

JAN 22 2016

A BILL FOR AN ACT

RELATING TO CONDOMINIUMS.

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

1 SECTION 1. Section 514A-82, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:
3 "(b) In addition to the requirements of subsection (a), the
4 bylaws shall be consistent with the following provisions:
5 (1) At any regular or special meeting of the apartment
6 owners, any one or more members of the board of
7 directors may be removed by the apartment owners and
8 successors shall then and there be elected for the
9 remainder of the term to fill the vacancies thus
10 created. The removal and replacement shall be by a
11 vote of a majority of the apartment owners and,
12 otherwise, in accordance with all applicable
13 requirements and procedures in the bylaws for the
14 removal and replacement of directors. If removal and
15 replacement is to occur at a special association
16 meeting, the call for the meeting shall be by the
17 president or by a petition to the secretary or



1 managing agent signed by not less than [~~twenty-five~~
2 12.5 per cent of the apartment owners as shown in the
3 association's record of ownership; provided that if
4 the secretary or managing agent shall fail to send out
5 the notices for the special meeting within fourteen
6 days of receipt of the petition, then the petitioners
7 shall have the authority to set the time, date, and
8 place for the special meeting and to send out the
9 notices for the special meeting in accordance with the
10 requirements of the bylaws. Except as otherwise
11 provided in this section, the meeting for the removal
12 and replacement from office of directors shall be
13 scheduled, noticed, and conducted in accordance with
14 the bylaws of the association;

15 (2) The bylaws may be amended at any time by the vote or
16 written consent of sixty-five per cent of all
17 apartment owners; provided that:

18 (A) Each one of the particulars set forth in this
19 subsection shall be embodied in the bylaws
20 always; and



S.B. NO. 2338

1 (B) Any proposed bylaws with the rationale for the
2 proposal may be submitted by the board of
3 directors or by a volunteer apartment owners'
4 committee. If submitted by that committee, the
5 proposal shall be accompanied by a petition
6 signed by not less than twenty-five per cent of
7 the apartment owners as shown in the
8 association's record of ownership. The proposed
9 bylaws, rationale, and ballots for voting on any
10 proposed bylaw shall be mailed by the board of
11 directors to the owners at the expense of the
12 association for vote or written consent without
13 change within thirty days of the receipt of the
14 petition by the board of directors. The vote or
15 written consent required to adopt the proposed
16 bylaw shall not be less than sixty-five per cent
17 of all apartment owners; provided that the vote
18 or written consent must be obtained within three
19 hundred sixty-five days after mailing for a
20 proposed bylaw submitted by either the board of
21 directors or a volunteer apartment owners'



1 committee. If the bylaw is duly adopted, then
2 the board shall cause the bylaw amendment to be
3 recorded in the bureau of conveyances or filed in
4 the land court, as the case may be. The
5 volunteer apartment owners' committee shall be
6 precluded from submitting a petition for a
7 proposed bylaw that is substantially similar to
8 that which has been previously mailed to the
9 owners within one year after the original
10 petition was submitted to the board.

11 This paragraph shall not preclude any apartment owner
12 or voluntary apartment owners' committee from
13 proposing any bylaw amendment at any annual
14 association meeting;

15 (3) Notices of association meetings, whether annual or
16 special, shall be sent to each member of the
17 association of apartment owners at least fourteen days
18 prior to the meeting and shall contain at least:

- 19 (A) The date, time, and place of the meeting;
- 20 (B) The items on the agenda for the meeting; and



1 (C) A standard proxy form authorized by the
2 association, if any;

3 (4) No resident manager or managing agent shall solicit,
4 for use by the manager or managing agent, any proxies
5 from any apartment owner of the association of owners
6 that employs the resident manager or managing agent,
7 nor shall the resident manager or managing agent cast
8 any proxy vote at any association meeting except for
9 the purpose of establishing a quorum. Any board of
10 directors that intends to use association funds to
11 distribute proxies, including the standard proxy form
12 referred to in paragraph (3), shall first post notice
13 of its intent to distribute proxies in prominent
14 locations within the project at least thirty days
15 prior to its distribution of proxies; provided that if
16 the board receives within seven days of the posted
17 notice a request by any owner for use of association
18 funds to solicit proxies accompanied by a statement,
19 the board shall mail to all owners either:

20 (A) A proxy form containing the names of all owners
21 who have requested the use of association funds



1 for soliciting proxies accompanied by their
2 statements; or
3 (B) A proxy form containing no names, but accompanied
4 by a list of names of all owners who have
5 requested the use of association funds for
6 soliciting proxies and their statements.

7 The statement shall not exceed one hundred words,
8 indicating the owner's qualifications to serve on the
9 board and reasons for wanting to receive proxies;

10 (5) A director who has a conflict of interest on any issue
11 before the board shall disclose the nature of the
12 conflict of interest prior to a vote on that issue at
13 the board meeting, and the minutes of the meeting
14 shall record the fact that a disclosure was made;

15 (6) The apartment owners shall have the irrevocable right,
16 to be exercised by the board of directors, to have
17 access to each apartment from time to time during
18 reasonable hours as may be necessary for the operation
19 of the property or for making emergency repairs
20 therein necessary to prevent damage to the common
21 elements or to another apartment or apartments;



- 1 (7) An owner shall not act as an officer of an association
2 and an employee of the managing agent employed by the
3 association;
- 4 (8) An association's employees shall not engage in selling
5 or renting apartments in the condominium in which they
6 are employed except association-owned units, unless
7 such activity is approved by an affirmative vote of
8 sixty-five per cent of the membership;
- 9 (9) The board of directors shall meet at least once a
10 year. Whenever practicable, notice of all board
11 meetings shall be posted by the resident manager or a
12 member of the board in prominent locations within the
13 project seventy-two hours prior to the meeting or
14 simultaneously with notice to the board of directors;
- 15 (10) Directors shall not expend association funds for their
16 travel, directors' fees, and per diem, unless owners
17 are informed and a majority approve of these expenses;
- 18 (11) Associations at their own expense shall provide all
19 board members with a current copy of the association's
20 declaration, bylaws, house rules, and, annually, a
21 copy of this chapter with amendments;



- 1 (12) The directors may expend association funds, which
2 shall not be deemed to be compensation to the
3 directors, to educate and train themselves in subject
4 areas directly related to their duties and
5 responsibilities as directors; provided that the
6 approved annual operating budget shall include these
7 expenses as separate line items. These expenses may
8 include registration fees, books, videos, tapes, other
9 educational materials, and economy travel expenses.
10 Except for economy travel expenses within the State,
11 all other travel expenses incurred under this
12 subsection shall be subject to the requirements of
13 paragraph (10);
- 14 (13) A lien created pursuant to section 514A-90 may be
15 enforced by the association in any manner permitted by
16 law, including nonjudicial or power of sale
17 foreclosure procedures authorized by chapter 667;
18 [and]
- 19 (14) If the bylaws provide for cumulative voting by the
20 owners, the owners may so vote if an owner gives



1 notice of the owner's intent to cumulatively vote
 2 before voting commences[-]; and
 3 (15) No person shall be elected as a member of a board of
 4 directors of a condominium for more than two
 5 consecutive full terms; provided that this paragraph
 6 shall not be construed to limit the service of a
 7 holdover member if no person seeks candidacy for the
 8 holdover member's position.

9 The provisions of this subsection shall be deemed incorporated
 10 into the bylaws of all condominium projects existing as of
 11 January 1, 1988, and all condominium projects created after that
 12 date."

13 SECTION 2. Section 514A-88, Hawaii Revised Statutes, is
 14 amended to read as follows:

15 "**§514A-88 Compliance with covenants, bylaws, and**
 16 **administrative provisions.** Each apartment owner, tenants and
 17 employees of an owner, and other persons using the property shall
 18 comply strictly with the bylaws and with the administrative rules
 19 and regulations adopted pursuant thereto, as either of the same
 20 may be lawfully amended from time to time, and with the covenants,
 21 conditions, and restrictions set forth in the declaration.



1 Failure to comply with any of the same shall be ground for an
2 action to recover sums due, for damages or injunctive relief, or
3 both, maintainable by the manager or board of directors on behalf
4 of the association of apartment owners or, in a proper case, by an
5 aggrieved apartment owner[-]; provided that the failure to comply
6 is demonstrated by clear and convincing evidence."

