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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 condominium  
2 ownership is enjoyed by a large number of people in Hawaii, all  
3 of whom are members of their condominium unit owners'  
4 associations. The legislature further finds that full  
5 participation by condominium unit owners in the self-governing  
6 condominium association process under existing law on matters  
7 such as holding annual meetings to conduct required business,  
8 having the authority to terminate managing agent contracts,  
9 transparency in association budget and accounting matters, and  
10 the efficient processing of requests for association records, is  
11 challenging.

12           Therefore, the purpose of this Act is to enhance the  
13 effectiveness and efficiency of self-governance in condominium  
14 living by amending chapter 514B, Hawaii Revised Statutes, to:

15           (1) Require that a duly noticed annual meeting be held at  
16                 a location convenient and easily accessible to a  
17                 majority of condominium unit owners;



- 1           (2) Allow for two subsequent duly noticed adjourned annual  
2           meetings if there is no quorum present at the initial  
3           annual meeting and a reduced quorum requirement if  
4           quorum is not met at the third duly noticed adjourned  
5           annual meeting;
- 6           (3) Limit association business at an annual meeting  
7           conducted with a reduced quorum to the adoption of a  
8           tax resolution and the election of members of a board  
9           of directors for positions that have expired and are  
10          expiring;
- 11          (4) Restrict the time between the originally-noticed  
12          adjourned annual meeting and the reduced-quorum  
13          adjourned annual meeting to no longer than ninety  
14          days;
- 15          (5) Authorize the board of a condominium association to  
16          terminate a managing agent's contract upon a majority  
17          vote of the association of unit owners;
- 18          (6) Require a condominium association with fifty or more  
19          units to prepare its budget on an accrual basis in  
20          accordance with generally accepted accounting  
21          principles; and



1           (7) Require the use of standardized forms prescribed or  
2           approved by the commission for the condominium unit  
3           owner's request for records.

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

7           "§514B-        Association meetings; failure to obtain a  
8           quorum. (a) Any association shall hold an annual meeting to  
9           conduct business that shall include but not be limited to the  
10          following:

11          (1) Where applicable, adopting an appropriate tax  
12          resolution and making any appropriate election under  
13          the Internal Revenue Code; and

14          (2) Electing a member as determined pursuant to section  
15          514B-107(a) to the board of directors to fill any  
16          position that is expiring or that has expired.

17          (b) If an association is unable to obtain a quorum at any  
18          annual meeting, then the association shall adjourn the annual  
19          meeting and shall set another time for the adjourned annual  
20          meeting in an attempt to obtain quorum, and this meeting shall  
21          be held in sufficient time so that if the quorum is again not



1 achieved, then the third attempt for the annual meeting, as  
2 specified in subsection (c) below, is held within ninety days of  
3 the first annual meeting.

4 (c) At the third attempt to obtain quorum, the meeting  
5 shall be held within ninety days of the first meeting, and this  
6 adjourned annual meeting shall have a quorum requirement of one-  
7 half of the requirement as stated in the bylaws of the  
8 association. Association business conducted at this meeting  
9 with a reduced quorum shall be limited to:

10 (1) Electing, where applicable, to file Internal Revenue  
11 Service Form 1120 or 1120-H as may be amended and  
12 adopting a tax resolution in accordance with any  
13 accompanying revenue ruling as may be amended; and

14 (2) Electing a member as determined pursuant to 514B-  
15 107(a) to the board of directors to fill any position  
16 that is expiring or that has expired.

17 Each adjourned annual meeting pursuant to this section  
18 shall be duly noticed in accordance with section 514B-121(c)."

19 SECTION 3. Section 514B-107, Hawaii Revised Statutes, is  
20 amended to read as follows:



1           **"§514B-107 Board; limitations.** (a) Members of the board  
2 shall be unit owners or co-owners, vendees under an agreement of  
3 sale, a trustee of a trust which owns a unit, or an officer,  
4 partner, member, or other person authorized to act on behalf of  
5 any other legal entity which owns a unit. There shall not be  
6 more than one representative on the board from any one unit.

7           (b) No resident manager or employee of a condominium shall  
8 serve on its board.

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

17           (d) Directors shall not expend association funds for their  
18 travel, directors' fees, and per diem, unless owners are  
19 informed and a majority approve of these expenses; provided  
20 that, with the approval of the board, directors may be  
21 reimbursed for actual expenditures incurred on behalf of the



1 association. The board meeting minutes shall reflect in detail  
2 the items and amounts of the reimbursements.

3 (e) Associations at their own expense shall provide all  
4 board members with a current copy of the association's  
5 declaration, bylaws, house rules, and, annually, a copy of this  
6 chapter with amendments.

