

Comparison of UCIOA, UCA, and HRS (includes 2001 amendments)

Uniform Common Interest Ownership Act (1994)	Uniform Condominium Act (1980)	Hawaii HRS Chapter 514A
		Chapter enacted as a restatement without substantive change by Act 98, SLH 1977.
ARTICLE 1. GENERAL PROVISIONS	ARTICLE 1. GENERAL PROVISIONS	PART I. GENERAL PROVISIONS AND DEFINITIONS
PART 1. DEFINITIONS AND OTHER GENERAL PROVISIONS		
SECTION 1-101. SHORT TITLE. This [Act] may be cited as the Uniform Common Interest Ownership Act.	§ 1-101. [Short Title] This Act shall be known and may be cited as the Uniform Condominium Act.	§514A-1 Title. This chapter shall be known as the Condominium Property Act.
SECTION 1-102. APPLICABILITY. Applicability of this [Act] is governed by [Part] 2 of this [article].	§ 1-102. [Applicability] (See, adjacent to Article 1, Part 2, of UCIOA below)	[§514A-1.5] Applicability of chapter. [See, adjacent to Article 1, Part 2, of UCIOA below]
		[§514A-1.6] Conformance with county land use ordinances. [See, §1-106 of UCIOA and UCA below]
		§514A-2 Chapter not exclusive. [See, Article 1, Part 2, of UCIOA below]
SECTION 1-103. DEFINITIONS. In the declaration and bylaws (Section 3-106), unless specifically provided otherwise or the context otherwise requires, and in this [Act]:	§ 1-103. [Definitions] In the declaration and bylaws, unless specifically provided otherwise or the context otherwise requires, and in this Act:	§514A-3 Definitions. Unless it is plainly evident from the context that a different meaning is intended, as used herein:
(1) "Affiliate of a declarant" means any person who controls, is controlled by, or is under common control with a declarant. A person "controls" a declarant if the person (i) is a general partner, officer, director, or employer of the declarant, (ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing, more than 20 percent of the voting interest in the declarant, (iii) controls in any manner the election of a majority of the directors of the declarant, or (iv) has contributed more than 20 percent of the capital of the declarant. A person "is controlled by" a declarant if the declarant (i) is a general partner, officer, director, or employer of the person, (ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing, more than 20 percent of the voting interest in the person, (iii) controls in any manner the election of a majority of the directors of the person, or (iv) has contributed more than 20 percent of the capital of the person. Control does not exist if the powers described in this paragraph are held solely as security for an obligation and are not exercised.	(1) "Affiliate of a declarant" means any person who controls, is controlled by, or is under common control with a declarant. A person "controls" a declarant if the person (i) is a general partner, officer, director, or employer of the declarant, (ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing, more than 20 percent of the voting interest in the declarant, (iii) controls in any manner the election of a majority of the directors of the declarant, or (iv) has contributed more than 20 percent of the capital of the declarant. A person "is controlled by" a declarant if the declarant (i) is a general partner, officer, director, or employer of the person, (ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing, more than 20 percent of the voting interest in the person, (iii) controls in any manner the election of a majority of the directors of the person, or (iv) has contributed more than 20 percent of the capital of the person. Control does not exist if the powers described in this paragraph are held solely as security for an obligation and are not exercised.	
(2) "Allocated interests" means the following interests allocated to each unit: (i) In a condominium, the undivided interest in the common elements, the common expense liability, and votes in the association; (ii) in a	(2) "Allocated Interests" means the undivided interest in the common elements, the common expense liability, and votes in the association allocated to each unit.	

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cooperative, the common expense liability and the ownership interest and votes in the association; and (iii) in a planned community, the common expense liability and votes in the association.		
		"Apartment" means a part of the property intended for any type of use or uses, and with an exit to a public street or highway or to a common element or elements leading to a public street or highway, and may include such appurtenances as garage and other parking space, storage room, balcony, terrace, and patio.
		"Apartment owner" means the person owning, or the persons owning jointly or in common, an apartment and the common interest appertaining thereto; provided that to such extent and for such purposes, including the exercise of voting rights, as shall be provided by lease registered under chapter 501 or recorded under chapter 502, a lessee of an apartment shall be deemed to be the owner thereof.
(3) "Association" or "unit owners' association" means the unit owners' association organized under Section 3-101.	(3) "Association" or "unit owners' association" means the unit owners' association organized under Section 3-101.	"Association of apartment owners" means all of the apartment owners acting as a group in accordance with the bylaws and declaration.
		"Commission" means the real estate commission of the state department of commerce and consumer affairs.
(4) "Common elements" means (i) in the case of (A) a condominium or cooperative, all portions of the common interest community other than the units; and (B) a planned community, any real estate within a planned community which is owned or leased by the association, other than a unit; and (ii) in all common interest communities, any other interests in real estate for the benefit of unit owners which are subject to the declaration.	(4) "Common elements" means all portions of a condominium other than the units.	"Common elements", unless otherwise provided in the declaration, means and includes: (1) The land included in the condominium property regime, whether leased or in fee simple; (2) The foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, stairs, stairways, fire escapes, and entrances and exits of the building or buildings; (3) The basements, flat roofs, yards, gardens, recreational facilities, parking areas, and storage spaces; (4) The premises for the lodging or use of janitors and other persons employed for the operation of the property; (5) Central and appurtenant installations for services such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning, and incinerators; (6) The elevators, escalators, tanks, pumps, motors, fans, compressors, ducts, and in general all apparatus and installations existing for common use; (7) Such facilities as may be designated as common elements in the declaration; and (8) All other parts of the property necessary or

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		convenient to its existence, maintenance, and safety, or normally in common use.
(5) "Common expenses" means expenditures made by, or financial liabilities of, the association, together with any allocations to reserves.	(5) "Common expenses" means expenditures made by or financial liabilities of the association, together with any allocations to reserves.	"Common expense" means and includes: (1) Expenses of operation of the property; and (2) All sums designated common expenses by or pursuant to this chapter, the declaration or the bylaws.
(6) "Common expense liability" means the liability for common expenses allocated to each unit pursuant to Section 2-107.	(6) "Common expense liability" means the liability for common expenses allocated to each unit pursuant to Section 2-107.	
		"Common interest" means the percentage of undivided interest in the common elements appertaining to each apartment, as expressed in the declaration, and any specified percentage of the common interests means such percentage of the undivided interests in the aggregate.
(7) "Common interest community" means real estate with respect to which a person, by virtue of his ownership of a unit, is obligated to pay for real estate taxes, insurance premiums, maintenance, or improvement of other real estate described in a declaration. "Ownership of a unit" does not include holding a leasehold interest of less than [20] years in a unit, including renewal options.		
		"Common profits" means the balance of all income, rents, profits, and revenues from the common elements remaining after the deduction of the common expenses.
		"Completion of construction" means the issuance by the appropriate county official of a certificate of completion.
(8) "Condominium" means a common interest community in which portions of the real estate are designated for separate ownership and the remainder of the real estate is designated for common ownership solely by the owners of those portions. A common interest community is not a condominium unless the undivided interests in the common elements are vested in the unit owners.	(7) "Condominium" means real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners.	"Condominium" means the ownership of single units, with common elements, located on property within the condominium property regime.
(9) "Conversion building" means a building that at any time before creation of the common interest community was occupied wholly or partially by persons other than purchasers and persons who occupy with the consent of purchasers.	(8) "Conversion building" means a building that at any time before creation of the condominium was occupied wholly or partially by persons other than purchasers and persons who occupy with the consent of purchasers.	
(10) "Cooperative" means a common interest community in which the real estate is owned by an association, each of whose members is entitled by virtue of his ownership interest in the association to exclusive		

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possession of a unit.		
(11) "Dealer" means a person in the business of selling units for his own account.		
(12) "Declarant" means any person or group of persons acting in concert who (i) as part of a common promotional plan, offers to dispose of his or its interest in a unit not previously disposed of or (ii) reserves or succeeds to any special declarant right [, or (iii) applies for registration of a common interest community under [Article] 5].	(9) "Declarant" means any person or group of persons acting in concert who (i) as part of a common promotional plan, offers to dispose of his or its interest in a unit not previously disposed of, [or] (ii) reserves or succeeds to any special declarant right [, or (iii) applies for registration of a condominium under Article 5.]	
(13) "Declaration" means any instruments, however denominated, that create a common interest community, including any amendments to those instruments.	(10) "Declaration" means any instruments, however denominated, that create a condominium, and any amendments to those instruments.	"Declaration" means the instrument by which the property is submitted to this chapter, as hereinafter provided, and such declaration as from time to time amended.
		"Developer" means a person who undertakes to develop a real estate condominium project.
(14) "Development rights" means any right or combination of rights reserved by a declarant in the declaration to (i) add real estate to a common interest community; (ii) create units, common elements, or limited common elements within a common interest community; (iii) subdivide units or convert units into common elements; or (iv) withdraw real estate from a common interest community.	(11) "Development rights" means any right or combination of rights reserved by a declarant in the declaration to (i) add real estate to a condominium; (ii) to create units, common elements, or limited common elements within a condominium; (iii) to subdivide units or convert units into common elements; or (iv) to withdraw real estate from a condominium.	
(15) "Dispose" or "disposition" means a voluntary transfer to a purchaser of any legal or equitable interest in a unit, but the term does not include the transfer or release of a security interest.	(12) "Dispose" or "disposition" means a voluntary transfer to a purchaser of any legal or equitable interest in a unit, but does not include the transfer or release of a security interest.	
(16) "Executive board" means the body, regardless of name, designated in the declaration to act on behalf of the association.	(13) "Executive board" means the body, regardless of name, designated in the declaration to act on behalf of the association.	
(17) "Identifying number" means a symbol or address that identifies only one unit in a common interest community.	(14) "Identifying number" means a symbol or address that identifies only one unit in a condominium.	
(18) "Leasehold common interest community" means a common interest community in which all or a portion of the real estate is subject to a lease the expiration or termination of which will terminate the common interest community or reduce its size.	(15) "Leasehold condominium" means a condominium in which all or a portion of the real estate is subject to a lease the expiration or termination of which will terminate the condominium or reduce its size.	
(19) "Limited common element" means a portion of the common elements allocated by the declaration or by operation of Section 2-102(2) or (4) for the exclusive use of one or more but fewer than all of the units.	(16) "Limited common element" means a portion of the common elements allocated by the declaration or by operation of Section 2-102(2) or (4) for the exclusive use of one or more but fewer than all of the units.	"Limited common elements" means and includes those common elements designated in the declaration as reserved for the use of a certain apartment or certain apartments to the exclusion of the other apartments; provided that no amendment of the declaration affecting any of the limited common elements shall be effective

