**REAL ESTATE COMMISSION**
**Department of Commerce and Consumer Affairs**
State of Hawaii
335 Merchant Street, Room 333
Honolulu, Hawaii 96813

CONDOMINIUM PROPERTY REGIME
Chapter 514B, Hawaii Revised Statutes

# GENERAL INFORMATION
**Effective For:**
**Condominium Property Regimes Created After July 1, 2006**
**Existing 514A Condominium Property Regimes Electing to Register under Chapter 514B, HRS**

A Condominium is a special form of ownership of real property. After July 1, 2006, a condominium property regime in Hawaii is created by complying with the requirements of the Condominium Property Act, Chapter 514B, Hawaii Revised Statutes (HRS). In addition, the condominium project shall comply with all applicable requirements and secure required approvals of the respective county in which the project is located. Any condominium property regime established under Chapter 514B, HRS, "shall conform to the existing underlying county zoning for the property and all applicable county permitting requirements adopted by the county in which the property is located, including any supplemental rules adopted by the county, pursuant to section 514B-6, to ensure the conformance of condominium property regimes to the purposes and provisions of county zoning and development ordinances and Chapter 205. In the case of a property which includes one or more existing structures being converted to condominium status, the condominium property regime shall comply with section 514B-32(a)(13) and 514B-84(a)."

A condominium property regime is created by recording in the Bureau of Conveyances and/or filing with the Office of the Assistant Registrar of the Land Court the master deed or lease and the declaration of Condominium Property Regime. A condominium property regime is not created by the Real Estate Commission (Commission).

Except for permissible preregistration solicitations[1], no units in a condominium project shall be offered for sale prior to the registration of the condominium project with the Commission, receipt of an effective date for the developer's public report from the Commission, and the delivery of the report to the prospective purchaser.[2] **The Commission does not approve or disapprove the condominium property regime or project** but merely reviews the developer's proposed public report to determine whether the public report adequately discloses all material facts to prospective buyers based on the information and documents (application package) submitted by the developer.

The developer's public report is non-expiring and the developer must amend the report to reflect any material or pertinent changes contained in or omitted from the report.

Many condominium projects are created but not offered for sale. In such cases, the Commission has not received any information or documents (an application package) from the developer nor has the developer issued any public report.

Developers are subject to the applicable laws, requirements, fees, and forms in effect at the time of filing.

[1] §514B-85, HRS
[2] §514B-82, HRS

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## EXCEPTIONS FROM REGISTRATION AND ISSUANCE OF AN EFFECTIVE DATE FOR A DEVELOPER'S PUBLIC REPORT

Developers are not required to register the condominium property regime or project with the Commission prior to selling or offering to sell any units in a condominium project for sales involving:

1. A gratuitous disposition of a unit;
2. A disposition pursuant to court order;
3. A disposition by a government or governmental agency;
4. A disposition by foreclosure or deed in lieu of foreclosure;
5. Projects in which all units are restricted to nonresidential uses and all units are to be sold for $1,000,000 or more; or
6. The sale of units in bulk, such as where a developer undertakes to develop and then sells all or a portion of the developer's entire inventory of units to a purchaser who is a developer. The registration requirements and the developer's amended developer's public report requirements shall apply to any sale of units to the public following a sale of units in bulk.

## PROCESSING INFORMATION

The process for the issuance of an effective date for the developer's public report takes approximately six to eight weeks and is as follows:

1. The developer submits to the Commission a complete application package, including fees and supporting documents in accordance with instructions.
2. Upon receipt by the Commission, the application package is reviewed for organization and deficiencies. If incomplete or unorganized, the developer is so notified and the processing of the application is suspended until corrections are made by the developer.
3. If the application package is organized and without deficiencies, then the application is administratively processed and the project is assigned to a condominium consultant for review. The developer is notified that all further communications concerning the project should be directed to the assigned condominium consultant.
4. The condominium consultant will communicate directly with the developer and/or its attorney with any questions, deficiencies, recommendations, etc.
5. Upon recommendation by the condominium consultant and Commission's acceptance of the recommendation, the commission will issue an effective date for the developer's public report. The developer will finalize the public report and provide the necessary copies to the Commission.

