

# Condo Owners in Hawaii Have Rights

*As a condominium owner, you have rights under the law. Hawaii Revised Statutes (HRS):*

- **514B-104** A board must obtain approval of at least sixty-seven percent of unit owners to designate additional areas as common elements.
  - You have the right to **appeal late fees, interest and fines**; to utilize alternative dispute resolution; and even initiate a legal proceeding.
- **514B-105** You have the right to apply your payments to common expenses **before** other charges, such as late fees, legal fees, fines and interest.
  - You have the right to **request information** from your board, association or managing agent, **at a reasonable cost**.
  - You have the right to receive written notice **if your board wishes to borrow money** for spending on common elements, additions, alterations or improvements.
  - A board must obtain the **approval of at least fifty percent** of the unit owners for **such borrowing**.
- **414D-149** A board must act as a **fiduciary**, with the same amount of **care and loyalty** as an officer or director of a non-profit corporation.
- **514B-106** You have the right to **remove any member of your board**, by a vote of a majority of the members, at any regular or special meeting.
- **514B-107** **Any amounts spent on the board** must be listed in the **minutes of board meetings** and **the annual budget**.
- **514B-108** The board must obtain the consent of **at least sixty-seven percent of the unit owners** in order to amend the bylaws; you may also propose an amendment to the the bylaws.
- **514B-121** There must be at least one **association meeting** every year. You may obtain a copy of a printed audit trail, if there is electronic voting and you may petition to have special meetings.
- **514B-123** You may sign a proxy for quorum purposes only, without giving up any rights to the board; and you may solicit proxies, using association funds.
- **514B-125** You may **attend any board meeting**, unless the board *legitimately* goes into executive session; and you may **participate in deliberations and discussions**.
  - A board may only go into **executive session** for **reasons specified in the statute**.
  - While in open session, a board must **explain why it is going into executive session**.
  - You have the right to receive **notice of board meetings**, including a list of business items expected to be on the **agenda**.
  - **No director shall vote on any issue while having a conflict of interest** (“*an issue in which a director has a direct pecuniary interest not common to the other members of the association*”).
  - Any director who has a **conflict of interest** will **disclose the conflict** before a vote is taken and the disclosure will be recorded in the minutes.
- **514B-126** You have the right to **receive minutes of all board meetings** which include the votes of all board members on all motions, unless the board goes into executive session.
- **514B-140** You have the right to make **additions or alterations to your unit**, with the approval of other owners and the board, which **shall not unreasonably withhold** their approval.
- **514B-144** A board may only levy **assessments based on an annual budget**.
- **514B-146.5** You are protected against **non-judicial foreclosure** based on any lien that arises **solely** from fines, penalties, legal fees or late fees.
- You have the right to receive **thirty days’ notice of non-judicial foreclosure**, along with a statement that you **may request mediation**.
- **514B-148** A board must prepare an **annual operating budget** and reserve study, satisfying all of the **requirements of the statute**.

• **514B-149** Anyone who embezzles or knowingly misapplies association funds shall be guilty of a felony.

• **514B-150** There must be an **annual audit** of your association's financial accounts and at least one unannounced check of the association's cash balance every year **by a public accountant**.

◦ You may obtain a **copy of the annual audit** and an unaudited year-end financial statement at least thirty days prior to the annual meeting.

• **514B-152-153** You have the right to review financial and other records, including **detailed receipts for repairs and maintenance**, or to have them **examined by your agent**.

◦ You have the right to obtain a **current list of the members of your association**, in order to **solicit votes or proxies**, or to **provide information to other owners** about association matters.

• **514B-154** You have the right to access the most current financial statement and minutes of board meetings, at no cost, except for administrative costs over eight hours per year.

◦ You have the right to obtain **copies of proxies, tally sheets, ballots, check-in lists and the certificate of election**, at no cost, except for administrative costs over eight hours per year.

◦ You have the right to **contest an election**.

◦ The managing agent and association must keep **true records**, free from false certificates, entries or memoranda.

• **514B-154.5** You have the right to obtain copies of **other association records** for a fee of not more than **\$1 per page**, except for oversized pages.

• **514B-157** You may be awarded **all reasonable and necessary expenses**, costs and attorney's fees in any claim substantiated in a **court action** against the association.

◦ **You shall not be responsible** for the other party's costs, if you have first made a good faith effort to resolve a dispute through mediation or arbitration.

• **514B-161** You may, in some cases, **request mandatory mediation** of a dispute with your board, managing agent or board members.

• **514B-162** You may, in some cases, **request arbitration** of such disputes. You may also **appeal an arbitration award** and have the costs of the appeal charged to the **non-prevailing party**.

• **514B-162.5** You may agree to **voluntary binding arbitration**, which may be supported with funds from the condominium education trust fund, after evaluative mediation.

• **514B-163** You may make a written demand for a **trial de novo in circuit court**; or have the costs of such a trial **charged** to a party that demands the trial and does not prevail.

• **514B-191** You may **bring a civil action** in district court to **stop retaliation by your board or managing agent** and ask the court for damages, attorney's fees and other costs.

• **708-880** Any contractor who bribes a board member or manager, or any board member or manager who accepts a kickback is guilty of a crime.

#### Having issues at your condominium? You may contact these individuals or organizations:

- The Regulated Industries Complaints Office (RICO), <https://cca.hawaii.gov/rico/>, (808) 586-2653, Department of Commerce and Consumer Affairs (DCCA).
- The Honolulu Police Department (HPD), (808) 529-3111.
- The Federal Bureau of Investigation (FBI), (808) 566-4300.
- A Certified Fraud Examiner (CFE), <https://www.acfe.com/fraud-resources/find-a-cfe>.
- Your legislator, <https://www.capitol.hawaii.gov/fy/>.
- An attorney, [https://hsba.org/HSBA\\_2020/Public/LRIS.aspx](https://hsba.org/HSBA_2020/Public/LRIS.aspx).
- The Facebook and NextDoor groups below.
- For more information on the DCCA website, see <https://cca.hawaii.gov/reb/>.