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		without the consent of the owner or owners of the apartment or apartments for the use of which such limited common elements are reserved.
		"Majority" or "majority of apartment owners" means the owners of apartments to which are appurtenant more than fifty per cent of the common interests, and any specified percentage of the apartment owners means the owners of apartments to which are appurtenant such percentage of the common interests.
		"Managing agent" means any person employed or retained for the purposes of managing the operation of the property.
(20) "Master association" means an organization described in Section 2-120, whether or not it is also an association described in Section 3-101.	(17) "Master association" means an organization described in Section 2-120, whether or not it is also an association described in Section 3-101.	
		"Master deed" or "master lease" means any deed or lease showing the extent of the interest of the person submitting the property to the condominium property regime.
(21) "Offering" means any advertisement, inducement, solicitation, or attempt to encourage any person to acquire any interest in a unit, other than as security for an obligation. An advertisement in a newspaper or other periodical of general circulation, or in any broadcast medium to the general public, of a common interest community not located in this State, is not an offering if the advertisement states that an offering may be made only in compliance with the law of the jurisdiction in which the common interest community is located.	(18) "Offering" means any advertisement, inducement, solicitation, or attempt to encourage any person to acquire any interest in a unit, other than as security for an obligation. An advertisement in a newspaper or other periodical of general circulation, or in any broadcast medium to the general public, of a condominium not located in this State, is not an offering if the advertisement states that an offering may be made only in compliance with the law of the jurisdiction in which the condominium is located.	
		"Operation of the property" means and includes the administration, fiscal management, and operation of the property and the maintenance, repair, and replacement of, and the making of any additions and improvements to, the common elements.
(22) "Person" means an individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or other legal or commercial entity. [In the case of a land trust, however, "person" means the beneficiary of the trust rather than the trust or the trustee.]	(19) "Person" means a natural person, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or other legal or commercial entity. [In the case of a land trust, however, "person" means the beneficiary of the trust rather than the trust or the trustee.]	"Person" means an individual, firm, corporation, partnership, association, trust, or other legal entity, or any combination thereof.
(23) "Planned community" means a common interest community that is not a condominium or a cooperative. A condominium or cooperative may be part of a planned community.		
		"Project" means a real estate condominium project; a

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		plan or project whereby a condominium of two or more apartments located within the condominium property regime are offered or proposed to be offered for sale.
		"Property" means and includes the land, whether or not contiguous and including more than one parcel of land, but located within the same vicinity, whether leasehold or in fee simple, to the extent of the interest held therein by the owner or lessee submitting such interest to the condominium property regime, the building or buildings, all improvements and all structures thereon, and all easements, rights, and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith, which have been or are intended to be submitted to the regime established by this chapter.
(24) "Proprietary lease" means an agreement with the association pursuant to which a member is entitled to exclusive possession of a unit in a cooperative.		
(25) "Purchaser" means a person, other than a declarant or a dealer, who by means of a voluntary transfer acquires a legal or equitable interest in a unit other than (i) a leasehold interest (including renewal options) of less than 20 years, or (ii) as security for an obligation.	(20) "Purchaser" means any person, other than a declarant or a person in the business of selling real estate for his own account, who by means of a voluntary transfer acquires a legal or equitable interest in a unit other than (i) a leasehold interest (including renewal options) of less than 20 years, or (ii) as security for an obligation.	
(26) "Real estate" means any leasehold or other estate or interest in, over, or under land, including structures, fixtures, and other improvements and interests that by custom, usage, or law pass with a conveyance of land though not described in the contract of sale or instrument of conveyance. "Real estate" includes parcels with or without upper or lower boundaries, and spaces that may be filled with air or water.	(21) "Real estate" means any leasehold or other estate or interest in, over, or under land, including structures, fixtures, and other improvements and interests which by custom, usage, or law pass with a conveyance of land though not described in the contract of sale or instrument of conveyance. "Real estate" includes parcels with or without upper or lower boundaries, and spaces that may be filled with air or water.	
(27) "Residential purposes" means use for dwelling or recreational purposes, or both.	(22) "Residential purposes" means use for dwelling or recreational purposes, or both.	
(28) "Security interest" means an interest in real estate or personal property, created by contract or conveyance, which secures payment or performance of an obligation. The term includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of lease or rents intended as security, pledge of an ownership interest in an association, and any other consensual lien or title retention contract intended as security for an obligation.		

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<p>(29) "Special declarant rights" means rights reserved for the benefit of a declarant to (i) complete improvements indicated on plats and plans filed with the declaration (Section 2-109) or, in a cooperative, to complete improvements described in the public offering statement pursuant to Section 4-103(a)(2); (ii) exercise any development right (Section 2-110); (iii) maintain sales offices, management offices, signs advertising the common interest community, and models (Section 2-115); (iv) use easements through the common elements for the purpose of making improvements within the common interest community or within real estate which may be added to the common interest community (Section 2-116); (v) make the common interest community subject to a master association (Section 2-120); (vi) merge or consolidate a common interest community with another common interest community of the same form of ownership (Section 2-121); or (vii) appoint or remove any officer of the association or any master association or any executive board member during any period of declarant control (Section 3-103(d)).</p>	<p>(23) "Special declarant rights" means rights reserved for the benefit of a declarant to (i) complete improvements indicated on plats and plans filed with the declaration (Section 2-109); (ii) to exercise any development right (Section 2-110); (iii) to maintain sales offices, management offices, signs advertising the condominium, and models (Section 2-115); (iv) to use easements through the common elements for the purpose of making improvements within the condominium or within real estate which may be added to the condominium (Section 2-116); (v) to make the condominium part of a larger condominium or a planned community (Section 2-121); (vi) to make the condominium subject to a master association (Section 2-120); (vii) or to appoint or remove any officer of the association or any master association or any executive board member during any period of declarant control (Section 3-103(c)).</p>	
<p>(30) "Time share" means a right to occupy a unit or any of several units during [five] or more separated time periods over a period of at least [five] years, including renewal options, whether or not coupled with an estate or interest in a common interest community or a specified portion thereof.</p>	<p>(24) "Time share" means a right to occupy a unit or any of several units during [5] or more separated time periods over a period of at least [5] years, including renewal options, whether or not coupled with an estate or interest in a condominium or a specified portion thereof.</p>	
		"To record" means to record in accordance with chapter 502, or to register in accordance with chapter 501.
<p>(31) "Unit" means a physical portion of the common interest community designated for separate ownership or occupancy, the boundaries of which are described pursuant to Section 2-105(a)(5). If a unit in a cooperative is owned by a unit owner or is sold, conveyed, voluntarily or involuntarily encumbered, or otherwise transferred by a unit owner, the interest in that unit which is owned, sold, conveyed, encumbered, or otherwise transferred is the right to possession of that unit under a proprietary lease, coupled with the allocated interests of that unit, and the association's interest in that unit is not thereby affected.</p>	<p>(25) "Unit" means a physical portion of the condominium designated for separate ownership or occupancy, the boundaries of which are described pursuant to Section 2-105(a)(5).</p>	
<p>(32) "Unit owner" means a declarant or other person who owns a unit, or a lessee of a unit in a leasehold common interest community whose lease expires simultaneously with any lease the expiration or termination of which will remove the unit from the</p>	<p>(26) "Unit owner" means a declarant or other person who owns a unit, or a lessee of a unit in a leasehold condominium whose lease expires simultaneously with any lease the expiration or termination of which will remove the unit from the condominium, but does not</p>	

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common interest community, but does not include a person having an interest in a unit solely as security for an obligation. In a condominium or planned community, the declarant is the owner of any unit created by the declaration. In a cooperative, the declarant is treated as the owner of any unit to which allocated interests have been allocated (Section 2-107) until that unit has been conveyed to another person.	include a person having an interest in a unit solely as security for an obligation.	
		All pronouns used herein include the male, female, and neuter genders and include the singular or plural numbers, as the case may be.
SECTION 1-104. VARIATION BY AGREEMENT. Except as expressly provided in this [Act], its provisions may not be varied by agreement, and rights conferred by it may not be waived. Except as provided in Section 1-207, a declarant may not act under a power of attorney, or use any other device, to evade the limitations or prohibitions of this [Act] or the declaration.	§ 1-104. [Variation by Agreement] Except as expressly provided in this Act, provisions of this Act may not be varied by agreement, and rights conferred by this Act may not be waived. A declarant may not act under a power of attorney, or use any other device, to evade the limitations or prohibitions of this Act or the declaration.	
SECTION 1-105. SEPARATE TITLES AND TAXATION.	§ 1-105. [Separate Titles and Taxation]	§514A-4 Status of apartments. Each apartment, together with the common interest appertaining thereto, shall for all purposes constitute real property and may be individually conveyed, leased, or encumbered and be the subject of ownership, possession, or sale and for all other purposes be treated as if it were sole and entirely independent of the other apartment or apartments in the property of which it forms a part, and the corresponding individual titles and interests shall be recordable.
(a) In a cooperative, unless the declaration provides that a unit owner's interest in a unit and its allocated interests is real estate for all purposes, that interest is personal property. [That interest is subject to the provisions of [insert reference to state homestead exemptions], even if it is personal property.]		
(b) In a condominium or planned community:		
(1) If there is any unit owner other than a declarant, each unit that has been created, together with its interest in the common elements, constitutes for all purposes a separate parcel of real estate.	(a) If there is any unit owner other than a declarant, each unit that has been created, together with its interest in the common elements, constitutes for all purposes a separate parcel of real estate.	§514A-5 Ownership of apartments. The apartment owner is entitled to the exclusive ownership and possession of the apartment. Any apartment may be jointly or commonly owned by more than one person.
(2) If there is any unit owner other than a declarant, each unit must be separately taxed and assessed, and no separate tax or assessment may be rendered against any common elements for which a declarant has reserved no development rights.	(b) If there is any unit owner other than a declarant, each unit must be separately taxed and assessed, and no separate tax or assessment may be rendered against any common elements for which a declarant has reserved no development rights.	§514A-6 Separate taxation. The laws relating to home exemptions from state property taxes are applicable to the individual apartments, which shall have the benefit of home exemption in those cases where the owner of single-family dwelling would qualify. Property taxes assessed by the State shall be assessed on and collected on the individual apartments and not on the property as a whole. Without limitation of the foregoing,

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		each apartment and the common interest appertaining thereto shall be deemed to be a parcel and shall be subject to separate assessment and taxation for all types of taxes authorized by law, including, but not limited to, special assessments.
(c) Any portion of the common elements for which the declarant has reserved any development right must be separately taxed and assessed against the declarant, and the declarant alone is liable for payment of those taxes.	(c) Any portion of the common elements for which the declarant has reserved any development right must be separately taxed and assessed against the declarant, and the declarant alone is liable for payment of those taxes.	
(d) If there is no unit owner other than a declarant, the real estate comprising the common interest community may be taxed and assessed in any manner provided by law.	(d) If there is no unit owner other than a declarant, the real estate comprising the condominium may be taxed and assessed in any manner provided by law.	
SECTION 1-106. APPLICABILITY OF LOCAL ORDINANCES, REGULATIONS, AND BUILDING CODES.	§ 1-106. [Applicability of Local Ordinances, Regulations, and Building Codes]	[§514A-1.6] Conformance with county land use ordinances.
(a) A building code may not impose any requirement upon any structure in a common interest community which it would not impose upon a physically identical development under a different form of ownership.	A zoning, subdivision, building code, or other real estate use law, ordinance, or regulation may not prohibit the condominium form of ownership or impose any requirement upon a condominium which it would not impose upon a physically identical development under a different form of ownership. Otherwise, no provision of this Act invalidates or modifies any provision of any zoning, subdivision, building code, or other real estate use law, ordinance, or regulation.	Any condominium property regime established under this chapter 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 514A-45, 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 514A-11(13) or section 514A-40(b).
(b) In condominiums and cooperatives, no zoning, subdivision, or other real estate use law, ordinance, or regulation may prohibit the condominium or cooperative form of ownership or impose any requirement upon a condominium or cooperative which it would not impose upon a physically identical development under a different form of ownership.		
(c) Except as provided in subsections (a) and (b), the provisions of this [Act] do not invalidate or modify any provision of any building code, zoning, subdivision, or other real estate use law, ordinance, rule, or regulation governing the use of real estate.		
SECTION 1-107. EMINENT DOMAIN.	§ 1-107. [Eminent Domain]	
(a) If a unit is acquired by eminent domain or part of a unit is acquired by eminent domain leaving the unit owner with a remnant that may not practically or lawfully	(a) If a unit is acquired by eminent domain, or if part of a unit is acquired by eminent domain leaving the unit owner with a remnant which may not practically or	

