
A BILL FOR AN ACT

RELATING TO BOARD MEMBERS.

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

1 SECTION 1. Section 467-4, Hawaii Revised Statutes, is
2 amended to read as follows:

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

6 (1) Grant licenses, registrations, and certificates
7 pursuant to this chapter;

8 (2) Adopt, amend, or repeal rules as it may deem proper to
9 effectuate this chapter and carry out its purpose,
10 which is the protection of the general public in its
11 real estate transactions. All rules shall be approved
12 by the governor and [~~the~~] director of commerce and
13 consumer affairs, and when adopted pursuant to chapter
14 91 shall have the force and effect of law. The rules
15 may forbid acts or practices deemed by the commission
16 to be detrimental to the accomplishment of the purpose
17 of this chapter, and the rules may require real estate



1 brokers and salespersons to complete educational
2 courses or to make reports to the commission
3 containing items of information as will better enable
4 the commission to enforce this chapter and the rules,
5 or as will better enable the commission from time to
6 time to amend the rules to more fully effect the
7 purpose of this chapter, and, further, the rules may
8 require real estate brokers and salespersons to
9 furnish reports to their clients containing matters of
10 information as the commission deems necessary to
11 promote the purpose of this chapter. This enumeration
12 of specific matters that may properly be made the
13 subject of rules shall not be construed to limit the
14 commission's broad general power to make all rules
15 necessary to fully effectuate the purpose of this
16 chapter;

- 17 (3) Enforce this chapter and rules adopted pursuant
18 thereto;
- 19 (4) Suspend, fine, terminate, or revoke any license,
20 registration, or certificate for any cause prescribed
21 by this chapter, or for any violation of the rules,



1 and may [~~also~~] require additional education or
2 reexamination, and refuse to grant any license,
3 registration, or certificate for any cause that would
4 be a ground for suspension, fine, termination, or
5 revocation of a license, registration, or certificate;

6 (5) Report to the governor and [~~the~~] legislature relevant
7 information that shall include but not be limited to a
8 summary of the programs and financial information
9 about the trust funds, including balances and budgets,
10 through the director of commerce and consumer affairs
11 annually, before the convening of each regular
12 session, and at other times and in other manners as
13 the governor or the legislature may require concerning
14 its activities;

15 (6) Publish and distribute pamphlets and circulars,
16 produce seminars and workshops, hold meetings in all
17 counties, and require other education regarding any
18 information as is proper to further the accomplishment
19 of the purpose of this chapter;



1 (7) Enter into contract or contracts with qualified
2 persons to assist the commission in effectuating the
3 purpose of this chapter; [~~and~~]

4 (8) With input from stakeholders as to the curriculum to
5 be used, approve and administer board leadership
6 courses, including online training courses, required
7 for members of boards of directors pursuant to section
8 514B-106; and

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

14 SECTION 2. Section 514B-71, Hawaii Revised Statutes, is
15 amended by amending subsection (a) to read as follows:

16 "(a) The commission shall establish a condominium
17 education trust fund that the commission shall use for
18 educational purposes. Educational purposes shall include
19 financing or promoting:

20 (1) Education and research in the field of condominium
21 management, condominium project registration, and real



- 1 estate, for the benefit of the public and those
- 2 required to be registered under this chapter;
- 3 (2) The improvement and more efficient administration of
- 4 associations;
- 5 (3) Expeditious and inexpensive procedures for resolving
- 6 association disputes;
- 7 (4) Support for mediation of condominium related disputes;
- 8 [~~and~~]
- 9 (5) Support for voluntary binding arbitration between
- 10 parties in condominium related disputes, pursuant to
- 11 section 514B-162.5[~~-~~]; and
- 12 (6) The educational requirements for members of an
- 13 association's board of directors pursuant to section
- 14 514B-106."

15 SECTION 3. Section 514B-106, Hawaii Revised Statutes, is
 16 amended to read as follows:

17 "**§514B-106 Board; powers and duties.** (a) Except as
 18 provided in the declaration, the bylaws, subsection (b), or
 19 other provisions of this chapter, the board may act in all
 20 instances on behalf of the association. In the performance of
 21 their duties, officers and members of the board shall owe the



1 association a fiduciary duty and exercise the degree of care and
2 loyalty required of an officer or director of a corporation
3 organized under chapter 414D. Any violation by a board or its
4 officers or members of the mandatory provisions of section 514B-
5 161 or 514B-162 may constitute a violation of the fiduciary duty
6 owed pursuant to this subsection; provided that a board member
7 may avoid liability under this subsection by indicating in
8 writing the board member's disagreement with [~~such board~~] the
9 board's action or rescinding or withdrawing the violating
10 conduct within forty-five days of the occurrence of the initial
11 violation.

