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# A BILL FOR AN ACT

RELATING TO BOARD MEMBERS.

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

1           SECTION 1. Chapter 421I, Hawaii Revised Statutes, is  
2 amended by adding four new sections to be appropriately  
3 designated and to read as follows:

4           "§421I-A Cooperative housing corporation education trust  
5 fund. (a) The real estate commission shall establish a  
6 cooperative housing corporation education trust fund that the  
7 commission shall use for educational purposes. Educational  
8 purposes shall include financing or promoting:

- 9           (1) Education and research in the field of corporation  
10           management, corporation project registration, and real  
11           estate, for the benefit of the public and those  
12           required to be registered under this chapter;  
13           (2) The improvement and more efficient administration of  
14           corporations;  
15           (3) Expeditious and inexpensive procedures for resolving  
16           corporation disputes;  
17           (4) Support for mediation of corporation related disputes;



1       (5) Support for voluntary binding arbitration between  
2           parties in corporation related disputes, pursuant to  
3           section 421I-9; and

4       (6) The educational requirements for members of a  
5           corporation's board of directors pursuant to section  
6           421I-3.

7       (b) The real estate commission shall use all moneys in the  
8       cooperative housing corporation education trust fund for  
9       purposes consistent with subsection (a). Any law to the  
10       contrary notwithstanding, the real estate commission may make a  
11       finding that a fee adjustment is appropriate and adjust the fees  
12       paid by corporations to regulate the fund balance to an  
13       appropriate level to maintain a reasonable relation between the  
14       fees generated and the cost of services rendered by the  
15       cooperative housing corporation education trust fund. For the  
16       purposes of finding that a fee adjustment is appropriate in  
17       order to maintain a reasonable relation between the fees  
18       generated and the cost of services rendered by the fund, the  
19       real estate commission's review shall include the following:

20       (1) Frequency and timing of anticipated revenue to the  
21       fund;



- 1        (2) Identification of a reserve amount based on
- 2                unanticipated revenue reductions and historical
- 3                expenditures;
- 4        (3) Anticipated expenses paid, including recovery payouts
- 5                during a biennial budget cycle;
- 6        (4) Unanticipated natural disasters or catastrophic
- 7                weather events that may increase fund payments; and
- 8        (5) Any statutory adjustments to fund payout amounts.

9        The balance of the fund shall not exceed a sum determined by the  
 10        real estate commission. The sum shall be determined by the real  
 11        estate commission biennially.

12        **§421I-B Cooperative housing corporation trust fund;**  
 13        **payments by corporations and developers.** (a) Each project or  
 14        corporation with more than five units shall pay to the  
 15        department of commerce and consumer affairs:

- 16        (1) A cooperative housing corporation education trust fund
- 17                fee within one year after the recordation of the
- 18                purchase of the first dwelling unit or within thirty
- 19                days of the corporation's first meeting, and
- 20                thereafter, on or before June 30 of every odd-numbered



1           year, as prescribed by rules adopted pursuant to  
2           chapter 91; and  
3           (2) Beginning with the July 1, 2023, biennium  
4           registration, an additional annual cooperative housing  
5           corporation education trust fund fee in an amount  
6           equal to the product of \$1.50 times the number of  
7           dwelling units included in the registered project or  
8           corporation to be dedicated to supporting mediation or  
9           voluntary binding arbitration of corporation related  
10           disputes. The additional corporation education trust  
11           fund fee shall total \$3 per unit until the real estate  
12           commission adopts rules pursuant to chapter 91. On  
13           June 30 of every odd-numbered year, any unexpended  
14           additional amounts paid into the cooperative housing  
15           corporation education trust fund and initially  
16           dedicated to supporting mediation or voluntary binding  
17           arbitration of corporation related disputes, as  
18           required by this paragraph, shall be used for  
19           educational purposes as provided in section 421I-  
20           A(a)(1), (2), and (3).



1       (b) Each developer shall pay to the department of commerce  
2 and consumer affairs the cooperative housing corporation  
3 education trust fund fee for each dwelling unit in the project,  
4 as prescribed by rules adopted by the director of commerce and  
5 consumer affairs pursuant to chapter 91. The project shall not  
6 be registered and no effective date for a developer's public  
7 report shall be issued until the payment has been made.