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be used for any purpose permitted by the declaration, the award must include compensation to the unit owner for that unit and its allocated interests, whether or not any common elements are acquired. Upon acquisition, unless the decree otherwise provides, that unit's allocated interests are automatically reallocated to the remaining units in proportion to the respective allocated interests of those units before the taking, and the association shall promptly prepare, execute, and record an amendment to the declaration reflecting the reallocations. Any remnant of a unit remaining after part of a unit is taken under this subsection is thereafter a common element.	lawfully be used for any purpose permitted by the declaration, the award must compensate the unit owner for his unit and its interest in the common elements, whether or not any common elements are acquired. Upon acquisition, unless the decree otherwise provides, that unit's allocated interests are automatically reallocated to the remaining units in proportion to the respective allocated interests of those units before the taking, and the association shall promptly prepare, execute, and record an amendment to the declaration reflecting the reallocations. Any remnant of a unit remaining after part of a unit is taken under this subsection is thereafter a common element.	
(b) Except as provided in subsection (a), if part of a unit is acquired by eminent domain, the award must compensate the unit owner for the reduction in value of the unit and its interest in the common elements, whether or not any common elements are acquired. Upon acquisition, unless the decree otherwise provides, (i) that unit's allocated interests are reduced in proportion to the reduction in the size of the unit, or on any other basis specified in the declaration and (ii) the portion of the allocated interests divested from the partially acquired unit are automatically reallocated to that unit and to the remaining units in proportion to the respective allocated interests of those units before the taking, with the partially-acquired unit participating in the reallocation on the basis of its reduced allocated interests.	(b) Except as provided in subsection (a), if part of a unit is acquired by eminent domain, the award must compensate the unit owner for the reduction in value of the unit and its interest in the common elements, whether or not any common elements are acquired. Upon acquisition, unless the decree otherwise provides, (1) that unit's allocated interests are reduced in proportion to the reduction in the size of the unit, or on any other basis specified in the declaration, and (2) the portion of the allocated interests divested from the partially acquired unit are automatically reallocated to that unit and the remaining units in proportion to the respective allocated interests of those units before the taking, with the partially acquired unit participating in the reallocation on the basis of its reduced allocated interests.	
(c) If part of the common elements is acquired by eminent domain, the portion of the award attributable to the common elements taken must be paid to the association. Unless the declaration provides otherwise, any portion of the award attributable to the acquisition of a limited common element must be equally divided among the owners of the units to which that limited common element was allocated at the time of acquisition.	(c) If part of the common elements is acquired by eminent domain the portion of the award attributable to the common elements taken must be paid to the association. Unless the declaration provides otherwise, any portion of the award attributable to the acquisition of a limited common element must be equally divided among the owners of the units to which that limited common element was allocated at the time of acquisition.	
(d) The court decree must be recorded in every [county] in which any portion of the common interest community is located.	(d) The court decree shall be recorded in every (county) in which any portion of the condominium is located.	
		[See, §514A-21(c) below, regarding effects of eminent domain proceedings on leasehold condominium projects]
SECTION 1-108. SUPPLEMENTAL GENERAL PRINCIPLES OF LAW APPLICABLE. The principles of	§ 1-108. [Supplemental General Principles of Law Applicable] The principles of law and equity, including	

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law and equity, including the law of corporations [and unincorporated associations], the law of real property, and the law relative to capacity to contract, principal and agent, eminent domain, estoppel, fraud, misrepresentation, duress, coercion, mistake, receivership, substantial performance, or other validating or invalidating cause supplement the provisions of this [Act], except to the extent inconsistent with this [Act].	the law of corporations (and unincorporated associations), the law of real property and the law relative to capacity to contract, principal and agent, eminent domain, estoppel, fraud, misrepresentation, duress, coercion, mistake, receivership, substantial performance, or other validating or invalidating cause supplement the provisions of this Act, except to the extent inconsistent with this Act.	
SECTION 1-109. CONSTRUCTION AGAINST IMPLICIT REPEAL. This [Act] being a general act intended as a unified coverage of its subject matter, no part of it shall be construed to be impliedly repealed by subsequent legislation if that construction can reasonably be avoided.	§ 1-109. [Construction Against Implicit Repeal] This Act being a general act intended as a unified coverage of its subject matter, no part of it shall be construed to be impliedly repealed by subsequent legislation if that construction can reasonably be avoided.	
SECTION 1-110. UNIFORMITY OF APPLICATION AND CONSTRUCTION. This [Act] shall be applied and construed so as to effectuate its general purpose to make uniform the law with respect to the subject of this [Act] among States enacting it.	§ 1-110. [Uniformity of Application and Construction] This Act shall be applied and construed so as to effectuate its general purpose to make uniform the law with respect to the subject of this Act among states enacting it.	
SECTION 1-111. SEVERABILITY. If any provision of this [Act] or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of this [Act] which can be given effect without the invalid provisions or applications, and to this end the provisions of this [Act] are severable.	§ 1-111. [Severability] If any provision of this Act or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of this Act which can be given effect without the invalid provisions or applications, and to this end the provisions of this Act are severable.	
SECTION 1-112. UNCONSCIONABLE AGREEMENT OR TERM OF CONTRACT.	§ 1-112. [Unconscionable Agreement or Term of Contract]	
(a) The court, upon finding as a matter of law that a contract or contract clause was unconscionable at the time the contract was made, may refuse to enforce the contract, enforce the remainder of the contract without the unconscionable clause, or limit the application of any unconscionable clause in order to avoid an unconscionable result.	(a) The court, upon finding as a matter of law that a contract or contract clause was unconscionable at the time the contract was made, may refuse to enforce the contract, enforce the remainder of the contract without the unconscionable clause, or limit the application of any unconscionable clause in order to avoid an unconscionable result.	
(b) Whenever it is claimed, or appears to the court, that a contract or any contract clause is or may be unconscionable, the parties, in order to aid the court in making the determination, must be afforded a reasonable opportunity to present evidence as to:	(b) Whenever it is claimed, or appears to the court, that a contract or any contract clause is or may be unconscionable, the parties, in order to aid the court in making the determination, shall be afforded a reasonable opportunity to present evidence as to:	
(1) the commercial setting of the negotiations;	(1) the commercial setting of the negotiations;	
(2) whether a party has knowingly taken advantage of the inability of the other party reasonably to protect his interests by reason of physical or mental infirmity, illiteracy, inability to understand the language of the agreement, or similar factors;	(2) whether a party has knowingly taken advantage of the inability of the other party reasonably to protect his interests by reason of physical or mental infirmity, illiteracy, or inability to understand the language of the agreement or similar factors;	

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(3) the effect and purpose of the contract or clause; and	(3) the effect and purpose of the contract or clause; and	
(4) if a sale, any gross disparity, at the time of contracting, between the amount charged for the property and the value of that property measured by the price at which similar property was readily obtainable in similar transactions. A disparity between the contract price and the value of the property measured by the price at which similar property was readily obtainable in similar transactions does not, of itself, render the contract unconscionable.	(4) if a sale, any gross disparity, at the time of contracting, between the amount charged for the real estate and the value of the real estate measured by the price at which similar real estate was readily obtainable in similar transactions, but a disparity between the contract price and the value of the real estate measured by the price at which similar real estate was readily obtainable in similar transactions does not, of itself, render the contract unconscionable.	
SECTION 1-113. OBLIGATION OF GOOD FAITH. Every contract or duty governed by this [Act] imposes an obligation of good faith in its performance or enforcement.	§ 1-113. [Obligation of Good Faith] Every contract or duty governed by this Act imposes an obligation of good faith in its performance or enforcement.	
SECTION 1-114. REMEDIES TO BE LIBERALLY ADMINISTERED.	§ 1-114. [Remedies To Be Liberally Administered]	
(a) The remedies provided by this [Act] shall be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed. However, consequential, special, or punitive damages may not be awarded except as specifically provided in this [Act] or by other rule of law.	(a) The remedies provided by this Act shall be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed. However, consequential, special, or punitive damages may not be awarded except as specifically provided in this Act or by other rule of law.	
(b) Any right or obligation declared by this [Act] is enforceable by judicial proceeding.	(b) Any right or obligation declared by this Act is enforceable by judicial proceeding.	
SECTION 1-115. ADJUSTMENT OF DOLLAR AMOUNTS.		
(a) From time to time the dollar amount specified in Section 1-203 must change, as provided in subsections (b) and (c), according to and to the extent of changes in the Consumer Price Index for Urban Wage Earners and Clerical Workers: U.S. City Average, All Items 1967 = 100, compiled by the Bureau of Labor Statistics, United States Department of Labor, (the "Index"). The Index for December, 1979, which was 230, is the Reference Base Index.		
(b) The dollar amount specified in Section 1-203 and any amount stated in the declaration pursuant to that section, must change on July 1 of each year if the percentage of change, calculated to the nearest whole percentage point, between the Index at the end of the preceding year and the Reference Base Index is 10 percent or more, but (i) the portion of the percentage change in the Index in excess of a multiple of 10 percent must be disregarded and the dollar amount shall change only in multiples of		

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<p>10 percent of the amount appearing in this [Act] on the date of enactment;</p> <p>(ii) the dollar amount must not change if the amount required by this section is that currently in effect pursuant to this [Act] as a result of earlier application of this section; and</p> <p>(iii) in no event may the dollar amount be reduced below the amount appearing in this [Act] on the date of enactment.</p>		
<p>(c) If the Index is revised after December, 1979, the percentage of change pursuant to this section must be calculated on the basis of the revised Index. If the revision of the Index changes the Reference Base Index, a revised Reference Base Index must be determined by multiplying the Reference Base Index then applicable by the rebasing factor furnished by the Bureau of Labor Statistics. If the Index is superseded, the Index referred to in this section is the one represented by the Bureau of Labor Statistics as reflecting most accurately changes in the purchasing power of the dollar for consumers.</p>		
[PART] 2. APPLICABILITY		
<p>SECTION 1-201. APPLICABILITY TO NEW COMMON INTEREST COMMUNITIES. Except as provided in Sections 1-202 and 1-203, this [Act] applies to all common interest communities created within this State after the effective date of this [Act]. The provisions of [insert reference to all present statutes expressly applicable to planned communities, condominiums, cooperatives, or horizontal property regimes] do not apply to common interest communities created after the effective date of this [Act]. Amendments to this [Act] apply to all common interest communities created after the effective date of this [Act] or subjected to this [Act], regardless of when the amendment is adopted in this State.</p>	<p>§ 1-102. [Applicability] (a) This Act applies to all condominiums created within this State after the effective date of this Act. Sections 1-105 (Separate Titles and Taxation), 1-106 (Applicability of Local Ordinances, Regulations, and Building Codes), 1-107 (Eminent Domain), 2-103 (Construction and Validity of Declaration and Bylaws), 2-104 (Description of Units), 3-102(a)(1) through (6) and (11) through (16) (Powers of Unit Owners' Association), 3-111 (Tort and Contract Liability), 3-116 (Lien for Assessments), 3-118 (Association Records), 4-109 (Resales of Units), and 4-117 (Effect of Violation on Rights of Action; Attorney's Fees), and Section 1-103 (Definitions), to the extent necessary in construing any of those sections, apply to all condominiums created in this State before the effective date of this Act; but those sections apply only with respect to events and circumstances occurring after the effective date of this Act and do not invalidate existing provisions of the (declaration, bylaws, or plats or plans) of those condominiums.</p>	<p>[§514A-1.5] Applicability of chapter. This chapter shall not apply to any condominium project or association of apartment owners created prior to May 29, 1963, pursuant to Act 180, Session Laws of Hawaii 1961, unless all of the owners and holders of liens affecting any of the apartments in the project have expressly declared that this chapter shall apply to the property, and shall govern the rights, interests, and remedies of all persons owning interests in or liens upon the property; provided that any condominium project or association of apartment owners created prior to May 29, 1963, pursuant to Act 180, Session Laws of Hawaii 1961, having seven or more apartments shall register with the commission and comply with the requirements pursuant to sections 514A-95.1 and 514A-132, except for the fidelity bond requirement. The express declaration shall be made through the execution and recordation of a declaration in form and content required to establish a condominium property regime pursuant to this chapter.</p>
	<p>(b) The provisions of (insert reference to all present statutes expressly applicable to condominiums or horizontal property regimes) do not apply to condominiums created after the effective date of this Act</p>	