The processing time is dependent on the following factors, among others:

1. The organization, completeness, and accuracy of the filing;
2. The complexity and the number of non-traditional elements of the documents and the project;
3. The number of amendments, changes, or corrections initiated by the developer during the process;
4. Whether the project has problems or delays with the county review and approval process;
5. The backlog and volume of filings received by the Commission;
6. Whether the filing requires review and decision-making at the Commission's monthly meeting;
7. Whether the filing raises issues requiring an Attorney General opinion.

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## ADVERTISING INFORMATION

Prior to the registration of the condominium project with the Commission, the issuance of an effective date for the developer's public report by the Commission, and the delivery of the developer's public report to prospective purchasers, a developer and its agents under very limited circumstances may "solicit" prospective purchasers to encourage them to acquire a unit. The law defines "solicit" to mean advertise, induce, or to attempt in whatever manner to encourage a person to acquire a unit. However, the solicitation activities are subject to the following limitations:

1. The developer shall not collect any moneys from prospective purchasers or anyone on behalf of prospective purchasers, whether or not the moneys are to be placed in an escrow account, or whether or not the moneys would be refundable at the request of the prospective purchaser; and

2. The developer shall not require or request that a prospective purchaser execute any document other than a non-binding preregistration agreement. The preregistration agreement shall not incorporate the terms and provisions of the sales contract for the unit and, by its terms, shall not become a sales contract. Notwithstanding anything contained in the preregistration agreement to the contrary, the **preregistration agreement may be canceled at any time by either the developer or the prospective purchaser by written notice to the other.**

The Commission has prepared an approved preregistration agreement for use by the developer. Use of the Commission-prepared form shall be deemed to satisfy the requirements of the preregistration agreement as required by law. The form is included with this information packet. The developer is not required to use this form. If the developer chooses to use its own preregistration agreement form, the form must be submitted with its registration application.

## SALES TO OWNER-OCCUPANTS INFORMATION

In summary, Part V B. of Chapter 514B, HRS, requires that, except where excluded or inapplicable, a developer of a condominium project must designate at least fifty percent of the residential apartments in the project for sale to prospective owner-occupants through specifically described published announcements. Developers must review Part V B, Sales to Owner-Occupants, thoroughly.

## DEVELOPER'S PUBLIC REPORTS HAVE NO EXPIRATION DATES BUT ARE SUBJECT TO AMENDMENTS AND ANNUAL UPDATES

The developer's public report, any amendments, or amended developer's public report shall not expire until such time as the developer has sold all units in the project. When the developer has changes either material or pertinent, or both, regarding the information contained in or omitted from the developer's public report, the developer shall immediately submit to the Commission an amendment to the developer's public report or an amended developer's public report clearly reflecting any changes. Supporting information and documents for any changes must accompany any amendments. Within a reasonable period of time, the Commission may issue an effective date for the amendment or for an amended developer's public report or take other appropriate action.

The submission of an amendment to the developer's public report or an amended developer's public report shall not require the developer to suspend sales, subject to the power of the Commission to order sales to cease[3]; provided that the developer shall advise the appropriate real estate broker or brokers, if any, of the change and disclose to purchasers any change in the information contained in the developer's public report pending the issuance of an effective date for any amendment to the developer's public report or amended developer's public report.

[3] §514B-56, HRS

The developer shall provide all purchasers with a true copy of any amendments to the developer's public report, if the purchaser has received copies of the developer's public report and all prior amendments, if any; or a restated developer's public report, including all amendments and information.

Additionally, the developer, its successor, or assign shall file annually a report to update the materials contained in the developer's public report, together with the payment of nonrefundable fees, at least thirty days prior to the anniversary date of the effective date for a developer's public report. If there is no change to the developer's public report, the developer shall so state.

## COMMISSION APPROVED FORMS FOR USE WITH 514B, HRS PREREGISTRATION SOLICITATIONS AND SALES OR OFFER OF SALES OF UNITS

Commission approved forms for use with 514B, HRS preregistration solicitations and sales or offer of sales of units are included with this packet of information and instructions. Some of the approved forms are prescribed forms as required by 514B, HRS and must be used by the developer in their entirety without any changes to the content and format. Other approved forms are optional and may be used by the developer or the developer may create its own forms; however, if the Commission approved form is used, it must be used by the developer in its entirety without any changes to the content and format. If the developer chooses to use its own developed forms, the developer must include them in its application for registration of the condominium property regime or project.

The Commission approved prescribed forms that **must** be used in their entirety without any changes to the content and format include:

- Developer's Public Report For A Condominium RECO-30 B
- Notice of the Right To Cancel Sales Contract
- Notice of Material Change.