8       (c) Payments of any fees required under this section shall  
9 be due on or before the registration due date and shall be  
10 nonrefundable. Failure to pay the required fee by the due date  
11 shall result in a penalty assessment of ten per cent of the  
12 amount due and the corporation shall not have standing to bring  
13 any action to collect or to foreclose any lien for common  
14 expenses or other assessments in any court of this State until  
15 the amount due, including any penalty, is paid. Failure of a  
16 corporation to pay a fee required under this section shall not  
17 impair the validity of any claim of the corporation for common  
18 expenses or other assessments, or prevent the corporation from  
19 defending any action in any court of this State.

20       (d) The department of commerce and consumer affairs shall  
21 allocate the fees collected under this section to the



1 cooperative housing corporation education trust fund established  
2 pursuant to section 421I-A. The fees collected pursuant to this  
3 section shall be administratively and fiscally managed together  
4 as one cooperative housing corporation education trust fund  
5 established by section 421I-A.

6 §421I-C Cooperative housing corporation education trust  
7 fund; management. (a) The sums received by the commission for  
8 deposit in the cooperative housing corporation education trust  
9 fund pursuant to section 421I-A shall be held by the real estate  
10 commission in trust for carrying out the purpose of the fund.

11 (b) The commission and the director of commerce and  
12 consumer affairs may use moneys in the cooperative housing  
13 corporation education trust fund collected pursuant to section  
14 421I-A, and the rules of the commission to employ necessary  
15 personnel not subject to chapter 76 for additional staff  
16 support, to provide office space, and to purchase equipment,  
17 furniture, and supplies required by the commission to carry out  
18 its responsibilities under this part.

19 (c) The moneys in the cooperative housing corporation  
20 education trust fund collected pursuant to section 421I-A, and  
21 the rules of the commission may be invested and reinvested



1 together with the real estate education fund established under  
2 section 467-16 in the same manner as are the funds of the  
3 employees' retirement system of the State. The interest and  
4 earnings from these investments shall be deposited to the credit  
5 of the cooperative housing corporation education trust fund.

6 (d) The real estate commission shall annually submit to  
7 the legislature, no later than twenty days prior to the  
8 convening of each regular session:

9 (1) A summary of the programs funded during the prior  
10 fiscal year and the amount of money in the fund,  
11 including a statement of which programs were directed  
12 specifically at the education of dwelling unit owners;  
13 and

14 (2) A copy of the budget for the current fiscal year,  
15 including summary information on programs that were  
16 funded or are to be funded and the target audience for  
17 each program. The budget shall include a line item  
18 reflecting the total amount collected from  
19 corporations.

20 §421I-D Corporation; registration. (a) Each project or  
21 corporation having more than five units shall:



1       (1) Register with the commission through approval of a  
2       completed registration application, payment of fees,  
3       and submission of any other additional information set  
4       forth by the commission. The registration shall be  
5       for a biennial period with termination on June 30 of  
6       each odd-numbered year. The commission shall  
7       prescribe a deadline date prior to the termination  
8       date for the submission of a completed reregistration  
9       application, payment of fees, and any other additional  
10       information set forth by the commission. Any project  
11       or corporation that has not met the submission  
12       requirements by the deadline date shall be considered  
13       a new applicant for registration and be subject to  
14       initial registration requirements. Any new project or  
15       corporation shall register within thirty days of the  
16       corporation's first meeting. If the corporation has  
17       not held its first meeting and it is at least one year  
18       after the recordation of the purchase of the first  
19       unit in the project, the developer or developer's  
20       affiliate or the managing agent shall register on  
21       behalf of the corporation and shall comply with this





1 section. The public information required to be  
 2 submitted on any completed application form shall  
 3 include but not be limited to names and positions of  
 4 the officers of the corporation, the name of the  
 5 corporation's managing agent, if any, and the name and  
 6 current mailing address of a designated officer of the  
 7 corporation where the officer can be contacted  
 8 directly;