7 (f) The directors may expend association funds, which  
8 shall not be deemed to be compensation to the directors, to  
9 educate and train themselves in subject areas directly related  
10 to their duties and responsibilities as directors; provided that  
11 the approved annual operating budget shall include these  
12 expenses as separate line items. These expenses may include  
13 registration fees, books, videos, tapes, other educational  
14 materials, and economy travel expenses. Except for economy  
15 travel expenses within the State, all other travel expenses  
16 incurred under this subsection shall be subject to the  
17 requirements of subsection (d).

18 (g) Notwithstanding any provision in the declaration,  
19 bylaws, or any documents to the contrary, but subject to  
20 subsection (h), the board of an association managed by a



1 managing agent shall have the exclusive authority to employ,  
2 renew, and terminate a managing agent's contract.

3 (h) Notwithstanding any provision in the declaration,  
4 bylaws, or any documents to the contrary, at an association  
5 meeting of unit owners a managing agent's contract may be  
6 terminated by a vote of a majority of the unit owners of an  
7 association. Pursuant to such vote taken by a majority of the  
8 unit owners, the board shall terminate a managing agent's  
9 contract in accordance with the provisions of the contract  
10 without incurring any liability and penalty to the association  
11 of unit owners. For purposes of this section, "majority of the  
12 unit owners" shall have the same meaning as in section 514B-3.

13 (i) Subsection (h) does not apply to an association with  
14 units that are one hundred per cent:

15 (1) Intended for commercial use; or

16 (2) Designed and constructed for hotel or resort use that  
17 are located on any parcel of real property designated  
18 and governed by a county for hotel or resort use  
19 pursuant to section 46-4.

20 (j) A project in which a majority of the units have been  
21 submitted to one or more vacation plans, or in which one or more



1 units have been submitted to a vacation plan established by the  
2 developer of the project or by an affiliate of the developer,  
3 shall be exempt from subsections (g) and (h)."

4 SECTION 4. Section 514B-121, Hawaii Revised Statutes, is  
5 amended by amending subsection (e) to read as follows:

6 "(e) All association meetings shall be held at the address  
7 of the condominium or elsewhere within the State as determined  
8 by the board[+] and at a site on the island where the  
9 association is located that is convenient and readily  
10 accessible; provided that in the event of a natural disaster,  
11 such as a hurricane, an association meeting may be held outside  
12 the State."

13 SECTION 5. Section 514B-148, Hawaii Revised Statutes, is  
14 amended by amending subsection (a) to read as follows:

15 "(a) The budget required under section 514B-144(a) shall  
16 include at least the following:

- 17 (1) The estimated revenues and operating expenses of the  
18 association;
- 19 (2) Information as to whether the budget has been prepared  
20 on a cash or accrual basis; provided that associations  
21 with fifty or more units shall prepare a budget on an





1           accrual basis in accordance with generally accepted  
2           accounting principles;

3           (3) The total replacement reserves of the association as  
4           of the date of the budget;

5           (4) The estimated replacement reserves the association  
6           will require to maintain the property based on a  
7           reserve study performed by the association;

8           (5) A general explanation of how the estimated replacement  
9           reserves are computed;

10          (6) The amount the association must collect for the fiscal  
11          year to fund the estimated replacement reserves; and

12          (7) Information as to whether the amount the association  
13          must collect for the fiscal year to fund the estimated  
14          replacement reserves was calculated using a per cent  
15          funded or cash flow plan. The method or plan shall  
16          not circumvent the estimated replacement reserves  
17          amount determined by the reserve study pursuant to  
18          paragraph (4)."

19          SECTION 6. Section 514B-154.5, Hawaii Revised Statutes, is  
20          amended by amending subsection (c) to read as follows:



1           "(c) Notwithstanding any provision in the declaration,  
2 bylaws, or house rules providing for another period of time, all  
3 documents, records, and information listed under subsection (a),  
4 whether maintained, kept, or required to be provided pursuant to  
5 this section or section 514B-152, 514B-153, or 514B-154, shall  
6 be provided no later than thirty days after receipt of a unit  
7 owner's or owner's authorized agent's written request, unless a  
8 lesser time is provided pursuant to this section or section  
9 514B-152, 514B-153, or 514B-154, and except as provided in  
10 subsection (a)(14). A unit owner's or owner's authorized  
11 agent's written request shall be made on forms prescribed, or  
12 approved, by the commission."

13           SECTION 7. This Act does not affect rights and duties that  
14 matured, penalties that were incurred, and proceedings that were  
15 begun before its effective date.

16           SECTION 8. If any provision of this Act, or the  
17 application thereof to any person or circumstance, is held  
18 invalid, the invalidity does not affect other provisions or  
19 applications of the Act that can be given effect without the  
20 invalid provision or application, and to this end the provisions  
21 of this Act are severable.



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

3 SECTION 10. This Act shall take effect on July 1, 2112.



**Report Title:**

Condominiums; Owners Associations; Meetings; Managing Agent;  
Termination of Contract; Records; Accessibility

**Description:**

Enhances effectiveness and efficiency of self-governance in  
condominium living. (SB826 HD1)

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

