

JAN 23 2026

A BILL FOR AN ACT

RELATING TO CONDOMINIUMS.

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

1 SECTION 1. The legislature finds that association-governed
2 residential condominium communities comprise a significant
3 portion of the State's housing stock. The number of individuals
4 living in residences governed by condominium associations has
5 risen steadily for over sixty years and is expected to increase
6 because it is one of the more affordable means of home
7 ownership.

8 The legislature also finds that the state should support
9 policies that foster trust and confidence in association
10 governance, maintain the representative character of
11 associations, and ensure ongoing viability of this type of
12 property ownership.

13 The legislature also finds that, although the use of
14 proxies in condominium association board elections provides the
15 appearance of greater member participation, there have been
16 numerous reports of cases where proxies are used by incumbent
17 board directors to pre-determine the outcome of an association



1 board election, at times with the assistance of managing agents,
2 by using blocks of proxies to reelect themselves and remain in
3 their positions for decades.

4 The legislature additionally finds that elections by direct
5 owner ballot votes, by mail or in-person, remove the need for
6 proxy assignments, ensuring fairer elections for condominium
7 association boards.

8 Accordingly, the purpose of this Act is to:

- 9 (1) Modify quorum requirements and repeal statutory proxy
10 voting provisions for condominium association board
11 elections;
- 12 (2) Authorize the real estate commission to take any of
13 the following actions for alleged or actual violations
14 of rules or laws relating to condominium association
15 board elections:
 - 16 (A) Undertake investigations;
 - 17 (B) Undertake civil proceedings in a court with the
18 intention of enjoining certain acts or practices;
 - 19 (C) Issue and serve cease and desist orders; and
 - 20 (D) Impose penalties;



1 (3) Impose certain duties and obligations on condominium
2 association board members with regard to election
3 processes;

4 (4) Clarify the conditions for a valid condominium
5 association board election; and

6 (5) Substitute certain requirements for written affidavits
7 with requirements for written certification in
8 relation to access to certain association documents.

9 SECTION 2. Section 514B-61, Hawaii Revised Statutes, is
10 amended by amending subsection (b) to read as follows:

11 "(b) If it appears that any person has engaged, is
12 engaging, or is about to engage in any act or practice in
13 violation of this part, part V, section 514B-103, 514B-121,
14 514B-123, 514B-124.5, 514B-132, 514B-134, 514B-149, sections
15 514B-152 to 514B-154, section 514B-154.5, or any of the
16 commission's related rules or orders, the commission, without
17 prior administrative proceedings, may maintain an action in the
18 appropriate court to enjoin that act or practice or for other
19 appropriate relief. The commission shall not be required to
20 post a bond or to prove that no adequate remedy at law exists in
21 order to maintain the action."



1 SECTION 3. Section 514B-65, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§514B-65 Investigative powers.** If the commission has
4 reason to believe that any person is violating or has violated
5 this part, part V, section 514B-103, 514B-121, 514B-123,
6 514B-124.5, 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, the commission may conduct an
9 investigation of the matter and examine the books, accounts,
10 contracts, records, and files of all relevant parties. For
11 purposes of this examination, the developer and the real estate
12 broker shall keep and maintain records of all sales transactions
13 and of the funds received by the developer and the real estate
14 broker in accordance with chapter 467 and the rules of the
15 commission, and shall make the records accessible to the
16 commission upon reasonable notice and demand."

17 SECTION 4. Section 514B-66, Hawaii Revised Statutes, is
18 amended to read as follows:

19 **"§514B-66 Cease and desist orders.** In addition to its
20 authority under sections 514B-67 and 514B-68, whenever the
21 commission has reason to believe that any person is violating or



1 has violated this part, part V, section 514B-103, 514B-121,
2 514B-123, 514B-124.5, 514B-132, 514B-134, 514B-149, sections
3 514B-152 to 514B-154, section 514B-154.5, or the rules of the
4 commission adopted pursuant thereto, it may issue and serve upon
5 the person a complaint stating its charges in that respect and
6 containing a notice of a hearing at a stated place and upon a
7 day at least thirty days after the service of the complaint.
8 The person served [~~has~~] shall have the right to appear at the
9 place and time specified and show cause why an order should not
10 be entered by the commission requiring the person to cease and
11 desist from the violation of the law or rules charged in the
12 complaint. If the commission finds that this chapter or the
13 rules of the commission have been or are being violated, it
14 shall make a report in writing stating its findings as to the
15 facts and shall issue and cause to be served on the person an
16 order requiring the person to cease and desist from the
17 violations. The person, within thirty days after service upon
18 the person of the report or order, may obtain a review thereof
19 in the appropriate circuit court."

