
A BILL FOR AN ACT

RELATING TO CONDOMINIUM ASSOCIATIONS.

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

1 SECTION 1. The legislature finds that, with the passing of
2 Act 189 in 2023, the legislature recognized that Hawaii has
3 numerous unresolved issues related to disputes within
4 condominium associations that require better laws to protect the
5 public from unwarranted assessments, fines, legal fees, and
6 retaliation.

7 The legislature further finds Act 189 established a
8 Condominium Property Regime (CPR) Task Force to study and make
9 recommendations on issues within Hawaii's condominium laws,
10 including disputes, board governance, and dispute resolution,
11 with reports due to the legislature. The CPR Task Force
12 published their formal findings and recommendations to the
13 legislature in December of 2023, and the legislature passed on
14 the baton to the Legislative Reference Bureau in the 2024
15 session with the passing of Act 43, which provided funding for a
16 study and research report on condominium issues and how they are
17 addressed in five pre-selected States (California, Delaware,



1 Florida, Massachusetts, and Nevada). This report, at a cost of
2 over \$300,000, was published in November 2025 and confirmed that
3 some states have Ombudsman's Offices to assist the public with
4 disputes, and some have additional enforcement elements.

5 Ironically, this report did not include a review of Hawaii.

6 The legislature finds that it is well known from years of
7 testimony, numerous reports previously published, the December
8 2023 CPR Task Force report, and the Legislature via Act 189
9 (2023) and Act 43 (2024), that the current structure in Hawaii
10 to address condominium issues and disputes is not working.

11 Hawaii urgently needs to shift to a better and more consumer-
12 friendly model, or face continuing discourse, more unnecessary
13 condominium related litigation, and more homeowners at risk of
14 losing their homes or facing unaffordable legal fees.

15 Better consumer protections are needed to ensure that
16 condominium associations, their Boards, and their Managing
17 Agents are compliant with the laws that govern condominium
18 associations, including governing documents and HRS 514B
19 statutes. It is time for Hawaii to establish an Ombudsman's
20 Office for Condominium Owners and Associations.

21 Accordingly, the purpose of this Act is to:



1 (1) Establish within the department of commerce and
2 consumer affairs an ombudsman's office for condominium
3 associations to:

4 (A) Serve as a neutral resource for members of
5 condominium associations and the public;

6 (B) Provide an office for condominium association
7 unit owners, boards, board members, association
8 management, and managing agents to bring
9 complaints for investigation and dispute
10 resolution;

11 (C) Ensure compliance with existing laws and
12 association governing documents;

13 (D) Resolve disputes without burdensome and excessive
14 legal expenses, which include attorneys fees,
15 mediation costs beyond what is subsidized, court
16 costs, lost wages for missed work, and other
17 costs;

18 (E) Ensure association members have access to
19 association documents;

20 (F) The ombudsman shall develop policies and
21 procedures to assist unit owners, boards of



directors, board members, community association managers, and other affected parties to understand their rights and responsibilities as set forth in chapter 514B, Hawaii Revised Statutes, and the condominium documents governing their respective association; and

(G) Maintain data on inquiries and complaints received, types of assistance requested, notices of decisions, actions taken, and the disposition of matters; and

15 SECTION 2. Chapter 514B, Hawaii Revised Statutes, is
16 amended by adding a new part to be appropriately designated and
17 to read as follows:

"PART

OMBUDSMAN'S OFFICE FOR CONDOMINIUM ASSOCIATIONS

§514B-A Ombudsman's office for condominium associations

21 established ombudsman criteria for ombudsman. (a) There is



1 established within the department of commerce and consumer
2 affairs an ombudsman's office for condominium associations. The
3 ombudsman's office for condominium associations shall be headed
4 by the ombudsman for condominium associations, who shall be
5 appointed by the director of commerce and consumer affairs with
6 the approval of the governor.

7 (b) The ombudsman shall have been admitted to practice law
8 before the Hawaii supreme court and shall have extensive
9 experience in Hawaii real estate, condominium association law,
10 and conflict and alternative dispute resolution. The ombudsman
11 shall not:

- 12 (1) Engage or have been engaged within the past two years
13 in any other business or profession that directly or
14 indirectly relates to or conflicts with the work of
15 the ombudsman's office;
- 16 (2) Serve as the representative, executive, officer, or
17 employee of any political party, executive committee,
18 or other governing body of a political party;
- 19 (3) Receive remuneration for activities on behalf of any
20 candidate for public office;



- (4) Engage in soliciting votes or other activities on behalf of a candidate for public office; or
- (5) Become a candidate for election to public office unless the ombudsman first resigns.

(c) The ombudsman shall be exempt from chapter 76.

§514B-B Personnel; salary; benefits. (a) The ombudsman

7 shall employ professional and clerical staff as necessary for
8 the efficient operation of the ombudsman's office. The
9 ombudsman may appoint persons who have been admitted to practice
10 law before the Hawaii supreme court as staff without regard to
11 chapter 76. All other employees shall be appointed by the
12 ombudsman in accordance with chapter 76.

13 (b) The ombudsman shall appoint complaints and enforcement
14 officers who have been admitted to practice law before the
15 Hawaii supreme court and have extensive experience in Hawaii
16 real estate, condominium association law, and conflict and
17 alternative dispute resolution. The complaints and enforcement
18 officers shall be exempt from chapter 76.

19 (c) The ombudsman's office shall integrate the existing
20 condominium specialist positions in the department of commerce



1 and consumer affairs into the ombudsman's office as intake
2 specialists for complaints submitted to the ombudsman's office.

3 (d) Personnel and administrative costs of the ombudsman's
4 office shall be funded by the condominium education trust fund.

5 (e) The salary of the ombudsman shall be determined by the
6 director of commerce and consumer affairs. The ombudsman,
7 complaints and enforcement officers, intake specialists, and
8 other personnel shall be included in any benefits program
9 generally applicable to officers and employees of the State.

