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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 legislature finds that a large percentage  
2 of persons in Hawaii live in condominiums and are members of  
3 their condominium unit owners' association. The legislature  
4 also finds that many condominium projects are akin to small  
5 communities, and each unit owner has interests and goals for the  
6 improvement of the condominium project. The legislature  
7 believes that the boards of directors of these associations have  
8 a duty to make their management decisions as transparent as  
9 possible so that members are fully aware of the basis for those  
10 decisions and their implications.

11           The purpose of this Act is to encourage more transparency  
12 in the actions of condominium association boards of directors  
13 by:

- 14           (1) Increasing the enforcement powers of the real estate  
15               commission; and  
16           (2) Ensuring board meetings, other than executive  
17               sessions, are open to all association members



1           regardless of whether a majority of a quorum of the  
2           board votes otherwise.

3           SECTION 2. Chapter 514B, Hawaii Revised Statutes, is  
4 amended by adding a new section to be appropriately designated  
5 and to read as follows:

6           "§514B- Enforcement. (a) Whenever the commission  
7 finds, based upon satisfactory evidence, that any person is  
8 violating or has violated any provision of this chapter or rule  
9 of the commission adopted pursuant thereto, the commission may  
10 conduct an investigation of the matter and bring an action in  
11 the name of the commission in any court of competent  
12 jurisdiction against the person to enjoin the person from  
13 continuing the violation or doing any acts in furtherance  
14 thereof. The commission shall also be entitled to recover  
15 attorneys' fees.

16           (b) Before the commission brings an action, pursuant to  
17 subsection (a), in any court of competent jurisdiction against  
18 any member of the board or managing agent, it may consider  
19 whether extenuating circumstances affected the person's ability  
20 to comply with the law. If the commission finds that  
21 extenuating circumstances exist, the commission may cease any  
22 further action.



1        (c) The commission shall adopt rules pursuant to chapter  
2        91 to carry out the purposes of this section."

3        SECTION 3. Section 514A-48, Hawaii Revised Statutes, is  
4        amended to read as follows:

5        "**§514A-48 Power to enjoin.** Whenever the commission  
6        believes from satisfactory evidence that any person has violated  
7        section 514A-2, 514A-31 to 514A-49, 514A-61 to 514A-63, 514A-65,  
8        514A-67, 514A-68, 514A-70, 514A-83.5, 514A-84, 514A-85, 514A-95,  
9        514A-95.1, 514A-97, 514A-98, 514A-134, or 514B-72, or the rules  
10       of the commission adopted pursuant thereto, it may conduct an  
11       investigation on the matter and bring an action in the name of  
12       the people of the State in any court of competent jurisdiction  
13       against the person to enjoin the person from continuing the  
14       violation or engaging therein or doing any act or acts in  
15       furtherance thereof.

16       The commission may also recover attorneys' fees."

17       SECTION 4. Section 514B-125, Hawaii Revised Statutes, is  
18       amended by amending subsection (a) to read as follows:

19       "(a) All meetings of the board, other than executive  
20       sessions, shall be open to all members of the association, and  
21       association members who are not on the board may participate in



1 any deliberation or discussion, other than executive sessions [7  
2 ~~unless a majority of a quorum of the board votes otherwise~~]."

3 SECTION 5. This Act does not affect rights and duties that  
4 matured, penalties that were incurred, and proceedings that were  
5 begun before its effective date.

6 SECTION 6. Statutory material to be repealed is bracketed  
7 and stricken. New statutory material is underscored.

8 SECTION 7. This Act shall take effect on July 1, 2112.



**Report Title:**

Condominiums; Transparency

**Description:**

Clarifies the Real Estate Commission's enforcement authority by authorizing the award of attorneys' fees and, in certain cases, authorizing the commission discretionary power to decline to bring enforcement actions. Removes board's ability to close meetings and deny participation to association members. Effective July 1, 2112. (HB2401 HD2)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