The Commission approved forms which **may** be used by the developer, and when used must be used by the developer in their entirety without any changes to the content and format include:

- Nonbinding Preregistration Agreement
- Receipt For Developer's Public Report
- Notice of Right to Rescind Sales Contract and Purchaser's Receipt
- Option to Rescind Sales Contract – Rescission Or Waiver Form.

## REPRINTS OF LAW AND RULES

The Condominium Property Regime laws (Chapter 514A, HRS, and Chapter 514B, HRS) and the Administrative Rules (Chapter 107) are available online. Please refer to the following sites:

Website to access official copy of laws: www.capitol.hawaii.gov
Website to access unofficial copy of laws: www.hawaii.gov/dcca/hrs
Website to access rules: www.hawaii.gov/dcca/har

## INSTRUCTIONS

1. Complete all forms using the form fillable form at www.hawaii.gov/hirec, a typewriter or **print legibly** in black ink.

2. Answer all questions and fill in all blanks. If not applicable, write or type in "NA." Incomplete, illegible or otherwise insufficient documents, exhibits and printed matter will be cause for rejection of the submission as well as delay or termination in processing.

3. Fees shall accompany filing as follows (all fees are subject to change):

   ***Initial Registration***

   $250 Application registration fee (non-refundable fee);
   $1000* Consultant review fee for each developer's public report (fee amount by contract);
   $5 Per unit in the project for condominium education fund for the issuance of an effective date for a developer's final public report

   ***Amendments***

   $75 Application amendment fee (non-refundable fee);
   $1000* Consultant review fee for any complex amended developer's public report;

   $75 Application amendment fee (non-refundable fee);
   $150* Consultant review fee for non-complex amended developer's public report (less than two changes).

   * Fee change effective 7/1/2008

   Make check payable to: Commerce and Consumer Affairs.

4. Submit one original and one copy of the completed executed application and project questionnaire; one copy of the proposed draft of the developer's public report and one copy each of all supporting documents. All papers must be bound in a file folder. Documents must be indexed and tabbed in the order listed on the "Documents For Issuance Of An Effective Date For A Developer's Public Report." (Tab no. 1 should be at the top of the file and supporting documents tabbed below.) Project file should be labeled with the condominium project name, developer's public report for which an effective date is requested.

   The letter-sized condominium map may be submitted under separate cover and not bound within the file folder. Label the condominium map by project name.

5. Simultaneously with the filing to the Commission, submit a copy of the completed and executed application, project questionnaire, condominium map and a copy of the proposed draft of the developer's public report to the appropriate county official in the county where the proposed condominium project is located.

County of Kauai:

Director
Planning Department
County of Kauai
4444 Rice Street, Suite 473
Lihue, HI 96766

Administrator
Real Property Assessment Div.
County of Kauai
4444 Rice Street, Suite A-454
Lihue, HI 96766

Acting Manager and Chief Engineer
Dept. of Water, County of Kauai
4398 Pua Loke Street
P.O. Box 1706
Lihue, HI 96766

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| | | |
|---|---|---|
| City and County of Honolulu: | Administrator *(Map & amendments only)*<br>Real Property Assessment Division<br>City and County of Honolulu<br>842 Bethel Street, 2nd Floor<br>Honolulu, HI 96813 | Director *(Suspended until further requested)*<br>Dept. of Planning & Permitting<br>City and County of Honolulu<br>650 South King Street<br>Honolulu, HI 96813 |
| County of Maui: | Land Use and Codes Administrator<br>Dept. of Public Works & Environmental Management, County of Maui<br>250 South High Street<br>Wailuku, HI 96793 | Engineering Program Manager<br>Dept. of Water Supply<br>County of Maui<br>200 South High Street<br>Wailuku, HI 96793-2155 |
| County of Hawaii: | Director<br>Planning Department<br>County of Hawaii<br>101 Pauahi Street, Suite 3<br>Hilo, HI 96720 | |

A copy of the letter or memorandum of transmittal to the county agency shall be submitted with the application package submitted to the Commission.

6. Refer to attached Checklist for "Documents For Issuance Of An Effective Date For A Developer's Public Report" for the specific documents to be submitted for the condominium project.

   Include the Declaration, Condominium Map, and the Bylaws Checklist within the respective sections.