7 SECTION 3. Section 514A-95, Hawaii Revised Statutes, is
8 amended to read as follows:

9 **"§514A-95 Managing agents.** (a) Every managing agent shall:

10 (1) Be licensed as a real estate broker in compliance with
11 chapter 467 and the rules of the commission or be a
12 corporation authorized to do business under article 8 of
13 chapter 412;

14 (2) Register with the commission prior to conducting
15 managing agent activity through approval of a completed
16 registration application, payment of fees, and
17 submission of any other additional information set forth
18 by the commission. The registration shall be for a
19 biennial period with termination on December 31 of an
20 even-numbered year. The commission shall prescribe a
21 deadline date prior to the termination date for the



1 submission of a completed reregistration application,
2 payment of fees, and any other additional information
3 set forth by the commission. Any managing agent who has
4 not met the submission requirements by the deadline date
5 shall be considered a new applicant for registration and
6 subject to initial registration requirements. The
7 information required to be submitted with any
8 application shall include the name, business address,
9 phone number, and names of association of apartment
10 owners managed;

- 11 (3) Obtain and keep current a fidelity bond in an amount
12 equal to \$500 multiplied by the aggregate number of
13 apartments of the association of apartment owners
14 managed by the managing agent; provided that the amount
15 of the fidelity bond shall not be less than \$20,000 nor
16 greater than \$100,000. Upon request by the commission,
17 the managing agent shall provide evidence of a current
18 fidelity bond or a certification statement from an
19 insurance company authorized by the insurance division
20 of the department of commerce and consumer affairs
21 certifying that the fidelity bond is in effect and meets



1 the requirement of this section and the rules adopted by
2 the commission. The managing agent shall permit only
3 employees covered by the fidelity bond to handle or have
4 custody or control of any association of apartment
5 owners funds, except any principals of the managing
6 agent that cannot be covered by the fidelity bond. The
7 fidelity bond shall protect the managing agent against
8 the loss of any association of apartment owners' moneys,
9 securities, or other properties caused by the fraudulent
10 or dishonest acts of employees of the managing agent.
11 Failure to obtain or maintain a fidelity bond in
12 compliance with this chapter and the rules adopted
13 pursuant thereto, including failure to provide evidence
14 of the fidelity bond coverage in a timely manner to the
15 commission, shall result in non-registration or the
16 automatic termination of the registration, unless an
17 approved exemption or a bond alternative is presently
18 maintained. A managing agent who is unable to obtain a
19 fidelity bond may seek an exemption from the fidelity
20 bond requirement from the commission. The commission
21 shall adopt rules establishing the conditions and terms



1 by which it may grant an exemption or a bond
2 alternative, or permit deductibles;
3 (4) Act promptly and diligently to recover from the fidelity
4 bond, if the fraud or dishonesty of the managing agent's
5 employees causes a loss to an association of apartment
6 owners, and apply the fidelity bond proceeds, if any, to
7 reduce the association of apartment owners' loss. If
8 more than one association of apartment owners suffers a
9 loss, the managing agent shall divide the proceeds among
10 the associations of apartment owners in proportion to
11 each association of apartment owners' loss. An
12 association of apartment owners may request a court
13 order requiring the managing agent to act promptly and
14 diligently to recover from the fidelity bond. If an
15 association of apartment owners cannot recover its loss
16 from the fidelity bond proceeds of the managing agent,
17 the association of apartment owners may recover by court
18 order from the real estate recovery fund established
19 under section 467-16; provided that:



- 1 (A) The loss is caused by the fraud,
2 misrepresentation, or deceit of the managing
3 agent or its employees;
- 4 (B) The managing agent is a licensed real estate
5 broker; and
- 6 (C) The association of apartment owners fulfills the
7 requirements of sections 467-16 and 467-18 and
8 any applicable rules of the commission;
- 9 (5) Pay a nonrefundable application fee and, upon approval,
10 an initial registration fee, and subsequently pay a
11 reregistration fee, as prescribed by rules adopted by
12 the director of commerce and consumer affairs pursuant
13 to chapter 91. A compliance resolution fee shall also
14 be paid pursuant to section 26-9(o) and the rules
15 adopted pursuant thereto; and
- 16 (6) Report immediately in writing to the commission any
17 changes to the information contained on the registration
18 application or any other documents provided for
19 registration. Failure to do so may result in
20 termination of registration and subject the managing
21 agent to initial registration requirements.



1 (b) Every employee of a managing agent who serves a
2 condominium association shall be licensed as a real estate broker
3 in compliance with chapter 467 and the rules of the commission.

4 [~~(b)~~] (c) The commission may deny any registration or
5 reregistration application or terminate a registration without
6 hearing if the fidelity bond and its evidence fail to meet the
7 requirements of this chapter and the rules adopted pursuant
8 thereto.

9 [~~(c)~~] (d) Every managing agent shall be considered a
10 fiduciary with respect to any property managed by that managing
11 agent.

12 [~~(d)~~] (e) The registration and fidelity bond requirements of
13 this section shall not apply to active real estate brokers in
14 compliance with and licensed under chapter 467."

15 SECTION 4. Section 514B-41, Hawaii Revised Statutes, is
16 amended by amending subsection (b) to read as follows:

17 "(b) A unit owner, including the developer, shall become
18 obligated for the payment of the share of the common expenses
19 allocated to the owner's unit at the time the certificate of
20 occupancy relating to the owner's unit is issued by the
21 appropriate county agency; provided that a developer may assume



1 all the actual common expenses in a project by stating in the
2 developer's public report required by section 514B-54 that the
3 unit owner shall not be obligated for the payment of the owner's
4 share of the common expenses until such time as the developer
5 sends the owners written notice that, after a specified date,
6 the unit owners shall be obligated to pay for the portion of
7 common expenses that is allocated to their respective units.
8 The developer shall mail the written notice to the owners[7] at
9 each owner's most recent address of record, the association, and
10 the managing agent, if any, at least thirty days before the
11 specified date."

12 SECTION 5. Section 514B-65, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§514B-65 Investigative powers.** If the commission has
15 reason to believe that any person is violating or has violated
16 this part, part V, section 514B-103, 514B-107, 514B-123,
17 514B-132, 514B-134, 514B-149, sections 514B-152 to 514B-154,
18 section 514B-154.5, or the rules of the commission adopted
19 pursuant thereto, the commission may conduct an investigation of
20 the matter and examine the books, accounts, contracts, records,
21 and files of all relevant parties. For purposes of this



1 examination, the developer, ~~[and the]~~ real estate broker,
2 managing agent, and association shall keep and maintain records
3 of all sales transactions and of the funds received by the
4 developer, ~~[and the]~~ real estate broker, managing agent, and
5 association in accordance with chapter 467 and the rules of the
6 commission, and shall make the records accessible to the
7 commission upon reasonable notice and demand."

8 SECTION 6. Section 514B-66, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§514B-66 Cease and desist orders.** In addition to its
11 authority under sections 514B-67 and 514B-68, whenever the
12 commission has reason to believe that any person is violating or
13 has violated this part, part V, section 514B-103, 514B-107,
14 514B-123, 514B-132, 514B-134, 514B-149, sections 514B-152 to
15 514B-154, section 514B-154.5, or the rules of the commission
16 adopted pursuant thereto, it may issue and serve upon the person
17 a complaint stating its charges in that respect and containing a
18 notice of a hearing at a stated place and upon a day at least
19 thirty days after the service of the complaint. The person
20 served has the right to appear at the place and time specified
21 and show cause why an order should not be entered by the



1 commission requiring the person to cease and desist from the
2 violation of the law or rules charged in the complaint. If the
3 commission finds that this chapter or the rules of the
4 commission have been or are being violated, it shall make a
5 report in writing stating its findings as to the facts and shall
6 issue and cause to be served on the person an order requiring
7 the person to cease and desist from the violations. The person,
8 within thirty days after service upon the person of the report
9 or order, may obtain a review thereof in the appropriate circuit
10 court."

11 SECTION 7. Section 514B-68, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§514B-68 Power to enjoin.** Whenever the commission
14 believes from satisfactory evidence that any person has violated
15 this part, part V, section 514B-103, 514B-107, 514B-123,
16 514B-132, 514B-134, 514B-149, sections 514B-152 to 514B-154,
17 section 514B-154.5, or the rules of the commission adopted
18 pursuant thereto, it may conduct an investigation of the matter
19 and bring an action against the person in any court of competent
20 jurisdiction on behalf of the State to enjoin the person from



1 continuing the violation or doing any acts in furtherance
2 thereof."

3 SECTION 8. Section 514B-69, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§514B-69 Penalties.** (a) Any person who violates or fails
6 to comply with this part, part V, section 514B-103, 514B-107,
7 514B-123, 514B-132, 514B-134, 514B-149, sections 514B-152 to
8 514B-154, or section 514B-154.5, shall be guilty of a
9 misdemeanor and shall be punished by a fine not exceeding
10 \$10,000, or by imprisonment for a term not exceeding one year,
11 or both. Any person who violates or fails to comply with any
12 rule, order, decision, demand, or requirement of the commission
13 under this part, part V, section 514B-103, 514B-107, 514B-123,
14 514B-132, 514B-134, 514B-149, sections 514B-152 to 514B-154, or
15 section 514B-154.5, shall be punished by a fine not exceeding
16 \$10,000.

17 (b) In addition to any other actions authorized by law,
18 any person who violates or fails to comply with this part,
19 part V, section 514B-103, 514B-107, 514B-123, 514B-132,
20 514B-134, 514B-149, sections 514B-152 to 514B-154, section
21 514B-154.5, or the rules of the commission adopted pursuant



1 thereto, shall also be subject to a civil penalty not exceeding
2 \$10,000 for any violation. Each violation shall constitute a
3 separate offense."