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



1 **"§514B-68 Power to enjoin.** Whenever the commission
2 believes from satisfactory evidence that any person has violated
3 this part, part V, section 514B-103, 514B-121, 514B-123,
4 514B-124.5, 514B-132, 514B-134, 514B-149, sections 514B-152 to
5 514B-154, section 514B-154.5, or the rules of the commission
6 adopted pursuant thereto, it may conduct an investigation of the
7 matter and bring an action against the person in any court of
8 competent jurisdiction on behalf of the State to enjoin the
9 person from continuing the violation or doing any acts in
10 furtherance thereof."

11 SECTION 6. Section 514B-69, Hawaii Revised Statutes, is
12 amended to read as follows:

13 **"§514B-69 Penalties.** (a) Any person who violates or fails
14 to comply with this part, part V, section 514B-103, 514B-121,
15 514B-123, 514B-124.5, 514B-132, 514B-134, 514B-149, sections
16 514B-152 to 514B-154, or section 514B-154.5, shall be guilty of
17 a misdemeanor and shall be punished by a fine not exceeding
18 \$10,000, or by imprisonment for a term not exceeding one year,
19 or both. Any person who violates or fails to comply with any
20 rule, order, decision, demand, or requirement of the commission
21 under this part, part V, section 514B-103, 514B-121, 514B-123,



1 514B-124.5, 514B-132, 514B-134, 514B-149, sections 514B-152 to
2 514B-154, or section 514B-154.5, shall be punished by a fine not
3 exceeding \$10,000.

4 (b) In addition to any other actions authorized by law,
5 any person who violates or fails to comply with this part,
6 part V, section 514B-103, 514B-121, 514B-123, 514B-124.5,
7 514B-132, 514B-134, 514B-149, sections 514B-152 to 514B-154,
8 section 514B-154.5, or the rules of the commission adopted
9 pursuant thereto, shall also be subject to a civil penalty not
10 exceeding \$10,000 for any violation. Each violation shall
11 constitute a separate offense."

12 SECTION 7. Section 514B-106, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§514B-106 Board; powers and duties.** (a) Except as
15 provided in the declaration, the bylaws, subsection (b), or
16 other provisions of this chapter, the board may act in all
17 instances on behalf of the association. In the performance of
18 their duties, officers and members of the board shall owe the
19 association a fiduciary duty and exercise the degree of care and
20 loyalty required of an officer or director of a corporation
21 organized under chapter 414D. Any violation by a board or its



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

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



1 vacancies shall be held on a date that allows sufficient time
2 for owners to declare their intention to run for election and to
3 solicit [~~proxies~~] votes for that purpose.

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

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

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

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

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



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

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

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



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

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

16 (g) Within ninety days after being elected or appointed to
17 the board, each newly elected or appointed director shall
18 certify in writing to the secretary of the association that the
19 director:

20 (1) Has read the association's declaration, articles of
21 incorporation, bylaws, house rules, and other



1 association documents necessary for the operation of
2 the property;

3 (2) Shall work to uphold the association's declaration,
4 articles of incorporation, bylaws, house rules, and
5 other association documents to the best of the
6 director's ability; and

7 (3) Shall faithfully discharge the director's fiduciary
8 duty to the association;

9 provided that the written certification shall be valid for the
10 entirety of the director's uninterrupted term of office. A
11 director who fails to timely file the written certification
12 shall be automatically suspended from service on the board until
13 the director complies with this subsection. The board may
14 appoint a member to temporarily fill the vacancy during the
15 director's period of suspension. The secretary shall retain the
16 director's written certification for inspection by association
17 members for five years after a director's election or
18 appointment, or the duration of the director's uninterrupted
19 term of office, whichever is longer. Failure to retain a record
20 of a director's written certification shall not affect the
21 validity of any board action."