10 **S514B-C Ombudsman; powers and duties; immunity from**

11 **liability.** (a) The ombudsman shall:

12 (1) Have the power to establish rules pursuant to chapter
13 91 for the operation of the office that shall include
14 receiving and processing complaints and requests for
15 dispute intervention and resolution; conducting
16 investigations; enforcement, including fines and
17 penalties; and reporting the findings of the office;
18 provided that the ombudsman shall levy nominal filing
19 fees not to exceed \$100 to deter frivolous submissions
20 or investigations of complaints or requests for
21 dispute intervention and resolution;





associations and any additional information the ombudsman may deem appropriate and non-confidential;

(8) Receive written requests for dispute intervention and resolution;

(9) Investigate and assist in resolving disputes brought by unit owners, associations, boards, and board members, under section 514B-D;

(10) Investigate acts that may be:

(A) Contrary to law or an association's governing rules;

(B) Unreasonable, unfair, oppressive, retaliatory, or discriminatory as administered or under the circumstances;

(C) Based on a mistake of fact;

(D) Based on improper or irrelevant grounds;

(E) Unaccompanied by an adequate statement of reasons; or

(F) Otherwise erroneous;

19 (11) Subject to the privileges that witnesses have in the
20 courts of the State, have the authority to:



- (A) Compel at a specified time and place, by a subpoena, the appearance and sworn testimony of any person whom the ombudsman reasonably believes may have information relating to a matter under investigation; and
- (B) Compel any person to produce documents, records, and information the ombudsman reasonably believes may relate to a matter under investigation;

Be authorized to bring suit in an appropriate state court to enforce the powers in paragraph (11);

Provide advisory opinions upon request from unit owners or other affected parties;

Provide recommendations to the director of commerce and consumer affairs if the ombudsman finds that:

- (A) The matter should be further considered by the department of commerce and consumer affairs;
- (B) A statute or rule should be amended or repealed; and
- (C) Other action should be taken by the department of commerce and consumer affairs;



- 1 (15) Within a reasonable time after providing
- 2 recommendations to the director of commerce and
- 3 consumer affairs pursuant to paragraph (14), the
- 4 ombudsman may submit a report to the governor or the
- 5 legislature or publish the report, including any reply
- 6 by the department of commerce and consumer affairs,
- 7 and notify the complainant of the actions taken by the
- 8 ombudsman and the department;
- 9 (16) Ensure that association members have access to the
- 10 services provided through the ombudsman's office and
- 11 that association members receive responses from the
- 12 ombudsman's office within thirty days of the member's
- 13 inquiry;
- 14 (17) Maintain publicly available data on inquiries and
- 15 complaints received, types of assistance requested,
- 16 notices of final decisions and actions taken, and
- 17 disposition of matters;
- 18 (18) Monitor changes in federal and state laws relating to
- 19 associations;
- 20 (19) Have the authority to remove from the board any board
- 21 member of an association who is found to have



committed wilful misconduct in violation of any laws or the condominium's governing documents;

(20) Provide to the governor and the public an annual report that includes the number and types of requests for dispute intervention and resolution submitted to the ombudsman's office and their disposition, and any suggestions for policy or legislation the ombudsman's office deems necessary to more quickly and efficiently resolve condominium disputes; and

10 (21) Adopt rules pursuant to chapter 91 necessary to carry
11 out the purposes of this part.

12 (b) The ombudsman shall have the same immunities from
13 civil and criminal liability as a judge of the State. The
14 ombudsman and the staff of the ombudsman's office shall not
15 testify in any court concerning matters coming to their
16 attention in the exercise of their official duties except as may
17 be necessary to enforce this chapter.

§514B-D Request for dispute intervention and resolution.

19 (a) Except as otherwise provided in this section, a unit owner
20 or association, by its board members, who is a party to a
21 dispute involving the interpretation or enforcement of an



1 association's governing documents, including the condominium's
2 declaration, bylaws, and house rules, this chapter, or any other
3 law the association is obligated to follow, may submit to the
4 ombudsman's office a written request for dispute intervention
5 and resolution setting forth the facts forming the basis of the
6 dispute.

7 (b) Simultaneous with the submission of a dispute
8 intervention and resolution request, the requesting party or
9 parties shall provide the board, association management or
10 managing agent, and the other party or parties in the dispute, a
11 copy of the request for dispute intervention and resolution.

12 The notice shall be sent to the addressee by certified mail,
13 return receipt requested, or by hand delivery with confirmation
14 of delivery. The notice shall specify in reasonable detail:

- 15 (1) The nature of the dispute;
- 16 (2) Any violations of this chapter, the association
17 governing documents, or any other law or regulation
18 the association is obligated to follow;
- 19 (3) Any alleged damages that resulted from the dispute;
20 and
- 21 (4) Any proposed corrective action to resolve the dispute.



1 (c) A dispute intervention request submitted to the
2 ombudsman's office pursuant to this section shall be on a form
3 prescribed by the ombudsman's office and accompanied by evidence
4 that:

5 (1) The respondent has been given a reasonable opportunity
6 to correct the dispute; and

7 (2) Reasonable efforts to resolve the dispute have failed.

8 (d) The ombudsman may impose a minimum fine of \$250

9 against any person who knowingly submits a false or fraudulent
10 dispute intervention and resolution request with the ombudsman's
11 office.

12 (e) Legal representation shall not be required for dispute
13 intervention by the ombudsman's office. Unit owners shall not
14 be assessed any legal fees incurred by the association, board,
15 board members, managing agent, or other parties as a result of a
16 dispute intervention and resolution request submitted to the
17 ombudsman's office.

18 S514B-E Enforcement by complaints and enforcement

19 officers; dispute resolution assistance. (a) Upon receipt of a
20 dispute intervention and resolution request pursuant to section



1 514B-D, the complaints and enforcement officer shall open an
2 investigation into the dispute.

3 (b) The complaints and enforcement officer may interview
4 parties and witnesses involved in the dispute and request the
5 production of documents, records, and information pursuant to
6 section 514B-154.5, or other evidence or documents that would be
7 reasonably helpful in resolving the dispute. Participation by
8 the disputing parties, including unit owners, boards, board
9 members, and association management shall be mandatory. Any
10 party to the dispute who refuses to participate shall be subject
11 to penalties and fines to be predetermined and published by the
12 ombudsman. If the board determines not to participate, each
13 board member voting not to participate shall be considered in
14 violation of this Act, shall be personally assessed a monetary
15 fine, and shall be removed from the board.

16 (c) The complaints and enforcement officer shall make
17 recommendations, give guidance, or issue an advisory opinion or
18 decision to the disputing parties as the complaints and
19 enforcement officer deems necessary.

20 (d) If the complaints and enforcement officer determines
21 that an association or board is at fault in a dispute, the



1 association or board shall be responsible for any legal fees,
2 costs, expenses, interest, or fines levied against the unit
3 owner involved in the dispute.

4 (e) The complaints and enforcement officer may impose a
5 fine in the amount of not less than \$250 against any person who
6 knowingly submits false or fraudulent information to the
7 ombudsman's office, willingly hinders the lawful actions of the
8 ombudsman or the staff of the ombudsman's office, or willingly
9 refuses to comply with the lawful demands of the ombudsman or
10 the staff of the ombudsman's office.

11 (f) If the parties are unable to reach an agreement under
12 this section or if a party does not agree with the decision of
13 the complaints and enforcement officer, a party may request a
14 contested case hearing with the ombudsman's office that shall be
15 presided over by the ombudsman. Participation in a contested
16 case hearing shall be mandatory for all parties in the dispute.