4 SECTION 9. Section 514B-71, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§514B-71 Condominium education trust fund.** (a) The
7 commission shall establish a condominium education trust fund
8 that the commission shall use for educational purposes.

9 Educational purposes shall include financing or promoting:

- 10 (1) Education and research in the field of condominium
11 management, condominium project registration, and real
12 estate, for the benefit of the public and those
13 required to be registered under this chapter;
- 14 (2) The improvement and more efficient administration of
15 associations;
- 16 (3) Expeditious and inexpensive procedures for resolving
17 association disputes; [~~and~~]
- 18 (4) Support for mediation of condominium related
19 disputes[~~-~~]; and
- 20 (5) Resolution of requests submitted to alternative
21 dispute resolution pursuant to part VI, subpart D.



1 (b) The commission shall use all moneys in the condominium
2 education trust fund for purposes consistent with subsection
3 (a).

4 (c) The cost for educational opportunities financed by the
5 condominium education trust fund shall be the same for all
6 individuals."

7 SECTION 10. Section 514B-72, Hawaii Revised Statutes, is
8 amended by amending subsection (c) to read as follows:

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



1 other assessments, or prevent the association from defending any
2 action in any court of this State."

3 SECTION 11. Section 514B-104, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) Except as provided in section 514B-105, and subject
6 to the provisions of the declaration and bylaws, the
7 association, even if unincorporated, may:

8 (1) Adopt and amend the declaration, bylaws, and rules and
9 regulations;

10 (2) Adopt and amend budgets for revenues, expenditures,
11 and reserves and collect assessments for common
12 expenses from unit owners, subject to section
13 514B-148;

14 (3) Hire and discharge managing agents and other
15 independent contractors, agents, and employees;

16 (4) Institute, defend, or intervene in litigation or
17 administrative proceedings in its own name on behalf
18 of itself or two or more unit owners on matters
19 affecting the condominium. For the purposes of
20 actions under chapter 480, associations shall be
21 deemed to be "consumers";



- 1 (5) Make contracts and incur liabilities;
- 2 (6) Regulate the use, maintenance, repair, replacement,
3 and modification of common elements;
- 4 (7) Cause additional improvements to be made as a part of
5 the common elements;
- 6 (8) Acquire, hold, encumber, and convey in its own name
7 any right, title, or interest to real or personal
8 property; provided that:
 - 9 (A) Designation of additional areas to be common
10 elements or subject to common expenses after the
11 initial filing of the declaration or bylaws shall
12 require the approval of at least sixty-seven per
13 cent of the unit owners;
 - 14 (B) If the developer discloses to the initial buyer
15 in writing that additional areas will be
16 designated as common elements whether pursuant to
17 an incremental or phased project or otherwise,
18 the requirements of this paragraph shall not
19 apply as to those additional areas; and
 - 20 (C) The requirements of this paragraph shall not
21 apply to the purchase of a unit for a resident



1 manager, which may be purchased with the approval
2 of the board;

3 (9) Subject to section 514B-38, grant easements, leases,
4 licenses, and concessions through or over the common
5 elements and permit encroachments on the common
6 elements;

7 (10) Impose and receive any payments, fees, or charges for
8 the use, rental, or operation of the common elements,
9 other than limited common elements described in
10 section 514B-35(2) and (4), and for services provided
11 to unit owners;

12 (11) Impose charges and penalties, including late fees and
13 interest, for late payment of assessments and levy
14 reasonable fines for violations of the declaration,
15 bylaws, rules, and regulations of the association[7]
16 that are demonstrated by clear and convincing
17 evidence, either in accordance with the bylaws or, if
18 the bylaws are silent, pursuant to a resolution
19 adopted by the board that establishes a fining
20 procedure that states the basis for the fine and
21 allows an appeal to the board of the fine with notice



1 and an opportunity to be heard and providing that [~~if~~
2 ~~the fine is paid,~~] the board shall suspend all
3 assessments, including legal fees, until resolution of
4 the dispute and providing further that the unit owner
5 shall have the right to initiate a dispute resolution
6 process as provided by sections 514B-161, 514B-162, or
7 by filing a request for an administrative hearing
8 under a pilot program administered by the department
9 of commerce and consumer affairs;

10 (12) Impose charges and penalties on a managing agent,
11 collection agent, or attorney who negligently fails to
12 provide proper notice to unit owners, who is negligent
13 in assessing the accuracy of assessments and penalties
14 charged to unit owners, or who violates the
15 declaration, bylaws, rules, and regulations of the
16 association;

17 [~~(12)~~] (13) Impose reasonable charges for the preparation
18 and recordation of amendments to the declaration,
19 documents requested for resale of units, or statements
20 of unpaid assessments;



- 1 [~~(13)~~] (14) Provide for cumulative voting through a
- 2 provision in the bylaws;
- 3 [~~(14)~~] (15) Provide for the indemnification of its officers,
- 4 board, committee members, and agents, and maintain
- 5 directors' and officers' liability insurance;
- 6 [~~(15)~~] (16) Assign its right to future income, including the
- 7 right to receive common expense assessments, but only
- 8 to the extent section 514B-105(e) expressly so
- 9 provides;
- 10 [~~(16)~~] (17) Exercise any other powers conferred by the
- 11 declaration or bylaws;
- 12 [~~(17)~~] (18) Exercise all other powers that may be exercised
- 13 in this State by legal entities of the same type as
- 14 the association, except to the extent inconsistent
- 15 with this chapter;
- 16 [~~(18)~~] (19) Exercise any other powers necessary and proper
- 17 for the governance and operation of the association;
- 18 provided that the powers shall not exceed the
- 19 authority granted by the declaration, bylaws, and
- 20 articles of incorporation of the association; and



1 [~~(19)~~] (20) By regulation, subject to sections 514B-146,
2 514B-161, and 514B-162, require that disputes between
3 the board and unit owners or between two or more unit
4 owners regarding the condominium be submitted to
5 nonbinding alternative dispute resolution in the
6 manner described in the regulation as a prerequisite
7 to commencement of a judicial proceeding."

8 SECTION 12. Section 514B-105, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§514B-105 Association; limitations on powers.** (a) The
11 declaration and bylaws may not impose limitations on the power
12 of the association to deal with the developer which are more
13 restrictive than the limitations imposed on the power of the
14 association to deal with other persons.

15 (b) Unless otherwise permitted by the declaration, bylaws,
16 or this chapter, an association may adopt rules and regulations
17 that affect the use of or behavior in units that may be used for
18 residential purposes only to:

19 (1) Prevent any use of a unit which violates the
20 declaration or bylaws;



1 (2) Regulate any behavior in or occupancy of a unit which
2 violates the declaration or bylaws or unreasonably
3 interferes with the use and enjoyment of other units
4 or the common elements by other unit owners; or

5 (3) Restrict the leasing of residential units to the
6 extent those rules are reasonably designed to meet
7 underwriting requirements of institutional lenders who
8 regularly lend money secured by first mortgages on
9 units in condominiums or regularly purchase those
10 mortgages.

11 Otherwise, the association may not regulate any use of or
12 behavior in units by means of the rules and regulations.

13 (c) No association shall authorize a substantial change in
14 the use of a condominium, including becoming licensed as an
15 assisted living facility pursuant to title 11, chapter 90,
16 Hawaii Administrative Rules, as amended, without obtaining
17 sixty-seven per cent of the common interest.

18 ~~(c)~~ (d) No association shall deduct and apply portions
19 of common expense payments received from a unit owner to unpaid
20 late fees, legal fees, fines, and interest (other than amounts
21 remitted by a unit in payment of late fees, legal fees, fines,



1 and interest) unless the board adopts and distributes to all
2 owners a policy stating that:

3 (1) Failure to pay late fees, legal fees, fines, and
4 interest may result in the deduction of such late
5 fees, legal fees, fines, and interest from future
6 common expense payments, so long as a delinquency
7 continues to exist; and

8 (2) Late fees may be imposed against any future common
9 expense payment that is less than the full amount owed
10 due to the deduction of unpaid late fees, legal fees,
11 fines, and interest from the payment.

12 [~~(d)~~] (e) No unit owner who requests legal or other
13 information from the association, the board, the managing agent,
14 or their employees or agents, shall be charged for the
15 reasonable cost of providing the information unless the
16 association notifies the unit owner that it intends to charge
17 the unit owner for the reasonable cost~~[-]~~; provided that if the
18 information is available for distribution in electronic format,
19 it shall be offered to the unit owner in electronic format at no
20 charge to the unit owner. The association shall notify the unit
21 owner in writing at least ten days prior to incurring the



1 reasonable cost of providing the information, except that no
2 prior notice shall be required to assess the reasonable cost of
3 providing information on delinquent assessments or in connection
4 with proceedings to enforce the law or the association's
5 governing documents.

6 After being notified of the reasonable cost of providing
7 the information, the unit owner may withdraw the request, in
8 writing. A unit owner who withdraws a request for information
9 shall not be charged for the reasonable cost of providing the
10 information.

