

Proposed Amendments to Hawaii Condo Law HRS 514B

HRLNG Draft 2024.11.20 www.hoareformleaders.com/states-2/hawaii

The following document outlines proposed amendments to Hawaii's condominium law, **HRS 514B**, as well as complementary changes to related statutes. These amendments are designed to address long-standing issues in the governance, transparency, and accountability of homeowner associations (HOAs) and condominium property regimes (AOAOs) across the state. The proposals aim to empower homeowners, ensure fair practices, and prevent the exploitation of residents—particularly elderly individuals, those with limited incomes, and out-of-state property owners—by unscrupulous industry professionals and governing boards.

This document incorporates elements of the **20-Point Proposed Legislation Framework** developed by the Homeowners Reform Leaders National Group (HRLNG). The HRLNG framework has served as a foundation for homeowner advocacy nationwide, and the proposed changes here align with Hawaii's specific needs to protect owners and strengthen community governance.

Document Format:

Each proposed amendment is presented in the following format:

1. **HRLNG Reference:** Indicates which HRLNG principle or solution the amendment addresses.
2. **GOAL:** States the overarching objective of the amendment.
3. **Section of HRS 514B or Related Law:** Identifies the specific section of the Hawaii Revised Statutes to be amended.
4. **Original Text:** Provides the existing language of the statute or a brief description for context.
5. **Proposed Amendment:** Details the changes or additions to the statute, including new requirements, limits, or processes.

These amendments reflect a collaborative effort to modernize Hawaii's condominium governance laws and ensure they serve the best interests of homeowners. By increasing accountability, transparency, and fairness, we can create a framework that protects owners' rights, promotes sound financial practices, and fosters vibrant and sustainable communities.

We encourage readers to review each proposed amendment in detail and welcome any feedback or suggestions to strengthen these efforts. Together, we can work toward a more equitable and transparent system for all homeowners in Hawaii.

HRLNG #2: Penalties in the Law for Board Members and Property Managers that violate the Law or HOA Governing Documents

GOAL: State HOA Office and Board Accountability

1. **Creation of a New Section: Independent State HOA Office**
 - **Original Text:** *N/A (New Section)*

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- **Proposed Amendment:** Establish an independent State HOA Office with authority to investigate complaints, review disputes, and enforce state regulations and AOA governing documents. This office would be funded by a small annual fee from each HOA member, ensuring its operational independence.
2. **Section 514B-72 (Condominium Education Trust Fund)**
- **Original Text:** Associations and developers contribute to a fund intended for education of owners, associations, and developers.
 - **Proposed Amendment:** Expand the fund's use to support the creation of the State HOA Office to ensure adequate resources for enforcement and education. Contributions would come from owners' dues to sustain the Office.
3. **Section 514B-106 (Board; Powers and Duties)**
- **Original Text:** Empowers the board to manage the operation of the property and enforce compliance with governing documents.
 - **Proposed Amendment:** Require boards to act in good faith with enhanced transparency, incorporating checks against potential abuses of power and ensuring responsiveness to member complaints. Include penalties for non-compliance.
4. **Section 514B-161 (Mediation) and Section 514B-162 (Arbitration)**
- **Original Text:** Allows for mediation and arbitration as methods to resolve disputes.
 - **Proposed Amendment:** Require the HOA Office to review the legality of disputes before litigation or foreclosure. All fines must go through small claims court to ensure due process. This regulatory agency would educate and correct board actions if laws are breached.
5. **Section 514B-9 (Obligation of Good Faith)**
- **Original Text:** Imposes an obligation of good faith in the performance or enforcement of any duty or contract governed by this chapter.
 - **Proposed Amendment:** Specify penalties for intentional violations of good faith, including fines and removal from HOA positions.
6. **HRS 467 [*not 514b] (Real Estate Brokers and Salespersons)**
- **Original Text:** Governs licensing and conduct of real estate brokers and salespersons, including managing agents for HOAs.
 - **Proposed Amendment:** Increase transparency and accountability for managing agents, requiring disclosure of conflicts of interest and additional licensing for property management.

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7. Section 514B-107 (Board; Limitations):

- **Original Text:** Specifies what the board may do on behalf of the association, except as limited by the declaration or bylaws.
 - **Proposed Amendment:** Add provisions that prevent the board from enacting any rules or bylaws that infringe upon the constitutional rights of members, such as free speech. Any rule or bylaw found to be infringing upon these rights would be deemed null and void.
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HRLNG #3: Member Communication

GOAL: Fiscal Responsibility and Accessible Records

8. Section 514B-152 (Association Records)

- **Original Text:** Outlines requirements for the association to maintain records of its financial affairs and actions.
 - **Proposed Amendment:** Require a free, accessible member contact list to improve communication and transparency.
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HRLNG #4: Foreclosure

GOAL: Protect Owner's Equity, Debt Protections

9. Section 514B-146 (Association Fiscal Matters; Lien for Assessments)

- **Original Text:** Discusses how liens are created when an owner fails to pay their share of common expenses.
 - **Proposed Amendment:** Prohibit foreclosure unless the debt exceeds \$10,000 or \$1,000 per HOA unit, whichever is less. Require a 90-day notice and mediation offer before foreclosure proceedings.
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HRLNG #5: Covenants, Fines and Collection of Fines

GOAL: Financial Protections

10. Section 514B-112 (Condominium Governance; General Powers)

- **Original Text:** The association may adopt rules and regulations governing the operation and use of the common elements, as well as the administration of the property.

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- **Proposed Amendment:** Cap fines, late fees, and collection costs. Limit attorney fees for collections to 10% of the original debt to prevent exploitative practices.
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HRLNG #6: Fair Voting Laws for HOAs

GOAL: Voting and Election Reform

11. Section 514B-123 (Association Meetings; Voting; Proxies)

- **Original Text:** Discusses voting at association meetings, including by proxy.
- **Proposed Amendment:** Ensure equal voting rights with precautions so that no member can acquire disproportionate voting power through multiple property ownerships, and by eliminating proxies and quorum requirements for board elections. Add provisions for electronic voting to prevent vote manipulation.

12. Section 514B-124 (Association Meetings; Purchaser's Right to Vote)

- **Original Text:** Defines conditions under which unit purchasers may vote.
 - **Proposed Amendment:** Reinforce equal voting rights by ensuring no additional votes are granted based on property ownership beyond one vote per unit.
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HRLNG #13: Full Transparency

GOAL: Fiscal Responsibility and Accessible Records

13. Section 514B-152 (Association Records)

- **Original Text:** Outlines requirements for the association to maintain records of its financial affairs and actions.
- **Proposed Amendment:** Mandate detailed monthly financial disclosures posted on the association's public website.
- **Proposed Amendment:** Require a free, accessible member contact list to improve communication and transparency.