1 SECTION 8. Section 514B-121, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending subsection (c) to read:

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

20 2. By amending subsection (e) to read:



1 "(e) Notwithstanding any provision to the contrary in the
2 association's declaration or bylaws, electronic meetings,
3 electronic voting, and mail voting may be authorized by the
4 board in its sole discretion:

5 (1) During any period in which a state of emergency or
6 local state of emergency, declared pursuant to chapter
7 127A, is in effect in the county in which the
8 condominium is located;

9 (2) For any association meeting for which notice was given
10 while a state of emergency or local state of
11 emergency, declared pursuant to chapter 127A, was in
12 effect for the county in which the condominium is
13 located but is no longer in effect as of the date of
14 the meeting; provided that the meeting is held within
15 sixty days of the date the notice was first given;

16 (3) When approved by adoption of a special meeting rule at
17 an association meeting that permits the board to
18 authorize electronic meetings, electronic voting, and
19 mail voting;



- 1 (4) When approved [~~ne~~] not less than three months and [~~ne~~]
- 2 not more than eighteen months before the electronic
- 3 meeting, electronic voting, and mail voting by:
- 4 (A) Written consent of a majority of unit owners; or
- 5 (B) Majority vote at an association meeting; or
- 6 (5) Whenever otherwise authorized in an association's
- 7 declaration or bylaws.

8 For any electronic meetings, electronic voting, and mail
 9 voting, the voting deadline shall be within sixty days of the
 10 date the notice was first sent. The association shall implement
 11 reasonable measures to verify that each person permitted to vote
 12 is a member of the association [~~or proxy of a member~~].

13 As used in this subsection, "mail voting" includes sending
 14 or receiving written ballots via mail, courier, or electronic
 15 transmission; provided that the transmission is a complete
 16 reproduction of the original."

17 SECTION 9. Section 514B-123, Hawaii Revised Statutes, is
 18 amended to read as follows:

19 "**§514B-123 Association meetings; voting; [~~proxies-~~**
 20 **ballots; notice of election.** (a) If only one of several owners
 21 of a unit is present at a meeting of the association, that owner



1 [is] shall be entitled to cast all the votes allocated to that
2 unit. If more than one of the owners is present, the votes
3 allocated to that unit may be cast only in accordance with the
4 agreement of a majority in interest of the owners, unless the
5 declaration or bylaws expressly provide otherwise. There is
6 majority agreement if any one of the owners casts the votes
7 allocated to that unit without protest being made by any of the
8 other owners of the unit to the person presiding over the
9 meeting before the polls are closed.

10 (b) ~~[Votes allocated to a unit may be cast pursuant to a~~
11 ~~proxy duly executed by a unit owner.]~~ A unit owner may vote by
12 mail or electronic transmission ~~[through a duly executed proxy].~~
13 If a unit is owned by more than one person, each owner of the
14 unit may vote or register protest to the casting of votes by the
15 other owners of the unit ~~[through a duly executed proxy].~~ In
16 the absence of protest, any owner may cast the votes allocated
17 to the unit ~~[by proxy. A unit owner may revoke a proxy given~~
18 ~~pursuant to this section only by actual notice of revocation to~~
19 ~~the secretary of the association or the managing agent. A proxy~~
20 ~~is void if it purports to be revocable without notice].~~



1 (c) No votes allocated to a unit owned by the association
2 may be cast for the election or reelection of directors;
3 provided that, notwithstanding section 514B-106(b) or any
4 provision in an association's declaration or bylaws to the
5 contrary, in a mixed-use project containing units for
6 residential and nonresidential use, where the board is comprised
7 of directors elected by owners of residential units and
8 directors elected by owners of nonresidential units, the
9 association, acting by and through its board, may cast the vote
10 or votes allocated to any nonresidential unit owned by the
11 association in any election of one or more directors where those
12 eligible to vote in the election are limited to owners of one or
13 more nonresidential units, which includes the nonresidential
14 unit owned by the association.