11 [~~(e)~~] (f) Subject to any approval requirements and
12 spending limits contained in the declaration or bylaws, the
13 association may authorize the board to borrow money for the
14 repair, replacement, maintenance, operation, or administration
15 of the common elements and personal property of the project, or
16 the making of any additions, alterations, and improvements
17 thereto; provided that written notice of the purpose and use of
18 the funds is first sent to all unit owners and owners
19 representing fifty per cent of the common interest vote or give
20 written consent to the borrowing[-]; provided further that if
21 the principal amount of the loan is to exceed \$10,000 per unit



1 then the association shall hold a meeting to explain the need
2 for the funds before soliciting consent from unit owners. In
3 connection with the borrowing, the board may grant to the lender
4 the right to assess and collect monthly or special assessments
5 from the unit owners and to enforce the payment of the
6 assessments or other sums by statutory lien and foreclosure
7 proceedings. The cost of the borrowing, including, without
8 limitation, all principal, interest, commitment fees, and other
9 expenses payable with respect to the borrowing or the
10 enforcement of the obligations under the borrowing, shall be a
11 common expense of the project. For purposes of this section,
12 the financing of insurance premiums by the association within
13 the policy period shall not be deemed a loan and no lease shall
14 be deemed a loan if it provides that at the end of the lease the
15 association may purchase the leased equipment for its fair
16 market value."

17 SECTION 13. Section 514B-106, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§514B-106 Board; powers and duties.** (a) Except as
20 provided in the declaration, the bylaws, subsection (b), or
21 other provisions of this chapter, the board may act in all



1 instances on behalf of the association. In the performance of
2 their duties, officers and members of the board shall owe the
3 association a fiduciary duty and exercise the degree of care and
4 loyalty required of an officer or director of a corporation
5 organized under chapter 414D.

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



1 for owners to declare their intention to run for election and to
2 solicit proxies for that purpose.

3 (c) Within thirty days after the adoption of any proposed
4 budget for the condominium, the board shall make available a
5 copy of the budget to all the unit owners and shall notify each
6 unit owner that the unit owner may request a copy of the budget.

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

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

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

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



1 (4) The day the developer, after giving written notice to
2 unit owners, records an instrument voluntarily
3 surrendering all rights to control activities of the
4 association.

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

12 (e) Not later than the termination of any period of
13 developer control, the unit owners shall elect a board of at
14 least three members; provided that projects created after
15 May 18, 1984, with one hundred or more individual units, shall
16 have an elected board of at least nine members unless the
17 membership has amended the bylaws to reduce the number of
18 directors; and provided further that projects with more than one
19 hundred individual units where at least seventy per cent of the
20 unit owners do not reside at the project may amend the bylaws to
21 reduce the board to as few as five members by the written



1 consent of a majority of the unit owners or the vote of a
2 majority of a quorum at any annual meeting or special meeting
3 called for that purpose. The association may rely on its
4 membership records in determining whether a unit is owner-
5 occupied. A decrease in the number of directors shall not
6 deprive an incumbent director of any remaining term of office.

7 (f) At any regular or special meeting of the association,
8 any member of the board may be removed and successors shall be
9 elected for the remainder of the term to fill the vacancies thus
10 created. The removal and replacement shall be by a vote of a
11 majority of the unit owners and, otherwise, in accordance with
12 all applicable requirements and procedures in the bylaws for the
13 removal and replacement of directors and, if removal and
14 replacement is to occur at a special meeting, section
15 514B-121(b).

16 (g) The board shall establish a reasonable method for unit
17 owners to communicate with one another and with the board about
18 matters concerning the association."

19 SECTION 14. 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) The board shall not authorize a substantial change in
18 the use of a condominium, including becoming licensed as an
19 assisted living facility pursuant to title 11, chapter 90,
20 Hawaii Administrative Rules, as amended, without obtaining
21 sixty-seven per cent of the common interest.



1 ~~(d)~~ (e) Directors shall not expend association funds for
2 their travel, directors' fees, ~~and~~ per diem, or personal
3 expenses unless owners are informed and a majority approve of
4 these expenses; provided that, with the approval of the board,
5 directors may be reimbursed for actual expenditures incurred on
6 behalf of the association. The board meeting minutes shall
7 reflect in detail the items and amounts of the reimbursements.
8 Use of association funds for unapproved personal expenses shall
9 be subject to section 514B-149(f).

10 ~~(e)~~ (f) Associations at their own expense shall provide
11 all board members with a current copy of the association's
12 declaration, bylaws, house rules, and, annually, a copy of this
13 chapter with amendments.

14 (g) Members of the board shall participate annually in a
15 minimum of one educational class funded by the condominium
16 education trust fund.

17 ~~(f)~~ (h) The directors may expend association funds,
18 which shall not be deemed to be compensation to the directors,
19 to educate and train themselves in subject areas directly
20 related to their duties and responsibilities as directors;
21 provided that the approved annual operating budget shall include



1 these expenses as separate line items. These expenses may
2 include registration fees, books, videos, tapes, other
3 educational materials, and economy travel expenses. Except for
4 economy travel expenses within the State, all other travel
5 expenses incurred under this subsection shall be subject to the
6 requirements of subsection [~~(d)~~] (e).

7 (i) No person shall be elected as a member of a board for
8 more than two consecutive full terms; provided that this
9 subsection shall not be construed to limit the service of a
10 holdover member if no person seeks candidacy for the holdover
11 member's position."

12 SECTION 15. Section 514B-110, Hawaii Revised Statutes, is
13 amended by amending subsections (b) and (c) to read as follows:

14 "(b) Any proposed bylaw amendment to modify the
15 composition of the board in accordance with subsection (a) may
16 be initiated by:

- 17 (1) A majority vote of the board; or
18 (2) A submission of the proposed bylaw amendment to the
19 board from a volunteer unit owners group accompanied
20 by a petition from [~~twenty-five~~] 12.5 per cent of the
21 unit owners of record.



1 (c) Within thirty days of a decision by the board or
2 receipt of a petition to initiate a bylaw amendment, the board
3 shall mail a ballot with the proposed bylaw amendment to all of
4 the unit owners of record[?] at each unit owner's most recent
5 address of record. For purposes of this section only, the
6 bylaws may initially be amended by a vote or written consent of
7 the majority of the unit owners; and thereafter by at least
8 sixty-seven per cent of all unit owners; provided that each of
9 the requirements set forth in this section shall be embodied in
10 the bylaws."

11 SECTION 16. Section 514B-111, Hawaii Revised Statutes, is
12 amended by amending subsection (b) to read as follows:

13 "(b) The board, on behalf of the association, shall by
14 certified mail to the unit owner's most recent address of record
15 provide all unit owners with notice of the date, time, and place
16 of any court hearing to be held pursuant to this section."

17 SECTION 17. Section 514B-121, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§514B-121 Association meetings.** (a) A meeting of the
20 association shall be held at least once each year.



1 (b) Special meetings of the association may be called by
2 the president, a majority of the board, or by a petition to the
3 secretary or managing agent signed by not less than [~~twenty-~~
4 ~~five~~] 12.5 per cent of the unit owners as shown in the
5 association's record of ownership; provided that if the
6 secretary or managing agent fails to send out the notices for
7 the special meeting within fourteen days of receipt of the
8 petition, the petitioners shall have the authority to set the
9 time, date, and place for the special meeting and to send out
10 the notices and proxies for the special meeting at the
11 association's expense in accordance with the requirements of the
12 bylaws and of this part; provided further that a special meeting
13 based upon a petition to the secretary or managing agent shall
14 be set no later than sixty days from receipt of the petition.

15 (c) Not less than fourteen days in advance of any meeting,
16 the secretary or other officer specified in the bylaws shall
17 cause notice to be:

- 18 (1) Hand-delivered;
- 19 (2) Sent prepaid by United States mail to the mailing
20 address of each unit or to any other mailing address
21 designated in writing by the unit owner; or



1 (3) At the option of the unit owner, expressed in writing,
2 by electronic mail to the electronic mailing address
3 designated in writing by the unit owner.

4 The notice of any meeting must state the date, time, and place
5 of the meeting and the items on the agenda, including the
6 general nature and rationale of any proposed amendment to the
7 declaration or bylaws, and any proposal to remove a member of
8 the board; provided that this subsection shall not preclude any
9 unit owner from proposing an amendment to the declaration or
10 bylaws or to remove a member of the board at any annual
11 association meeting.

12 (d) All association meetings shall be conducted in
13 accordance with the most recent edition of Robert's Rules of
14 Order Newly Revised. If so provided in the declaration or
15 bylaws, meetings may be conducted by any means that allow
16 participation by all unit owners in any deliberation or
17 discussion.

18 (e) Upon reasonable advance notice to the association, a
19 unit owner shall be permitted to record an association meeting,
20 except executive sessions, by electronic means, including audio
21 or video recording.



1 [~~(e)~~] (f) All association meetings shall be held at the
2 address of the condominium or elsewhere within the State as
3 determined by the board; provided that in the event of a natural
4 disaster, such as a hurricane, an association meeting may be
5 held outside the State."