17 (g) Any party who wishes to request a contested case
18 hearing shall submit a written request with the ombudsman's
19 office within thirty days after receipt of a copy of the
20 complaints and enforcement officer's decision.



1 **§514B-F Contested case hearing.** (a) A contested case
2 hearing shall be conducted by the ombudsman pursuant to
3 chapter 91 and any rules adopted by the ombudsman's office;
4 provided that if there is no dispute as to the facts involved in
5 a particular matter, the ombudsman may permit the parties to
6 proceed by memoranda of law in lieu of a hearing, unless the
7 procedure would unduly burden any party or would otherwise not
8 serve the ends of justice.

9 (b) The ombudsman shall not be bound by the rules of
10 evidence when conducting a hearing to determine whether a
11 violation of this part has occurred. The standard of proof
12 required shall be a preponderance of the evidence.

13 (c) A record shall be made of the proceeding.

14 (d) All parties shall be afforded a full opportunity to
15 engage in discovery and present evidence and argument on the
16 issues involved.

17 (e) If a hearing is held or a review by memoranda of law
18 is conducted, a decision shall be rendered by the ombudsman's
19 office and promptly delivered to each party by certified mail.

20 Any party adversely affected by the decision may submit written



1 exceptions to the ombudsman's office within thirty days after
2 receipt of the decision.

3 (f) As expeditiously as possible after the close of the
4 hearing but not before any party adversely affected has had the
5 opportunity to submit a written exception, the ombudsman shall
6 issue a final decision together with separate findings of fact
7 and conclusions of law regarding whether a violation of this
8 part has occurred.

9 **§514B-G Fines; fees.** Any fine or fee collected pursuant
10 to this part shall be deposited into the condominium education
11 trust fund."

12 SECTION 3. Section 28-8.3, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

14 "(a) No department of the State other than the attorney
15 general may employ or retain any attorney, by contract or
16 otherwise, for the purpose of representing the State or the
17 department in any litigation, rendering legal counsel to the
18 department, or drafting legal documents for the department;
19 provided that the foregoing provision shall not apply to the
20 employment or retention of attorneys:



- 1 (1) By the public utilities commission, the labor and
2 industrial relations appeals board, and the Hawaii
3 labor relations board;
- 4 (2) By any court or judicial or legislative office of the
5 State; provided that if the attorney general is
6 requested to provide representation to a court or
7 judicial office by the chief justice or the chief
8 justice's designee, or to a legislative office by the
9 speaker of the house of representatives and the
10 president of the senate jointly, and the attorney
11 general declines to provide such representation on the
12 grounds of conflict of interest, the attorney general
13 shall retain an attorney for the court, judicial, or
14 legislative office, subject to approval by the court,
15 judicial, or legislative office;
- 16 (3) By the legislative reference bureau;
- 17 (4) By any compilation commission that may be constituted
18 from time to time;
- 19 (5) By the real estate commission for any action involving
20 the real estate recovery fund;



- (6) By the contractors license board for any action involving the contractors recovery fund;
- (7) By the office of Hawaiian affairs;
- (8) By the department of commerce and consumer affairs for the enforcement of violations of chapters 480 and 485A;
- (9) As grand jury counsel;
- (10) By the Hawaii health systems corporation, or its regional system boards, or any of their facilities;
- (11) By the auditor;
- (12) By the office of ombudsman;
- (13) By the insurance division;
- (14) By the University of Hawaii;
- (15) By the Kahoolawe island reserve commission;
- (16) By the division of consumer advocacy;
- (17) By the office of elections;
- (18) By the campaign spending commission;
- (19) By the Hawaii tourism authority, as provided in section 201B-2.5;
- (20) By the division of financial institutions;
- (21) By the office of information practices;



- (22) By the school facilities authority;
- (23) By the Mauna Kea stewardship and oversight authority;
- [ex]
- (24) By a department, if the attorney general, for reasons deemed by the attorney general to be good and sufficient, declines to employ or retain an attorney for a department; provided that the governor waives the provision of this section[.]; or
- (25) By the ombudsman's office for condominium associations."

11 SECTION 4. Section 514B-3, Hawaii Revised Statutes, is
12 amended by adding four new definitions to be appropriately
13 inserted and to read as follows:

14 "Complaints and enforcement officer" means the complaints

15 and enforcement officer established pursuant to section 514B-B.

16 "Intake specialist" means the intake specialist established
17 pursuant to section 514B-B.

18 "Ombudsman" means the ombudsman for condominium
19 associations under §514B-A.

20 "Ombudsman's office" means the ombudsman's office for
21 condominium associations established under section 514B-A."



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

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

18 SECTION 6. Section 514B-68, Hawaii Revised Statutes, is
19 amended to read as follows:

20 **"§514B-68 Power to enjoin.** Whenever the commission or
21 ombudsman's office believes from satisfactory evidence that any



1 person has violated this part, part V, part, section
2 514B-103, 514B-132, 514B-134, 514B-149, sections 514B-152 to
3 514B-154, section 514B-154.5, [or] the rules of the commission
4 ~~[adopted pursuant thereto, it]~~, or the rules of the ombudsman's
5 office, the commission or ombudsman's office may conduct [an] a
6 civil or criminal investigation of the matter and bring an
7 action against the person in any court of competent jurisdiction
8 on behalf of the State to enjoin the person from continuing the
9 violation or doing any acts in furtherance thereof."

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

12 "(a) The commission shall establish a condominium
13 education trust fund that the commission shall use for
14 educational purposes. Educational purposes shall include
15 financing or promoting:

16 (1) Education and research in the field of condominium
17 management, condominium project registration, and real
18 estate, for the benefit of the public and those
19 required to be registered under this chapter;
20 (2) The improvement and more efficient administration of
21 associations;



- (3) Expedited and inexpensive procedures for resolving association disputes;
- (4) The ombudsman's office;
- (5) Support for mediation of condominium related disputes;
and
- (5)] (6) Support for voluntary binding arbitration between parties in condominium related disputes, pursuant to section 514B-162.5."

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

11 "(a) Each project or association with more than five units
12 shall pay to the department of commerce and consumer affairs:

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

19 (2) Beginning with the July 1, [2015,] 2027, biennium
20 registration, an additional annual condominium
21 education trust fund fee in an amount equal to the



1 product of ~~[\$1.50]~~ \$12.50 times the number of
2 condominium units included in the registered project
3 or association to be dedicated to supporting the
4 ombudsman's office, mediation [or], and voluntary
5 binding arbitration of condominium related disputes.
6 The additional condominium education trust fund fee
7 shall total ~~[\$3]~~ \$25 per unit until the commission
8 adopts rules pursuant to chapter 91. On June 30 of
9 every odd-numbered year, any unexpended additional
10 amounts paid into the condominium education trust fund
11 ~~[and initially dedicated to supporting mediation or~~
12 ~~voluntary binding arbitration of condominium related~~
13 ~~disputes]~~, as required by this paragraph, shall be
14 used for educational purposes as provided in section
15 ~~[514B-71(a)(1), (2), and (3).]~~ 514B-71(a)."

