

JAN 22 2021

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# A BILL FOR AN ACT

RELATING TO CONDOMINIUMS.

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

1           SECTION 1. Section 514B-65, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§514B-65 Investigative powers.** If the commission has  
4 reason to believe that any person is violating or has violated  
5 this part, part V, section 514B-103, 514B-123, 514B-132,  
6 514B-134, 514B-149, sections 514B-152 to 514B-154, section  
7 514B-154.5, or the rules of the commission adopted pursuant  
8 thereto, the commission may conduct an investigation of the  
9 matter and examine the books, accounts, contracts, records, and  
10 files of all relevant parties. For purposes of this  
11 examination, the developer and the real estate broker shall keep  
12 and maintain records of all sales transactions and of the funds  
13 received by the developer and the real estate broker in  
14 accordance with chapter 467 and the rules of the commission, and  
15 shall make the records accessible to the commission upon  
16 reasonable notice and demand."



1 SECTION 2. Section 514B-66, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§514B-66 Cease and desist orders. In addition to its  
4 authority under sections 514B-67 and 514B-68, whenever the  
5 commission has reason to believe that any person is violating or  
6 has violated this part, part V, section 514B-103, 514B-123,  
7 514B-132, 514B-134, 514B-149, sections 514B-152 to 514B-154,  
8 section 514B-154.5, or the rules of the commission adopted  
9 pursuant thereto, it may issue and serve upon the person a  
10 complaint stating its charges in that respect and containing a  
11 notice of a hearing at a stated place and upon a day at least  
12 thirty days after the service of the complaint. The person  
13 served has the right to appear at the place and time specified  
14 and show cause why an order should not be entered by the  
15 commission requiring the person to cease and desist from the  
16 violation of the law or rules charged in the complaint. If the  
17 commission finds that this chapter or the rules of the  
18 commission have been or are being violated, it shall make a  
19 report in writing stating its findings as to the facts and shall  
20 issue and cause to be served on the person an order requiring  
21 the person to cease and desist from the violations. The person,



1 within thirty days after service upon the person of the report  
2 or order, may obtain a review thereof in the appropriate circuit  
3 court."

4 SECTION 3. Section 514B-68, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "§514B-68 Power to enjoin. Whenever the commission  
7 believes from satisfactory evidence that any person has violated  
8 this part, part V, section 514B-103, 514B-123, 514B-132,  
9 514B-134, 514B-149, sections 514B-152 to 514B-154, section  
10 514B-154.5, or the rules of the commission adopted pursuant  
11 thereto, it may conduct an investigation of the matter and bring  
12 an action against the person in any court of competent  
13 jurisdiction on behalf of the State to enjoin the person from  
14 continuing the violation or doing any acts in furtherance  
15 thereof."

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

18 "§514B-69 Penalties. (a) Any person who violates or  
19 fails to comply with this part, part V, section 514B-103, 514B-  
20 123, 514B-132, 514B-134, 514B-149, sections 514B-152 to  
21 514B-154, or section 514B-154.5, shall be guilty of a



1 misdemeanor and shall be punished by a fine not exceeding  
2 \$10,000, or by imprisonment for a term not exceeding one year,  
3 or both. Any person who violates or fails to comply with any  
4 rule, order, decision, demand, or requirement of the commission  
5 under this part, part V, section 514B-103, 514B-123, 514B-132,  
6 514B-134, 514B-149, sections 514B-152 to 514B-154, or section  
7 514B-154.5, shall be punished by a fine not exceeding \$10,000.

8 (b) In addition to any other actions authorized by law,  
9 any person who violates or fails to comply with this part,  
10 part V, section 514B-103, 514B-123, 514B-132, 514B-134,  
11 514B-149, sections 514B-152 to 514B-154, section 514B-154.5, or  
12 the rules of the commission adopted pursuant thereto, shall also  
13 be subject to a civil penalty not exceeding \$10,000 for any  
14 violation. Each violation shall constitute a separate offense."

15 SECTION 5. Section 514B-123, Hawaii Revised Statutes, is  
16 amended by amending subsection (e) to read as follows:

17 "(e) If a proxy is a standard proxy form authorized by the  
18 association, the proxy shall comply with the following  
19 additional requirements:

20 (1) The proxy shall contain boxes wherein the owner may  
21 indicate that the proxy is given:



- 1           (A) For quorum purposes only;
- 2           (B) To the individual whose name is printed on a line
- 3                 next to this box;
- 4           ~~[(C) To the board as a whole and that the vote is to~~
- 5                 ~~be made on the basis of the preference of the~~
- 6                 ~~majority of the directors present at the~~
- 7                 ~~meeting,]~~ or
- 8           ~~[(D)]~~ (C) To those directors present at the meeting
- 9                 with the vote to be shared with each director
- 10                receiving an equal percentage;
- 11           provided that if the proxy is returned with no box or
- 12           more than one of the boxes in subparagraphs (A)
- 13           through ~~[(D)]~~ (C) checked, the proxy shall be counted
- 14           for quorum purposes only; and
- 15           (2) The proxy form shall also contain a box wherein the
- 16           owner may indicate that the owner wishes to obtain a
- 17           copy of the annual audit report required by section
- 18           514B-150."

19           SECTION 6. Statutory material to be repealed is bracketed

20 and stricken. New statutory material is underscored.

21



# S.B. NO. 688

1 SECTION 7. This Act shall take effect upon its approval.

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INTRODUCED BY: *Ernesto J. Moroye*



# S.B. NO. 688

**Report Title:**

Condominiums; Voting; Enforcement

**Description:**

Makes violations of voting requirements for elections of a condominium association subject to the enforcement powers of the Real Estate Commission and amends the requirements for a condominium association's standard proxy form by deleting the option for a condominium owner to give the proxy to the board as a whole.

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