7. The condominium developer's public report will conform to the format outlined in Form: RECO-30B.

8. Submit the completed application package to:

   Real Estate Commission
   Department of Commerce and Consumer Affairs
   335 Merchant Street, Room 333
   Honolulu, HI 96813

9. Condominium Registration Telephone No.: (808) 586-2643

10. Incomplete or inaccurate applications will not be accepted.

**CAVEAT**

The information and forms provided herein are time sensitive and subject to change without prior notice. Please check the Commission's website for any updates to the information and forms provided herein. In the event of any inconsistencies between the law and the provided information and forms, the applicable law controls.

The general information and instructions contained herein have been prepared by the staff of the Real Estate Branch pursuant to Hawaii Administrative Rules Section 16-201-92 and are not an official or binding interpretation, opinion or decision of the Hawaii Real Estate Commission (Commission) or the Department of Commerce and Consumer Affairs. Should anyone desire an informal non-binding interpretation from the Commission, please submit the request in writing to the Commission or should anyone desire a formal binding opinion, file for a declaratory ruling. Please contact any condominium specialist at (808) 586-2643 to request the forms for declaratory ruling.

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**REAL ESTATE COMMISSION**
Department of Commerce and Consumer Affairs
State of Hawaii
335 Merchant Street, Room 333
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**APPLICATION**

Date: _____ Reg. No.:_____
(For office use only)

Condominium Project: _____

Project Address: _____

_____

Tax Map Key: _____

☐ Fee Simple ☐ Leasehold ☐ Fee Simple Unit/Leasehold Underlying Land

In accordance with the provisions of Section 514B-52, HRS, the undersigned makes application to the State of Hawaii, Real Estate Commission, of the developer's intention to sell the condominium units hereinafter described.

_____, being duly sworn, deposes and says:
(Print Name of Developer(s))

That the statements contained herein and the documents submitted herewith are full, true and complete and that he/she is the developer of the condominium project described herein.

_____
(Signature of Developer)

_____
(Print Name of Signatory*)

_____
(Print Title of Signatory*)

** Must be signed for a: corporation by an officer; partnership or Limited Liability Partnership (LLP) by the general partner; Limited Liability Company (LLC) by the manager or member; and for an individual by the individual.*

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## DECLARATION CHECKLIST (Chapter 514B)

PROJECT NAME: _____

REGISTRATION NO. _____
(For Office Use Only)

Page No., Section

_____ 1. Description of the land whether ☐ fee simple or ☐ leasehold

_____ a. All fee simple owners have signed the Declaration.

_____ b. Any person owning a right, title or interest who has executed and subordinated to the Declaration

_____ c. Any person owning a right, title or interest who has not executed or subordinated to the Declaration

_____ 2. Number of the Condominium Map

_____ 3. Number of buildings and projects in the regime

_____ a. Number of stories in each building

_____ b. Number of units in each building

_____ 4. Number of units in the regime

5. Description of the units

_____ a. Unit number of each unit

_____ b. Description of the location of each unit

_____ c. Approximate area of each unit (net living area of enclosed portion of unit to be measured from interior surface of unit perimeter walls. Lanai or patio areas considered as part of unit to be computed and reported separately from the unit area.)

_____ d. A description of location and dimensions of horizontal and vertical boundaries of any unit (if not shown on the condominium map). Unit boundaries may be defined by physical structures or, if not, by spatial coordinates.

_____ e. Designated parking stall if considered a limited common element

_____ 6. Common Interest appurtenant to each unit

7. Permitted and prohibited uses

_____ a. The permitted uses of each unit

_____ b. The prohibited uses of each unit

_____ 8. Description of common elements

_____ 9. Description of limited common elements and units to which each is appurtenant

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_____ 10. The total percentage of common interest that is required to approve rebuilding, repairing or restoring the condominium property regime if it is damaged or destroyed

_____ 11. The total percentage of common interest required to amend the Declaration

_____ a. Percentage of common interest required to amend the Declaration if not 67%

_____ b. Any other approvals or consents required to amend the Declaration

_____ 12. Any rights reserved by the developer or others regarding the regime (including, without limitation, any development rights and reservations to modify the Declaration or Condominium Map)

_____ a. What consent or approval is required for any amendment to the Declaration pursuant to the exercise of any reserved rights