9 (2) Pay a nonrefundable application fee and, upon  
 10 approval, an initial registration fee, a  
 11 reregistration fee upon reregistration and the  
 12 cooperative housing corporation education trust fund  
 13 fee, as provided in rules adopted by the director of  
 14 commerce and consumer affairs pursuant to chapter 91;

15 (3) Register or reregister and pay the required fees by  
 16 the due date. Failure to register or reregister or  
 17 pay the required fees by the due date shall result in  
 18 the assessment of a penalty equal to the amount of the  
 19 registration or reregistration fee; and

20 (4) Report promptly in writing to the commission any  
 21 changes to the information contained on the



1           registration or reregistration application or any  
 2           other documents required by the commission. Failure  
 3           to do so may result in termination of registration and  
 4           subject the project or the corporation to initial  
 5           registration requirements.

6           (b) The commission may reject or terminate any  
 7           registration submitted by a project or a corporation that fails  
 8           to comply with this section. Any corporation that fails to  
 9           register as required by this section or whose registration is  
 10          rejected or terminated shall not have standing to maintain any  
 11          action or proceeding in the courts of this State until it  
 12          registers. The failure of a corporation to register, or  
 13          rejection or termination of its registration, shall not impair  
 14          the validity of any contract or act of the corporation nor  
 15          prevent the corporation from defending any action or proceeding  
 16          in any court in this State."

17           SECTION 2.: Chapter 421J, Hawaii Revised Statutes, is  
 18           amended by adding four new sections to be appropriately  
 19           designated and to read as follows:

20           "§421J-A Planned community association education trust  
 21           fund. (a) The real estate commission shall establish a planned



1 community association education trust fund that the commission  
2 shall use for educational purposes. Educational purposes shall  
3 include financing or promoting:

4 (1) Education and research in the field of association  
5 management, association project registration, and real  
6 estate, for the benefit of the public and those  
7 required to be registered under this chapter;

8 (2) The improvement and more efficient administration of  
9 associations;

10 (3) Expeditious and inexpensive procedures for resolving  
11 association disputes;

12 (4) Support for mediation of association related disputes;

13 (5) Support for voluntary mediation between parties in  
14 association related disputes, pursuant to section

15 421J-13; and

16 (6) The educational requirements for members of an  
17 association's board of directors pursuant to section  
18 421J-3.

19 (b) The real estate commission shall use all moneys in the  
20 planned community association education trust fund for purposes  
21 consistent with subsection (a). Any law to the contrary



1 notwithstanding, the real estate commission may make a finding  
2 that a fee adjustment is appropriate and adjust the fees paid by  
3 associations to regulate the fund balance to an appropriate  
4 level to maintain a reasonable relation between the fees  
5 generated and the cost of services rendered by the planned  
6 community association education trust fund. For the purposes of  
7 finding that a fee adjustment is appropriate to maintain a  
8 reasonable relation between the fees generated and the cost of  
9 services rendered by the fund, the real estate commission's  
10 review shall include the following:

- 11 (1) Frequency and timing of anticipated revenue to the  
12 fund;
- 13 (2) Identification of a reserve amount based on  
14 unanticipated revenue reductions and historical  
15 expenditures;
- 16 (3) Anticipated expenses paid, including recovery payouts  
17 during a biennial budget cycle;
- 18 (4) Unanticipated natural disasters or catastrophic  
19 weather events that may increase fund payments; and
- 20 (5) Any statutory adjustments to fund payout amounts.



1 The balance of the fund shall not exceed a sum determined by the  
2 real estate commission. The sum shall be determined by the real  
3 estate commission biennially.