16 SECTION 9. Section 514B-73, Hawaii Revised Statutes, is
17 amended to read as follows:

18 **"§514B-73 Condominium education trust fund; management.**
19 (a) The sums received by the commission for deposit in the
20 condominium education trust fund pursuant to section 514B-72



1 shall be held by the commission in trust for carrying out the
2 purpose of the fund.

3 (b) The commission and the director of commerce and
4 consumer affairs may use moneys in the condominium education
5 trust fund collected pursuant to section 514B-72, and the rules
6 of the commission to employ necessary personnel not subject to
7 chapter 76 for additional staff support, to provide office
8 space, and to purchase equipment, furniture, and supplies
9 required by the commission to carry out its responsibilities
10 under this part.

11 (c) The moneys in the condominium education trust fund
12 collected pursuant to section 514B-72[7] and the rules of the
13 commission may be invested and reinvested together with the real
14 estate education fund established under section 467-19 in the
15 same manner as are the funds of the employees' retirement system
16 of the State. The interest and earnings from these investments
17 shall be deposited to the credit of the condominium education
18 trust fund.

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



(1) A summary of the programs funded during the prior fiscal year and the amount of money in the fund, including a statement of which programs were directed specifically at the education of condominium owners; and

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

(e) The ombudsman's office shall submit an annual report to the legislature no later than twenty days prior to the beginning of each regular session on the activities of the ombudsman's office during the prior fiscal year, including:

(1) The number and types of requests for dispute intervention submitted to the ombudsman's office and their disposition; and

(2) Any recommendations for legislation or policies that the ombudsman's office deems would help to resolve condominium disputes more quickly or efficiently."



1 SECTION 10. Section 514B-104, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

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

6 (1) Adopt and amend the declaration, bylaws, and rules and
7 regulations;

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

12 (3) Hire and discharge managing agents and other
13 independent contractors, agents, and employees;

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

20 (5) Make contracts and incur liabilities;



- (6) Regulate the use, maintenance, repair, replacement, and modification of common elements;
- (7) Cause additional improvements to be made as a part of the common elements;
- (8) Acquire, hold, encumber, and convey in its own name any right, title, or interest to real or personal property; provided that:
 - (A) Designation of additional areas to be common elements or subject to common expenses after the initial filing of the declaration or bylaws shall require the approval of at least sixty-seven per cent of the unit owners;
 - (B) If the developer discloses to the initial buyer in writing that additional areas will be designated as common elements whether pursuant to an incremental or phased project or otherwise, the requirements of this paragraph shall not apply as to those additional areas; and
 - (C) The requirements of this paragraph shall not apply to the purchase of a unit for a resident manager [which may be purchased with the



approval of the board;] that is made in
accordance with the bylaws;

- (9) Subject to section 514B-38, grant easements, leases, licenses, and concessions through or over the common elements and permit encroachments on the common elements;
- (10) Impose and receive any payments, fees, or charges for the use, rental, or operation of the common elements, other than limited common elements described in section 514B-35(2) and (4), and for services provided to unit owners;
- (11) Impose charges and penalties, including late fees and interest, for late payment of assessments and levy reasonable fines for violations of the declaration, bylaws, rules, and regulations of the association, either in accordance with the bylaws or, if the bylaws are silent, pursuant to a resolution adopted by the board that establishes a fining procedure that states the basis for the fine and allows an appeal to the board of the fine with notice and an opportunity to be heard and providing that if the fine is paid, the unit



1 owner shall have the right to initiate a dispute
2 resolution process ~~[as provided by sections 514B-161,~~
3 ~~514B-162, or by filing a request for an administrative~~
4 ~~hearing under a pilot program administered by the~~
5 ~~department of commerce and consumer affairs;]~~ by
6 requesting dispute resolution assistance from the
7 ombudsman's office under sections 514B-D, 514B-E, and
8 514B-F;

9 (12) Impose reasonable charges for the preparation and
10 recordation of amendments to the declaration,
11 documents requested for resale of units, or statements
12 of unpaid assessments;

13 (13) Provide for cumulative voting through a provision in
14 the bylaws;

15 (14) Provide for the indemnification of its officers,
16 board, committee members, and agents, and maintain
17 directors' and officers' liability insurance;

18 (15) Assign its right to future income, including the right
19 to receive common expense assessments, but only to the
20 extent section 514B-105(e) expressly so provides;



- 1 (16) Exercise any other powers conferred by the declaration
- 2 or bylaws;
- 3 (17) Exercise all other powers that may be exercised in
- 4 this State by legal entities of the same type as the
- 5 association, except to the extent inconsistent with
- 6 this chapter;
- 7 (18) Exercise any other powers necessary and proper for the
- 8 governance and operation of the association; and
- 9 (19) By regulation, subject to sections 514B-146, 514B-161,
- 10 [and] 514B-162, 514B-D, 514B-E, and 514B-F, require
- 11 that disputes between the board and unit owners or
- 12 between two or more unit owners regarding the
- 13 condominium be submitted to the ombudsman's office or
- 14 nonbinding alternative dispute resolution in the
- 15 manner described in the regulation as a prerequisite
- 16 to commencement of a judicial proceeding."

17 SECTION 11. Section 514B-105, Hawaii Revised Statutes, is
18 amended to read as follows:

19 **"§514B-105 Association; limitations on powers.** (a) The
20 declaration and bylaws shall not impose limitations on the power
21 of the association to deal with the developer that are more



1 restrictive than the limitations imposed on the power of the
2 association to deal with other persons.

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

7 (1) Prevent any use of a unit that violates the
8 declaration or bylaws;

9 (2) Regulate any behavior in or occupancy of a unit that
10 violates the declaration or bylaws or unreasonably
11 interferes with the use and enjoyment of other units
12 or the common elements by other unit owners; or

13 (3) Restrict the leasing of residential units to the
14 extent those rules are reasonably designed to meet
15 underwriting requirements of institutional lenders who
16 regularly lend money secured by first mortgages on
17 units in condominiums or regularly purchase those
18 mortgages.

19 Otherwise, the association shall not regulate any use of or
20 behavior in units by means of the rules and regulations.



