall obtain and maintain a fidelity bond  
14 covering persons, including the managing agent  
15 and its employees who control or disburse funds  
16 of the association, in an amount equal to \$500  
17 multiplied by the number of units; provided that  
18 the amount of the fidelity bond required by this  
19 paragraph shall not be less than \$20,000 nor  
20 greater than \$200,000; and

21 (B) All management companies that are responsible for  
22 the funds held or administered by the association



1           shall be covered by a fidelity bond as provided  
 2           in section 514B-132(a)(3). The association shall  
 3           have standing to make a loss claim against the  
 4           bond of the managing agent as a party covered  
 5           under the bond[ ~~and~~].

6           [~~(C) The board shall obtain directors~~] (4) Directors  
 7           and officers liability coverage at a level deemed  
 8           reasonable by the board, if not otherwise  
 9           [~~established~~] limited by the declaration or bylaws.  
 10          [~~Directors and officers liability coverage shall~~  
 11          ~~extend to all contracts and other actions taken by the~~  
 12          ~~board in their official capacity as directors and~~  
 13          ~~officers, but shall exclude actions for which the~~  
 14          ~~directors are not entitled to indemnification under~~  
 15          ~~chapter 414D or the declaration and bylaws.~~]

16          (b) If a building contains attached units, the insurance  
 17          maintained under subsection (a)(1), to the extent reasonably  
 18          available, shall include the units, the limited common elements,  
 19          except as otherwise determined by the board, and the common  
 20          elements. The insurance need not cover improvements and  
 21          betterments to the units installed by unit owners, but if

1 improvements and betterments are covered, any increased cost may  
2 be assessed by the association against the units affected.

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

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

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

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





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

5 (3) Require the unit owners of the units affected to pay  
6 the deductible amount.

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

18 ~~[(f) Insurance policies carried pursuant to subsections~~  
19 ~~(a) and (b) shall include each of the following provisions:~~

20 ~~(1) Each unit owner and secured party is an insured person~~  
21 ~~under the policy with respect to liability arising out~~

1 ~~of the unit owner's interest in the common elements or~~  
2 ~~membership in the association;~~

3 ~~(2) The insurer waives its right to subrogation under the~~  
4 ~~policy against any unit owner of the condominium or~~  
5 ~~members of the unit owner's household and against the~~  
6 ~~association and members of the board; and~~

7 ~~(3) The unit owner waives the unit owner's right to~~  
8 ~~subrogation under the association policy against the~~  
9 ~~association and the board.~~

10 ~~(g) If at the time of a loss under the policy there is~~  
11 ~~other insurance in the name of a unit owner covering the same~~  
12 ~~property covered by the policy, the association's policy shall~~  
13 ~~be the primary insurance.]~~

14 [~~(h)~~] (f) Any loss covered by the property policy under  
15 subsection (a) (1) shall be adjusted by and with the association.  
16 The insurance proceeds for that loss shall be payable to the  
17 association, or to an insurance trustee designated by the  
18 association for that purpose. The insurance trustee or the  
19 association shall hold any insurance proceeds in trust for unit  
20 owners and secured parties as their interests may appear. [~~The~~  
21 ~~proceeds shall be disbursed first for the repair or restoration~~  
22 ~~of the damaged common elements, the bare walls, ceilings, and~~



1 ~~floors of the units, and then to any improvements and~~  
2 ~~betterments the association may insure. Unit owners shall not~~  
3 ~~be entitled to receive any portion of the proceeds unless there~~  
4 ~~is a surplus of proceeds after the common elements and units~~  
5 ~~have been completely repaired or restored or the association has~~  
6 ~~been terminated as trustee.]~~

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

20       If the unit owner does not purchase or produce evidence of  
21 insurance requested by the board, the directors may, in good  
22 faith, purchase the insurance coverage and charge the reasonable

1 premium cost back to the unit owner. In no event is the  
2 association or board liable to any person either with regard to  
3 [its] the failure of a unit owner to purchase insurance or a  
4 decision by the board not to purchase the insurance[7] for the  
5 owner, or with regard to the timing of its purchase of the  
6 insurance or the amounts or types of coverages obtained.