4 §421J-B Planned community association trust fund; payments  
5 by associations and developers. (a) Each project or planned  
6 community association with more than five units shall pay to the  
7 department of commerce and consumer affairs:

8 (1) A planned community association education trust fund  
9 fee within one year after the recordation of the  
10 purchase of the first unit or within thirty days of  
11 the association's first meeting, and thereafter, on or  
12 before June 30 of every odd-numbered year, as  
13 prescribed by rules adopted pursuant to chapter 91;  
14 and

15 (2) Beginning with the July 1, 2023, biennium  
16 registration, an additional annual planned community  
17 association education trust fund fee in an amount  
18 equal to the product of \$1.50 times the number of  
19 dwelling units included in the registered project or  
20 association to be dedicated to supporting mediation or  
21 voluntary binding arbitration of association related



1 disputes. The additional planned community  
2 association education trust fund fee shall total \$3  
3 per unit until the real estate commission adopts rules  
4 pursuant to chapter 91. On June 30 of every odd-  
5 numbered year, any unexpended additional amounts paid  
6 into the planned community association education trust  
7 fund and initially dedicated to supporting mediation  
8 or voluntary binding arbitration of corporation  
9 related disputes, as required by this paragraph, shall  
10 be used for educational purposes as provided in  
11 section 421J-A(a) (1), (2), and (3).

12 (b) Each developer shall pay to the department of commerce  
13 and consumer affairs the planned community association education  
14 trust fund fee for each unit in the project, as prescribed by  
15 rules adopted by the director of commerce and consumer affairs  
16 pursuant to chapter 91. The project shall not be registered and  
17 no effective date for a developer's public report shall be  
18 issued until the payment has been made.

19 (c) Payments of any fees required under this section shall  
20 be due on or before the registration due date and shall be  
21 nonrefundable. Failure to pay the required fee by the due date



1 shall result in a penalty assessment of ten per cent of the  
2 amount due and the association shall not have standing to bring  
3 any action to collect or to foreclose any lien for common  
4 expenses or other assessments in any court of this State until  
5 the amount due, including any penalty, is paid. Failure of an  
6 association to pay a fee required under this section shall not  
7 impair the validity of any claim of the association for common  
8 expenses or other assessments, or prevent the association from  
9 defending any action in any court of this State.

10 (d) The department of commerce and consumer affairs shall  
11 allocate the fees collected under this section to the planned  
12 community association education trust fund established pursuant  
13 to section 421J-A. The fees collected pursuant to this section  
14 shall be administratively and fiscally managed together as one  
15 planned community association education trust fund established  
16 by section 42JI-A.

17 **§421I-C Planned community association education trust**  
18 **fund; management.** (a) The sums received by the commission for  
19 deposit in the planned community association education trust  
20 fund pursuant to section 421J-A shall be held by the real estate  
21 commission in trust for carrying out the purpose of the fund.



1       (b) The commission and the director of commerce and  
2 consumer affairs may use moneys in the planned community  
3 association education trust fund collected pursuant to section  
4 421J-A, and the rules of the commission to employ necessary  
5 personnel not subject to chapter 76 for additional staff  
6 support, to provide office space, and to purchase equipment,  
7 furniture, and supplies required by the commission to carry out  
8 its responsibilities under this part.

9       (c) The moneys in the planned community association  
10 education trust fund collected pursuant to section 421J-A, and  
11 the rules of the commission may be invested and reinvested  
12 together with the real estate education fund established under  
13 section 467-16 in the same manner as are the funds of the  
14 employees' retirement system of the State. The interest and  
15 earnings from these investments shall be deposited to the credit  
16 of the planned community association education trust fund.

17       (d) The real estate commission shall annually submit to  
18 the legislature, no later than twenty days prior to the  
19 convening of each regular session:

20       (1) A summary of the programs funded during the prior  
21 fiscal year and the amount of money in the fund,





1 including a statement of which programs were directed  
2 specifically at the education of dwelling unit owners;  
3 and

4 (2) A copy of the budget for the current fiscal year,  
5 including summary information on programs that were  
6 funded or are to be funded and the target audience for  
7 each program. The budget shall include a line item  
8 reflecting the total amount collected from  
9 associations.