15 (d) A [~~proxy~~] ballot, to be valid, shall:

16 (1) Be delivered to the secretary of the association or
17 the managing agent, if any, [~~no~~] not later than 4:30
18 p.m. Hawaii-Aleutian Standard Time on the second
19 business day [~~prior to~~] before the date of the meeting
20 to which it pertains; and



1 (2) Contain at least the name of the association~~[,]~~ and
2 the date of the meeting of the association~~[, the~~
3 ~~printed names and signatures of the persons giving the~~
4 ~~proxy, the unit numbers for which the proxy is given,~~
5 ~~the names of persons to whom the proxy is given, and~~
6 ~~the date that the proxy is given].~~

7 ~~[(e) If a proxy is a standard proxy form authorized by the~~
8 ~~association, the proxy shall comply with the following~~
9 ~~additional requirements:~~

10 ~~(1) The proxy shall contain boxes wherein the owner may~~
11 ~~indicate that the proxy is given:~~

12 ~~(A) For quorum purposes only;~~

13 ~~(B) To the individual whose name is printed on a line~~
14 ~~next to this box;~~

15 ~~(C) To the board as a whole and that the vote is to~~
16 ~~be made on the basis of the preference of the~~
17 ~~majority of the directors present at the meeting;~~

18 ~~or~~

19 ~~(D) To those directors present at the meeting with~~
20 ~~the vote to be shared with each director~~
21 ~~receiving an equal percentage;~~



1 ~~provided that if the proxy is returned with no box or~~
2 ~~more than one of the boxes in subparagraphs (A)~~
3 ~~through (D) checked, the proxy shall be counted for~~
4 ~~quorum purposes only; and~~

5 ~~(2) The proxy form shall also contain a box wherein the~~
6 ~~owner may indicate that the owner wishes to obtain a~~
7 ~~copy of the annual audit report required by section~~
8 ~~514B-150.~~

9 ~~(f) A proxy shall only be valid for the meeting to which~~
10 ~~the proxy pertains and its adjournments, may designate any~~
11 ~~person as proxy, and may be limited as the unit owner desires~~
12 ~~and indicates; provided that no proxy shall be irrevocable~~
13 ~~unless coupled with a financial interest in the unit.]~~

14 (e) In the case of any election of one or more directors,
15 to be valid, a ballot shall:

16 (1) List all eligible candidates in alphabetical order by
17 last name, without indicating whether any candidate is
18 an incumbent;

19 (2) Not allow for write-in candidates; and

20 (3) Not contain a space for the owner's signature.

21 (f) With respect to any election of one or more directors:



- 1 (1) The first notice of election shall:
- 2 (A) Be mailed or electronically submitted to each
- 3 unit owner at least sixty days before the
- 4 election;
- 5 (B) Contain the correct name and mailing address of
- 6 the association; and
- 7 (C) Contain language reminding unit owners of the
- 8 notice of intent requirements under subsection
- 9 (g); and
- 10 (2) The second notice of election shall:
- 11 (A) Be mailed to unit owners between twenty-one and
- 12 thirty-four days before the election;
- 13 (B) Be accompanied by:
- 14 (i) The written annual meeting notice and
- 15 agenda;
- 16 (ii) A printed ballot for each unit owned by that
- 17 owner; and
- 18 (iii) An envelope that meets the requirements of
- 19 subsection (j); and



1 (C) Be posted conspicuously and continuously on the
2 condominium property at least twenty-one days
3 before the annual meeting and election.

4 (g) A unit owner who wishes to serve on the board shall
5 submit written notice of intent to the board or managing agent
6 not later than forty days before the election, accompanied by a
7 written statement to the board of the unit owner's
8 qualifications to serve on the board or reasons for wanting to
9 receive votes. The statement shall be limited to black text on
10 one side of white paper, which shall not exceed the size of
11 eight and one-half inches by eleven inches.

12 (h) The written notice of intent under subsection (g)
13 shall be deemed effective upon receipt by the association when
14 submitted by one or more of the following methods:

- 15 (1) Certified mail, return receipt requested;
- 16 (2) Personal delivery;
- 17 (3) Regular mail; or
- 18 (4) Facsimile.