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	and do not invalidate any amendment to the (declaration, bylaws, and plats and plans) of any condominium created before the effective date of this Act if the amendment would be permitted by this Act. The amendment must be adopted in conformity with the procedures and requirements specified by those instruments and by (insert reference to all present statutes expressly applicable to condominiums or horizontal property regimes). If the amendment grants to any person any rights, powers, or privileges permitted by this Act, all correlative obligations, liabilities, and restrictions in this Act also apply to that person.	
		§514A-2 Chapter not exclusive. This chapter is in addition and supplemental to all other provisions of the Revised Statutes; provided that this chapter shall not change the substantive law relating to land court property, and provided further that if this chapter conflicts with chapters 501 and 502, chapters 501 and 502 shall prevail.
SECTION 1-202. EXCEPTION FOR SMALL COOPERATIVES. If a cooperative contains no more than 12 units and is not subject to any development rights, it is subject only to Sections 1-106 (Applicability of Local Ordinances, Regulations, and Building Codes) and 1-107 (Eminent Domain) of this [Act] unless the declaration provides that the entire [Act] is applicable.		
SECTION 1-203. EXCEPTION FOR SMALL AND LIMITED EXPENSE LIABILITY PLANNED COMMUNITIES.		
(a) If a planned community that is not subject to any development right:		
(1) contains no more than 12 units; or		
(2) provides, in its declaration, that the annual average common expense liability of all units restricted to residential purposes, exclusive of optional user fees and any insurance premiums paid by the association, may not exceed \$300 as adjusted pursuant to Section 1-115 (Adjustment of Dollar Amounts), it is subject only to Sections 1-105 (Separate Titles and Taxation), 1-106 (Applicability of Local Ordinances, Regulations, and Building Codes), and 1-107 (Eminent Domain) unless the declaration provides that this entire [Act] is applicable.		
(b) The exemption provided in subsection (a)(2) applies only if:		
(1) the declarant reasonably believes in good faith that		

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the maximum stated assessment will be sufficient to pay the expenses of the planned community; and		
(2) the declaration provides that the assessment may not be increased during the period of declarant control without the consent of all unit owners.		
SECTION 1-204. APPLICABILITY TO PRE-EXISTING COMMON INTEREST COMMUNITIES. Except as provided in Section 1-205 (Same; Exception for Small Pre-Existing Cooperatives and Planned Communities), Sections 1-105 (Separate Titles and Taxation), 1-106 (Applicability of Local Ordinances, Regulations, and Building Codes), 1-107 (Eminent Domain), 2-103 (Construction and Validity of Declaration and Bylaws), 2-104 (Description of Units), 2-121 (Merger or Consolidation of Common Interest Communities), 3-102(a)(1) through (6) and (11) through (16) (Powers of Unit Owners' Association), 3-111 (Tort and Contract Liability), 3-116 (Lien for Assessments), 3-118 (Association Records), 4-109 (Resales of Units), and 4-117 (Effect of Violation on Rights of Action; Attorney's Fees), and Section 1-103 (Definitions) to the extent necessary in construing any of those sections, apply to all common interest communities created in this State before the effective date of this [Act]; but those sections apply only with respect to events and c		
SECTION 1-205. SAME; EXCEPTION FOR SMALL PRE-EXISTING COOPERATIVES AND PLANNED COMMUNITIES. If a cooperative or planned community created within this State before the effective date of this [Act] contains no more than 12 units and is not subject to any development rights, it is subject only to Sections 1-105 (Separate Titles and Taxation), 1-106 (Applicability of Local Ordinances, Regulations, and Building Codes), and 1-107 (Eminent Domain) unless the declaration is amended in conformity with applicable law and with the procedures and requirements of the declaration to take advantage of the provisions of Section 1-206, in which case all the sections enumerated in Section 1-204 apply to that cooperative or planned community.		
SECTION 1-206. AMENDMENTS TO GOVERNING INSTRUMENTS.		
(a) The declaration, bylaws, or plats and plans of any common interest community created before the effective date of this [Act] may be amended to achieve any result permitted by this [Act], regardless of what applicable law provided before this [Act] was adopted.		

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(b) An amendment to the declaration, bylaws, or plats and plans authorized by this section must be adopted in conformity with any procedures and requirements for amending the instruments specified by those instruments or, if there are none, in conformity with the amendment procedures of this [Act]. If an amendment grants to any person any rights, powers, or privileges permitted by this [Act], all correlative obligations, liabilities, and restrictions in this [Act] also apply to that person.		
SECTION 1-207. APPLICABILITY TO NONRESIDENTIAL AND MIXED-USE COMMON INTEREST COMMUNITIES.		
(a) "Nonresidential common interest community" means a common interest community in which all units are restricted exclusively to nonresidential purposes. Except as provided in subsection (e), this section applies only to nonresidential common interest communities.		
(b) A nonresidential common interest community is not subject to this [Act] unless the declaration otherwise provides.		
(c) The declaration of a nonresidential common interest community may provide that the entire [Act] applies to the community or that only Sections 1-105 (Separate Titles and Taxation), 1-106 (Applicability of Local Ordinances, Regulations and Building Codes), and 1-107 (Eminent Domain) apply.		
(d) If the entire [Act] applies to a nonresidential common interest community, the declaration may also require, subject to Section 1-112 (Unconscionable Agreement or Term of Contract), that:		
(1) notwithstanding Section 3-105 (Termination of Contracts and Leases of Declarant), any management contract, employment contract, lease of recreational or parking areas or facilities, and any other contract or lease between the association and a declarant or an affiliate of a declarant continues in force after the declarant turns over control of the association; and		
(2) notwithstanding Section 1-104 (Variation by Agreement), purchasers of units must execute proxies, powers of attorney, or similar devices in favor of the declarant regarding particular matters enumerated in those instruments.		
(e) A common interest community that contains units restricted exclusively to nonresidential purposes and other units that may be used for residential purposes is		

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not subject to this [Act] unless the units that may be used for residential purposes would comprise a common interest community in the absence of the nonresidential units or the declaration provides that this [Act] applies as provided in subsection (c) or (d).		
SECTION 1-208. APPLICABILITY TO OUT-OF-STATE COMMON INTEREST COMMUNITIES. This [Act] does not apply to common interest communities or units located outside this State, but the public offering statement provisions (Sections 4-102 through 4-108) apply to all contracts for the disposition thereof signed in this State by any party unless exempt under Section 4-101(b) [and the agency regulation provisions under [Article] 5 apply to any offering thereof in this State].	(c) This Act does not apply to condominiums or units located outside this State, but the public offering statement provisions (Sections 4-102 through 4-108) apply to all contracts for the disposition thereof signed in this State by any party unless exempt under Section 4-101(b) [and the agency regulation provisions under Article 5 apply to any offering thereof in this State.]	
		[\$514A-7] Condominium specialist; appointment; duties. There are established two permanent condominium specialist positions within the department of commerce and consumer affairs to assist consumers with information, advice, and referral on any matter relating to this chapter or otherwise concerning condominium property regimes. There is also established a permanent secretarial position to provide assistance in carrying out these duties. The condominium specialists and secretary shall be appointed by the director of commerce and consumer affairs without regard to chapters 76 and 77. The condominium specialists and secretary shall be members of the employees retirement system of the State and shall be eligible to receive the benefits of any state or federal employee benefit program generally applicable to officers and employees of the State.
[ARTICLE] 2. CREATION, ALTERATION, AND TERMINATION OF COMMON INTEREST COMMUNITIES	ARTICLE 2. CREATION, ALTERATION, AND TERMINATION OF CONDOMINIUMS	PART II. CREATION, ALTERATION, AND TERMINATION OF CONDOMINIUMS
SECTION 2-101. CREATION OF COMMON INTEREST COMMUNITIES.	§ 2-101. [Creation of Condominium]	
(a) A common interest community may be created pursuant to this [Act] only by recording a declaration executed in the same manner as a deed and, in a cooperative, by conveying the real estate subject to that declaration to the association. The declaration must be recorded in every [county] in which any portion of the common interest community is located and must be indexed [in the grantee's index] in the name of the common interest community and the association and [in	(a) A condominium may be created pursuant to this Act only by recording a declaration executed in the same manner as a deed. The declaration must be recorded in every [county] in which any portion of the condominium is located, and must be indexed [in the Grantee's index] in the name of the condominium and the association and [in the Grantor's index] in the name of each person executing the declaration.	§514A-20 Condominium property regimes. Whenever the sole owner or all of the owners including all of the lessees of a property expressly declare, through the execution and recordation of a master deed, together with a declaration, which declaration shall set forth the particulars enumerated by section 514A-11, the sole owner's or their desire to submit the property to the regime established by this chapter, there shall thereby be established a condominium property regime with

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the grantor's index] in the name of each person executing the declaration.		respect to the property, and this chapter shall be applicable to the property. If the master deed is already recorded, the recordation of the declaration is sufficient to achieve the same result.
(b) In a condominium, a declaration, or an amendment to a declaration, adding units may not be recorded unless (i) all structural components and mechanical systems of all buildings containing or comprising any units thereby created are substantially completed in accordance with the plans, as evidenced by a recorded certificate of completion executed by an independent [registered] engineer, surveyor, or architect [, or (ii) unless the agency has approved the declaration or amendment in the manner prescribed in Section 5-103(b)].	(b) A declaration or an amendment to a declaration adding units to a condominium, may not be recorded unless all structural components and mechanical systems of all buildings containing or comprising any units thereby created are substantially completed in accordance with the plans, as evidenced by a recorded certificate of completion executed by an independent (registered) engineer, surveyor, or architect [, or unless the agency has approved the declaration or amendment in the manner prescribed in Section 5-103(b).]	§514A-12 Copy of the floor plans to be filed. Simultaneously with the recording of the declaration, there shall be filed in the office of the recording officer a set of the floor plans and elevations of the building or buildings, showing the layout, location, apartment numbers, and dimensions of the apartments, stating the name of the property or that it has no name, and bearing the statement of a registered architect or professional engineer certifying that it is an accurate copy of portions of the plans of the building or buildings as filed with the county or city and county officer having jurisdiction over the issuance of permits for the construction of buildings and, if construction of the building or buildings is completed, as approved by the county or city and county officer. If the plans do not include a statement by the architect or engineer that the plans fully and accurately depict the layout, location, apartment numbers, and dimensions of the apartments as approved by the county or city and county officer having jurisdiction over the issuance of permits for the construction of buildings and as built, there shall be recorded within thirty days from the date of completion of the building or buildings as "date of completion" is defined in section 507-43, or from the date of occupancy of the building or buildings, whichever shall first occur, an amendment to the declaration to which shall be attached a statement of a registered architect or professional engineer certifying that the final plans theretofore filed, or being filed simultaneously with such amendment, fully and accurately depict the layout, location, apartment numbers, and dimensions of the apartments as approved by the county or city and county officer having jurisdiction over the issuance of permits for the construction of buildings and as built, which amendment shall require only the vote or written consent of the declarant or such other person or persons as are provided in the declaration. The plans shall be kept by the recording officer as provided by rules adopted by the department of land and natural resources, pursuant to chapter 91, indexed in the same manner as a conveyance entitled to record, numbered serially in the order of receipt, each designated "apartment