10 §421J-D Association; registration. (a) Each project or  
11 association having more than five units shall:

12 (1) Register with the commission through approval of a  
13 completed registration application, payment of fees,  
14 and submission of any other additional information set  
15 forth by the commission. The registration shall be  
16 for a biennial period with termination on June 30 of  
17 each odd-numbered year. The commission shall  
18 prescribe a deadline date prior to the termination  
19 date for the submission of a completed reregistration  
20 application, payment of fees, and any other additional  
21 information set forth by the commission. Any project



1           or association that has not met the submission  
2           requirements by the deadline date shall be considered  
3           a new applicant for registration and be subject to  
4           initial registration requirements. Any new project or  
5           association shall register within thirty days of the  
6           association's first meeting. If the association has  
7           not held its first meeting and it is at least one year  
8           after the recordation of the purchase of the first  
9           unit in the project, the developer or developer's  
10           affiliate or the managing agent shall register on  
11           behalf of the association and shall comply with this  
12           section. The public information required to be  
13           submitted on any completed application form shall  
14           include but not be limited to names and positions of  
15           the officers of the association, the name of the  
16           association's managing agent, if any, and the name and  
17           current mailing address of a designated officer of the  
18           association where the officer can be contacted  
19           directly;  
20           (2) Pay a nonrefundable application fee and, upon  
21           approval, an initial registration fee, a



1 reregistration fee upon reregistration and the planned  
2 community association education trust fund fee, as  
3 provided in rules adopted by the director of commerce  
4 and consumer affairs pursuant to chapter 91;

5 (3) Register or reregister and pay the required fees by  
6 the due date. Failure to register or reregister or  
7 pay the required fees by the due date shall result in  
8 the assessment of a penalty equal to the amount of the  
9 registration or reregistration fee; and

10 (4) Report promptly in writing to the commission any  
11 changes to the information contained on the  
12 registration or reregistration application or any  
13 other documents required by the commission. Failure  
14 to do so may result in termination of registration and  
15 subject the project or the association to initial  
16 registration requirements.

17 (b) The commission may reject or terminate any  
18 registration submitted by a project or an association that fails  
19 to comply with this section. Any association that fails to  
20 register as required by this section or whose registration is  
21 rejected or terminated shall not have standing to maintain any



1 action or proceeding in the courts of this State until it  
2 registers. The failure of an association to register, or  
3 rejection or termination of its registration, shall not impair  
4 the validity of any contract or act of the association nor  
5 prevent the association from defending any action or proceeding  
6 in any court in this State."

7 SECTION 3. Section 421I-3; Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "[+]§421I-3[+] Board of directors; election. (a) A  
10 meeting of the corporation for the purpose of electing the board  
11 of directors shall be held not later than one hundred eighty  
12 days after the first conveyance of a dwelling unit to a  
13 shareholder, if at least forty per cent of the dwelling units  
14 have been conveyed by that time. If forty per cent of the  
15 dwelling units have not been conveyed within one year after the  
16 first conveyance, the meeting of the corporation may be held  
17 upon the call of the owners of at least ten per cent of the  
18 shares by a petition presented to the secretary of the  
19 corporation:

20 (b) Every member of the board of directors shall be:

21 (1) A shareholder of the cooperation;



1 (2) A spouse of a shareholder; or

2 (3) A trust beneficiary, if the shareholder is a trustee.

3 (c) Each dwelling unit shall have only one representative  
4 on the board of directors.

5 (d) Within ninety days after being elected to the board of  
6 directors, the member shall certify in writing to the board of  
7 directors that the member has received and reviewed a copy of  
8 the corporation's articles of incorporation, bylaws, rules and  
9 regulations, and chapter 421I; provided that, for any member  
10 elected to the board of directors before the effective date of  
11 this Act, the member shall provide the written certification to  
12 the board of directors within ninety days of the effective date  
13 of this Act. The board of directors shall retain the member's  
14 written certification for the duration of the member's term.

15 (e) Within one year after being elected to the board of  
16 directors, the member shall obtain a board leader course  
17 completion certificate from a course approved by the real estate  
18 commission; provided that, for any member elected to the board  
19 of directors before the effective date of this Act, the member  
20 shall obtain the course completion certificate within one year  
21 of the effective date of this Act. The board of directors shall



1 retain the member's course completion certificate for the  
2 duration of the member's term.

3 (f) A member's failure to comply with the requirements of  
4 subsections (d) and (e) shall disqualify the member from serving  
5 on the board of directors."