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

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

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

19 SECTION 22. Section 514B-144, Hawaii Revised Statutes, is  
20 amended as follows:

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



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

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

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

18           SECTION 23. Section 514B-145, Hawaii Revised Statutes, is  
19 amended to read as follows:

20           "~~[§]514B-145[§]~~ **Association fiscal matters; collection of**  
21 **unpaid assessments from tenants[-] or rental agents.** (a) If  
22 the owner of a unit rents or leases the unit and is in default



1 for thirty days or more in the payment of the unit's share of  
2 the common expenses, the board, for as long as the default  
3 continues, may demand in writing and receive each month from any  
4 tenant occupying the unit[7] or rental agent renting the unit,  
5 an amount sufficient to pay all sums due from the unit owner to  
6 the association, including interest, if any, but the amount  
7 shall not exceed the tenant's rent due each month. The tenant's  
8 payment under this section shall discharge that amount of  
9 payment from the tenant's rent obligation, and any contractual  
10 provision to the contrary shall be void as a matter of law.

11 (b) Before taking any action under this section, the board  
12 shall give to the delinquent unit owner written notice of its  
13 intent to collect the rent owed. The notice shall:

- 14 (1) Be sent both by first-class and certified mail;  
15 (2) Set forth the exact amount the association claims is  
16 due and owing by the unit owner; and  
17 (3) Indicate the intent of the board to collect such  
18 amount from the rent, along with any other amounts  
19 that become due and remain unpaid.

20 (c) The unit owner shall not take any retaliatory action  
21 against the tenant for payments made under this section.

1 (d) The payment of any portion of the unit's share of  
2 common expenses by the tenant pursuant to a written demand by  
3 the board is a complete defense, to the extent of the amount  
4 demanded and paid by the tenant, in an action for nonpayment of  
5 rent brought by the unit owner against a tenant.

6 (e) The board may not demand payment from the tenant  
7 pursuant to this section if:

8 (1) A commissioner or receiver has been appointed to take  
9 charge of the premises pending a mortgage foreclosure;

10 (2) A mortgagee is in possession pending a mortgage  
11 foreclosure; or

12 (3) The tenant is served with a court order directing  
13 payment to a third party.

14 (f) In the event of any conflict between this section and  
15 any provision of chapter 521, the conflict shall be resolved in  
16 favor of this section; provided that if the tenant is entitled  
17 to an offset of rent under chapter 521, the tenant may deduct  
18 the offset from the amount due to the association, up to the  
19 limits stated in chapter 521. Nothing herein precludes the unit  
20 owner or tenant from seeking equitable relief from a court of  
21 competent jurisdiction or seeking a judicial determination of  
22 the amount owed.



1 (g) Before the board may take the actions permitted under  
2 subsection (a), the board shall adopt a written policy providing  
3 for the actions and have the policy approved by a majority vote  
4 of the unit owners at an annual or special meeting of the  
5 association or by the written consent of a majority of the unit  
6 owners."

7 SECTION 24. Section 514B-151, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "[+]§514B-151[+] **Association fiscal matters; lease rent**  
10 **renegotiation.** (a) Notwithstanding any provision in the  
11 declaration or bylaws, any lease or sublease of the real estate  
12 or of a unit, or of an undivided interest in the real estate to  
13 a unit owner, whenever any lease or sublease of the real estate,  
14 a unit, or an undivided interest in the real estate to a unit  
15 owner provides for the periodic renegotiation of lease rent  
16 thereunder, the association shall represent the unit owners in  
17 all negotiations and proceedings, including but not limited to  
18 appraisal or arbitration, for the determination of lease rent;  
19 provided that the association's representation in the  
20 renegotiation of lease rent shall be on behalf of at least two  
21 lessees. All costs and expenses incurred in such representation  
22 shall be a common expense of the association.





1 (b) Notwithstanding subsection (a), if some, but not all  
 2 of the unit owners have already purchased the leased fee  
 3 interest appurtenant to their units [~~at the time of~~  
 4 ~~renegotiation,~~] as of the earlier of any date specified in the  
 5 lease or sublease for the commencement of lease rent negotiation  
 6 or nine months prior to the commencement of the term for which  
 7 lease rent is to be renegotiated, all costs and expenses of the  
 8 renegotiation shall be assessed to the remaining lessees whose  
 9 lease rent is to be renegotiated in the same proportion that the  
 10 common interest appurtenant to each lessee's unit bears to the  
 11 common interest appurtenant to all remaining lessees' units[-]  
 12 whose lease rent is to be renegotiated. The unpaid amount of  
 13 this assessment shall constitute a lien upon the lessee's unit,  
 14 which may be collected in accordance with section 514B-146 in  
 15 the same manner as an unpaid common expense.