_____ b. Any provision concerning the merger or addition of later phases of the project

13. Compliance with Zoning Ordinances and Codes

_____ a. A declaration that the regime is in compliance with all zoning and building ordinances and codes and all other permitting requirements pursuant to §514B-5

_____ b. If applicable, in the case of property that includes one or more existing structures being converted to condominium status, a statement of whether any variance has been granted from any ordinance or code to achieve such compliance

_____ c. As a result of the adoption or amendment of any ordinance or code, whether the project presently contains any legal non-conforming conditions, uses or structures

_____ d. Identification of any violations of zoning and building ordinances and by what date the violations will be cured (if a conversion and purchaser deposits to be used to cure violations)

_____ 14. Any additional provisions not inconsistent with Chapter 514B, HRS.

**BYLAWS CHECKLIST (Chapter 514B)**

PROJECT NAME: _____

REGISTRATION NO. _____
(For Office Use Only)

**NOTE: §514B-108, HRS, REQUIRES THAT BYLAWS SHALL PROVIDE FOR AT LEAST THE MATTERS APPEARING IN BOLD IN THIS CHECKLIST. All other items appearing herein, while not required by §514B-108, appear in other parts of Part VI of Chapter 514B. There are other parts of Part VI of Chapter 514B that apply to condominiums but which are not included herein since this checklist is not intended to be an exhaustive list of provisions which may be included in the bylaws for a condominium.**

Page No./Section

A. Association

_____ 1. Membership. [514B-102(b)]

_____ 2. First meeting.
The first meeting of the association shall be held not later than one hundred eighty days after recordation of the first apartment conveyance; provided forty per cent or more of the project has been sold and recorded. If forty per cent of the project is not sold and recorded at the end of one year after recordation of the first unit conveyance, an annual meeting shall be called if ten per cent of the unit owners so request. [514B-102(a)]

_____ 3. Meeting and place of meetings.
A meeting of the association shall be held at least once each year. [514B-121(a)]
All association meetings shall be held at the address of the condominium or elsewhere within the State as determined by the board; provided that in the event of a natural disaster, such as a hurricane, an association meeting may be held outside the State. [514B-121(e)]

_____ 4. Method of calling meetings and notices of meetings.
The secretary or other officer specified in the bylaws shall cause notice of any association meeting, whether annual or special, not less than fourteen days in advance of any meeting, to be: (1) hand-delivered; (2) sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit owner; or (3) at the option of the unit owner, expressed in writing, by electronic mail to the electronic mailing address designated in writing by the unit owner. The notice must state the date, time and place of the meeting and the items on the agenda. [514B-121(c)]

Special meetings of the association may be called by the president, a majority of the board, or by a petition to the secretary or managing agent signed by not less than twenty-five per cent of the unit owners as shown in the association's record of ownership; provided that if the secretary or managing agent fails to send out the notices for the special meeting within fourteen days of receipt of the petition, the petitioners shall have the authority to set the time, date, and place for the special meeting and to send out the notices and proxies for the special meeting in accordance with the requirements of the bylaws. [514B-121(b)]

_____ 5. All association meetings shall be conducted in accordance with the most current edition of Robert's Rules of Order Newly Revised. If provided in the declaration or bylaws, meetings may be conducted by any means that allow participation by all unit owners in any deliberation or discussion. [514B-121(d)]

_____ 6. Voting: If only one of several owners of a unit is present at a meeting of the association, that owner is entitled to cast all the votes allocated to that unit. If more than one of the owners is present, the votes allocated to that unit may be cast only in accordance with the agreement of a majority in interest of the owners, unless the declaration or bylaws expressly provides otherwise. There is a majority agreement if any one of the owners casts the votes allocated to that unit without protest being made by any of the other owners

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of the unit to the person presiding over the meeting before the polls are closed. [514B-123(a)]

_____ 7. **Percentage of votes required to adopt decisions binding on all unit owners. [514B-108(b)(8)]**

_____ 8. Proxies.

_____ a. Votes allocated to a unit may be cast pursuant to a proxy duly executed by a unit owner. A unit owner may vote by mail or electronic transmission through a duly executed proxy. If a unit is owned by more than one person, each owner of the unit may vote or register protest to the casting of votes by the other owners of the unit through a duly executed proxy. In the absence of protest, any owner may cast the votes allocated to the unit by proxy. A unit owner may revoke a proxy given pursuant to this section only by actual notice of revocation to the secretary of the association or the managing agent. A proxy is void if it purports to be revocable without notice. [514B-123(b)]