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		ownership," with the name of the property, if any, and each containing an appropriate reference to the recording of the declaration. Correspondingly, the record of the declaration shall contain a reference to the file number of the floor plans of the building or buildings on the property affected thereby.
SECTION 2-102. UNIT BOUNDARIES. Except as provided by the declaration:	§ 2-102. [Unit Boundaries] Except as provided by the declaration:	
(1) If walls, floors, or ceilings are designated as boundaries of a unit, all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring, and any other materials constituting any part of the finished surfaces thereof are a part of the unit, and all other portions of the walls, floors, or ceilings are a part of the common elements.	(1) If walls, floors or ceilings are designated as boundaries of a unit, all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring, and any other materials constituting any part of the finished surfaces thereof are a part of the unit, and all other portions of the walls, floors, or ceilings are a part of the common elements.	
(2) If any chute, flue, duct, wire, conduit, bearing wall, bearing column, or any other fixture lies partially within and partially outside the designated boundaries of a unit, any portion thereof serving only that unit is a limited common element allocated solely to that unit, and any portion thereof serving more than one unit or any portion of the common elements is a part of the common elements.	(2) If any chute, flue, duct, wire, conduit, bearing wall, bearing column, or any other fixture lies partially within and partially outside the designated boundaries of a unit, any portion thereof serving only that unit is a limited common element allocated solely to that unit, and any portion thereof serving more than one unit or any portion of the common elements is a part of the common elements.	
(3) Subject to paragraph (2), all spaces, interior partitions, and other fixtures and improvements within the boundaries of a unit are a part of the unit.	(3) Subject to the provisions of paragraph (2), all spaces, interior partitions, and other fixtures and improvements within the boundaries of a unit are a part of the unit.	
(4) Any shutters, awnings, window boxes, doorsteps, stoops, porches, balconies, patios, and all exterior doors and windows or other fixtures designed to serve a single unit, but located outside the unit's boundaries, are limited common elements allocated exclusively to that unit.	(4) Any shutters, awnings, window boxes, doorsteps, stoops, porches, balconies, patios, and all exterior doors and windows or other fixtures designed to serve a single unit, but located outside the unit's boundaries, are limited common elements allocated exclusively to that unit.	
SECTION 2-103. CONSTRUCTION AND VALIDITY OF DECLARATION AND BYLAWS.	§ 2-103. [Construction and Validity of Declaration and By-Laws]	
(a) All provisions of the declaration and bylaws are severable.	(a) All provisions of the declaration and bylaws are severable.	
(b) The rule against perpetuities does not apply to defeat any provision of the declaration, bylaws, rules, or regulations adopted pursuant to Section 3-102(a)(1).	(b) The rule against perpetuities may not be applied to defeat any provision of the declaration, bylaws, rules, or regulations adopted pursuant to Section 3-102(a)(1).	
(c) In the event of a conflict between the provisions of the declaration and the bylaws, the declaration prevails except to the extent the declaration is inconsistent with this [Act].	(c) In the event of a conflict between the provisions of the declaration and the bylaws, the declaration prevails except to the extent the declaration is inconsistent with this Act.	
(d) Title to a unit and common elements is not rendered	(d) Title to a unit and common elements is not rendered	

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unmarketable or otherwise affected by reason of an insubstantial failure of the declaration to comply with this [Act]. Whether a substantial failure impairs marketability is not affected by this [Act].	unmarketable or otherwise affected by reason of an insubstantial failure of the declaration to comply with this Act. Whether a substantial failure impairs marketability is not affected by this Act.	
SECTION 2-104. DESCRIPTION OF UNITS. A description of a unit which sets forth the name of the common interest community, the [recording data] for the declaration, the [county] in which the common interest community is located, and the identifying number of the unit, is a legally sufficient description of that unit and all rights, obligations, and interests appurtenant to that unit which were created by the declaration or bylaws.	§ 2-104. [Description of Units] A description of a unit which sets forth the name of the condominium, the [recording data] for the declaration, the [county] in which the condominium is located, and the identifying number of the unit, is a sufficient legal description of that unit and all rights, obligations, and interests appurtenant to that unit which were created by the declaration or bylaws.	
SECTION 2-105. CONTENTS OF DECLARATION.	§ 2-105. [Contents of Declaration]	§514A-11 Recordation and contents of declaration.
(a) The declaration must contain:	(a) The declaration for a condominium must contain:	The bureau of conveyances and the land court shall immediately set up the mechanics and method by which recordation of a master deed or lease and the declaration may be made. Provisions shall be made for the recordation of instruments affecting the individual apartments on subsequent resales, mortgages, and other encumbrances, as is done with all other real estate recordations; provided that land court certificates of title shall not be issued for apartments. The declaration to which section 514A-20 refers shall express the following particulars:
(1) the names of the common interest community and the association and a statement that the common interest community is either a condominium, cooperative, or planned community;	(1) the names of the condominium, which must include the word "condominium" or be followed by the words "a condominium", and the association;	
(2) the name of every [county] in which any part of the common interest community is situated;	(2) the name of every [county] in which any part of the condominium is situated;	
(3) a legally sufficient description of the real estate included in the common interest community;	(3) a legally sufficient description of the real estate included in the condominium;	(1) Description of the land, whether leased or in fee simple, on which the building or buildings and improvements are or are to be located;
(4) a statement of the maximum number of units that the declarant reserves the right to create;	(4) a statement of the maximum number of units which the declarant reserves the right to create;	
(5) in a condominium or planned community, a description of the boundaries of each unit created by the declaration, including the unit's identifying number or, in a cooperative, a description, which may be by plats or plans, of each unit created by the declaration, including the unit's identifying number, its size or number of rooms, and its location within a building if it is within a building containing more than one unit;	(5) a description of the boundaries of each unit created by the declaration, including the unit's identifying number;	(2) Description of the building or buildings, stating the number of stories and basements, the number of apartments, and the principal materials of which it or they is or are constructed or to be constructed;
		(3) The apartment number of each apartment, and a statement of its location, approximate area, number of

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		rooms, immediate common element to which it has access, designated parking stall if considered a limited common element, and any other data necessary for its proper identification;
		(4) Description of the common elements;
(6) a description of any limited common elements, other than those specified in Section 2-102(2) and (4), as provided in Section 2-109(b)(10) and, in a planned community, any real estate that is or must become common elements;	(6) a description of any limited common elements, other than those specified in Section 2-102(2) and (4), as provided in Section 2-109(b)(10);	(5) Description of the limited common elements, if any, stating to which apartments their use is reserved;
(7) a description of any real estate, except real estate subject to development rights, that may be allocated subsequently as limited common elements, other than limited common elements specified in Section 2-102(2) and (4), together with a statement that they may be so allocated;	(7) a description of any real estate (except real estate subject to development rights) which may be allocated subsequently as limited common elements, other than limited common elements specified in Section 2-102(2) and (4), together with a statement that they may be so allocated;	
(8) a description of any development rights (Section 1-103(14)) and other special declarant rights (Section 1-103(29)) reserved by the declarant, together with a legally sufficient description of the real estate to which each of those rights applies, and a time limit within which each of those rights must be exercised;	(8) a description of any development rights and other special declarant rights (Section 1-103(23)) reserved by the declarant, together with a legally sufficient description of the real estate to which each of those rights applies, and a time limit within which each of those rights must be exercised;	[See, §514A-11 (12) below, which reads: "Description as to any additions, deletions, modifications, and reservations as to the property, including without limitation provisions concerning the merger or addition of later phases of the project. To the extent provided in the declaration, an amendment to the declaration that is made to implement those additions, deletions, modifications, reservations, or merger provisions shall require the vote or written consent of only the declarant or such percentage of apartment owners as is provided in the declaration."]
(9) if any development right may be exercised with respect to different parcels of real estate at different times, a statement to that effect together with (i) either a statement fixing the boundaries of those portions and regulating the order in which those portions may be subjected to the exercise of each development right or a statement that no assurances are made in those regards, and (ii) a statement as to whether, if any development right is exercised in any portion of the real estate subject to that development right, that development right must be exercised in all or in any other portion of the remainder of that real estate;	(9) if any development right may be exercised with respect to different parcels of real estate at different times, a statement to that effect together with (i) either a statement fixing the boundaries of those portions and regulating the order in which those portions may be subjected to the exercise of each development right, or a statement that no assurances are made in those regards, and (ii) a statement as to whether, if any development right is exercised in any portion of the real estate subject to that development right, that development right must be exercised in all or in any other portion of the remainder of that real estate;	[See, §514A-11 (12) below]
(10) any other conditions or limitations under which the rights described in paragraph (8) may be exercised or will lapse;	(10) any other conditions or limitations under which the rights described in paragraph (8) may be exercised or will lapse;	[See, §514A-11 (12) below]
(11) an allocation to each unit of the allocated interests in the manner described in Section 2-107;	(11) an allocation to each unit of the allocated interests in the manner described in Section 2-107;	(6) The percentage of undivided interest in the common elements appertaining to each apartment and its owner for all purposes, including voting;
(12) any restrictions (i) on alienation of the units,	(12) any restrictions on use, occupancy, and alienation	(7) Statement of the purposes for which the building or

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including any restrictions on leasing which exceed the restrictions on leasing units which executive boards may impose pursuant to Section 3-102(c)(2), and (ii) on the amount for which a unit may be sold or on the amount that may be received by a unit owner on sale, condemnation, or casualty loss to the unit or to the common interest community, or on termination of the common interest community;	of the units;	buildings and each of the apartments are intended and restricted as to use;
(13) the [recording data] for recorded easements and licenses appurtenant to or included in the common interest community or to which any portion of the common interest community is or may become subject by virtue of a reservation in the declaration; and	(13) the [recording data] for recorded easements and licenses appurtenant to or included in the condominium or to which any portion of the condominium is or may become subject by virtue of a reservation in the declaration; and	
(14) all matters required by Sections 2-106, 2-107, 2-108, 2-109, 2-115, 2-116, and 3-103(d).	(14) all matters required by Sections 2-106, 2-107, 2-108, 2-109, 2-115, 2-116, and 3-103(d).	
		(8) The name of a person to receive service of process in the cases hereinafter provided, together with the residence or place of business of the person which shall be within the county in which the property is located;
		(9) Provision as to the percentage of votes by the apartment owners which shall be determinative of whether to rebuild, repair, or restore the property in the event of damage or destruction of all or part of the property;
		(10) Any further details in connection with the property that the person executing the declaration may deem desirable to set forth consistent with this chapter;
		(11) The method by which the declaration may be amended, consistent with this chapter; provided that an amendment to the declarations of all condominium projects existing as of May 22, 1991, and all condominium projects created thereafter shall require a vote or written consent of seventy-five per cent of all apartment owners, except as otherwise provided in this chapter; provided further that the declarations of condominium projects having five or fewer apartments may provide for the amendment thereof by a vote or written consent of more than seventy-five per cent of all apartment owners;
		(12) Description as to any additions, deletions, modifications, and reservations as to the property, including without limitation provisions concerning the merger or addition of later phases of the project. To the extent provided in the declaration, an amendment to the declaration that is made to implement those additions, deletions, modifications, reservations, or merger