6 SECTION 18. Section 514B-123, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§514B-123 Association meetings; voting; proxies.** (a) If
9 only one of several owners of a unit is present at a meeting of
10 the association, that owner is entitled to cast all the votes
11 allocated to that unit. If more than one of the owners is
12 present, the votes allocated to that unit may be cast only in
13 accordance with the agreement of a majority in interest of the
14 owners, unless the declaration or bylaws expressly provide
15 otherwise. There is majority agreement if any one of the owners
16 casts the votes allocated to that unit without protest being
17 made by any of the other owners of the unit to the person
18 presiding over the meeting before the polls are closed.

19 (b) Votes allocated to a unit may be cast pursuant to a
20 proxy duly executed by a unit owner. A unit owner may vote by
21 mail or electronic transmission through a duly executed proxy.



1 If a unit is owned by more than one person, each owner of the
2 unit may vote or register protest to the casting of votes by the
3 other owners of the unit through a duly executed proxy. In the
4 absence of protest, any owner may cast the votes allocated to
5 the unit by proxy. A unit owner may revoke a proxy given
6 pursuant to this section only by actual notice of revocation to
7 the secretary of the association or the managing agent. A proxy
8 is void if it purports to be revocable without notice.

9 (c) No votes allocated to a unit owned by the association
10 may be cast for the election or reelection of directors.

11 (d) A proxy, to be valid, shall:

12 (1) Be delivered to the secretary of the association or
13 the managing agent, if any, no later than 4:30 p.m. on
14 the second business day prior to the date of the
15 meeting to which it pertains;

16 (2) Contain at least the name of the association, the date
17 of the meeting of the association, the printed names
18 and signatures of the persons giving the proxy, the
19 unit numbers for which the proxy is given, the names
20 of persons to whom the proxy is given, and the date
21 that the proxy is given; and



- 1 (3) If it is a standard proxy form authorized by the
- 2 association, contain boxes wherein the owner has
- 3 indicated that the proxy is given:
- 4 (A) For quorum purposes only; or
- 5 (B) To the individual whose name is printed on a line
- 6 next to this box[~~†~~].
- 7 ~~[(C) To the board as a whole and that the vote is to~~
- 8 ~~be made on the basis of the preference of the~~
- 9 ~~majority of the directors present at the meeting;~~
- 10 ~~or~~
- 11 ~~(D) To those directors present at the meeting with~~
- 12 ~~the vote to be shared with each director~~
- 13 ~~receiving an equal percentage.]~~

14 The proxy form shall also contain a box wherein the
15 owner may indicate that the owner wishes to obtain a
16 copy of the annual audit report required by section
17 514B-150.

18 (e) A proxy shall only be valid for the meeting to which
19 the proxy pertains and its adjournments, may designate any
20 person as proxy, and may be limited as the unit owner desires



1 and indicates; provided that no proxy shall be irrevocable
2 unless coupled with a financial interest in the unit.

3 (f) A copy, facsimile telecommunication, or other reliable
4 reproduction of a proxy may be used in lieu of the original
5 proxy for any and all purposes for which the original proxy
6 could be used; provided that any copy, facsimile
7 telecommunication, or other reproduction shall be a complete
8 reproduction of the entire original proxy.

9 (g) Nothing in this section shall affect the holder of any
10 proxy under a first mortgage of record encumbering a unit or
11 under an agreement of sale affecting a unit.

12 (h) With respect to the use of association funds to
13 distribute proxies:

14 (1) Any board that intends to use association funds to
15 distribute proxies, including the standard proxy form
16 referred to in subsection (d)(3), shall first post
17 notice of its intent to distribute proxies in
18 prominent locations within the project and on any
19 existing association website at least [~~twenty-one~~]
20 thirty days before its distribution of proxies. If
21 the board receives within [~~seven~~] fourteen days of the



1 posted notice a request by any owner for use of
2 association funds to solicit proxies accompanied by a
3 statement, the board shall mail to all owners at each
4 owner's most recent address of record either:

5 (A) A proxy form containing the names of all owners
6 who have requested the use of association funds
7 for soliciting proxies accompanied by their
8 statements; or

9 (B) A proxy form containing no names, but accompanied
10 by a list of names of all owners who have
11 requested the use of association funds for
12 soliciting proxies and their statements.

13 The statement, which shall be limited to black text on
14 white paper, shall not exceed one single-sided
15 8-1/2" x 11" page, indicating the owner's
16 qualifications to serve on the board or reasons for
17 wanting to receive proxies; and

18 (2) A board or member of the board may use association
19 funds to solicit proxies as part of the distribution
20 of proxies. If a member of the board, as an
21 individual, seeks to solicit proxies using association



1 funds, the board member shall proceed as a unit owner
2 under paragraph (1).

3 (i) No managing agent or resident manager, or their
4 employees, shall solicit, for use by the managing agent or
5 resident manager, any proxies from any unit owner of the
6 association that retains the managing agent or employs the
7 resident manager, nor shall the managing agent or resident
8 manager cast any proxy vote at any association meeting except
9 for the purpose of establishing a quorum.

10 (j) No board shall adopt any rule prohibiting the
11 solicitation of proxies or distribution of materials relating to
12 association matters on the common elements by unit owners;
13 provided that a board may adopt rules regulating reasonable
14 time, place, and manner of the solicitations or distributions,
15 or both.

16 (k) Any violation of this section shall be subject to the
17 investigative powers and penalties of sections 514B-65, 514B-66,
18 514B-68, and 514B-69."

19 SECTION 19. Section 514B-125, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "~~§~~514B-125~~§~~ **Board meetings.** (a) All meetings of the
2 board, other than executive sessions, shall be open to all
3 members of the association, and association members who are not
4 on the board may participate in any deliberation or discussion,
5 other than executive sessions, unless a majority of a quorum of
6 the board votes otherwise.

7 (b) The board, with the approval of a majority of a quorum
8 of its members, may adjourn a meeting and reconvene in executive
9 session to discuss and vote upon matters:

- 10 (1) Concerning personnel;
- 11 (2) Concerning litigation in which the association is or
12 may become involved;
- 13 (3) Necessary to protect the attorney-client privilege of
14 the association; or
- 15 (4) Necessary to protect the interests of the association
16 while negotiating contracts, leases, and other
17 commercial transactions.

18 The general nature of any business to be considered in executive
19 session shall first be announced in open session.

20 (c) All board meetings shall be conducted in accordance
21 with the most recent edition of Robert's Rules of Order Newly



1 Revised. Unless otherwise provided in the declaration or
2 bylaws, a board may permit any meeting to be conducted by any
3 means of communication through which all directors participating
4 may simultaneously hear each other during the meeting. A
5 director participating in a meeting by this means is deemed to
6 be present in person at the meeting. If permitted by the board,
7 any unit owner may participate in a meeting conducted by a means
8 of communication through which all participants may
9 simultaneously hear each other during the meeting, provided that
10 the board may require that the unit owner pay for the costs
11 associated with the participation.

12 (d) Upon reasonable advance notice to the board, a unit
13 owner shall be permitted to record a board meeting, excluding
14 executive sessions, by electronic means, including audio or
15 video recording.

16 [~~(d)~~] (e) The board shall meet at least once a year.
17 Notice of all board meetings shall be posted by the managing
18 agent, resident manager, or a member of the board, in prominent
19 locations within the project [~~seventy-two hours~~] seven days
20 prior to the meeting or simultaneously with notice to the board.



1 ~~[(e)]~~ (f) A director shall not vote by proxy at board
2 meetings.

3 ~~[(f)]~~ (g) A director shall not vote at any board meeting
4 on any issue in which the director has a conflict of interest.
5 A director who has a conflict of interest on any issue before
6 the board shall disclose the nature of the conflict of interest
7 prior to a vote on that issue at the board meeting, and the
8 minutes of the meeting shall record the fact that a disclosure
9 was made.

10 "Conflict of interest", as used in this subsection, means
11 an issue in which a director has a direct personal or pecuniary
12 interest not common to other members of the association."

13 SECTION 20. Section 514B-126, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "~~+~~§514B-126~~+~~ **Board meetings; minutes.** (a) Minutes of
16 meetings of the board shall include the recorded vote of each
17 board member on all motions except motions voted on in executive
18 session.

19 (b) Minutes of meetings of the board shall include a list
20 of topics submitted to the board by unit owners who participate



1 in unofficial or unrecorded meetings of owners, including but
2 not limited to an owners' forum.

3 [~~b~~] (c) Minutes of meetings of the board shall be
4 approved no later than the second succeeding regular meeting.

5 [~~e~~] (d) Minutes of all meetings of the board shall be
6 available within seven calendar days after approval, and
7 unapproved final drafts of the minutes of a meeting shall be
8 available within sixty days after the meeting; provided that the
9 minutes of any executive session may be withheld if their
10 publication would defeat the lawful purpose of the executive
11 session.

12 (e) An owner shall be allowed to offer corrections to the
13 minutes by submitting proposed corrections in writing to the
14 board."