1 (c) Any payments made by or on behalf of a unit owner
2 shall first be applied to outstanding common expenses that are
3 assessed to all unit owners in proportion to the common interest
4 appurtenant to their respective units, including commercial
5 property assessed financing assessment expenses incurred for
6 improvements financed pursuant to section 196-64.5. Only after
7 the outstanding common expenses have been paid in full may the
8 payments be applied to other charges owed to the association,
9 including assessed charges to the unit such as ground lease
10 rent, utility sub-metering, storage lockers, parking stalls,
11 boat slips, insurance deductibles, and cable. After these
12 charges are paid, other charges, including unpaid late fees,
13 legal fees, fines, and interest, may be assessed in accordance
14 with an application of payment policy adopted by the board;
15 provided that if a unit owner has designated that any payment is
16 for a specific charge that is not a common expense as described
17 in this subsection, the payment may be applied in accordance
18 with the unit owner's designation even if common expenses remain
19 outstanding.

20 (d) No unit owner who requests legal or other information
21 from the association, the board, the managing agent, or their



1 employees or agents, shall be charged for the reasonable cost of
2 providing the information unless the association notifies the
3 unit owner that it intends to charge the unit owner for the
4 reasonable cost. The association shall notify the unit owner in
5 writing at least ten days prior to incurring the reasonable cost
6 of providing the information, except that no prior notice shall
7 be required to assess the reasonable cost of providing
8 information on delinquent assessments or in connection with
9 proceedings to enforce the law or the association's governing
10 documents.

11 After being notified of the reasonable cost of providing
12 the information, the unit owner may withdraw the request, in
13 writing. A unit owner who withdraws a request for information
14 shall not be charged for the reasonable cost of providing the
15 information.

16 (e) Subject to any approval requirements and spending
17 limits contained in the declaration or bylaws, the association
18 may authorize the board to borrow money for the repair,
19 replacement, maintenance, operation, or administration of the
20 common elements and personal property of the project, or the
21 making of any additions, alterations, and improvements thereto;



1 provided that the board shall make available any reports
2 provided by licensed or certified professionals that document
3 the necessity and urgency of that expenditure, provide to all
4 unit owners a written notice of the purpose and use of the funds
5 ~~[is first sent to all unit owners and owners], and hold a~~
6 special meeting to discuss the expenditure and review the
7 reports. Owners representing more than fifty per cent of the
8 common interest shall vote [or] and give written consent to the
9 borrowing. In connection with the borrowing, including
10 non-commercial property assessed financing, the board may grant
11 to the lender the right to assess and collect monthly or special
12 assessments from the unit owners and to enforce the payment of
13 the assessments or other sums by statutory lien and foreclosure
14 proceedings. The cost of the borrowing, including, without
15 limitation, all principal, interest, commitment fees, and other
16 expenses payable with respect to the borrowing or the
17 enforcement of the obligations under the borrowing, shall be a
18 common expense of the project. For purposes of this section,
19 the financing of insurance premiums by the association within
20 the policy period shall not be deemed a loan and no lease shall
21 be deemed a loan if it provides that at the end of the lease the



1 association may purchase the leased equipment for its fair
2 market value.

3 (f) For financing assessments imposed upon the project
4 under a commercial property assessed financing program pursuant
5 to section 196-64.5 and due from the association, the cost of
6 the commercial property assessed financing, including all
7 principal, interest, commitment fees, servicing fees, and other
8 expenses payable with respect to this borrowing or the
9 enforcement of the obligations under the borrowing, shall be a
10 common expense of the project and the unit owners' proportionate
11 share of the financing assessment shall be collected in the same
12 manner as common expenses. The written consent of at least
13 fifty per cent of all unit owners to finance qualifying
14 improvements with commercial property assessed financing shall
15 include an acknowledgment that the annual financing assessment
16 required to fund debt service on the commercial property
17 assessed financing shall be included as part of the
18 association's adopted revised budget.

19 (g) If the association or the board is involved in a
20 dispute intervention and resolution request through the
21 ombudsman's office pursuant to section 514B-D, no special



1 assessment related to the dispute, including association
2 attorneys' fees, shall be assessed or collected from unit owners
3 until the ombudsman's office has completed an investigation and
4 rendered a final decision. If the final decision is in favor of
5 the unit owner, any and all assessments, fines, costs, expenses,
6 interest, and legal fees improperly assessed to the unit owner
7 shall be reversed. Any board member who is found to have
8 committed willful misconduct in violation of any laws or the
9 governing documents shall be removed from the board by the
10 authority of the ombudsman."

11 SECTION 12. Section 514B-106, Hawaii Revised Statutes, is
12 amended by amending subsection (a) to read as follows:

13 " (a) Except as provided in the declaration, the bylaws,
14 subsection (b), or other provisions of this chapter, the board
15 may act in all instances on behalf of the association. In the
16 performance of their duties, officers and members of the board
17 shall owe the association a fiduciary duty and exercise the
18 degree of care and loyalty required of an officer or director of
19 a corporation organized under chapter 414D. Any violation by a
20 board or its officers or members of ~~the mandatory provisions of~~
21 ~~section 514B-161 or 514B-162~~ section 514B-D, 514B-E, or 514B-F



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

7 SECTION 13. Section 514B-146, Hawaii Revised Statutes, is
8 amended as follows:

9 1. By amending subsection (d) to read as follows:

10 "(d) A unit owner who disputes the information in the
11 written statement received from the association pursuant to
12 subsection (c) may request a subsequent written statement that
13 additionally informs the unit owner that:

14 (1) Under Hawaii law, a unit owner has no right to
15 withhold common expense assessments for any reason;
16 (2) A unit owner has a right to ~~demand~~ request dispute
17 intervention and resolution through the ombudsman's
18 office, mediation, or arbitration to resolve disputes
19 about the amount or validity of an association's
20 common expense assessment; provided that the unit



owner immediately pays the common expense assessment in full and keeps common expense assessments current;

(3) Payment in full of the common expense assessment shall not prevent the owner from contesting the common expense assessment or receiving a refund of amounts not owed; and

(4) If the unit owner contests any penalty or fine, late fee, lien filing fee, or other charges included in the assessment, except common expense assessments, the unit owner may request dispute intervention and resolution through the ombudsman's office or demand mediation as provided in subsection (g) prior to paying those charges.

