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## A BILL FOR AN ACT

RELATING TO COMMON INTEREST COMMUNITIES.

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

1 SECTION 1. The legislature finds that condominium  
2 associations, led by boards of directors and overseen by  
3 managing agents, primarily operate under the principles of self-  
4 governance and self-enforcement. The legislature further finds,  
5 however, that the powers of associations, boards, and managing  
6 agents are not unlimited. It is critical to the well-being of  
7 residents and long-term sustainability of an association that  
8 its board members and managing agents understand their  
9 obligations to comply with local, state, and federal laws.

10 Accordingly, the purpose of this Act is to specify that  
11 condominium associations, boards, and managing agents must  
12 comply with county, state, and federal laws and regulations,  
13 including those relating to mortgage lending.

14 SECTION 2. Section 514B-104, Hawaii Revised Statutes, is  
15 amended by amending subsection (a) to read as follows:  
16 " (a) Except as provided in section 514B-105, and subject  
17 to the provisions of the declaration [and]; bylaws[,]; and all



1       county ordinances and state and federal laws, rules, and  
2       regulations, including mortgage lending requirements, the  
3       association, even if unincorporated, may:

- 4           (1) Adopt and amend the declaration, bylaws, and rules and  
5           regulations;
- 6           (2) Adopt and amend budgets for revenues, expenditures,  
7           and reserves and collect assessments for common  
8           expenses from unit owners, subject to section  
9           514B-148;
- 10          (3) Hire and discharge managing agents and other  
11          independent contractors, agents, and employees;
- 12          (4) Institute, defend, or intervene in litigation or  
13          administrative proceedings in its own name on behalf  
14          of itself or two or more unit owners on matters  
15          affecting the condominium. For the purposes of  
16          actions under chapter 480, associations shall be  
17          deemed to be "consumers";
- 18          (5) Make contracts and incur liabilities;
- 19          (6) Regulate the use, maintenance, repair, replacement,  
20          and modification of common elements;





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

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

10 (11) Impose charges and penalties, including late fees and  
11 interest, for late payment of assessments and levy  
12 reasonable fines for violations of the declaration,  
13 bylaws, rules, and regulations of the association,  
14 either in accordance with the bylaws or, if the bylaws  
15 are silent, pursuant to a resolution adopted by the  
16 board that establishes a fining procedure that states  
17 the basis for the fine and allows an appeal to the  
18 board of the fine with notice and an opportunity to be  
19 heard and providing that if the fine is paid, the unit  
20 owner shall have the right to initiate a dispute  
21 resolution process as provided by sections 514B-161,



- 1                   514B-162, or by filing a request for an administrative  
2                   hearing under a pilot program administered by the  
3                   department of commerce and consumer affairs;
- 4               (12) Impose reasonable charges for the preparation and  
5                   recording of amendments to the declaration,  
6                   documents requested for resale of units, or statements  
7                   of unpaid assessments;
- 8               (13) Provide for cumulative voting through a provision in  
9                   the bylaws;
- 10               (14) Provide for the indemnification of its officers,  
11                   board, committee members, and agents, and maintain  
12                   directors' and officers' liability insurance;
- 13               (15) Assign its right to future income, including the right  
14                   to receive common expense assessments, but only to the  
15                   extent section 514B-105(e) expressly so provides;
- 16               (16) Exercise any other powers conferred by the declaration  
17                   or bylaws;
- 18               (17) Exercise all other powers that may be exercised in  
19                   this State by legal entities of the same type as the  
20                   association, except to the extent inconsistent with  
21                   this chapter;



10 SECTION 3. Section 514B-106, Hawaii Revised Statutes, is  
11 amended by amending subsection (a) to read as follows:

12                 "(a) Except as provided in the declaration[~~r~~]; the  
13 bylaws[~~r~~]; subsection (b) [~~r~~ or]; other provisions of this  
14 chapter[~~r~~]; or county ordinances or state and federal laws,  
15 rules, and regulations, including mortgage lending requirements,  
16 the board may act in all instances on behalf of the association.

17 In the performance of their duties, officers and members of the  
18 board shall owe the association a fiduciary duty and exercise  
19 the degree of care and loyalty required of an officer or  
20 director of a corporation organized under chapter 414D. Any  
21 violation by a board or its officers or members of the mandatory



1 provisions of section 514B-161 or 514B-162 may constitute a  
2 violation of the fiduciary duty owed pursuant to this  
3 subsection; provided that a board member may avoid liability  
4 under this subsection by indicating in writing the board  
5 member's disagreement with [such] the board action or rescinding  
6 or withdrawing the violating conduct within forty-five days of  
7 the occurrence of the initial violation."