15 SECTION 21. Section 514B-132, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "§514B-132 **Managing agents.** (a) Every managing agent
18 shall:

19 (1) Be a:

20 (A) Licensed real estate broker in compliance with
21 chapter 467 and the rules of the commission.



1 With respect to any requirement for a corporate
2 managing agent in any declaration or bylaws
3 recorded before July 1, 2006, any managing agent
4 organized as a limited liability company shall be
5 deemed to be organized as a corporation for the
6 purposes of this paragraph, unless the
7 declaration or bylaws are expressly amended after
8 July 1, 2006 to require that the managing agent
9 be organized as a corporation and not as a
10 limited liability company; or

11 (B) Corporation authorized to do business under
12 article 8 of chapter 412;

13 (2) Register with the commission prior to conducting
14 managing agent activity through approval of a
15 completed registration application, payment of fees,
16 and submission of any other additional information set
17 forth by the commission. The registration shall be
18 for a biennial period with termination on December 31
19 of an even-numbered year. The commission shall
20 prescribe a deadline date prior to the termination
21 date for the submission of a completed reregistration



1 application, payment of fees, and any other additional
2 information set forth by the commission. Any managing
3 agent who has not met the submission requirements by
4 the deadline date shall be considered a new applicant
5 for registration and subject to initial registration
6 requirements. The information required to be
7 submitted with any application shall include the name,
8 business address, phone number, and names of
9 associations managed;

- 10 (3) Obtain and keep current a fidelity bond in an amount
11 equal to \$500 multiplied by the aggregate number of
12 units of the association managed by the managing
13 agent; provided that the amount of the fidelity bond
14 shall not be less than \$20,000 nor greater than
15 \$500,000. Upon request by the commission, the
16 managing agent shall provide evidence of a current
17 fidelity bond or a certification statement from an
18 insurance company authorized by the insurance division
19 of the department of commerce and consumer affairs
20 certifying that the fidelity bond is in effect and
21 meets the requirements of this section and the rules



1 adopted by the commission. The managing agent shall
2 permit only employees covered by the fidelity bond to
3 handle or have custody or control of any association
4 funds, except any principals of the managing agent
5 that cannot be covered by the fidelity bond. The
6 fidelity bond shall protect the managing agent against
7 the loss of any association's moneys, securities, or
8 other properties caused by the fraudulent or dishonest
9 acts of employees of the managing agent. Failure to
10 obtain or maintain a fidelity bond in compliance with
11 this chapter and the rules adopted pursuant thereto,
12 including failure to provide evidence of the fidelity
13 bond coverage in a timely manner to the commission,
14 shall result in nonregistration or the automatic
15 termination of the registration, unless an approved
16 exemption or a bond alternative is presently
17 maintained. A managing agent who is unable to obtain
18 a fidelity bond may seek an exemption from the
19 fidelity bond requirement from the commission;
20 (4) Act promptly and diligently to recover from the
21 fidelity bond, if the fraud or dishonesty of the



1 managing agent's employees causes a loss to an
2 association, and apply the fidelity bond proceeds, if
3 any, to reduce the association's loss. If more than
4 one association suffers a loss, the managing agent
5 shall divide the proceeds among the associations in
6 proportion to each association's loss. An association
7 may request a court order requiring the managing agent
8 to act promptly and diligently to recover from the
9 fidelity bond. If an association cannot recover its
10 loss from the fidelity bond proceeds of the managing
11 agent, the association may recover by court order from
12 the real estate recovery fund established under
13 section 467-16, provided that:

- 14 (A) The loss is caused by the fraud,
15 misrepresentation, or deceit of the managing
16 agent or its employees;
- 17 (B) The managing agent is a licensed real estate
18 broker; and
- 19 (C) The association fulfills the requirements of
20 sections 467-16 and 467-18 and any applicable
21 rules of the commission;



- 1 (5) Pay a nonrefundable application fee and, upon
2 approval, an initial registration fee, and
3 subsequently pay a reregistration fee, as prescribed
4 by rules adopted by the director of commerce and
5 consumer affairs pursuant to chapter 91. A compliance
6 resolution fee shall also be paid pursuant to section
7 26-9(o) and the rules adopted pursuant thereto; and
- 8 (6) Report immediately in writing to the commission any
9 changes to the information contained on the
10 registration application or any other documents
11 provided for registration. Failure to do so may
12 result in termination of registration and subject the
13 managing agent to initial registration requirements.
- 14 (b) Every employee of a managing agent who serves a
15 condominium association shall be licensed as a real estate broker
16 in compliance with chapter 467 and the rules of the commission.
- 17 [~~(b)~~] (c) The commission may deny any registration or
18 reregistration application or terminate a registration without
19 hearing if the fidelity bond and supporting documents fail to
20 meet the requirements of this chapter and the rules adopted
21 pursuant thereto.



1 [~~e~~] (d) Every managing agent shall be considered a
2 fiduciary with respect to any property managed by that managing
3 agent.

4 [~~d~~] (e) The registration requirements of this section
5 shall not apply to active real estate brokers in compliance with
6 and licensed under chapter 467.

7 [~~e~~] (f) If a managing agent receives a request from the
8 commission to distribute any commission-generated information,
9 printed material, or documents to the association, its board, or
10 unit owners, the managing agent shall make the distribution at
11 the cost of the association within a reasonable period of time
12 after receiving the request. The requirements of this
13 subsection apply to all managing agents, including unregistered
14 managing agents."

15 SECTION 22. Section 514B-134, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "~~[§514B-134]~~ **Management and contracts; developer,**
18 **managing agent, and association.** (a) Any developer or
19 affiliate of the developer or a managing agent, who manages the
20 operation of the property from the date of recordation of the
21 first unit conveyance until the organization of the association,



1 shall comply with the requirements of sections 514B-72,
2 514B-103, and 514B-149.

3 (b) The developer or affiliate of the developer, board,
4 and managing agent shall ensure that there is a written contract
5 for managing the operation of the property, expressing the
6 agreements of all parties including, but not limited to,
7 financial and accounting obligations, services provided, and any
8 compensation arrangements, including any subsequent amendments.

9 Copies of the executed contract and any amendments shall be
10 provided to all parties to the contract [~~—Prior to the~~
11 ~~organization of the association, any unit owner may request to~~
12 ~~inspect as well as receive a copy of the management contract~~
13 ~~from the entity that manages the operation of the property.]~~
14 and, upon the request of a unit owner, shall be made available
15 by the entity that manages the operation of the property to the
16 unit owner.

17 (c) A management audit shall be conducted annually by an
18 unaffiliated third party. Upon request, a copy of the annual
19 management audit shall be made available to unit owners."

20 SECTION 23. Section 514B-145, Hawaii Revised Statutes, is
21 amended by amending subsection (b) to read as follows:



1 "(b) Before taking any action under this section, the
2 board shall give to the delinquent unit owner written notice of
3 its intent to collect the rent owed. The notice shall:

4 (1) Be sent both by first-class and certified mail[+] to
5 the unit owner's most recent address of record;

6 (2) Set forth the exact amount the association claims is
7 due and owing by the unit owner; and

8 (3) Indicate the intent of the board to collect such
9 amount from the rent, along with any other amounts
10 that become due and remain unpaid."

11 SECTION 24. Section 514B-146, Hawaii Revised Statutes, is
12 amended by amending subsection (d) to read as follows:

13 "(d) A unit owner who pays an association the full amount
14 claimed by the association may file in small claims court or
15 require the association to mediate to resolve any disputes
16 concerning the amount or validity of the association's claim.

17 If the unit owner and the association are unable to resolve the
18 dispute through mediation, either party may file for arbitration
19 under section 514B-162; provided that ~~[a unit owner may only~~
20 ~~file for arbitration if all amounts claimed by the association~~
21 ~~are paid in full on or before the date of filing. If the unit~~



1 ~~owner fails to keep all association assessments current during~~
2 ~~the arbitration, the association may ask the arbitrator to~~
3 ~~temporarily suspend the arbitration proceedings. If the unit~~
4 ~~owner pays all association assessments within thirty days of the~~
5 ~~date of suspension, the unit owner may ask the arbitrator to~~
6 ~~recommence the arbitration proceedings. If the owner fails to~~
7 ~~pay all association assessments by the end of the thirty day~~
8 ~~period, the association may ask the arbitrator to dismiss the~~
9 ~~arbitration proceedings.] the association shall suspend all~~
10 amounts claimed by the association, including legal fees, until
11 resolution of the arbitration proceedings. The unit owner shall
12 be entitled to a refund of any amounts paid to the association
13 which are not owed."

14 SECTION 25. Section 514B-149, Hawaii Revised Statutes, is
15 amended as follows:

16 1. By amending subsection (d) to read:

17 "(d) A managing agent or board shall not, by oral
18 instructions over the telephone, transfer association funds
19 between accounts, including but not limited to the general
20 operating account and reserve fund account. A managing agent or
21 board shall not electronically transfer association funds



1 between accounts, including but not limited to the general
 2 operating account and reserve fund account, unless the internet
 3 protocol address of the transferor is verified prior to the
 4 transfer of funds."