19 Upon receipt of a timely written notice by personal
20 delivery, regular mail, or facsimile, the association shall
21 issue a written acknowledgement of receipt to the unit owner.



1 (i) If a member of the board, in the member's individual
2 capacity, seeks to solicit votes using association funds, the
3 board member shall submit written notice of intent to the board
4 not later than forty days before the election, accompanied by a
5 written statement to the board indicating the member's reason
6 for wanting to receive votes.

7 (j) A ballot envelope that accompanies the second notice
8 of election under subsection (f) (2) shall contain:

9 (1) An unmarked, smaller inner envelope to ensure secrecy
10 in voting for each completed ballot;

11 (2) A larger, outer envelope to return each completed
12 ballot, preaddressed to the person or entity
13 authorized to receive ballots on behalf of the
14 association, with space on the outside of the envelope
15 for:

16 (A) The name of the eligible unit owner, unit number,
17 and unit owner's signature; and

18 (B) A box to indicate whether the unit owner wishes
19 to receive a copy of the annual audit report
20 required by section 514B-150;



1 (3) A copy of any written statements received by the board
2 under subsection (g); and

3 (4) Instructions directing a unit owner, upon completion
4 of the ballot, to place the ballot in the inner
5 envelope, place the sealed inner envelope in the outer
6 envelope, and seal the outer envelope.

7 [~~g~~] (k) A copy, facsimile telecommunication, or other
8 reliable reproduction of a [~~proxy~~] ballot may be used in lieu of
9 the original [~~proxy~~] ballot for any and all purposes for which
10 the original [~~proxy~~] ballot could be used; provided that any
11 copy, facsimile telecommunication, or other reproduction shall
12 be a complete reproduction of the entire original [~~proxy-~~]
13 ballot.

14 [~~h~~] ~~Nothing in this section shall affect the holder of~~
15 ~~any proxy under a first mortgage of record encumbering a unit or~~
16 ~~under an agreement of sale affecting a unit.~~

17 [~~i~~] ~~With respect to the use of association funds to~~
18 ~~distribute proxies:~~

19 [~~l~~] ~~Any board that intends to use association funds to~~
20 ~~distribute proxies, including the standard proxy form~~
21 ~~referred to in subsection (e), shall first post notice~~



1 ~~of its intent to distribute proxies in prominent~~
2 ~~locations within the project at least twenty-one days~~
3 ~~before its distribution of proxies. If the board~~
4 ~~receives within seven days of the posted notice a~~
5 ~~request by any owner for use of association funds to~~
6 ~~solicit proxies accompanied by a statement, the board~~
7 ~~shall mail to all owners either:~~

8 ~~(A) A proxy form containing the names of all owners~~
9 ~~who have requested the use of association funds~~
10 ~~for soliciting proxies accompanied by their~~
11 ~~statements; or~~

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

16 ~~The statement, which shall be limited to black text on~~
17 ~~white paper, shall not exceed one single-sided~~
18 ~~8-1/2" x 11" page, indicating the owner's~~
19 ~~qualifications to serve on the board or reasons for~~
20 ~~wanting to receive proxies; and~~



1 ~~(2) A board or member of the board may use association~~
2 ~~funds to solicit proxies as part of the distribution~~
3 ~~of proxies. If a member of the board, as an~~
4 ~~individual, seeks to solicit proxies using association~~
5 ~~funds, the board member shall proceed as a unit owner~~
6 ~~under paragraph (1).~~

7 ~~(j) No managing agent or resident manager, or their~~
8 ~~employees, shall solicit, for use by the managing agent or~~
9 ~~resident manager, any proxies from any unit owner of the~~
10 ~~association that retains the managing agent or employs the~~
11 ~~resident manager, nor shall the managing agent or resident~~
12 ~~manager cast any proxy vote at any association meeting except~~
13 ~~for the purpose of establishing a quorum.~~

14 ~~(k)]~~ (1) No board shall adopt any rule prohibiting the
15 solicitation of [~~proxies~~] votes or distribution of materials
16 relating to association matters on the common elements by unit
17 owners; provided that a board may adopt rules regulating
18 reasonable time, place, and manner of the solicitations or
19 distributions, or both."