_____ b. A proxy, to be valid shall: (1) be delivered to the secretary of the association or the managing agent, if any, no later than 4:30 p.m. on the second business day prior to the date of the meeting to which it pertains, (2) contain at least: the name of the association, the date of the meeting of the association, the printed names and signatures of the persons giving the proxy, the unit numbers for which the proxy is given, the names of persons to whom the proxy is given, and the date that the proxy is given; and (3) if it is a standard proxy form authorized by the association, contain boxes wherein the owner has indicated that the proxy is given: (A) for quorum purposes only; (B) to the individual whose name is printed on a line next to this box; (c) to the board as a whole and that the vote be made on the basis of the preference of the majority of the directors present at the meeting; or (D) to those directors present at the meeting with the vote to be shared with each director receiving an equal percentage. [514B-123(d)]

_____ c. A proxy shall only be valid for the meeting to which the proxy pertains and its adjournments, may designate any person as proxy and may be limited as the unit owner desires and indicates; provided that no proxy shall be irrevocable unless coupled with a financial interest in the unit. [514B-123(e)]

_____ d. A copy, facsimile communication, or other reliable reproduction of a proxy may be used in lieu of the original proxy for any and all purposes for which the original proxy could be used; provided that any copy, facsimile communication, or other reproduction shall be a complete reproduction of the entire original proxy. [514B-123(f)]

_____ e. Nothing in section 514B-123 shall affect the holder of any proxy under a first mortgage of record encumbering a unit or under an agreement of sale affecting a unit. [514B-123(g)]

_____ f. No managing agent or resident manager, or their employees, shall solicit, for use by the managing agent or resident manager, any proxies from any unit owner of the association that retains the managing agent or resident manager, nor shall the managing agent or resident manager cast any proxy vote at any association meeting except for the purpose of establishing a quorum. [514B-123(i)]

_____ g. (1) Any board that intends to use association funds to distribute proxies, including the standard proxy form referred to in section 514B-123(d)(3), shall first post notice of its intent to distribute proxies in prominent locations within the project at least twenty-one days before its distribution of proxies. If the board receives within seven days of the posted notice a request by any owner for use of association funds to solicit proxies accompanied by a statement, the board shall mail to all owners, either:

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

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

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

(2) A board or member of the board may use association funds to solicit proxies as part of the distribution of proxies. If a member of the board, as an individual, seeks to solicit proxies using association funds, the board member shall proceed as a unit owner under paragraph (1). [514B-123(h)]

_____ 9. Minutes of Association Meetings
Minutes of meetings of the association shall be approved at the next succeeding regular meeting or by the board, within sixty days after the meeting, if authorized by the owners at an annual meeting. If approved by the board, owners shall be given a copy of the approved minutes or notified of the availability of the minutes within thirty days after approval. Minutes of all meetings of the association shall be available within seven calendar days after approval, and unapproved final drafts of the minutes of a meeting shall be available within sixty days after the meeting. An owner shall be allowed to offer corrections to the minutes at an association meeting. [514B-122]

B. Directors

_____ 1. **Number of directors.**
**The number of members of the board. [514B-108(b)(1)]**

Condominiums with more than one hundred individual apartment units shall have an elected board of not less than nine members unless the membership has amended the bylaws to reduce the minimum number of directors. [514B-106(e)]

_____ a. **Qualifications for directors. [514B-108(b)(3)]**
Members of the board shall be unit owners or co-owners, vendees under an agreement of sale, a trustee of a trust which owns a unit, or an officer, partner, member or other person authorized to act on behalf of any other legal entity which owns a unit. [514B-107(a)]

_____ b. There shall not be more than one representative on the board from any one unit. [514B-107(a)]

_____ c. No resident manager or employee of a condominium shall serve on the board. [514B-107(b)]

_____ d. Any owner who is a board member of an association and an employee of the managing agent retained by the association shall not participate in any discussion regarding a management contract at a board meeting and shall be excluded from any executive session of the board where the management contract or the property manager will be discussed. [514B-107(c)]

_____ 2. **Manner of electing directors. [514B-108(b)(3)]**

_____ 3. Term of office of each director. [514B-108(b)(3)]
Terms may be staggered. [514B-108(c)]

_____ For the initial term of office, directors shall serve for a term of three years or the term as specified by the bylaws or until their successors have been elected or appointed. [514A- 82 (a)(1)(C)]

_____ 4. **Manner of removing directors. [514B-108(b)(3)]**
At any regular or special meeting of association, any one or more members of the board may be removed by the unit owners and successors shall then and there be elected for the remainder of the term to fill the vacancies thus created.