6 SECTION 4. Section 421J-3, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "[+]§421J-3[+] **Board of directors.** (a) Every member of  
9 the board of directors shall be a member of the association.  
10 However, a developer may appoint or elect directors pursuant to  
11 any special voting rights or power of appointment reserved to  
12 the master developer.

13 (b) The board of directors shall be composed of the number  
14 and group of persons specified in the association documents.  
15 There shall not be more than one representative on the board of  
16 directors from any one unit that is owned by any person other  
17 than the master developer or declarant.

18 (c) Within ninety days after being elected to the board of  
19 directors, the member shall certify in writing to the board of  
20 directors that the member has received and reviewed a copy of  
21 the corporation's articles of incorporation, bylaws, rules and



1 regulations, and chapter 421J; provided that, for any member  
2 elected to the board of directors before the effective date of  
3 this Act, the member shall provide the written certification to  
4 the board of directors within ninety days of the effective date  
5 of this Act. The board of directors shall retain the member's  
6 written certification for the duration of the member's term.

7 (d) Within one year after being elected to the board of  
8 directors, the member shall obtain a board leader course  
9 completion certificate from a course approved by the real estate  
10 commission; provided that, for any member elected to the board  
11 of directors before the effective date of this Act, the member  
12 shall provide the course completion certificate to the board of  
13 directors within one year of the effective date of this Act.  
14 The board of directors shall retain the member's course  
15 completion certificate for the duration of the member's term.

16 (e) A member's failure to comply with the requirements of  
17 subsections (c) and (d) shall disqualify the member from serving  
18 on the board of directors."

19 SECTION 5. Section 467-4, Hawaii Revised Statutes, is  
20 amended to read as follows:



1           **"§467-4 Powers and duties of commission.** In addition to  
2 any other powers and duties authorized by law, the real estate  
3 commission shall:

- 4           (1) Grant licenses, registrations, and certificates  
5           pursuant to this chapter;
- 6           (2) Adopt, amend, or repeal rules as it may deem proper to  
7           effectuate this chapter and carry out its purpose,  
8           which is the protection of the general public in its  
9           real estate transactions. All rules shall be approved  
10          by the governor and the director of commerce and  
11          consumer affairs, and when adopted pursuant to chapter  
12          91 shall have the force and effect of law. The rules  
13          may forbid acts or practices deemed by the commission  
14          to be detrimental to the accomplishment of the purpose  
15          of this chapter, and the rules may require real estate  
16          brokers and salespersons to complete educational  
17          courses or to make reports to the commission  
18          containing items of information as will better enable  
19          the commission to enforce this chapter and the rules,  
20          or as will better enable the commission from time to  
21          time to amend the rules to more fully effect the





1 purpose of this chapter, and, further, the rules may  
2 require real estate brokers and salespersons to  
3 furnish reports to their clients containing matters of  
4 information as the commission deems necessary to  
5 promote the purpose of this chapter. This enumeration  
6 of specific matters that may properly be made the  
7 subject of rules shall not be construed to limit the  
8 commission's broad general power to make all rules  
9 necessary to fully effectuate the purpose of this  
10 chapter;

- 11 (3) Enforce this chapter and rules adopted pursuant  
12 thereto;
- 13 (4) Suspend, fine, terminate, or revoke any license,  
14 registration, or certificate for any cause prescribed  
15 by this chapter, or for any violation of the rules,  
16 and may also require additional education or  
17 reexamination, and refuse to grant any license,  
18 registration, or certificate for any cause that would  
19 be a ground for suspension, fine, termination, or  
20 revocation of a license, registration, or certificate;



- 1 (5) Report to the governor and the legislature relevant  
2 information that shall include but not be limited to a  
3 summary of the programs and financial information  
4 about the trust funds; including balances and budgets,  
5 through the director of commerce and consumer affairs  
6 annually, before the convening of each regular  
7 session, and at other times and in other manners as  
8 the governor or the legislature may require concerning  
9 its activities;
- 10 (6) Publish and distribute pamphlets and circulars,  
11 produce seminars and workshops, hold meetings in all  
12 counties, and require other education regarding any  
13 information as is proper to further the accomplishment  
14 of the purpose of this chapter;
- 15 (7) Enter into contract or contracts with qualified  
16 persons to assist the commission in effectuating the  
17 purpose of this chapter; [and]
- 18 (8) With input from stakeholders as to the curriculum to  
19 be used, approve and administer board leadership  
20 courses required for members of boards of directors  
21 pursuant to sections 421I-3, 421J-3, and 514B-106; and