20 SECTION 10. Section 514B-124.5, Hawaii Revised Statutes,
21 is amended to read as follows:



1 " ~~[+]~~§514B-124.5 ~~[+]~~ **Voting for elections; cumulative**
2 **voting~~[-]~~; runoff elections; penalties.** (a) If the bylaws
3 provide for cumulative voting for an election at a meeting, each
4 unit owner [~~present in person or represented by proxy~~] shall
5 have a number of votes equal to the unit owner's voting
6 percentage multiplied by the number of positions to be filled at
7 the election.

8 (b) Each unit owner shall be entitled to cumulate the
9 votes of the unit owner and give all of the votes to one nominee
10 or distribute the votes among any or all of the nominees.

11 (c) The nominee or nominees receiving the highest number
12 of votes under this section, up to the total number of positions
13 to be filled, shall be deemed elected and shall be given the
14 longest term.

15 (d) This section shall not prevent the filling of
16 vacancies on the board of directors in accordance with this
17 chapter and the association's governing documents.

18 (e) A quorum shall not be required to hold an election;
19 provided that the election shall not be valid unless at least
20 twenty per cent of the eligible unit owners cast ballots. The
21 association shall have blank ballots available at the election



1 for distribution to eligible unit owners who have not yet voted.
2 The ballots shall be handled in the same manner as ballots
3 submitted with the second notice of election under subsection
4 514B-123(f)."

5 (f) No unit owner shall authorize any other person to vote
6 on the owner's behalf; provided that a unit owner who requires
7 assistance casting a ballot may obtain assistance.

8 (g) The regular election of directors shall occur at the
9 annual meeting. The first order of business at the annual
10 meeting shall be the collection of ballots not yet cast.

11 (h) An election shall not be required unless the number of
12 candidates who file notices of intent pursuant to subsection
13 514B-123(g), or the number of candidates who are nominated,
14 exceed the number of board vacancies, or the board vacancies are
15 for unequal terms of office.

16 (i) The association shall conduct a runoff election for
17 candidates who tie unless the bylaws provide for a different
18 method for deciding tied votes. If a runoff election is
19 required, the runoff election shall be held between twenty-one
20 days and thirty days after the date of the election at which the
21 tied vote occurred. Within seven days of the election at which



1 the tied vote occurred, the board shall mail or personally
2 deliver to the unit owners a notice of runoff election and meet
3 the requirements for ballot envelopes specified under section
4 514B-123(j).

5 (j) Any challenge to the election process shall be
6 commenced within sixty days after the election results are
7 announced.

8 (k) A ballot that is not cast in accordance with this
9 chapter shall be deemed invalid.

10 (l) Any person who knowingly votes when the person is not
11 entitled to vote under this chapter shall be guilty of a class C
12 felony.

13 (m) Forgery of a ballot envelope used in an election under
14 this chapter or certificate of election shall be punishable as
15 forgery in the third degree pursuant to section 708-853."

16 SECTION 11. Section 514B-150, Hawaii Revised Statutes, is
17 amended by amending subsection (b) to read as follows:

18 "(b) The board shall make available a copy of the annual
19 audit to each unit owner at least thirty days [~~prior to~~] before
20 the annual meeting [~~which~~] that follows the end of the fiscal
21 year. The board shall not be required to submit a copy of the



1 annual audit report to an owner if the [~~proxy form~~] ballot
2 envelope issued pursuant to section [~~514B-123(e)~~] 514B-123(j) is
3 not marked to indicate that the owner wishes to obtain a copy of
4 the report. If the annual audit has not been completed by that
5 date, the board shall make available:

- 6 (1) An unaudited [~~year-end~~] year-end financial statement
7 for the fiscal year to each unit owner at least thirty
8 days [~~prior to~~] before the annual meeting; and
9 (2) The annual audit to all owners at the annual meeting,
10 or as soon as the audit is completed, but not later
11 than six months after the annual meeting."