_____ 5. **Manner of filling vacancies on the board. [514B-108(b)(3)]**

_____ 6. **Power and duties of the board. [514B-108(b)(3)]**
Except as otherwise provided by law, the declaration or the bylaws, the board may act in all instances on behalf of the association. [514B-106(a)]

_____ a. Designation of the powers the board may designate to other persons or to a managing agent. [514B-108(b)(4)]

_____ b. In the performance of their duties, members of the board shall owe the association a fiduciary duty and exercise the degree of care and loyalty required of a director of a nonprofit corporation organized under Chapter 414D, HRS. [514B-106(a)]

_____ 7. **Compensation, if any, of the directors. [514B-108(b)(6)]**

_____ 8. Board shall meet at least once a year. [514B-125(d)]

_____ 9. Notice of meetings to be posted.

Notice of all board meetings shall be posted by the managing agent, resident manager or a member of the board in prominent locations within the project seventy-two hours prior to the meeting or simultaneously with notice to the board. [514B-125(d)]

_____ 10. A director shall not vote by proxy at board meetings. [514B-125(e)]

_____ 11. A director shall not vote at any board meeting on any issue in which the director has a conflict of interest. [514B-125(f)]

_____ 12. Disclosure of a conflict prior to a vote.

A director who has a conflict of interest on any issue before the board shall disclose the nature of the conflict of interest prior to a vote on that issue at the board meeting, and the minutes of the meeting shall record the fact that a disclosure was made.

"Conflict of interest" means an issue in which a director has a direct personal or pecuniary interest not common to other members of the association. [514B-125(f)]

_____ 13. All meetings of the board, except executive sessions, shall be open to all members of the association.

_____ a. Association members who are not on the board may participate in any deliberation or discussion, other than executive sessions, unless a majority of a quorum of board votes otherwise. [514B-125(a)]

_____ b. The Board, with the approval of a majority of a quorum of its members, may adjourn a board meeting and reconvene in executive session to discuss and vote upon matters:

(1) Concerning personnel;

(2) Concerning litigation in which the association is or may become involved;

(3) Necessary to protect the attorney-client privilege of the association; or

(4) Necessary to protect the interests of the association while negotiating contracts, leases, and other commercial transactions. [514B-125(b)]

_____ c. The general nature of any business to be considered in executive session shall first be announced in open session. [514B-125(b)]

_____ d. All board meetings shall be conducted in accordance with the most recent edition of Robert's Rules of Order Newly Revised. Unless otherwise provided in the declaration or bylaws, a board may permit any meeting to be conducted by any means of communication through which all directors participating may simultaneously hear each other during the meeting. A director participating in a meeting by this means is deemed to be present in person at the meeting. If permitted by the board, any unit owner may participate in a meeting conducted by a means of communication through which all participants may simultaneously hear each other during the meeting, provided that the board may require that the unit owner pay for the costs associated with the participation. [514B-125(c)]

_____ 14. Minutes of meetings.

Minutes of meetings of the board shall include the recorded vote of each board member on all motions except motions voted on in executive session. Minutes of meetings of the board shall be approved no later than the second succeeding regular meeting. Minutes of all meetings of the board shall be available within seven calendar days after approval, and unapproved final drafts of the minutes of a meeting shall be available within sixty days after the meeting; provided that the minutes of any executive session may be withheld if their publication would defeat the lawful purpose of the executive session. [514B-126(a)]

_____ 15. Directors shall not expend association funds for their travel, directors' fees, and per diem, unless owners are informed and a majority approve of these expenses; provided that, with the approval of the board, directors may be reimbursed for actual expenditures incurred on behalf of the association. The minutes shall reflect in detail the items and amounts of the reimbursements. [514B-107(d)]

The directors may expend association funds, which shall not be deemed to be compensation to the directors, to educate and train themselves in subject areas directly related to their duties and responsibilities as directors; provided that the approved annual operating budget shall include these expenses as separate line items. These expenses may include registration fees, books, videos, tapes, other educational materials and economy travel expenses. Except for economy travel expenses within the State, all other travel expenses incurred by directors shall be subject to the approval by a majority of the owners. [514B-107(f)]