8 SECTION 4. Section 514B-132, Hawaii Revised Statutes, is  
9 amended by amending subsection (a) to read as follows:

10 "(a) Every managing agent shall:

11 (1) Be a:

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

14 With respect to any requirement for a corporate  
15 managing agent in any declaration or bylaws  
16 recorded before July 1, 2006, any managing agent  
17 organized as a limited liability company shall be  
18 deemed to be organized as a corporation for the  
19 purposes of this paragraph, unless the  
20 declaration or bylaws are expressly amended after  
21 July 1, 2006, to require that the managing agent





1 business address, phone number, and names of  
2 associations managed;  
3 (3) Obtain and keep current a fidelity bond in an amount  
4 equal to \$500 multiplied by the aggregate number of  
5 units of the association managed by the managing  
6 agent; provided that the amount of the fidelity bond  
7 shall not be less than \$20,000 nor greater than  
8 \$500,000. Upon request by the commission, the  
9 managing agent shall provide evidence of a current  
10 fidelity bond or a certification statement from an  
11 insurance company authorized by the insurance division  
12 of the department of commerce and consumer affairs  
13 certifying that the fidelity bond is in effect and  
14 meets the requirements of this section and the rules  
15 adopted by the commission. The managing agent shall  
16 permit only employees covered by the fidelity bond to  
17 handle or have custody or control of any association  
18 funds, except any principals of the managing agent  
19 that cannot be covered by the fidelity bond. The  
20 fidelity bond shall protect the managing agent against  
21 the loss of any association's moneys, securities, or



1 other properties caused by the fraudulent or dishonest  
2 acts of employees of the managing agent. Failure to  
3 obtain or maintain a fidelity bond in compliance with  
4 this chapter and the rules adopted pursuant thereto,  
5 including failure to provide evidence of the fidelity  
6 bond coverage in a timely manner to the commission,  
7 shall result in nonregistration or the automatic  
8 termination of the registration, unless an approved  
9 exemption or a bond alternative is presently  
10 maintained. A managing agent who is unable to obtain  
11 a fidelity bond may seek an exemption from the  
12 fidelity bond requirement from the commission;

13 (4) Act promptly and diligently to recover from the  
14 fidelity bond, if the fraud or dishonesty of the  
15 managing agent's employees causes a loss to an  
16 association, and apply the fidelity bond proceeds, if  
17 any, to reduce the association's loss. If more than  
18 one association suffers a loss, the managing agent  
19 shall divide the proceeds among the associations in  
20 proportion to each association's loss. An association  
21 may request a court order requiring the managing agent



1                   to act promptly and diligently to recover from the  
2                   fidelity bond. If an association cannot recover its  
3                   loss from the fidelity bond proceeds of the managing  
4                   agent, the association may recover by court order from  
5                   the real estate recovery fund established under  
6                   section 467-16, provided that:

- 7                   (A) The loss is caused by the fraud,  
8                   misrepresentation, or deceit of the managing  
9                   agent or its employees;
- 10                  (B) The managing agent is a licensed real estate  
11                   broker; and
- 12                  (C) The association fulfills the requirements of  
13                   sections 467-16 and 467-18 and any applicable  
14                   rules of the commission;
- 15                  (5) Pay a nonrefundable application fee and, upon  
16                   approval, an initial registration fee, and  
17                   subsequently pay a reregistration fee, as prescribed  
18                   by rules adopted by the director of commerce and  
19                   consumer affairs pursuant to chapter 91. A compliance  
20                   resolution fee shall also be paid pursuant to section  
21                   26-9(o) and the rules adopted pursuant thereto; [and]



1 (6) Report immediately in writing to the commission any  
2 changes to the information contained on the  
3 registration application or any other documents  
4 provided for registration. Failure to do so may  
5 result in termination of registration and subject the  
6 managing agent to initial registration  
7 requirements [–]; and

8 (7) Comply with the declaration; bylaws; and all county  
9 ordinances and state and federal laws, rules, and  
10 regulations, including mortgage lending requirements;  
11 provided that this paragraph shall apply to all  
12 managing agents, including unregistered managing  
13 agents and managing agents of planned community  
14 associations under chapter 421J and cooperative  
15 housing corporations under chapter 421I."

16 SECTION 5. Statutory material to be repealed is bracketed  
17 and stricken. New statutory material is underscored.

**18** SECTION 6. This Act shall take effect upon its approval.

19

INTRODUCED BY:

James S. Kay

JAN 16 2026



# H.B. NO. 1587

**Report Title:**

Condominiums; Associations; Boards; Managing Agents; Self-Governance; Compliance

**Description:**

Specifies that all condominium associations, boards, and managing agents are required to comply with the declaration, bylaws, and all county ordinances and state and federal laws, rules, and regulations, including mortgage lending requirements.

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