5 2. By amending subsection (f) to read:

6 "(f) Any person who embezzles or knowingly misapplies
 7 association funds received by a managing agent or association
 8 shall be guilty of a class C felony. Any person who knows that
 9 another person is embezzling or knowingly misapplying
 10 association funds received by a managing agent or association
 11 shall be guilty of a misdemeanor."

12 SECTION 26. Section 514B-150, Hawaii Revised Statutes, is
 13 amended to read as follows:

14 "**§514B-150 Association fiscal matters; audits, audited**
 15 **financial statement.** (a) The association shall require an
 16 annual audit of the association financial accounts and no less
 17 than one annual unannounced verification of the association's
 18 cash balance by a public accountant; provided that if the
 19 association is comprised of less than twenty units, the annual
 20 audit and the annual unannounced cash balance verification may



1 be waived at an association meeting by a vote of a majority of
2 the unit owners.

3 (b) The association shall require a forensic audit in even
4 numbered years; provided that a forensic audit may be sought
5 more frequently if the association determines there is
6 sufficient need.

7 [~~(b)~~] (c) The board shall make available a copy of the
8 annual [~~audit~~] audits to each unit owner at least thirty days
9 prior to the annual meeting which follows the end of the fiscal
10 year. The board shall not be required to submit a copy of the
11 annual audit [~~report~~] reports to an owner if the proxy form
12 issued pursuant to section 514B-123(d) is not marked to indicate
13 that the owner wishes to obtain a copy of the report. If the
14 annual audit has not been completed by that date, the board
15 shall make available:

- 16 (1) An unaudited year end financial statement for the
17 fiscal year to each unit owner at least thirty days
18 prior to the annual meeting; and
- 19 (2) The annual audit to all owners at the annual meeting,
20 or as soon as the audit is completed, but not later
21 than six months after the annual meeting.



1 [~~e~~] (d) If the association's fiscal year ends less than
2 two months prior to the convening of the annual meeting, the
3 year-to-date unaudited financial statement may cover the period
4 from the beginning of the association's fiscal year to the end
5 of the month preceding the date on which notice of the annual
6 meeting is mailed."

7 SECTION 27. Section 514B-154, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§514B-154 Association records; availability; disposal;**
10 **prohibitions.** (a) The association's most current financial
11 statement shall be provided to any interested unit owner at no
12 cost or on twenty-four-hour loan, at a convenient location
13 designated by the board. The meeting minutes of the board of
14 directors, once approved, for the current and prior year shall
15 either:

- 16 (1) Be available for examination by apartment owners at no
17 cost or on twenty-four-hour loan at a convenient
18 location at the project, to be determined by the board
19 of directors; or
20 (2) Be transmitted to any apartment owner making a request
21 for the minutes, by the board of directors, the



1 managing agent, or the association's representative,
2 within [~~fifteen~~] ten days of receipt of the request;
3 provided that the minutes shall be transmitted by
4 mail[~~7~~] to the owner's most recent address of record,
5 electronic mail transmission, or facsimile, by the
6 means indicated by the owner, if the owner indicated a
7 preference at the time of the request; and provided
8 further that the owner shall pay a reasonable fee for
9 administrative costs associated with handling the
10 request.

11 Costs incurred by apartment owners pursuant to this subsection
12 shall be subject to section 514B-105(d).

13 (b) Financial statements, general ledgers, the accounts
14 receivable ledger, accounts payable ledgers, check ledgers,
15 insurance policies, contracts, and invoices of the association
16 for the duration those records are kept by the association and
17 delinquencies of ninety days or more shall be available for
18 examination by unit owners at convenient hours at a place
19 designated by the board; provided that:

20 (1) The board may require owners to furnish to the
21 association a duly executed and acknowledged affidavit



1 stating that the information is requested in good
2 faith for the protection of the interests of the
3 association, its members, or both; and

4 (2) Owners shall pay for administrative costs in excess of
5 ~~[eight]~~ twenty-four hours per year.

6 Copies of these items shall be provided to any owner upon
7 the owner's request; provided that the owner pays a reasonable
8 fee for duplication, postage, stationery, and other
9 administrative costs associated with handling the request.

10 (c) After any association meeting, and not earlier, unit
11 owners shall be permitted to examine proxies, tally sheets,
12 ballots, owners' check-in lists, and the certificate of
13 election; provided that:

14 (1) Owners shall make a request to examine the documents
15 within ~~[thirty days]~~ one year after the association
16 meeting;

17 (2) The board may require owners to furnish to the
18 association a duly executed and acknowledged affidavit
19 stating that the information is requested in good
20 faith for the protection of the interest of the
21 association or its members or both; and



1 (3) Owners shall pay for administrative costs in excess of
2 ~~[eight]~~ twenty-four hours per year.

3 If there are no requests to examine proxies and ballots,
4 the documents may be destroyed [~~thirty days~~] one year after the
5 association meeting. If there are requests to examine proxies
6 and ballots, the documents shall be kept for an additional sixty
7 days, after which they may be destroyed. Copies of tally
8 sheets, owners' check-in lists, and the certificates of election
9 from the most recent association meeting shall be provided to
10 any owner upon the owner's request; provided that the owner pays
11 a reasonable fee for duplicating, postage, stationery, and other
12 administrative costs associated with handling the request.

13 (d) The managing agent shall provide copies of association
14 records maintained pursuant to this section and sections
15 514B-152 and 514B-153 to owners, prospective purchasers and
16 their prospective agents during normal business hours, upon
17 payment to the managing agent of a reasonable charge to defray
18 any administrative or duplicating costs. If the project is not
19 managed by a managing agent, the foregoing requirements shall be
20 undertaken by a person or entity, if any, employed by the
21 association, to whom this function is delegated.



1 (e) Prior to the organization of the association, any unit
2 owner shall be entitled to inspect as well as receive a copy of
3 the management contract from the entity that manages the
4 operation of the property.

5 (f) Owners may file a written request with the board to
6 examine other documents. The board shall give written
7 authorization or written refusal with an explanation of the
8 refusal within thirty calendar days of receipt of the request.

9 (g) An association may comply with this part by making
10 information available to unit owners, at the option of each unit
11 owner and at no cost to the unit owner for downloading the
12 information, through an internet site.

13 (h) A managing agent retained by one or more associations
14 may dispose of the records of any association which are more
15 than [~~five~~] seven years old[~~, except for tax records, which~~
16 ~~shall be kept for seven years,~~] without liability if the
17 managing agent first provides the board of the association
18 affected with written notice of the managing agent's intent to
19 dispose of the records if not retrieved by the board within
20 sixty days, which notice shall include an itemized list of the
21 records proposed to be disposed[.], and the documents are



1 digitally recorded before disposal; provided that minutes from
2 association and board meetings shall be maintained for seven
3 years and then digitally recorded before disposal.

4 (i) No person shall knowingly make any false certificate,
5 entry, or memorandum upon any of the books or records of any
6 managing agent or association. No person shall knowingly alter,
7 destroy, mutilate, or conceal any books or records of a managing
8 agent or association.

9 (j) Any fee charged to a member to obtain copies of
10 association records under this section shall be reasonable;
11 provided that a reasonable fee shall include administrative and
12 duplicating costs and shall not exceed \$1 per page, or portion
13 thereof, except the fee for pages exceeding eight and one-half
14 inches by fourteen inches may exceed \$1 per page.

15 (k) For the purposes of this section, administrative costs
16 charged to unit owners shall be in the amount of \$ _____ per
17 hour, unless otherwise stated in this section."

18 SECTION 28. Section 514B-154.5, Hawaii Revised Statutes,
19 is amended to read as follows:

20 "[~~f~~]**§514B-154.5**[~~f~~] **Association documents to be provided.**

21 (a) Notwithstanding any other provision in the declaration,



1 bylaws, or house rules, if any, the following documents,
2 records, and information, whether maintained, kept, or required
3 to be provided pursuant to this section or section 514B-152,
4 514B-153, or 514B-154, shall be made available to any unit owner
5 and the owner's authorized agents by the managing agent,
6 resident manager, board through a board member, or the
7 association's representative:

- 8 (1) All financial and other records sufficiently detailed
9 in order to comply with requests for information and
10 disclosures related to the resale of units;
- 11 (2) An accurate copy of the declaration, bylaws, house
12 rules, if any, master lease, if any, a sample original
13 conveyance document, and all public reports and any
14 amendments thereto;
- 15 (3) Detailed, accurate records in chronological order of
16 the receipts and expenditures affecting the common
17 elements, specifying and itemizing the maintenance and
18 repair expenses of the common elements and any other
19 expenses incurred and monthly statements indicating
20 the total current delinquent dollar amount of any
21 unpaid assessments for common expenses;