2. By amending subsections (f) and (g) to read:

15 "(f) A unit owner who pays an association the full amount
16 of the common expenses claimed by the association may file in
17 small claims court or require the association to participate in
18 dispute intervention and resolution through the ombudsman's
19 office or mediate to resolve any disputes concerning the amount
20 or validity of the association's common expense claim. If the
21 unit owner and the association are unable to resolve the dispute



1 through dispute intervention and resolution through the
2 ombudsman's office or mediation, either party may [file] submit
3 a request for arbitration under section 514B-162; provided that
4 a unit owner may only [file] submit a request for arbitration if
5 all amounts claimed by the association as common expenses are
6 paid in full on or before the date of filing. If the unit owner
7 fails to keep all association common expense assessments current
8 during the arbitration, the association may ask the arbitrator
9 to temporarily suspend the arbitration proceedings. If the unit
10 owner pays all association common expense assessments within
11 thirty days of the date of suspension, the unit owner may ask
12 the arbitrator to recommence the arbitration proceedings. If
13 the unit owner fails to pay all association common expense
14 assessments by the end of the thirty-day period, the association
15 may ask the arbitrator to dismiss the arbitration proceedings.
16 The unit owner shall be entitled to a refund of any amounts paid
17 as common expenses to the association that are not owed.

18 (g) A unit owner who contests the amount of any attorneys'
19 fees and costs, penalties or fines, late fees, lien filing fees,
20 or any other charges, except common expense assessments, may
21 make a demand in writing for dispute intervention and resolution



1 or mediation on the validity of those charges. The unit owner
2 has thirty days from the date of the written statement requested
3 pursuant to subsection (d) to submit a request for dispute
4 intervention and resolution through the ombudsman's office or
5 file a demand for mediation on the disputed charges, other than
6 common expense assessments. If the unit owner fails to [file
7 ~~for~~] submit a request for dispute intervention and resolution
8 through the ombudsman's office or mediation within thirty days
9 of the date of the written statement requested pursuant to
10 subsection (d), the association may proceed with collection of
11 the charges. If the unit owner makes a request for dispute
12 intervention and resolution through the ombudsman's office or
13 mediation within thirty days, the association shall be
14 prohibited from attempting to collect any of the disputed
15 charges until the association has participated in the dispute
16 intervention and resolution through the ombudsman's office or
17 mediation. [The mediation shall be completed within sixty days
18 ~~of the unit owner's request for mediation; provided that if the~~
19 ~~mediation is not completed within sixty days or the parties are~~
20 ~~unable to resolve the dispute by mediation, the association may~~
21 ~~proceed with collection of all amounts due from the unit owner~~



1 ~~for attorneys' fees and costs, penalties or fines, late fees,~~
2 ~~lien filing fees, or any other charge that is not imposed on all~~
3 ~~unit owners as a common expense.] "~~

4 SECTION 14. Section 514B-146.5, Hawaii Revised Statutes,

5 is amended by amending subsection (a) to read as follows:

6 "(a) Any notice of default and intention to foreclose
7 given by an association under section 667-92(a) shall, in
8 addition to the requirements of that section, also include a
9 statement that the unit owner may request dispute intervention
10 and resolution through the ombudsman's office or mediation by
11 delivering a written request for dispute intervention and
12 resolution through the ombudsman's office or mediation to the
13 association by certified mail, return receipt requested, or hand
14 delivery within thirty days after service of a notice of default
15 and intention to foreclose on the unit owner.

16 If the association does not receive a request for dispute
17 intervention and resolution through the ombudsman's office or
18 mediation within the thirty-day period, the association may
19 proceed with nonjudicial or power of sale foreclosure, subject
20 to all applicable provisions of this chapter and chapter 667.
21 If the association receives a request for dispute intervention



1 and resolution through the ombudsman's office or mediation, as
2 set forth in this subsection, from a unit owner within thirty
3 days after service of a notice of default and intention to
4 foreclose upon the unit owner, the association shall agree to
5 participate in dispute intervention and resolution through the
6 ombudsman's office or mediate and shall be prohibited from
7 proceeding with nonjudicial or power of sale foreclosure until
8 the association has participated in the dispute intervention and
9 resolution through the ombudsman's office or mediation [or the
10 time period for completion of the mediation has elapsed. The
11 mediation shall be completed within sixty days of the date upon
12 which the unit owner delivers a request for mediation upon the
13 association; provided that if the mediation is not commenced or
14 completed within sixty days or]. If the parties are unable to
15 resolve the dispute by dispute intervention and resolution
16 through the ombudsman's office or mediation, the association may
17 proceed with nonjudicial or power of sale foreclosure, subject
18 to all applicable provisions of this chapter and chapter 667."

19 SECTION 15. Section 514B-154, Hawaii Revised Statutes, is
20 amended as follows:

21 1. By amending subsections (b) and (c) to read as follows:



1 " (b) Financial statements, general ledgers, the accounts
2 receivable ledger, accounts payable ledgers, check ledgers,
3 insurance policies, contracts, and invoices of the association
4 for the duration those records are kept by the association and
5 delinquencies of ninety days or more shall be available for
6 examination by unit owners at convenient hours at a place
7 designated by the board; provided that:

8 (1) The board may require owners to furnish to the
9 association a duly executed and acknowledged affidavit
10 stating that the information is requested in good
11 faith for the protection of the interests of the
12 association, its members, or both; and

13 (2) Owners shall pay for administrative costs in excess of
14 [eight] twenty hours per year.

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

19 (c) After any association meeting, and not earlier, unit
20 owners shall be permitted to examine proxies, tally sheets,



1 ballots, owners' check-in lists, and the certificate of
2 election; provided that:

3 (1) Owners shall make a request to examine the documents
4 within thirty days after the association meeting;

5 (2) The board may require owners to furnish to the
6 association a duly executed and acknowledged affidavit
7 stating that the information is requested in good
8 faith for the protection of the interest of the
9 association or its members or both; and

10 (3) Owners shall pay for administrative costs in excess of
11 [eight] twenty hours per year.

12 The documents may be destroyed ninety days after the
13 association meeting; provided that in the event of a contested
14 election, the documents shall be retained until the contested
15 election is resolved. Copies of tally sheets, owners' check-in
16 lists, and the certificates of election from the most recent
17 association meeting shall be provided to any owner upon the
18 owner's request; provided that the owner pays a reasonable fee
19 for duplicating, postage, stationery, and other administrative
20 costs associated with handling the request."

21 2. By amending subsection (j) to read:



1 "(j) Any fee charged to a member to obtain copies of
2 association records under this section shall be reasonable;
3 provided that a reasonable fee shall include actual
4 administrative and duplicating costs and shall not exceed \$1 per
5 printed page, or portion thereof, except the fee for pages
6 exceeding eight and one-half inches by fourteen inches may
7 exceed \$1 per page. Charges for electronic copies of documents
8 shall be limited to reasonable and actual administrative costs
9 and shall first be applied to the twenty free hours allocated to
10 the association. The maximum charge for any requested
11 electronic document shall be \$5."