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		provisions shall require the vote or written consent of only the declarant or such percentage of apartment owners as is provided in the declaration; and
		(13) A declaration subject to the penalties set forth in section 514A-49(b) that the condominium property regime is in compliance with all zoning and building ordinances and codes, and all other permitting requirements pursuant to section 514A-1.6, and specifying in the case of a property which includes one or more existing structures being converted to condominium status: (A) Any variances which have been granted to achieve such compliance; and (B) Whether, as the result of the adoption or amendment of any ordinances or codes, the project presently contains any legal non-conforming uses or structures; except that a property that is registered pursuant to section 514A-31 shall instead provide this declaration pursuant to [section] 514A-40.
(b) The declaration may contain any other matters the declarant considers appropriate, including any restrictions on the uses of a unit or the number or other qualifications of persons who may occupy units.	(b) The declaration may contain any other matters the declarant deems appropriate.	[See, §514A-11 (10) above which reads: "Any further details in connection with the property that the person executing the declaration may deem desirable to set forth consistent with this chapter."]
		§514A-17 Contents of deeds or leases of apartments. Deeds or leases of apartments shall include the following particulars:
		(1) Description of the land as provided in section 514A-11, or incorporation by reference of the description in the declaration, or the post office address of the property, including in either case an appropriate reference to the recording of the declaration.
		(2) The apartment number of the apartment in the declaration and any other data necessary for its proper identification.
		(3) Statement of the use for which the apartment is intended and restrictions on its use.
		(4) The common interest appertaining to the apartment.
		(5) All encumbrances on the apartment and any further details which the grantor and grantee, or lessor and lessee, deem desirable to set forth consistent with the declaration and this chapter.
SECTION 2-106. LEASEHOLD COMMON INTEREST COMMUNITIES.	§ 2-106. [Leasehold Condominiums]	
(a) Any lease the expiration or termination of which may	(a) Any lease the expiration or termination of which may	

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terminate the common interest community or reduce its size [, or a memorandum thereof,] must be recorded. Every lessor of those leases in a condominium or planned community shall sign the declaration. The declaration must state:	terminate the condominium or reduce its size [, or a memorandum thereof,] shall be recorded. Every lessor of those leases must sign the declaration, and the declaration shall state:	
(1) the [recording data] for the lease [or a statement of where the complete lease may be inspected];	(1) the [recording data] for the lease [or a statement of where the complete lease may be inspected];	
(2) the date on which the lease is scheduled to expire;	(2) the date on which the lease is scheduled to expire;	
(3) a legally sufficient description of the real estate subject to the lease;	(3) a legally sufficient description of the real estate subject to the lease;	
(4) any right of the unit owners to redeem the reversion and the manner whereby those rights may be exercised, or a statement that they do not have those rights;	(4) any right of the unit owners to redeem the reversion and the manner whereby those rights may be exercised, or a statement that they do not have those rights;	
(5) any right of the unit owners to remove any improvements within a reasonable time after the expiration or termination of the lease, or a statement that they do not have those rights; and	(5) any right of the unit owners to remove any improvements within a reasonable time after the expiration or termination of the lease, or a statement that they do not have those rights; and	
(6) any rights of the unit owners to renew the lease and the conditions of any renewal, or a statement that they do not have those rights.	(6) any rights of the unit owners to renew the lease and the conditions of any renewal, or a statement that they do not have those rights.	
(b) After the declaration for a leasehold condominium or leasehold planned community is recorded, neither the lessor nor the lessor's successor in interest may terminate the leasehold interest of a unit owner who makes timely payment of a unit owner's share of the rent and otherwise complies with all covenants which, if violated, would entitle the lessor to terminate the lease. A unit owner's leasehold interest in a condominium or planned community is not affected by failure of any other person to pay rent or fulfill any other covenant.	(b) After the declaration for a leasehold condominium is recorded, neither the lessor nor his successor in interest may terminate the leasehold interest of a unit owner who makes timely payment of his share of the rent and otherwise complies with all covenants which, if violated, would entitle the lessor to terminate the lease. A unit owner's leasehold interest is not affected by failure of any other person to pay rent or fulfill any other covenant.	
(c) Acquisition of the leasehold interest of any unit owner by the owner of the reversion or remainder does not merge the leasehold and fee simple interests unless the leasehold interests of all unit owners subject to that reversion or remainder are acquired.	(c) Acquisition of the leasehold interest of any unit owner by the owner of the reversion or remainder does not merge the leasehold and fee simple interests unless the leasehold interests of all unit owners subject to that reversion or remainder are acquired.	
(d) If the expiration or termination of a lease decreases the number of units in a common interest community, the allocated interests must be reallocated in accordance with Section 1-107(a) as if those units had been taken by eminent domain. Reallocations must be confirmed by an amendment to the declaration prepared, executed, and recorded by the association.	(d) If the expiration or termination of a lease decreases the number of units in a condominium, the allocated interests shall be reallocated in accordance with Section 1-107(a) as though those units had been taken by eminent domain. Reallocations shall be confirmed by an amendment to the declaration prepared, executed, and recorded by the association.	[See also, §514A-21(c) below, regarding effects of eminent domain proceedings on leasehold condominium projects]
		§514A-13 Common elements. (a) Each apartment shall have appurtenant thereto a common interest as expressed in the declaration.

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		(b) The common interest appurtenant to each apartment as expressed in the declaration shall have a permanent character and shall not be altered without the consent of all of the apartment owners affected, expressed in an amended declaration duly recorded, except as provided in section 514A-11(12). An amendment which subdivides or consolidates apartments and reappropriates the common interest appurtenant to the subdivided or consolidated apartment shall, to the extent provided in the declaration, require the vote or written consent of only the apartment owners of the subdivided or consolidated apartments, their mortgagees, and such other percentage of apartment owners as the declaration may provide. The common interest shall not be separated from the apartment to which it appertains and shall be deemed to be conveyed or encumbered with the apartment even though such interest is not expressly mentioned or described in the conveyance or other instrument.
		(c) The common elements shall remain undivided and no right shall exist to partition or divide any part thereof, except as otherwise expressed in this chapter. Any provision to the contrary is void.
		(d) Each apartment owner may use the common elements in accordance with the purpose for which they were intended without hindering or encroaching upon the lawful rights of the other apartment owners, subject to:
		(1) The right of the board of directors, upon the approval of the owners of seventy-five per cent of the common interests, to change the use of the common elements;
		(2) The right of the board of directors, on behalf of the association of apartment owners, to lease or otherwise use for the benefit of the association of apartment owners those common elements which are not actually used by any of the apartment owners for an originally intended special purpose, as determined by the board of directors; provided that unless the approval of the owners of seventy-five per cent of the common interest is obtained, any such lease shall not have a term exceeding five years and shall contain a provision that the lease or agreement for use may be terminated by either party thereto on not more than sixty days written notice;
		(3) The right of the board of directors to lease or otherwise use for the benefit of the association of

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		apartment owners those common elements not falling within paragraph (2) above, upon obtaining: (A) the approval of the owners of seventy-five per cent of the common elements, including all directly affected owners and all owners of apartments to which such common elements are appurtenant in the case of limited common elements, and (B) approval of all mortgagees of record on apartments with respect to which owner approval is required by (A) above, if such lease or use would be in derogation of the interest of such mortgagees; and
		(4) The exclusive use of the limited common elements as provided in the declaration.
		(e) The operation of the property shall be carried out as provided herein and in the declaration and the bylaws.
		(f) The apartment owners shall have the irrevocable right, to be exercised by the board of directors, to have access to each apartment from time to time during reasonable hours as may be necessary for the operation of the property or for making emergency repairs therein necessary to prevent damage to the common elements or to another apartment or apartments.
		(g) An undivided interest in the land included in the common elements equal to the apartment's common interest may be leased to the apartment owner and the apartment and other common elements may be deeded to the apartment owner with a right of removal; and, this shall not constitute a division or partition of the common elements, or a separation of the common interest from the apartment to which it appertains; nor shall any such deed be construed as conveying title to the land included in the common elements.
		(h) Lobby areas, swimming pools, recreation areas, saunas, storage areas, hallways, trash chutes, laundry chutes, and other similar areas not located inside apartments intended for residential use or the conduct of a business shall constitute common elements unless designated as limited common elements by the declaration.
		§514A-13.5 Remuneration to allow ingress and egress prohibited. Ingress and egress through lobby areas or walkways, whether common elements, limited common elements, or individually owned, shall not be denied to apartment owners seeking access to the apartments. No payment of any fee or other type of remuneration by individual owners singly, or collectively as part of an owners' association, shall be allowed. This

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		section shall apply to condominium property regimes in existence on May 18, 1984, and those formed thereafter, except as to lobby areas or walkways which are limited common elements, or individually owned.
		§514A-13.6] Mailboxes for each dwelling required. Any: (1) Condominium: (A) Built; (B) Rehabilitated, reconstructed, or otherwise improved to the extent that the value of the work required equals at least one per cent of the appraised value of the building; or (2) Existing building converted to condominium status; after May 18, 1984, shall provide at least one mailbox for each dwelling unit.
		§514A-14 Parking stalls. Notwithstanding any provision of the declaration, apartment owners shall have the right to change the designation of parking stalls which are appurtenant to their respective apartments by amendment of the declaration and respective apartment leases or deeds involved. The amendment need only be signed and approved by the lessor (in the case of a leasehold project) and the owners (and their respective mortgagees if any) of the apartments whose parking stalls are being changed. The amendment shall be effective only upon recording or filing of the same of record with the bureau of conveyances.
		§514A-14.5 Ownership of parking stalls. (a) Owners of apartments intended for use for dwelling purposes shall have the right to own or have designated parking stalls to be appurtenant to their respective apartments. Where a developer or association of apartment owners owns parking stalls and rents parking stalls to the owners of the apartments, a majority of these apartment owners may request the appointment of an appraiser to establish a price for each parking stall which may then be negotiated for purchase by the respective owners.
		(b) The sales contract for any apartment, intended for use for dwelling purposes and newly constructed after April 29, 1986, shall include ownership of a parking stall or designate a stall to be appurtenant to the apartment as a limited common element.
		(c) This section does not apply:
		(1) To apartments developed under chapter 201G; and
		(2) To apartments in a mixed-use project developed under chapter 206E that has a shared parking program

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		approved by the Hawaii community development authority; provided that such a program shall require the availability of the use of not less than one parking space per apartment.
SECTION 2-107. ALLOCATION OF ALLOCATED INTERESTS.	§ 2-107. [Allocation of Common Element Interests, Votes, and Common Expense Liabilities]	
(a) The declaration must allocate to each unit: (i) in a condominium, a fraction or percentage of undivided interests in the common elements and in the common expenses of the association (Section 3-115(a)), and a portion of the votes in the association; (ii) in a cooperative, an ownership interest in the association, a fraction or percentage of the common expenses of the association (Section 3-115(a)), and a portion of the votes in the association; and (iii) in a planned community, a fraction or percentage of the common expenses of the association (Section 3-115(a)), and a portion of the votes in the association.	(a) The declaration shall allocate a fraction or percentage of undivided interests in the common elements and in the common expenses of the association, and a portion of the votes in the association, to each unit and state the formulas used to establish those allocations. Those allocations may not discriminate in favor of units owned by the declarant.	§514A-15 Common profits and expenses. (a) The common profits of the property shall be distributed among, and the common expenses shall be charged to, the apartment owners, including the developer, in proportion to the common interest appurtenant to their respective apartments; provided that in a mixed-use project containing apartments for both residential and commercial use, such charges and distributions may be apportioned in a fair and equitable manner as set forth in the declaration; provided further that all limited common elements costs and expenses, including but not limited to, maintenance, repair, replacement, additions and improvements shall be charged to the owner of the apartment to which the limited common element is appurtenant in an equitable manner as set forth in the declaration.
(b) The declaration must state the formulas used to establish allocations of interests. Those allocations may not discriminate in favor of units owned by the declarant or an affiliate of the declarant.	(See, § 2-107(a) above.)	
		(b) An apartment owner, including the developer, shall become obligated for the payment of the share of the common expenses allocated to his apartment at the time the certificate of occupancy relating to his apartment is issued by the appropriate county agency; provided that a developer may assume all the actual common expenses in a residential project containing no mixed commercial and residential use, by stating in the abstract as required by section 514A-61 that the apartment owner shall not be obligated for the payment of his respective share of the common expenses until such time the developer files an amended abstract with the commission which shall provide, that after a date certain, the respective apartment owner shall thereafter be obligated to pay for his respective share of common expenses that is allocated to his apartment. The amended abstract shall be filed at least thirty days in advance with the commission with a copy of the abstract being delivered either by mail or personal delivery after the filing to each of the apartment owners whose maintenance expenses