16 (c) In any project where the association is a lessor or  
 17 sublessor, the association shall fulfill its obligations under  
 18 this section by appointing independent counsel to represent the  
 19 lessees in the negotiations and proceedings related to the rent  
 20 renegotiation. The lessees' counsel shall act on behalf of the  
 21 lessees in accordance with the vote or written consent of a  
 22 majority of the lessees casting ballots or submitting written

1 consents as determined by the ratio that the common interest  
2 appurtenant to each lessee's unit bears to the total common  
3 interest appurtenant to the units of participating lessees.  
4 Nothing in this subsection shall be interpreted to preclude the  
5 lessees from making a decision (by the vote or written consent  
6 of a majority of the lessees as described above) to retain other  
7 counsel or additional professional advisors as may be reasonably  
8 necessary or appropriate to complete the negotiations and  
9 proceedings. In the event of a deadlock among the lessees or  
10 other inability to proceed with the rent renegotiation on behalf  
11 of the lessees, the lessees' counsel may apply to the circuit  
12 court of the judicial circuit in which the condominium is  
13 located for instructions. The association shall not instruct or  
14 direct the lessees' counsel or other professional advisors. All  
15 costs and expenses incurred under this subsection shall be  
16 assessed by the association to the lessees as provided in  
17 subsection (a) or (b), as may be applicable.

18 (d) As used in this section, "lessees" or "remaining  
19 lessees" means all unit owners who have not purchased the leased  
20 fee interest appurtenant to their units as of the earlier of any  
21 date specified in the lease or sublease for the commencement of  
22 lease rent negotiation or nine months prior to the commencement

1 of the term for which lease rent is to be renegotiated. The  
 2 board's allocation of expenses under this section shall be final  
 3 and binding in the absence of a determination that the board  
 4 abused its discretion."

5 SECTION 25. Section 514B-154, Hawaii Revised Statutes, is  
 6 amended as follows:

7 1. By amending subsections (b) and (c) to read:

8 "(b) Financial statements, general ledgers, the accounts  
 9 receivable ledger, accounts payable ledgers, check ledgers,  
 10 insurance policies, contracts, and invoices of the association  
 11 for the duration those records are kept by the association and  
 12 delinquencies of ninety days or more shall be available for  
 13 examination by unit owners at convenient hours at a place  
 14 designated by the board; provided that:

15 (1) The board may require owners to furnish to the  
 16 association a duly executed and acknowledged affidavit  
 17 stating that the information is requested in good  
 18 faith for the protection of the interests of the  
 19 association or its members or both; and

20 (2) Owners shall pay for administrative costs in excess of  
 21 eight hours per association per year.



1 Copies of these items shall be provided to any owner upon  
2 the owner's request; provided that the owner pays a reasonable  
3 fee for duplication, postage, stationery, and other  
4 administrative costs associated with handling the request.

5 (c) After any association meeting, and not earlier, unit  
6 owners shall be permitted to examine proxies, tally sheets,  
7 ballots, owners' check-in lists, and the certificate of  
8 election; provided that:

9 (1) Owners shall make a request to examine the documents  
10 within thirty days after the association meeting;

11 (2) The board may require owners to furnish to the  
12 association a duly executed and acknowledged affidavit  
13 stating that the information is requested in good  
14 faith for the protection of the interest of the  
15 association or its members or both; and

16 (3) Owners shall pay for administrative costs in excess of  
17 eight hours per association per year.

18 If there are no requests to examine proxies and ballots,  
19 the documents may be destroyed thirty days after the association  
20 meeting. If there are requests to examine proxies and ballots,  
21 the documents shall be kept for an additional sixty days, after  
22 which they may be destroyed. Copies of tally sheets, owners'

1 check-in lists, and the certificates of election from the most  
2 recent association meeting shall be provided to any owner upon  
3 the owner's request, provided that the owner pays a reasonable  
4 fee for duplicating, postage, stationery, and other  
5 administrative costs associated with handling the request."

6 2. By amending subsection (g) to read:

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

11 SECTION 26. Section 514C-6, Hawaii Revised Statutes, is  
12 amended by amending subsection (a) to read as follows:

13 "(a) The association of apartment owners or cooperative  
14 housing corporation may purchase the leased fee interest in the  
15 land; provided that at least [~~seventy-five~~] sixty-seven per cent  
16 of the condominium unit lessees or cooperative unit lessees  
17 approve of the purchase. If the seller is also a condominium  
18 unit lessee or cooperative unit lessee, the seller's interest  
19 shall be disregarded in the computation to achieve the [~~seventy-~~  
20 ~~five~~] sixty-seven per cent requirement. As used herein,  
21 [~~seventy-five~~] sixty-seven per cent of the condominium unit  
22 lessees means the lessees of units to which [~~seventy-five~~]



1 sixty-seven per cent of the common interests are appurtenant and  
2 [~~seventy-five~~] sixty-seven per cent of the cooperative unit  
3 lessees means shareholders having at least [~~seventy-five~~] sixty-  
4 seven per cent of the shares in the cooperative housing  
5 corporation.