12 SECTION 16. Section 514B-154.5, Hawaii Revised Statutes,
13 is amended to read as follows:

14 **"§514B-154.5 Association documents to be provided.** (a)
15 Notwithstanding any other provision in the declaration, bylaws,
16 or house rules, if any, the following documents, records, and
17 information, whether maintained, kept, or required to be
18 provided pursuant to this section or section 514B-152, 514B-153,
19 or 514B-154, shall be made available to any unit owner and the
20 owner's authorized agents by the managing agent, resident



1 manager, board through a board member, or the association's
2 representative:

3 (1) All financial and other records sufficiently detailed
4 in order to comply with requests for information and
5 disclosures related to the resale of units;

6 (2) An accurate copy of the declaration, bylaws, house
7 rules, if any, master lease, if any, a sample original
8 conveyance document, and all public reports and any
9 amendments thereto;

10 (3) Detailed, accurate records in chronological order of
11 the receipts and expenditures affecting the common
12 elements, specifying and itemizing the maintenance and
13 repair expenses of the common elements and any other
14 expenses incurred and monthly statements indicating
15 the total current delinquent dollar amount of any
16 unpaid assessments for common expenses;

17 (4) All records and the vouchers authorizing the payments
18 and statements kept and maintained at the address of
19 the project, or elsewhere within the State as
20 determined by the board, subject to section 514B-152;



- 1 (5) All signed and executed agreements for managing the
- 2 operation of the property, expressing the agreement of
- 3 all parties, including but not limited to financial
- 4 and accounting obligations, services provided, and any
- 5 compensation arrangements, including any subsequent
- 6 amendments;
- 7 (6) An accurate and current list of members of the
- 8 condominium association and the members' current
- 9 addresses and the names and addresses of the vendees
- 10 under an agreement of sale, if any. A copy of the
- 11 list shall be available, at cost, to any unit owner or
- 12 owner's authorized agent who furnishes to the managing
- 13 agent, resident manager, or the board a duly executed
- 14 and acknowledged affidavit stating that the list:
- 15 (A) Shall be used by the unit owner or owner's
- 16 authorized agent personally and only for the
- 17 purpose of soliciting votes or proxies or for
- 18 providing information to other unit owners with
- 19 respect to association matters; and



- (B) Shall not be used by the unit owner or owner's authorized agent or furnished to anyone else for any other purpose;
- (7) The association's most current financial statement, at no cost or on twenty-four-hour loan, at a convenient location designated by the board;
- (8) Meeting minutes of the association, pursuant to section 514B-122;
- (9) Meeting minutes of the board, including executive session records of voting results regarding the imposition of special assessments, charges, fines, legal fees, and all other decisions and information to which association members are privileged, pursuant to section 514B-126, which shall be:
 - (A) Available for examination by unit owners or owners' authorized agents at no cost or on twenty-four-hour loan at a convenient location at the project, to be determined by the board; or
 - (B) Transmitted to any unit owner or owner's authorized agent making a request for the minutes within fifteen days of receipt of the request by



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



1 (A) The board may require unit owners or owners' authorized agents to furnish to the association a duly executed and acknowledged affidavit stating that the information is requested in good faith for the protection of the interests of the association, its members, or both; and

2 (B) Unit owners or owners' authorized agents shall pay for administrative costs in excess of [eight] twenty hours per year;

3 (11) Proxies, tally sheets, ballots, unit owners' check-in lists, and the certificate of election subject to section 514B-154(c);

4 (12) Copies of an association's documents, records, and information, whether maintained, kept, or required to be provided pursuant to this section or section 514B-152, 514B-153, or 514B-154;

5 (13) A copy of the management contract from the entity that manages the operation of the property before the organization of an association;

6 (14) Other documents requested by a unit owner or owner's 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; and

5 (15) A copy of any contract, written job description, and
6 compensation between the association and any person or
7 entity retained by the association to manage the
8 operation of the property on-site, including but not
9 limited to the general manager, operations manager,
10 resident manager, or site manager; provided that
11 personal information may be redacted from the contract
12 copy, including but not limited to the manager's date
13 of birth, age, signature, social security number,
14 residence address, telephone number, non-business
15 electronic mail address, driver's license number,
16 Hawaii identification card number, bank account
17 number, credit or debit card number, access code or
18 password that would permit access to the manager's
19 financial accounts, or any other information that may
20 be withheld under state or federal law.



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

17 (d) Any documents, records, and information, whether
18 maintained, kept, or required to be provided pursuant to this
19 section or section 514B-152, 514B-153, or 514B-154, may be made
20 available electronically to the unit owner or owner's authorized



1 agent if the owner or owner's authorized agent requests such in
2 writing.

3 (e) An association may comply with this section or section
4 514B-152, 514B-153, or 514B-154 by making the required
5 documents, records, and information available to unit owners or
6 owners' authorized agents for download through an internet site,
7 at the option of each unit owner or owner's authorized agent and
8 at no cost to the unit owner or owner's authorized agent.

9 (f) Any fee charged to a unit owner or owner's authorized
10 agent to obtain copies of the association's documents, records,
11 and information, whether maintained, kept, or required to be
12 provided pursuant to this section or section 514B-152, 514B-153,
13 or 514B-154, shall be reasonable; provided that a reasonable fee
14 shall include actual administrative and duplicating costs and
15 shall not exceed \$1 per printed page, or portion thereof, except
16 that the fee for pages exceeding eight and one-half inches by
17 fourteen inches may exceed \$1 per printed page. Charges for
18 electronic copies of documents shall be limited to reasonable
19 and actual administrative costs and shall first be applied to
20 the twenty free hours allocated to the association. The maximum
21 charge for any requested electronic document shall be \$5.



1 (g) Copies of the documents listed in subsection (a) shall
2 be provided to the complaints and enforcement officer or
3 ombudsman no later than thirty days after receipt of the
4 complaints and enforcement officer's request or as determined by
5 the complaints and enforcement officer upon a showing of good
6 cause; provided that if the complaints and enforcement officer
7 or ombudsman is denied access to any item in subsection (a), the
8 complaints and enforcement officer or ombudsman may request the
9 commission to conduct an investigation of the matter pursuant to
10 section 514B-65.

11 [+(g)] (h) This section shall apply to all condominiums
12 organized under this chapter or any predecessor thereto.

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

16 SECTION 17. Section 514B-157, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§514B-157 Attorneys' fees, delinquent assessments, and**
19 **expenses of enforcement.** (a) Fees for attorneys' services
20 incurred by a board shall not be reimbursed by individual unit
21 owners when the services are for the purposes of:



- 1 (1) Responding to written or oral inquiries, comments,
2 complaints, or requests for dispute intervention by
3 unit owners regarding condominium operations, property
4 usage, board fiduciary duties, common elements, and
5 resident actions;
- 6 (2) Expressing unit owners' intentions to challenge the
7 existing declaration, bylaws, and rules of the
8 association; or
- 9 (3) Participation in criminal defense resulting from unit
10 owners' allegations of wrongdoing based on the board's
11 performance of fiduciary responsibilities.