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		were assumed by the developer.
(c) If units may be added to or withdrawn from the common interest community, the declaration must state the formulas to be used to reallocate the allocated interests among all units included in the common interest community after the addition or withdrawal.	(b) If units may be added to or withdrawn from the condominium, the declaration must state the formulas to be used to reallocate the allocated interests among all units included in the condominium after the addition or withdrawal.	
(d) The declaration may provide: (i) that different allocations of votes shall be made to the units on particular matters specified in the declaration; (ii) for cumulative voting only for the purpose of electing members of the executive board; and (iii) for class voting on specified issues affecting the class if necessary to protect valid interests of the class. A declarant may not utilize cumulative or class voting for the purpose of evading any limitation imposed on declarants by this [Act] nor may units constitute a class because they are owned by a declarant.	(c) The declaration may provide: (i) that different allocations of votes shall be made to the units on particular matters specified in the declaration; (ii) for cumulative voting only for the purpose of electing members of the executive board; and (iii) for class voting on specified issues affecting the class if necessary to protect valid interests of the class. A declarant may not utilize cumulative or class voting for the purpose of evading any limitation imposed on declarants by this Act, nor may units constitute a class because they are owned by a declarant.	
(e) Except for minor variations due to rounding, the sum of the common expense liabilities and, in a condominium, the sum of the undivided interests in the common elements allocated at any time to all the units must each equal one if stated as a fraction or 100 percent if stated as a percentage. In the event of discrepancy between an allocated interest and the result derived from application of the pertinent formula, the allocated interest prevails.	(d) Except for minor variations due to rounding, the sum of the undivided interests in the common elements and common expense liabilities allocated at any time to all the units must each equal one if stated as fractions or 100 percent if stated as percentages. In the event of discrepancy between an allocated interest and the result derived from application of the pertinent formula, the allocated interest prevails.	
(f) In a condominium, the common elements are not subject to partition, and any purported conveyance, encumbrance, judicial sale, or other voluntary or involuntary transfer of an undivided interest in the common elements made without the unit to which that interest is allocated is void.	(e) The common elements are not subject to partition, and any purported conveyance, encumbrance, judicial sale, or other voluntary or involuntary transfer of an undivided interest in the common elements made without the unit to which that interest is allocated, is void.	
(g) In a cooperative, any purported conveyance, encumbrance, judicial sale, or other voluntary or involuntary transfer of an ownership interest in the association made without the possessory interest in the unit to which that interest is related is void.		
		[\$514A-15.1] Common expenses; prior late charges. No association of apartment owners shall deduct and apply portions of common expense payments received from an apartment owner to unpaid late fees (other than amounts remitted by an apartment owner in payment of late fees) unless it delivers or mails a written notice to such apartment owner, at least seven days prior to the first such deduction, which states that:
		(1) Failure to pay late fees will result in the deduction

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		of late fees from future common expense payments, so long as a delinquency continues to exist.
		(2) Late fees shall be imposed against any future common expense payment which is less than the full amount owed due to the deduction of unpaid late fees from such payment.
		§514A-15.5 Metering of utilities. (a) Notwithstanding the provisions of section 514A-15, commercial apartments in mixed-use projects containing apartments for both residential and commercial use, the construction of which commences after December 31, 1977, shall have a separate meter, or calculations shall be made, or both, to determine the use by the commercial apartments of utilities, including electricity, water, gas, fuel, oil, sewerage, and drainage and the cost of such utilities shall be paid by the owners of such commercial units; provided that the apportionment of such charges among owners of commercial apartments shall be done in a fair and equitable manner as set forth in the declaration or bylaws.
		(b) Subject to any approval requirements and spending limits contained in the declaration or bylaws of an association of apartment owners, the board of directors may authorize the installation of meters to determine the use by the residential and commercial apartments of utilities, including electricity, water, gas, fuel, oil, sewerage and drainage. The cost of metered utilities shall be paid by the owners of such apartments based on actual consumption and may be collected in the same manner as common expense assessments. Owners' maintenance fees shall be adjusted as necessary to avoid any duplication of charges to these owners for the cost of metered utilities.
SECTION 2-108. LIMITED COMMON ELEMENTS.	§ 2-108. [Limited Common Elements]	
(a) Except for the limited common elements described in Section 2-102(2) and (4), the declaration must specify to which unit or units each limited common element is allocated. An allocation may not be altered without the consent of the unit owners whose units are affected.	(a) Except for the limited common elements described in Section 2-102(2) and (4), the declaration shall specify to which unit or units each limited common element is allocated. That allocation may not be altered without the consent of the unit owners whose units are affected.	
(b) Except as the declaration otherwise provides, a limited common element may be reallocated by an amendment to the declaration executed by the unit owners between or among whose units the reallocation is made. The persons executing the amendment shall provide a copy thereof to the association, which shall record it. The amendment must be recorded in the	(b) Except as the declaration otherwise provides, a limited common element may be reallocated by an amendment to the declaration executed by the unit owners between or among whose units the reallocation is made. The persons executing the amendment shall provide a copy thereof to the association, which shall record it. The amendment shall be recorded in the	

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names of the parties and the common interest community.	names of the parties and the condominium.	
(c) A common element not previously allocated as a limited common element may be so allocated only pursuant to provisions in the declaration made in accordance with Section 2-105(a)(7). The allocations must be made by amendments to the declaration.	(c) A common element not previously allocated as a limited common element may not be so allocated except pursuant to provisions in the declaration made in accordance with Section 2-105(a)(7). The allocations shall be made by amendments to the declaration.	
SECTION 2-109. PLATS AND PLANS.	§ 2-109. [Plats and Plans]	[See, §514A-12 "Copy of the floor plans to be filed" above]
(a) Plats and plans are a part of the declaration, and are required for all common interest communities except cooperatives. Separate plats and plans are not required by this [Act] if all the information required by this section is contained in either a plat or plan. Each plat and plan must be clear and legible and contain a certification that the plat or plan contains all information required by this section.	(a) Plats and plans are a part of the declaration. Separate plats and plans are not required by this Act if all the information required by this section is contained in either a plat or plan. Each plat and plan must be clear and legible and contain a certification that the plat or plan contains all information required by this section.	
(b) Each plat must show or project:	(b) Each plat must show:	
(1) the name and a survey or general schematic map of the entire common interest community;	(1) the name and a survey or general schematic map of the entire condominium;	[In pertinent part, §514A-12 reads: ". . . showing the layout, location, apartment numbers, and dimensions of the apartments, stating the name of the property or that it has no name, and bearing the statement of a registered architect or professional engineer certifying that it is an accurate copy of portions of the plans of the building or buildings as filed with the county or city and county officer having jurisdiction over the issuance of permits for the construction of buildings and, if construction of the building or buildings is completed, as approved by the county or city and county officer. "]
(2) the location and dimensions of all real estate not subject to development rights, or subject only to the development right to withdraw, and the location and dimensions of all existing improvements within that real estate;	(2) the location and dimensions of all real estate not subject to development rights, or subject only to the development right to withdraw, and the location and dimensions of all existing improvements within that real estate;	
(3) a legally sufficient description of any real estate subject to development rights, labeled to identify the rights applicable to each parcel;	(3) a legally sufficient description of any real estate subject to development rights, labeled to identify the rights applicable to each parcel;	
(4) the extent of any encroachments by or upon any portion of the common interest community;	(4) the extent of any encroachments by or upon any portion of the condominium;	
(5) to the extent feasible, a legally sufficient description of all easements serving or burdening any portion of the common interest community;	(5) to the extent feasible, a legally sufficient description of all easements serving or burdening any portion of the condominium;	
(6) except as provided in subsection (h), the approximate location and dimensions of any vertical unit boundaries not shown or projected on plans recorded	(6) the location and dimensions of any vertical unit boundaries not shown or projected on plans recorded pursuant to subsection (d) and that unit's identifying	

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Uniform Common Interest Ownership Act (1994)	Uniform Condominium Act (1980)	Hawaii HRS Chapter 514A
pursuant to subsection (d) and that unit's identifying number;	number;	
(7) except as provided in subsection (h), the approximate location with reference to an established datum of any horizontal unit boundaries not shown or projected on plans recorded pursuant to subsection (d) and that unit's identifying number;	(7) the location with reference to an established datum of any horizontal unit boundaries not shown or projected on plans recorded pursuant to subsection (d) and that unit's identifying number;	
(8) a legally sufficient description of any real estate in which the unit owners will own only an estate for years, labeled as "leasehold real estate;"	(8) a legally sufficient description of any real estate in which the unit owners will own only an estate for years, labeled as "leasehold real estate;"	
(9) the distance between non-contiguous parcels of real estate comprising the common interest community;	(9) the distance between non-contiguous parcels of real estate comprising the condominium;	
(10) the approximate location and dimensions of any porches, decks, balconies, garages, or patios allocated as limited common elements, and show or contain a narrative description of any other limited common elements; and	(10) the location and dimensions of limited common elements, including porches, balconies and patios, other than parking spaces and the other limited common elements described in Sections 2-102(2) and (4);	
(11) in the case of real estate not subject to development rights, all other matters customarily shown on land surveys.	(11) in the case of real estate not subject to development rights, all other matters customarily shown on land surveys.	
(c) A plat may also show the intended location and dimensions of any contemplated improvement to be constructed anywhere within the common interest community. Any contemplated improvement shown must be labeled either "MUST BE BUILT" or "NEED NOT BE BUILT."	(c) A plat may also show the intended location and dimensions of any contemplated improvement to be constructed anywhere within the condominium. Any contemplated improvement shown must be labeled either "MUST BE BUILT" or "NEED NOT BE BUILT".	
(d) Except as provided in subsection (h), to the extent not shown or projected on the plats, plans of the units must show or project:	(d) To the extent not shown or projected on the plats, plans of the units must show or project:	
(1) the approximate location and dimensions of the vertical boundaries of each unit, and that unit's identifying number;	(1) the location and dimensions of the vertical boundaries of each unit, and that unit's identifying number;	
(2) the approximate location of any horizontal unit boundaries, with reference to an established datum, and that unit's identifying number; and	(2) any horizontal unit boundaries, with reference to an established datum, and that unit's identifying number; and	
(3) the approximate location of any units in which the declarant has reserved the right to create additional units or common elements (Section 2-110(c)), identified appropriately.	(3) any units in which the declarant has reserved the right to create additional units or common elements (Section 2-110(c)), identified appropriately.	
(e) Unless the declaration provides otherwise, the horizontal boundaries of part of a unit located outside a building have the same elevation as the horizontal boundaries of the inside part and need not be depicted on the plats and plans.	(e) Unless the declaration provides otherwise, the horizontal boundaries of part of a unit located outside of a building have the same elevation as the horizontal boundaries of the inside part, and need not be depicted on the plats and plans.	
(f) Upon exercising any development right, the declarant	(f) Upon exercising any development right, the declarant	