12 (b) The board [~~may~~] shall not act on behalf of the
13 association to amend the declaration or bylaws (sections
14 514B-32(a)(11) and 514B-108(b)(7)), to remove the condominium
15 from the provisions of this chapter (section 514B-47), or to
16 elect members of the board or determine the qualifications,
17 powers and duties, or terms of office of board members
18 (subsection (e)); provided that nothing in this subsection shall
19 be construed to prohibit board members from voting proxies
20 (section 514B-123) to elect members of the board; provided
21 further that notwithstanding anything to the contrary in the



1 declaration or bylaws, the board may only fill vacancies in its
2 membership to serve until the next annual or duly noticed
3 special association meeting. Notice of a special association
4 meeting to fill vacancies shall include notice of the election.
5 Any special association meeting to fill vacancies shall be held
6 on a date that allows sufficient time for owners to declare
7 their intention to run for election and to solicit proxies for
8 that purpose.

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

13 (d) The declaration may provide for a period of developer
14 control of the association, during which a developer, or persons
15 designated by the developer, may appoint and remove the officers
16 and members of the board. Regardless of the period provided in
17 the declaration, a period of developer control terminates no
18 later than the earlier of:

19 (1) Sixty days after conveyance of seventy-five per cent
20 of the common interest appurtenant to units that may



- 1 be created to unit owners other than a developer or
2 affiliate of the developer;
- 3 (2) Two years after the developer has ceased to offer
4 units for sale in the ordinary course of business;
- 5 (3) Two years after any right to add new units was last
6 exercised; or
- 7 (4) The day the developer, after giving written notice to
8 unit owners, records an instrument voluntarily
9 surrendering all rights to control activities of the
10 association.

11 A developer may voluntarily surrender the right to appoint and
12 remove officers and members of the board before termination of
13 that period, but in that event the developer may require, for
14 the duration of the period of developer control, that specified
15 actions of the association or board, as described in a recorded
16 instrument executed by the developer, be approved by the
17 developer before they become effective.

18 (e) [~~Not~~] No later than the termination of any period of
19 developer control, the unit owners shall elect a board of at
20 least three members; provided that projects created after
21 May 18, 1984, with one hundred or more individual units, shall



1 have an elected board of at least nine members unless the
2 membership has amended the bylaws to reduce the number of
3 directors; [~~and~~] provided further that projects with more than
4 one hundred individual units where at least seventy per cent of
5 the unit owners do not reside at the project may amend the
6 bylaws to reduce the board to as few as five members by the
7 written consent of a majority of the unit owners or the vote of
8 a majority of a quorum at any annual meeting or special meeting
9 called for that purpose. The association may rely on its
10 membership records in determining whether a unit is owner-
11 occupied. A decrease in the number of directors shall not
12 deprive an incumbent director of any remaining term of office.

13 (f) At any regular or special meeting of the association,
14 any member of the board may be removed and successors shall be
15 elected for the remainder of the term to fill the vacancies thus
16 created. The removal and replacement shall be by a vote of a
17 majority of the unit owners and, otherwise, in accordance with
18 all applicable requirements and procedures in the bylaws for the
19 removal and replacement of directors and, if removal and
20 replacement is to occur at a special meeting, section
21 514B-121(c).



1 (g) A board member shall certify in writing to the board
2 that the member has received and reviewed a copy of the
3 association's articles of incorporation, bylaws, rules and
4 regulations, and chapter 514B, within ninety days of election to
5 the board.

6 (h) A board member of a registered condominium project or
7 association with more than fifty units shall obtain a board
8 leadership course completion certificate from a course approved
9 by the real estate commission, within one year of election to
10 the board; provided that the completion of a board leadership
11 course shall be optional for board members of a registered
12 condominium project or association with fifty units or less.

13 (i) A board member's failure to comply with the
14 requirements of subsections (g) and (h) shall disqualify the
15 member from serving on the board."

16 SECTION 4. (a) All board members of a condominium
17 association who are actively serving a term of office on a board
18 before July 1, 2024, shall certify in writing to the board that
19 the member has received and reviewed a copy of the association's
20 articles of incorporation, bylaws, rules and regulations, and



1 chapter 514B within ninety days of election to the board by
2 September 29, 2024.

3 (b) All board members of a registered condominium project
4 or association with more than fifty units who are serving on a
5 board before July 1, 2024, shall obtain a board leadership
6 course completion certificate from a course approved by the real
7 estate commission by July 1, 2025.

8 SECTION 5. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 6. This Act shall take effect on June 30, 3000;
11 provided that section 3 of this Act shall take effect on July 1,
12 2024.



Report Title:

Condominium Associations; Boards of Directors; Members;
Educational Trust Fund; Leadership Courses; Real Estate
Commission

Description:

Authorizes the real estate commission to approve and administer board leadership courses for board members of a condominium association. Expands the uses of funds in the condominium education trust fund to include educational requirements for board members. Beginning 7/1/2024, requires board members of a condominium association to certify the receipt and review of certain documents. Beginning 7/1/2024, requires board members of a condominium association with more than fifty units to complete a board leadership course. Effective 6/30/3000. (HD1)

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