12 (b) All costs and expenses, including reasonable
13 attorneys' fees, incurred by or on behalf of the association
14 for:

- 15 (1) Collecting any delinquent assessments, including
16 commercial property assessed financing assessments
17 imposed pursuant to section 196-64.5, against any
18 owner's unit;
- 19 (2) Foreclosing any lien thereon; or



1 (3) Enforcing any provision of the declaration, bylaws,
2 house rules, and this chapter, or the rules of the
3 real estate commission;
4 against an owner, occupant, tenant, employee of an owner, or any
5 other person who may in any manner use the property, shall be
6 promptly paid on demand to the association by the person or
7 persons; provided that if the claims upon which the association
8 takes any action are not substantiated, all costs and expenses,
9 including reasonable attorneys' fees, incurred by any applicable
10 person or persons as a result of the action of the association,
11 shall be promptly paid on demand to the person or persons by the
12 association[‐]; provided further that if a unit owner requests
13 dispute intervention and resolution that initiates an
14 investigation by the ombudsman's office, costs and expenses for
15 the investigation shall be suspended until the complaints and
16 enforcement officer completes the investigation and issues a
17 decision on the matter.

18 [+] (b) (c) If any claim by an owner is substantiated in any
19 action against an association, any of its officers or directors,
20 or its board to enforce any provision of the declaration,
21 bylaws, house rules, or this chapter, then all reasonable and



1 necessary expenses, costs, and attorneys' fees incurred by an
2 owner shall be awarded to [such] the owner; provided that no
3 such award shall be made in any derivative action unless:

4 (1) The owner first shall have demanded and allowed
5 reasonable time for the board to pursue such
6 enforcement; or
7 (2) The owner demonstrates to the satisfaction of the
8 court that a demand for enforcement made to the board
9 would have been fruitless.

10 If any claim by an owner is not substantiated in any court
11 action against an association, any of its officers or directors,
12 or its board to enforce any provision of the declaration,
13 bylaws, house rules, or this chapter, then all reasonable and
14 necessary expenses, costs, and attorneys' fees incurred by an
15 association shall be awarded to the association, unless before
16 filing the action in court the owner has first submitted the
17 claim to dispute intervention and resolution through the
18 ombudsman's office, mediation, or [to] arbitration under subpart
19 D, and made a good faith effort to resolve the dispute [under
20 any of these procedures].



1 SECTION 18. Section 514B-163, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[t]§514B-163[]] **Trial de novo and appeal.** (a) The
4 submission of any dispute to the ombudsman's office or an
5 arbitration under section 514B-162 shall in no way limit or
6 abridge the right of any party to a trial de novo.

7 (b) Written demand for a trial de novo by any party
8 desiring a trial de novo shall be made upon the other parties
9 within [ten] sixty days after service of the final decision by
10 the ombudsman or the ombudsman's office or arbitration award
11 upon all parties and the trial de novo shall be filed in circuit
12 court within [thirty] ninety days of the written demand.
13 Failure to meet these deadlines shall preclude a party from
14 demanding a trial de novo.

15 (c) The award of arbitration shall not be made known to
16 the trier of fact at a trial de novo.

17 (d) In any trial de novo demanded under this section, if
18 the party demanding a trial de novo does not prevail at trial,
19 the party demanding the trial de novo [shall] may be charged
20 with all reasonable costs, expenses, and attorneys' fees of the
21 trial. When there is more than one party on one or both sides



1 of an action, or more than one issue in dispute, the court
2 [shall] may allocate its award of costs, expenses, and
3 attorneys' fees among the prevailing parties and tax [such] the
4 fees against those nonprevailing parties who demanded a trial de
5 novo in accordance with the principles of equity."

6 SECTION 19. Section 514B-191, Hawaii Revised Statutes, is
7 amended by amending subsection (a) to read as follows:

8 "(a) An association, board, managing agent, resident
9 manager, unit owner, or any person acting on behalf of an
10 association or a unit owner shall not retaliate against a unit
11 owner, board member, managing agent, resident manager, or
12 association employee who, through a lawful action done in an
13 effort to address, prevent, or stop a violation of this chapter
14 or governing documents of the association:

15 (1) Complains or otherwise reports an alleged violation;
16 (2) Causes a complaint or report of an alleged violation
17 to be filed with the association, the commission, the
18 ombudsman's office, or other appropriate entity;
19 (3) Participates in or cooperates with an investigation of
20 a complaint or report filed with the association, the



3 (4) Otherwise acts in furtherance of a complaint, report,
4 or investigation concerning an alleged violation; or
5 (5) Exercises or attempts to exercise any right under this
6 chapter or the governing documents of the
7 association."

8 SECTION 20. There is appropriated out of the condominium
9 education trust fund the sum of \$ or so much thereof as
10 may be necessary for fiscal year 2026-2027 for the
11 administrative costs associated with the establishment of the
12 ombudsman's office for condominium associations within the
13 department of commerce and consumer affairs, including the
14 hiring of necessary staff.

15 The sums appropriated shall be expended by the department
16 of commerce and consumer affairs for the purposes of this Act.

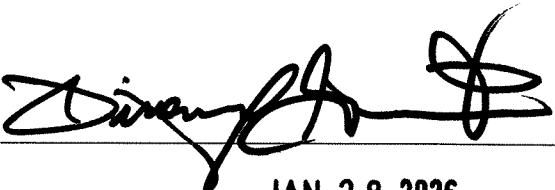
17 SECTION 21. In codifying the new sections added by section
18 2 of this Act, the revisor of statutes shall substitute
19 appropriate section numbers for the letters used in designating
20 the new sections in this Act.



1 SECTION 22. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 23. This Act shall take effect on January 1, 2027;
4 provided that sections 20 and 21 shall take effect on July 1,
5 2026.

6

INTRODUCED BY: 

JAN 28 2026



H.B. NO. 2580

Report Title:

DCCA; Condominiums; Condominium Associations; Ombudsman's Office; Dispute Intervention and Resolution; Complaints and Enforcement Officers; Appropriation

Description:

Establishes the Ombudsman's Office for Condominium Associations within the Department of Commerce and Consumer Affairs. Updates the Condominium Property Act to integrate the role and functions of the ombudsman's office for condominium associations. Appropriates funds from the Condominium Education Trust Fund for establishment of the Ombudsman's Office for Condominium Associations.

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