12 SECTION 12. Section 514B-153, Hawaii Revised Statutes, is
13 amended by amending subsection (e) to read as follows:

14 "(e) The managing agent, resident manager, or board shall
15 keep an accurate and current list of members of the association
16 and their current addresses, and the names and addresses of the
17 vendees under an agreement of sale, if any. The list shall be
18 maintained at a place designated by the board, and a copy shall
19 be available, at cost, to any member of the association as
20 provided in the declaration or bylaws or rules and regulations
21 or, in any case, to any member who furnishes to the managing



1 agent or resident manager or the board a [~~duly executed and~~
2 ~~acknowledged affidavit~~] written certification stating that the
3 list:

- 4 (1) Will be used by the owner personally and only for the
5 purpose of soliciting votes [~~or proxies~~] or providing
6 information to other owners with respect to
7 association matters; and
8 (2) Shall not be used by the owner or furnished to anyone
9 else for any other purpose.

10 A board may prohibit commercial solicitations.

11 Where the condominium project or any units within the
12 project are subject to a time share plan under chapter 514E, the
13 association shall only be required to maintain in its records
14 the name and address of the time share association as the
15 representative agent for the individual time share owners unless
16 the association receives a request by a time share owner to
17 maintain in its records the name and address of the time share
18 owner."

19 SECTION 13. Section 514B-154, Hawaii Revised Statutes, is
20 amended by amending subsection (c) to read as follows:



1 "(c) After any association meeting, and not earlier, unit
2 owners shall be permitted to examine [~~proxies,~~] tally sheets,
3 ballots, owners' check-in lists, and the certificate of
4 election; provided that:

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

7 (2) The board may require owners to furnish to the
8 association a [~~duly executed and acknowledged~~
9 affidavit] written certification stating that the
10 information is requested in good faith for the
11 protection of the interest of the association or its
12 members or both; and

13 (3) Owners shall pay for administrative costs in excess of
14 eight hours per year.

15 The documents may be destroyed ninety days after the
16 association meeting; provided that in the event of a contested
17 election, the documents shall be retained until the contested
18 election is resolved. Copies of tally sheets, owners' check-in
19 lists, and the certificates of election from the most recent
20 association meeting shall be provided to any owner upon the
21 owner's request; provided that the owner pays a reasonable fee



1 for duplicating, postage, stationery, and other administrative
2 costs associated with handling the request."

3 SECTION 14. Section 514B-154.5, Hawaii Revised Statutes,
4 is amended by amending subsection (a) to read as follows:

5 "(a) Notwithstanding any other provision in the
6 declaration, bylaws, or house rules, if any, the following
7 documents, records, and information, whether maintained, kept,
8 or required to be provided pursuant to this section or section
9 514B-152, 514B-153, or 514B-154, shall be made available to any
10 unit owner and the owner's authorized agents by the managing
11 agent, resident manager, board through a board member, or the
12 association's representative:

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

16 (2) An accurate copy of the declaration, bylaws, house
17 rules, if any, master lease, if any, a sample original
18 conveyance document, and all public reports and any
19 amendments thereto;

20 (3) Detailed, accurate records in chronological order of
21 the receipts and expenditures affecting the common



1 elements, specifying and itemizing the maintenance and
2 repair expenses of the common elements and any other
3 expenses incurred and monthly statements indicating
4 the total current delinquent dollar amount of any
5 unpaid assessments for common expenses;

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

10 (5) All signed and executed agreements for managing the
11 operation of the property, expressing the agreement of
12 all parties, including but not limited to financial
13 and accounting obligations, services provided, and any
14 compensation arrangements, including any subsequent
15 amendments;

16 (6) An accurate and current list of members of the
17 condominium association and the members' current
18 addresses and the names and addresses of the vendees
19 under an agreement of sale, if any. A copy of the
20 list shall be available, at cost, to any unit owner or
21 owner's authorized agent who furnishes to the managing



1 agent, resident manager, or the board a [~~duly executed~~
2 ~~and acknowledged affidavit~~] written certification
3 stating that the list:

4 (A) Shall be used by the unit owner or owner's
5 authorized agent personally and only for the
6 purpose of soliciting votes [~~or proxies~~] or for
7 providing information to other unit owners with
8 respect to association matters; and

