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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  
17                 condominium unit owners;



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



1 owners' requests for records and association  
2 responses.

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

6 **"§514B- Association meetings; failure to obtain a**  
7 **quorum.** (a) Any association shall hold an annual meeting to  
8 conduct business that shall include but not be limited to the  
9 following:

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

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

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



1 in subsection (c), is held within ninety days of the first  
2 annual meeting.

3 (c) At the third attempt to obtain quorum, the meeting  
4 shall be held within ninety days of the first meeting. If a  
5 quorum is not achieved, this reconvened annual meeting shall  
6 have a quorum requirement of one-half of the requirement as  
7 stated in the bylaws of the association. Association business  
8 conducted at this meeting with a reduced quorum shall be limited  
9 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 section
- 15 514B-107(a) to the board of directors to fill any
- 16 position that is expiring or that has expired.

17 Each reconvened 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  
21 managing agent shall have the exclusive authority to employ a



1 managing agent and to renew or terminate a managing agent's  
2 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 pursuant to a vote of a majority of the unit owners  
7 of an association. Pursuant to such vote taken by a majority of  
8 the unit owners, the board shall terminate a managing agent's  
9 contract within one hundred twenty days, and otherwise in  
10 accordance with the provisions of the contract without incurring  
11 any liability and penalty to the association of unit owners.  
12 For purposes of this section, "majority of the unit owners"  
13 shall have the same meaning as in section 514B-3.

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

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



1        (j) A project in which a majority of the units have been  
2 submitted to one or more vacation plans, or in which one or more  
3 units have been submitted to a vacation plan established by the  
4 developer of the project or by an affiliate of the developer,  
5 shall be exempt from subsections (g) and (h)."

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

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

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

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

18        (1) The estimated revenues and operating expenses of the  
19                association;

20        (2) Information as to whether the budget has been prepared  
21                on a cash or accrual basis; provided that associations





1           with one hundred or more units shall prepare a budget  
2           and accounting on an accrual basis in accordance with  
3           generally accepted accounting principles;

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

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

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

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

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

20          SECTION 6. Section 514B-154.5, Hawaii Revised Statutes, is  
21          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 and any response to the written request  
12 shall be made on forms prescribed or approved by the  
13 commission."

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

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



1 invalid provision or application, and to this end the provisions  
2 of this Act are severable.

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

5 SECTION 10. This Act shall take effect on March 15, 2038.



**Report Title:**

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

**Description:**

Enhances effectiveness and efficiency of self-governance in  
condominium associations. (SB826 HD2)

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