- 1 (4) All records and the vouchers authorizing the payments
2 and statements kept and maintained at the address of
3 the project, or elsewhere within the State as
4 determined by the board, subject to section 514B-152;
- 5 (5) All signed and executed agreements for managing the
6 operation of the property, expressing the agreement of
7 all parties, including but not limited to financial
8 and accounting obligations, services provided, and any
9 compensation arrangements, including any subsequent
10 amendments;
- 11 (6) An accurate and current list of members of the
12 condominium association and the members' current
13 addresses and the names and addresses of the vendees
14 under an agreement of sale, if any. A copy of the
15 list shall be available, at cost, to any unit owner or
16 owner's authorized agent who furnishes to the managing
17 agent, resident manager, or the board a duly executed
18 and acknowledged affidavit stating that the list:
- 19 (A) Shall be used by the unit owner or owner's
20 authorized agent personally and only for the
21 purpose of soliciting votes or proxies or for



- 1 providing information to other unit owners with
- 2 respect to association matters; and
- 3 (B) Shall not be used by the unit owner or owner's
- 4 authorized agent or furnished to anyone else for
- 5 any other purpose;
- 6 (7) The association's most current financial statement, at
- 7 no cost or on twenty-four-hour loan, at a convenient
- 8 location designated by the board;
- 9 (8) Meeting minutes of the association, pursuant to
- 10 section 514B-122;
- 11 (9) Meeting minutes of the board, pursuant to section
- 12 514B-126, which shall be:
- 13 (A) Available for examination by unit owners or
- 14 owners' authorized agents at no cost or on
- 15 twenty-four-hour loan at a convenient location at
- 16 the project, to be determined by the board; or
- 17 (B) Transmitted to any unit owner or owner's
- 18 authorized agent making a request for the minutes
- 19 within fifteen days of receipt of the request by
- 20 the owner or owner's authorized agent; provided
- 21 that:



1 (i) The minutes shall be transmitted by mail [7]
2 to the unit owner's most recent address of
3 record, electronic mail transmission, or
4 facsimile, by the means indicated by the
5 owner or owner's authorized agent, if the
6 owner or owner's authorized agent indicated
7 a preference at the time of the request; and
8 (ii) The owner or owner's authorized agent shall
9 pay a reasonable fee for administrative
10 costs associated with handling the request,
11 subject to section 514B-105(d);
12 (10) Financial statements, general ledgers, the accounts
13 receivable ledger, accounts payable ledgers, check
14 ledgers, insurance policies, contracts, and invoices
15 of the association for the duration those records are
16 kept by the association, and any documents regarding
17 delinquencies of ninety days or more shall be
18 available for examination by unit owners or owners'
19 authorized agents at convenient hours at a place
20 designated by the board; provided that:



- 1 (A) The board may require unit owners or owners'
2 authorized agents to furnish to the association a
3 duly executed and acknowledged affidavit stating
4 that the information is requested in good faith
5 for the protection of the interests of the
6 association, its members, or both; and
- 7 (B) Unit owners or owners' authorized agents shall
8 pay for administrative costs in excess of [~~eight~~]
9 twenty-four hours per year;
- 10 (11) Proxies, tally sheets, ballots, unit owners' check-in
11 lists, and the certificate of election subject to
12 section 514B-154(c);
- 13 (12) Copies of an association's documents, records, and
14 information, whether maintained, kept, or required to
15 be provided pursuant to this section or section
16 514B-152, 514B-153, or 514B-154;
- 17 (13) A copy of the management contract from the entity that
18 manages the operation of the property before the
19 organization of an association; and
- 20 (14) Other documents requested by a unit owner or owner's
21 authorized agent in writing; provided that the board



1 shall give written authorization or written refusal
2 with an explanation of the refusal within thirty
3 calendar days of receipt of a request for documents
4 pursuant to this paragraph.

5 (b) Subject to section 514B-105(d), copies of the items in
6 subsection (a) shall be provided to any unit owner or owner's
7 authorized agent upon the owner's or owner's authorized agent's
8 request; provided that the owner or owner's authorized agent
9 pays a reasonable fee for duplication, postage, stationery, and
10 other administrative costs associated with handling the request.

11 (c) Notwithstanding any provision in the declaration,
12 bylaws, or house rules providing for another period of time, all
13 documents, records, and information listed under subsection (a),
14 whether maintained, kept, or required to be provided pursuant to
15 this section or section 514B-152, 514B-153, or 514B-154, shall
16 be provided no later than thirty days after receipt of a unit
17 owner's or owner's authorized agent's written request, unless a
18 lesser time is provided pursuant to this section or section
19 514B-152, 514B-153, or 514B-154, and except as provided in
20 subsection (a)(14).



1 (d) Any documents, records, and information, whether
2 maintained, kept, or required to be provided pursuant to this
3 section or section 514B-152, 514B-153, or 514B-154, may be made
4 available electronically to the unit owner or owner's authorized
5 agent if the owner or owner's authorized agent requests such in
6 writing. If the requested documents were previously transmitted
7 electronically to the managing agent, board members, or
8 association members, the documents shall be transmitted
9 electronically to the unit owner at no cost to the unit owner.

10 (e) An association may comply with this section or section
11 514B-152, 514B-153, or 514B-154 by:

12 (1) [~~making~~] Making the required documents, records, and
13 information available to unit owners or owners'
14 authorized agents for download through an internet
15 site, at the option of each unit owner or owner's
16 authorized agent and at no cost to the unit owner or
17 owner's authorized agent[-]; or

18 (2) Allowing the unit owner or owner's authorized agent to
19 make an electronic copy of the documents, records, and
20 information using a portable device such as a scanner
21 or camera.



1 (f) Any fee charged to a unit owner or owner's authorized
2 agent to obtain copies of the association's documents, records,
3 and information, whether maintained, kept, or required to be
4 provided pursuant to this section or section 514B-152, 514B-153,
5 or 514B-154, shall be reasonable; provided that a reasonable fee
6 shall include administrative and duplicating costs and shall not
7 exceed \$1 per page, or portion thereof, except that the fee for
8 pages exceeding eight and one-half inches by fourteen inches may
9 exceed \$1 per page.

10 (g) For the purposes of this section, administrative costs
11 charged to unit owners shall be in the amount of \$ per
12 hour, unless otherwise stated in this section.

13 [~~g~~] (h) This section shall apply to condominiums
14 organized under chapter 514A or 514B.

15 [~~h~~] (i) Nothing in this section shall be construed to
16 create any new requirements for the release of documents,
17 records, or information."

18 SECTION 29. Section 514B-162, Hawaii Revised Statutes, is
19 amended by amending subsection (f) to read as follows:

20 "(f) The award of the arbitrator shall be in writing and
21 acknowledged or proved in like manner as a deed for the



1 conveyance of real estate, and shall be served by the arbitrator
2 on each of the parties to the arbitration, personally or by
3 registered or certified mail[-] to each party's most recent
4 address of record. At any time within one year after the award
5 is made and served, any party to the arbitration may apply to
6 the circuit court of the judicial circuit in which the
7 condominium is located for an order confirming the award. The
8 court shall grant the order confirming the award pursuant to
9 section 658A-22, unless the award is vacated, modified, or
10 corrected, as provided in sections 658A-20, 658A-23, and
11 658A-24, or a trial de novo is demanded under subsection (h), or
12 the award is successfully appealed under subsection (h). The
13 record shall be filed with the motion to confirm award, and
14 notice of the motion shall be served upon each other party or
15 their respective attorneys in the manner required for service of
16 notice of a motion."

17 SECTION 30. This Act does not affect rights and duties
18 that matured, penalties that were incurred, and proceedings that
19 were begun before its effective date.

20 SECTION 31. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 32. This Act shall take effect upon its approval;
2 provided that members of a board of directors subject to this
3 Act who have served for more than two consecutive full terms may
4 continue to serve until the next regularly scheduled election of
5 directors.

6

INTRODUCED BY: Shoanne Chun Oakland


S.B. NO. 2338

Report Title:

Condominiums; Owners Associations; Board of Directors; Term Limits; Standard of Evidence; Property Management License; Common Interest; Condominium Education Trust Fund; Fees; Audits

Description:

Establishes term limits on board members. Requires that violations of the declaration, bylaws, rules, and regulations of condominium associations be demonstrated by clear and convincing evidence. Requires employees of managing agents who serve condominium associations to be licensed as real estate brokers. Subjects improper spending by board members and association election fraud to investigation and penalties by the commission. Imposes penalties for directors, associations, and managing agents who violate association rules, election protocol, or spending limits. Suspends unit owners' obligation to pay disputed association fees and fines until resolution of the dispute. Limits association and board powers, including requiring an association and board to obtain sixty-seven per cent of the common interest before authorizing a substantial change in use of a condominium. Adds requirements to association and board meeting minutes, record maintenance, accessibility of documents to unit owners, and posting of notice of meetings. Reduces to 12.5 per cent the portion of condominium owners by common interest required to call by petition a special meeting for the purpose of removing a board member as well as the portion unit owners needed to submit a proposed bylaw amendment to modify the composition of the board. Imposes education requirement for board members. Authorizes unit owners to record association meetings. Limits options on standard proxy form for association elections. Imposes record keeping requirements and improves unit owners' access to records. Requires an annual management audit of managing agents and a forensic audit in even numbered years. Authorizes the electronic transfer of association funds if the IP address of the transferor can be verified. Makes amendments to the maintenance, disposal, and fees related to association records.

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