6 If the association of apartment owners or cooperative  
7 housing corporation accepts the seller's offer to purchase the  
8 leased fee interest in the land, the following powers, in  
9 addition to any other powers, shall be conferred upon the  
10 association of owners or cooperative housing corporation:

- 11 (1) To purchase or otherwise acquire, own, improve, use,  
12 and otherwise deal in and with the leased fee interest  
13 to the land or any or all undivided interests therein;
- 14 (2) To incur liabilities, borrow money, and secure any of  
15 its obligations by mortgage or pledge of all or any  
16 portion of its property, assessments, and funds;
- 17 (3) To assess, in a fair and equitable manner, the  
18 condominium unit lessees or cooperative unit lessees  
19 for the expenses incurred in acquiring the leased fee  
20 interest to the land, or to service any debt  
21 associated therewith; and



1 (4) To sell the leased fee interest appurtenant to a  
2 condominium unit to any condominium unit lessee or  
3 subsequent purchaser of such unit."

4 SECTION 27. Section 514C-22, Hawaii Revised Statutes, is  
5 amended by amending subsection (d) to read as follows:

6 "(d) If some, but not all, lessees have purchased the  
7 leased fee interest in their condominium units directly from the  
8 lessor, (other than purchases by the lessor or the association  
9 of apartment owners), the association of apartment owners may  
10 undertake the purchase of all or any part of the leased fee  
11 interest in the remaining leasehold condominium units in the  
12 project in accordance with subsection (b); provided that:

13 (1) [~~Seventy-five~~] Sixty-seven per cent of the remaining  
14 lessees approve an amendment to the declaration  
15 authorizing the purchase of the leased fee interest by  
16 the association consistent with the requirements of  
17 this section;

18 (2) All costs and expenses and all proceeds and benefits  
19 of acquiring and holding the leased fee interest and  
20 to service any debt associated therewith shall be  
21 separately assessed or credited to the condominium  
22 units of the remaining lessees in the same ratio that

1 the common interest appurtenant to each remaining  
2 lessees' apartment bears to the total common interest  
3 appurtenant to all of the remaining lessees'  
4 condominium units;

5 (3) The association of apartment owners shall sell the  
6 leased fee interest in a condominium unit only to the  
7 lessee of the condominium unit or to the permitted  
8 assigns or successors of the lessee; provided that if  
9 the lessee or the lessee's permitted assigns or  
10 successors decline to purchase the leased fee  
11 interest, the leased fee interest may be sold to other  
12 persons so long as reasonable disclosure is made of  
13 the association of apartment owners' intent to sell  
14 the leased fee interest to the other persons and the  
15 disclosure includes a statement that the lessees may  
16 have no legal remedy if they subsequently wish to  
17 purchase the leased fee interest and the other persons  
18 refuse to sell or will sell only at a price  
19 unacceptable to the lessees; and

20 (4) The association of apartment owners, through its board  
21 of directors in the exercise of its authority, may  
22 decide not to accept an offer from the lessor to sell





1 all of the remaining portion of the lessor's interest  
 2 to the association of apartment owners on the basis  
 3 that the purchase is not financially feasible or is  
 4 otherwise not in the best interests of the  
 5 association. In that event, the board shall adopt a  
 6 resolution containing written findings as to its  
 7 reasons for not accepting the offer and shall  
 8 distribute the resolution to the remaining lessees."

9 SECTION 28. Act 93, Session Laws of Hawaii 2005, is  
 10 amended by adding a new section to read as follows:

11 "SECTION 10A. Chapter 16-107, subchapter 6, Hawaii  
 12 Administrative Rules, shall remain in effect until the real  
 13 estate commission adopts rules pursuant to section 514B-61 to  
 14 implement section 514B-148."

15 SECTION 29. Statutory material to be repealed is bracketed  
 16 and stricken. New statutory material is underscored.

17 SECTION 30. This Act shall take effect on July 1, 2006.

18

INTRODUCED BY:

*Ron [Signature]*  
 By Request

**Report Title:**  
Condominiums

**SB. NO. 2962**

**Description:**

Amends chapter 514B, Hawaii Revised Statutes. Amends chapter 514C, Hawaii Revised Statutes, to make sections consistent with chapter 514B.