1       ~~[(8)]~~ (9) Establish standing committees to assist in  
 2                   effectuating this chapter and carry out its purpose,  
 3                   which shall meet not less often than ten times  
 4                   annually, and shall from time to time meet in each of  
 5                   the counties."

6           SECTION 6. Section 514B-71, Hawaii Revised Statutes, is  
 7 amended by amending subsection (a) to read as follows:

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

- 12           (1) Education and research in the field of condominium  
 13 management, condominium project registration, and real  
 14 estate, for the benefit of the public and those  
 15 required to be registered under this chapter;
- 16           (2) The improvement and more efficient administration of  
 17 associations;
- 18           (3) Expeditious and inexpensive procedures for resolving  
 19 association disputes;
- 20           (4) Support for mediation of condominium related disputes;
- 21           [and]



1 (5) Support for voluntary binding arbitration between  
2 parties in condominium related disputes, pursuant to  
3 section 514B-162.5 [-]; and

4 (6) The educational requirements for members of an  
5 association's board of directors pursuant to section  
6 514B-106."

7 SECTION 7. Section 514B-106, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "§514B-106 Board; powers and duties. (a) Except as  
10 provided in the declaration, the bylaws, subsection (b), or  
11 other provisions of this chapter, the board may act in all  
12 instances on behalf of the association. In the performance of  
13 their duties, officers and members of the board shall owe the  
14 association a fiduciary duty and exercise the degree of care and  
15 loyalty required of an officer or director of a corporation  
16 organized under chapter 414D. Any violation by a board or its  
17 officers or members of the mandatory provisions of section 514B-  
18 161 or 514B-162 may constitute a violation of the fiduciary duty  
19 owed pursuant to this subsection; provided that a board member  
20 may avoid liability under this subsection by indicating in  
21 writing the board member's disagreement with such board action



1 or rescinding or withdrawing the violating conduct within forty-  
2 five days of the occurrence of the initial violation.

3 (b) The board may not act on behalf of the association to  
4 amend the declaration or bylaws (sections 514B-32(a)(11) and  
5 514B-108(b)(7)); to remove the condominium from the provisions  
6 of this chapter (section 514B-47), or to elect members of the  
7 board or determine the qualifications, powers and duties, or  
8 terms of office of board members (subsection (e)); provided that  
9 nothing in this subsection shall be construed to prohibit board  
10 members from voting proxies (section 514B-123) to elect members  
11 of the board; provided further that notwithstanding anything to  
12 the contrary in the declaration or bylaws, the board may only  
13 fill vacancies in its membership to serve until the next annual  
14 or duly noticed special association meeting. Notice of a  
15 special association meeting to fill vacancies shall include  
16 notice of the election. Any special association meeting to fill  
17 vacancies shall be held on a date that allows sufficient time  
18 for owners to declare their intention to run for election and to  
19 solicit proxies for that purpose.

20 (c) Within thirty days after the adoption of any proposed  
21 budget for the condominium, the board shall make available a



1 copy of the budget to all the unit owners and shall notify each  
2 unit owner that the unit owner may request a copy of the budget.

3 (d) The declaration may provide for a period of developer  
4 control of the association, during which a developer, or persons  
5 designated by the developer, may appoint and remove the officers  
6 and members of the board. Regardless of the period provided in  
7 the declaration, a period of developer control terminates no  
8 later than the earlier of:

9 (1) Sixty days after conveyance of seventy-five per cent  
10 of the common interest appurtenant to units that may  
11 be created to unit owners other than a developer or  
12 affiliate of the developer;

13 (2) Two years after the developer has ceased to offer  
14 units for sale in the ordinary course of business;

15 (3) Two years after any right to add new units was last  
16 exercised; or

17 (4) The day the developer, after giving written notice to  
18 unit owners, records an instrument voluntarily  
19 surrendering all rights to control activities of the  
20 association.