9 (B) Shall not be used by the unit owner or owner's
10 authorized agent or furnished to anyone else for
11 any other purpose;

12 (7) The association's most current financial statement, at
13 no cost or on twenty-four-hour loan, at a convenient
14 location designated by the board;

15 (8) Meeting minutes of the association, pursuant to
16 section 514B-122;

17 (9) Meeting minutes of the board, pursuant to section
18 514B-126, which shall be:

19 (A) Available for examination by unit owners or
20 owners' authorized agents at no cost or on



1 twenty-four-hour loan at a convenient location at
2 the project, to be determined by the board; or

3 (B) Transmitted to any unit owner or owner's
4 authorized agent making a request for the minutes
5 within fifteen days of receipt of the request by
6 the owner or owner's authorized agent; provided
7 that:

8 (i) The minutes shall be transmitted by mail,
9 electronic mail transmission, or facsimile,
10 by the means indicated by the owner or
11 owner's authorized agent, if the owner or
12 owner's authorized agent indicated a
13 preference at the time of the request; and

14 (ii) The owner or owner's authorized agent shall
15 pay a reasonable fee for administrative
16 costs associated with handling the request,
17 subject to section 514B-105(d);

18 (10) Financial statements, general ledgers, the accounts
19 receivable ledger, accounts payable ledgers, check
20 ledgers, insurance policies, contracts, and invoices
21 of the association for the duration those records are



1 kept by the association, and any documents regarding
2 delinquencies of ninety days or more shall be
3 available for examination by unit owners or owners'
4 authorized agents at convenient hours at a place
5 designated by the board; provided that:

6 (A) The board may require unit owners or owners'
7 authorized agents to furnish to the association a
8 ~~[duly executed and acknowledged affidavit]~~
9 written certification stating that the
10 information is requested in good faith for the
11 protection of the interests of the association,
12 its members, or both; and

13 (B) Unit owners or owners' authorized agents shall
14 pay for administrative costs in excess of eight
15 hours per year;

16 (11) ~~[Proxies, tally]~~ Tally sheets, ballots, unit owners'
17 check-in lists, and the certificate of election
18 subject to section 514B-154(c);

19 (12) Copies of an association's documents, records, and
20 information, whether maintained, kept, or required to



1 be provided pursuant to this section or section
2 514B-152, 514B-153, or 514B-154;

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

6 (14) Other documents requested by a unit owner or owner's
7 authorized agent in writing; provided that the board
8 shall give written authorization or written refusal
9 with an explanation of the refusal within thirty
10 calendar days of receipt of a request for documents
11 pursuant to this paragraph; and

12 (15) A copy of any contract, written job description, and
13 compensation between the association and any person or
14 entity retained by the association to manage the
15 operation of the property on-site, including but not
16 limited to the general manager, operations manager,
17 resident manager, or site manager; provided that
18 personal information may be redacted from the contract
19 copy, including but not limited to the manager's date
20 of birth, age, signature, social security number,
21 residence address, telephone number, non-business



1 electronic mail address, driver's license number,
2 Hawaii identification card number, bank account
3 number, credit or debit card number, access code or
4 password that would permit access to the manager's
5 financial accounts, or any other information that may
6 be withheld under state or federal law."

7 SECTION 15. This Act does not affect rights and duties
8 that matured, penalties that were incurred, and proceedings that
9 were begun before its effective date.

10 SECTION 16. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 17. This Act shall take effect upon its approval.

13

INTRODUCED BY: Carol Faleomavaega



S.B. NO. 2837

Report Title:

Real Estate Commission; Condominiums; Associations; Boards; Elections; Proxies; Repeal

Description:

Modifies quorum requirements and repeals condominium association board election proxy voting. Authorizes the Real Estate Commission to take certain actions in response to alleged or actual violations of rules or laws relating to condominium association board elections. Imposes certain duties and obligations on condominium association directors concerning election processes. Clarifies the conditions for a valid condominium association board election. Substitutes certain requirements for written affidavits with requirements for written certification in relation to access to association documents.

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

