

JAN 20 2017

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# A BILL FOR AN ACT

RELATING TO CONDOMINIUM PROPERTY REGIMES.

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

1           SECTION 1. Chapter 514B, Hawaii Revised Statutes, is  
2 amended by adding a new section to part IV to be appropriately  
3 designated and to read as follows:

4           "§514B-           Condominium education trust fund; ethics  
5 training course; board of directors. (a) The real estate  
6 commission shall establish, design, supervise, and administer an  
7 online ethics training course and examination that is designed  
8 specifically for the members of the board of directors of a  
9 residential project or association of twenty or more residential  
10 units, including any residential project or association of  
11 twenty or more residential units that is subject to chapter  
12 514A.

13           (b) The ethics training course shall include:

14           (1) Explanations and discussions of applicable ethics  
15           laws;

16           (2) Specific technical and legal requirements;

17           (3) The underlying purposes and principles of ethics laws;



- 1       (4) Examples of practical application of the laws and  
2           principles; and
- 3       (5) A question-and-answer participatory segment regarding  
4           common problems and situations.

5   The real estate commission shall be responsible for developing  
6   the methods and preparing any materials necessary to implement  
7   the course; provided that any online videos used shall include  
8   codes or questions to be randomly inserted in order to maintain  
9   the viewer's ongoing attention.

10       (c) The real estate commission shall:

11       (1) Procure the services of a third party provider,  
12           through the procurement code, to administer the ethics  
13           training course and examination;

14       (2) Reimburse the third party provider through funds in  
15           the condominium education trust fund; and

16       (3) Obtain from each resident manager or managing agent,  
17           the names and addresses, including e-mail addresses,  
18           of the members of a board of directors to whom this  
19           chapter applies and notify the members, through the  
20           Internet and regular mail, that they are required to  
21           take the online course and pass its examination.



1        (d) Each member of the board of directors of a residential  
2 project or association of twenty or more residential units,  
3 including any residential project or association of twenty or  
4 more residential units that is subject to chapter 514A, shall be  
5 required to take and satisfactorily complete the online ethics  
6 course as a condition of eligibility to serve on the board of  
7 directors."

8        SECTION 2. Section 514A-82, Hawaii Revised Statutes, is  
9 amended by amending subsection (a) to read as follows:

10        "(a) The bylaws shall provide for at least the following:

11        (1) Board of directors:

12                (A) The election of a board of directors;

13                (B) The number of persons constituting the board;

14                        provided that condominiums with more than one

15                        hundred individual apartment units shall have an

16                        elected board of not less than nine members

17                        unless not less than sixty-five per cent of all

18                        apartment owners vote by mail ballot, or at a

19                        special or annual meeting, to reduce the minimum

20                        number of directors;



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- 1 (C) That for the initial term of office, directors
- 2 shall serve for a term of three years or the term
- 3 as specified by the bylaws or until their
- 4 successors have been elected or appointed;
- 5 (D) The powers and duties of the board;
- 6 (E) The compensation, if any, of the directors; ~~and~~
- 7 (F) Whether or not the board may engage the services
- 8 of a manager or managing agent, or both, and
- 9 specifying which of the powers and duties granted
- 10 to the board by this chapter or otherwise may be
- 11 delegated by the board to either or both of them;
- 12 and
- 13 (G) For a residential condominium of twenty or more
- 14 residential dwelling units, explanation of the
- 15 requirement under section 514B- (d) that each
- 16 member of the board of directors of that
- 17 residential condominium take and satisfactorily
- 18 complete the online ethics course offered by the
- 19 real estate commission;
- 20 (2) Method of calling meetings of the apartment owners;
- 21 what percentage, if other than a majority of apartment



- 1 owners, constitutes a quorum; what percentage,  
2 consistent with this chapter, is necessary to adopt  
3 decisions binding on all apartment owners and that  
4 votes allocated to any area that constitutes a common  
5 element under section 514A-13(h) shall not be cast at  
6 any association meeting, regardless of whether it is  
7 so designated in the declaration;
- 8 (3) Election of a president from among the board of  
9 directors who shall preside over the meetings of the  
10 board of directors and of the association of apartment  
11 owners;
- 12 (4) Election of a secretary who shall keep the minute book  
13 wherein resolutions shall be recorded;
- 14 (5) Election of a treasurer who shall keep the financial  
15 records and books of account;
- 16 (6) Operation of the property, payment of the common  
17 expenses, and determination and collection of the  
18 common charges;
- 19 (7) Manner of collecting common expenses, expenses, costs,  
20 and fees recoverable by the association under section  
21 514A-94, and any penalties and late charges;