_____ 16. Condominium documents.

Associations, at their own expense, shall provide all board members with a current copy of the association's declaration, bylaws, house rules and, annually, a copy of Chapter 514B, HRS, with amendments. [514B-107(e)]

C. <u>Officers</u>

_____ 1. **Election by the board of a president, treasurer, secretary and any other officers of the association the bylaws specify. [514B-108(b)(2)]**

_____ 2. **Qualifications for office of an officer. [514B-108(b)(3)]**

_____ 3. **Term of office of each officer. [514B-108(b)(3)]**

_____ 4. **Manner of electing and removing officers. [514B-108(b)(3)]**

_____ 5. **Manner of filling vacancies in an office. [514B-108(b)(3)]**

_____ 6. **Powers and duties of each officer. [514B-108(b)(3)]**

In the performance of their duties, officers shall owe the association a fiduciary duty and exercise the degree of care and loyalty required of an officer of a nonprofit corporation organized under Chapter 414D, HRS. [514B-106(a)]

_____ President: Elected from board and presides over meetings of the board and association (optional).

_____ Secretary: Keeps the minute book wherein resolutions shall be recorded (optional).

_____ Treasurer: Keeps the financial records and books of account (optional).

_____ 7. **Powers which officers may delegate to other persons or to a managing agent. [514B-108(b)(4)]**

_____ 8. **Designation of the officer who may prepare, execute, certify and record amendments to the declaration. [514B-108(b)(5)]**

_____ Auditor: Association shall require an annual audit of the association's financial accounts and no less than one annual unannounced verification of the association's cash balance by a public accountant; provided these may be waived by a majority vote taken at an association meeting if the association is comprised of less than twenty owners. [514B-150(a)]

_____ D. **Amendment To The Bylaws [514B-108(b)(7), 514B-108(e)]**

**The bylaws may be amended at any time by the vote or written consent of at least sixty-seven per cent of all unit owners. Any proposed bylaws together with the detailed rationale for the proposal may be submitted by the board or by a volunteer unit owners group. If submitted by that group, the proposal shall be accompanied by a petition signed by not less than twenty-five per cent of the unit owners as shown in the association's record of ownership. The proposed bylaws, rationale, and ballots for voting on any proposed bylaw shall be mailed by the board to the owners at the expense of the association for vote or written consent without change within thirty days of the receipt of the petition by the board. The vote or written consent, to be valid, must be obtained within three hundred sixty-five days after mailing for a proposed bylaw submitted by either the board or a volunteer unit owners group. If the bylaw is duly adopted, the board shall cause the bylaw amendment to be recorded. The volunteer unit owners group shall be precluded from submitting a petition for a proposed bylaw that is substantially similar to that which has been previously mailed to the owners within three hundred sixty-five days after the original petition was submitted to the board. Any unit owner or volunteer owners group shall not be precluded from proposing any bylaw amendment at any annual association meeting.**

_____ E. **Other Provisions [514B-108(d)]**

Subject to the provisions of the declaration, the bylaws may provide for any other matters the association deems necessary and appropriate.

**CONDOMINIUM MAP CHECKLIST (Chapter 514B)**

PROJECT NAME: _____

REGISTRATION NO. _____
(For Office Use Only)

☐ RECORDED WITH THE DECLARATION OF CONDOMINIUM PROPERTY REGIME

Page

_____ 1. Site plan depicting location, layout of all buildings and projects included or anticipated to be included in the condominium property regime, and depicting access for the units to a public road (include name of the public road) or to a common element leading to a public road

_____ 2. Floor plan of all buildings

_____ 3. Elevations of all buildings

_____ 4. Layout, boundaries, unit numbers and dimensions of the units

_____ 5. Location of the units

_____ 6. To the extent there is parking, a parking plan showing location, layout and stall numbers of all parking stalls included in the condominium property regime

_____ 7. Layout, location and numbers or other identifying information of the limited common elements, if any.

_____ 8. Description of any land area that constitutes a limited common element

Description of any land area that constitutes a limited common element is described in the Declaration at Page(s) _____.

_____ 9. Any additional information that is not inconsistent with Chapter 514B, HRS.

_____ 10. Certificate of architect, engineer or surveyor attached to the map.

*This material can be made available for individuals with special needs. Please contact the Senior Condominium Specialist at 586-2643 to submit your request.*