1 A developer may voluntarily surrender the right to appoint and  
2 remove officers and members of the board before termination of  
3 that period, but in that event the developer may require, for  
4 the duration of the period of developer control, that specified  
5 actions of the association or board, as described in a recorded  
6 instrument executed by the developer, be approved by the  
7 developer before they become effective.

8 (e) Not later than the termination of any period of  
9 developer control, the unit owners shall elect a board of at  
10 least three members; provided that projects created after  
11 May 18, 1984, with one hundred or more individual units, shall  
12 have an elected board of at least nine members unless the  
13 membership has amended the bylaws to reduce the number of  
14 directors; and provided further that projects with more than one  
15 hundred individual units where at least seventy per cent of the  
16 unit owners do not reside at the project may amend the bylaws to  
17 reduce the board to as few as five members by the written  
18 consent of a majority of the unit owners or the vote of a  
19 majority of a quorum at any annual meeting or special meeting  
20 called for that purpose. The association may rely on its  
21 membership records in determining whether a unit is owner-



1 occupied. A decrease in the number of directors shall not  
2 deprive an incumbent director of any remaining term of office.

3 (f) At any regular or special meeting of the association,  
4 any member of the board may be removed and successors shall be  
5 elected for the remainder of the term to fill the vacancies thus  
6 created. The removal and replacement shall be by a vote of a  
7 majority of the unit owners and, otherwise, in accordance with  
8 all applicable requirements and procedures in the bylaws for the  
9 removal and replacement of directors and, if removal and  
10 replacement is to occur at a special meeting, section  
11 514B-121(c).

12 (g) Within ninety days after being elected to the board of  
13 directors, the member shall certify in writing to the board of  
14 directors that the member has received and reviewed a copy of  
15 the association's articles of incorporation, bylaws, rules and  
16 regulations, and chapter 514B; provided that, for any member  
17 elected to the board of directors before the effective date of  
18 this Act, the member shall provide the written certification to  
19 the board of directors within ninety days of the effective date  
20 of this Act. The board of directors shall retain the member's  
21 written certification for the duration of the member's term.





1       (h) Within one year after being elected to the board of  
2 directors, the member shall obtain a board leader course  
3 completion certificate from a course approved by the real estate  
4 commission; provided that, for any member elected to the board  
5 of directors before the effective date of this Act, the member  
6 shall obtain the course completion certificate within one year  
7 of the effective date of this Act. The board of directors shall  
8 retain the member's course completion certificate for the  
9 duration of the member's term.

10       (i) A member's failure to comply with the requirements of  
11 subsections (g) and (h) shall disqualify the member from serving  
12 on the board of directors."

13       SECTION 8. In codifying the new sections added by sections  
14 1 and 2 of this Act, the revisor of statutes shall substitute  
15 appropriate section numbers for the letters used in designating  
16 the new sections in this Act.

17       SECTION 9. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19       SECTION 10. This Act shall take effect on July 1, 2050.



**Report Title:**

Cooperative Housing Corporations; Planned Community Associations; Condominium Associations; Registration; Boards of Directors; Members; Educational Trust Fund; Real Estate Commission; Department of Commerce and Consumer Affairs

**Description:**

Establishes the Cooperative Housing Corporation Education Trust Fund and the Planned Community Association Education Trust Fund. Requires Cooperative Housing Corporations and Planned Community Associations to register with the Department of Commerce and Consumer Affairs. Requires members of boards of directors and officers of condominium associations, cooperative housing corporations, and planned community associations to certify the receipt and review of certain documents and complete a board leader course approved by the Real Estate Commission. Authorizes the Real Estate Commission to use funds from the Condominium Education Trust Fund, Cooperative Housing Corporation Education Trust Fund, and Planned Community Associations Education Trust Fund to finance the provision of board leader courses. Establishes that a board member's failure to certify the receipt and review of certain documents and complete a board leader course approved by the Real Estate Commission shall be grounds for disqualification from the board of directors. Effective 7/1/2050. (SD1)

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