- 1           (8) Designation and removal of personnel necessary for the  
2           maintenance, repair, and replacement of the common  
3           elements;
- 4           (9) Method of adopting and amending administrative rules  
5           governing the details of the operation and use of the  
6           common elements;
- 7           (10) The restrictions on and requirements respecting the  
8           use and maintenance of the apartments and the use of  
9           the common elements, not set forth in the declaration,  
10          as are designed to prevent unreasonable interference  
11          with the use of their respective apartments and of the  
12          common elements by the several apartment owners;
- 13          (11) The first meeting of the association of apartment  
14          owners shall be held not later than one hundred eighty  
15          days after recordation of the first apartment  
16          conveyance; provided forty per cent or more of the  
17          project has been sold and recorded. If forty per cent  
18          of the project is not sold and recorded at the end of  
19          one year, an annual meeting shall be called; provided  
20          ten per cent of the apartment owners so request;



- 1           (12) All members of the board of directors shall be owners,  
2                   co-owners, vendees under an agreement of sale, or an  
3                   officer of any corporate owner of an apartment. The  
4                   partners in a general partnership and the general  
5                   partners of a limited partnership shall be deemed to  
6                   be the owners of an apartment for this purpose. There  
7                   shall not be more than one representative on the board  
8                   of directors from any one apartment;
- 9           (13) A director shall not cast any proxy vote at any board  
10                   meeting, nor shall a director vote at any board  
11                   meeting on any issue in which the director has a  
12                   conflict of interest;
- 13           (14) No resident manager of a condominium shall serve on  
14                   its board of directors;
- 15           (15) The board of directors shall meet at least once a  
16                   year;
- 17           (16) All association and board of directors meetings shall  
18                   be conducted in accordance with the most current  
19                   edition of Robert's Rules of Order;
- 20           (17) All meetings of the association of apartment owners  
21                   shall be held at the address of the condominium



1 project or elsewhere within the State as determined by  
2 the board of directors; and  
3 (18) Penalties chargeable against persons for violation of  
4 the covenants, conditions, or restrictions set forth  
5 in the declaration, or of the bylaws and  
6 administrative rules adopted pursuant thereto, method  
7 of determination of violations, and manner of  
8 enforcing penalties, if any."

9 SECTION 3. Section 514B-71, Hawaii Revised Statutes, is  
10 amended by amending subsection (a) to read as follows:

11 "(a) The commission shall establish a condominium  
12 education trust fund that the commission shall use for  
13 educational purposes. Educational purposes shall include  
14 financing or promoting:

15 (1) Education and research in the field of condominium  
16 management, condominium project registration, and real  
17 estate, for the benefit of the public and those  
18 required to be registered under this chapter;

19 (2) The improvement and more efficient administration of  
20 associations;





- 1           (3)   Expeditious and inexpensive procedures for resolving
- 2                    association disputes; [~~and~~]
- 3           (4)   Support for mediation of condominium related
- 4                    disputes[~~-~~]; and
- 5           (5)   Ethics training courses for members of the boards of
- 6                    directors of residential condominiums of twenty or
- 7                    more residential units."

8           SECTION 4.   Section 514B-108, Hawaii Revised Statutes, is

9   amended by amending subsection (b) to read as follows:

- 10           "(b)   The bylaws shall provide for at least the following:
- 11           (1)   The number of members of the board and the titles of
  - 12                    the officers of the association;
  - 13           (2)   Election by the board of a president, treasurer,
  - 14                    secretary, and any other officers of the association
  - 15                    the bylaws specify;
  - 16           (3)   The qualifications, powers and duties, terms of
  - 17                    office, and manner of electing and removing directors
  - 18                    and officers and the filling of vacancies; provided
  - 19                    that for a residential condominium of twenty or more
  - 20                    residential dwelling units, an explanation of the
  - 21                    requirement under section 514B-   (d) that each member



1           of the board of directors of that residential  
2           condominium take and satisfactorily complete the  
3           online ethics course offered by the real estate  
4           commission;

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



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1 SECTION 5. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 6. This Act shall take effect upon its approval  
4 and shall apply to all new or reelected board members of  
5 residential projects or associations that are subject to this  
6 Act and who are elected or reelected to their respective board  
7 of directors after December 31, 2017.

8

INTRODUCED BY: *Randy H. Bab*



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**Report Title:**

Condominium Property Regimes; Board of Directors; Ethics Course

**Description:**

Requires the board of directors of residential condominiums of twenty or more residential dwelling units to take and satisfactorily complete an online ethics course offered through the Real Estate Commission.

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