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shall record either new plats and plans necessary to conform to the requirements of subsections (a), (b), and (d), or new certifications of plats and plans previously recorded if those plats and plans otherwise conform to the requirements of those subsections.	shall record either new plats and plans necessary to conform to the requirements of subsections (a), (b), and (d), or new certifications of plats and plans previously recorded if those plats and plans otherwise conform to the requirements of those subsections.	
(g) Any certification of a plat or plan required by this section or Section 2-101(b) must be made by an independent [registered] surveyor, architect, or engineer.	(g) Any certification of a plat or plan required by this Section or Section 2-101(b) must be made by an independent (registered) surveyor, architect, or engineer.	
(h) Plats and plans need not show the location and dimensions of the units' boundaries or their limited common elements if:		
(1) the plat shows the location and dimensions of all buildings containing or comprising the units; and		
(2) the declaration includes other information that shows or contains a narrative description of the general layout of the units in those buildings and the limited common elements allocated to those units.		
SECTION 2-110. EXERCISE OF DEVELOPMENT RIGHTS.	§ 2-110. [Exercise of Development Rights]	
(a) To exercise any development right reserved under Section 2-105(a)(8), the declarant shall prepare, execute, and record an amendment to the declaration (Section 2-117) and in a condominium or planned community comply with Section 2-109. The declarant is the unit owner of any units thereby created. The amendment to the declaration must assign an identifying number to each new unit created, and, except in the case of subdivision or conversion of units described in subsection (b), reallocate the allocated interests among all units. The amendment must describe any common elements and any limited common elements thereby created and, in the case of limited common elements, designate the unit to which each is allocated to the extent required by Section 2-108 (Limited Common Elements).	(a) To exercise any development right reserved under Section 2-105(a)(8), the declarant shall prepare, execute, and record an amendment to the declaration (Section 2-117) and comply with Section 2-109. The declarant is the unit owner of any units thereby created. The amendment to the declaration must assign an identifying number to each new unit created, and, except in the case of subdivision or conversion of units described in subsection (b), reallocate the allocated interests among all units. The amendment must describe any common elements and any limited common elements thereby created and, in the case of limited common elements, designate the unit to which each is allocated to the extent required by Section 2-108 (Limited Common Elements).	
(b) Development rights may be reserved within any real estate added to the common interest community if the amendment adding that real estate includes all matters required by Section 2-105 or 2-106, as the case may be, and, in a condominium or planned community, the plats and plans include all matters required by Section 2-109. This provision does not extend the time limit on the exercise of development rights imposed by the declaration pursuant to Section 2-105(a)(8).	(b) Development rights may be reserved within any real estate added to the condominium if the amendment adding that real estate includes all matters required by Section 2-105 or 2-106, as the case may be, and the plats and plans include all matters required by Section 2-109. This provision does not extend the time limit on the exercise of development rights imposed by the declaration pursuant to Section 2-105(a)(8).	
(c) Whenever a declarant exercises a development right	(c) Whenever a declarant exercises a development right	

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to subdivide or convert a unit previously created into additional units, common elements, or both:	to subdivide or convert a unit previously created into additional units, common elements, or both:	
(1) if the declarant converts the unit entirely to common elements, the amendment to the declaration must reallocate all the allocated interests of that unit among the other units as if that unit had been taken by eminent domain (Section 1-107); and	(1) If the declarant converts the unit entirely to common elements, the amendment to the declaration must reallocate all the allocated interests of that unit among the other units as if that unit had been taken by eminent domain (Section 1-107).	
(2) if the declarant subdivides the unit into two or more units, whether or not any part of the unit is converted into common elements, the amendment to the declaration must reallocate all the allocated interests of the unit among the units created by the subdivision in any reasonable manner prescribed by the declarant.	(2) If the declarant subdivides the unit into 2 or more units, whether or not any part of the unit is converted into common elements, the amendment to the declaration must reallocate all the allocated interests of the unit among the units created by the subdivision in any reasonable manner prescribed by the declarant.	
(d) If the declaration provides, pursuant to Section 2-105(a)(8), that all or a portion of the real estate is subject to a right of withdrawal:	(d) If the declaration provides, pursuant to Section 2-105(a)(8), that all or a portion of the real estate is subject to the development right of withdrawal:	
(1) if all the real estate is subject to withdrawal, and the declaration does not describe separate portions of real estate subject to that right, none of the real estate may be withdrawn after a unit has been conveyed to a purchaser; and	(1) If all the real estate is subject to withdrawal, and the declaration does not describe separate portions of real estate subject to that right, none of the real estate may be withdrawn after a unit has been conveyed to a purchaser; and	
(2) if any portion is subject to withdrawal, it may not be withdrawn after a unit in that portion has been conveyed to a purchaser.	(2) If a portion or portions are subject to withdrawal, no portion may be withdrawn after a unit in that portion has been conveyed to a purchaser.	
SECTION 2-111. ALTERATIONS OF UNITS. Subject to the provisions of the declaration and other provisions of law, a unit owner:	§ 2-111. [Alterations of Units] Subject to the provisions of the declaration and other provisions of law, a unit owner:	
(1) may make any improvements or alterations to his unit that do not impair the structural integrity or mechanical systems or lessen the support of any portion of the common interest community;	(1) may make any improvements or alterations to his unit that do not impair the structural integrity or mechanical systems or lessen the support of any portion of the condominium;	
(2) may not change the appearance of the common elements, or the exterior appearance of a unit or any other portion of the common interest community, without permission of the association;	(2) may not change the appearance of the common elements, or the exterior appearance of a unit or any other portion of the condominium, without permission of the association;	
(3) after acquiring an adjoining unit or an adjoining part of an adjoining unit, may remove or alter any intervening partition or create apertures therein, even if the partition in whole or in part is a common element, if those acts do not impair the structural integrity or mechanical systems or lessen the support of any portion of the common interest community. Removal of partitions or creation of apertures under this paragraph is not an alteration of boundaries.	(3) after acquiring an adjoining unit or an adjoining part of an adjoining unit, may remove or alter any intervening partition or create apertures therein, even if the partition in whole or in part is a common element, if those acts do not impair the structural integrity or mechanical systems or lessen the support of any portion of the condominium. Removal of partitions or creation of apertures under this paragraph is not an alteration of boundaries.	
SECTION 2-112. RELOCATION OF UNIT	§ 2-112. [Relocation of Boundaries Between	

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Uniform Common Interest Ownership Act (1994)	Uniform Condominium Act (1980)	Hawaii HRS Chapter 514A
BOUNDARIES.	Adjoining Units]	
(a) Subject to the provisions of the declaration and other provisions of law, the boundaries between adjoining units may be relocated by an amendment to the declaration upon application to the association by the owners of those units. If the owners of the adjoining units have specified a reallocation between their units of their allocated interests, the application must state the proposed reallocations. Unless the executive board determines, within 30 days, that the reallocations are unreasonable, the association shall prepare an amendment that identifies the units involved and states the reallocations. The amendment must be executed by those unit owners, contain words of conveyance between them, and, on recordation, be indexed in the name of the grantor and the grantee, and [in the grantee's index] in the name of the association.	(a) Subject to the provisions of the declaration and other provisions of law, the boundaries between adjoining units may be relocated by an amendment to the declaration upon application to the association by the owners of those units. If the owners of the adjoining units have specified a reallocation between their units of their allocated interests, the application must state the proposed reallocations. Unless the executive board determines, within 30 days, that the reallocations are unreasonable, the association shall prepare an amendment that identifies the units involved, states the reallocations, is executed by those unit owners, contains words of conveyance between them, and upon recordation, is indexed in the name of the grantor and the grantee.	
(b) Subject to the provisions of the declaration and other provisions of law, boundaries between units and common elements may be relocated to incorporate common elements within a unit by an amendment to the declaration upon application to the association by the owner of the unit who proposes to relocate a boundary. Unless the declaration provides otherwise, the amendment may be approved only if persons entitled to cast at least [67] percent of the votes in the association, including [67] percent of the votes allocated to units not owned by the declarant, agree to the action. The amendment may describe any fees or charges payable by the owner of the affected unit in connection with the boundary relocation and the fees and charges are assets of the association. The amendment must be executed by the unit owner of the unit whose boundary is being relocated and by the association, contain words of conveyance between them, and on recordation be indexed in the name of the unit owner and the association as grantor or grantee, as appropriate.		
(c) The association (i) in a condominium or planned community shall prepare and record plats or plans necessary to show the altered boundaries of affected units, and their dimensions and identifying numbers, and (ii) in a cooperative shall prepare and record amendments to the declaration, including any plans, necessary to show or describe the altered boundaries of affected units, and their dimensions and identifying numbers.	(b) The association shall prepare and record plats or plans necessary to show the altered boundaries between adjoining units, and their dimensions and identifying numbers.	

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Uniform Common Interest Ownership Act (1994)	Uniform Condominium Act (1980)	Hawaii HRS Chapter 514A
SECTION 2-113. SUBDIVISION OF UNITS.	§ 2-113. [Subdivision of Units]	
(a) If the declaration expressly so permits, a unit may be subdivided into two or more units. Subject to the provisions of the declaration and other provisions of law, upon application of a unit owner to subdivide a unit, the association shall prepare, execute, and record an amendment to the declaration, including in a condominium or planned community the plats and plans, subdividing that unit.	(a) If the declaration expressly so permits, a unit may be subdivided into 2 or more units. Subject to the provisions of the declaration and other provisions of law, upon application of a unit owner to subdivide a unit, the association shall prepare, execute, and record an amendment to the declaration, including the plats and plans, subdividing that unit.	
(b) The amendment to the declaration must be executed by the owner of the unit to be subdivided, assign an identifying number to each unit created, and reallocate the allocated interests formerly allocated to the subdivided unit to the new units in any reasonable manner prescribed by the owner of the subdivided unit.	(b) The amendment to the declaration must be executed by the owner of the unit to be subdivided, assign an identifying number to each unit created, and reallocate the allocated interests formerly allocated to the subdivided unit to the new units in any reasonable manner prescribed by the owner of the subdivided unit.	
[ALTERNATIVE A] [SECTION 2-114. EASEMENT FOR ENCROACHMENTS. To the extent that any unit or common element encroaches on any other unit or common element, a valid easement for the encroachment exists. The easement does not relieve a unit owner of liability in case of his willful misconduct nor relieve a declarant or any other person of liability for failure to adhere to any plats and plans or, in a cooperative, to any representation in the public offering statement.]	§ 2-114. [ALTERNATIVE A] [Easement for Encroachments] [To the extent that any unit or common element encroaches on any other unit or common element, a valid easement for the encroachment exists. The easement does not relieve a unit owner of liability in case of his willful misconduct nor relieve a declarant or any other person of liability for failure to adhere to the plats and plans.]	
[ALTERNATIVE B] [SECTION 2-114. MONUMENTS AS BOUNDARIES. The existing physical boundaries of a unit or the physical boundaries of a unit reconstructed in substantial accordance with the description contained in the original declaration are its legal boundaries, rather than the boundaries derived from the description contained in the original declaration, regardless of vertical or lateral movement of the building or minor variance between those boundaries and the boundaries derived from the description contained in the original declaration. This section does not relieve a unit owner of liability in case of his willful misconduct or relieve a declarant or any other person of liability for failure to adhere to any plats and plans or, in a cooperative, to any representation in the public offering statement.]	§ 2-114. [ALTERNATIVE B] [Monuments as Boundaries] [The existing physical boundaries of a unit or the physical boundaries of a unit reconstructed in substantial accordance with the original plats and plans thereof become its boundaries rather than the metes and bounds expressed in the deed or plat or plan, regardless of settling or lateral movement of the building, or minor variance between boundaries shown on the plats or plans or in the deed and those of the building. This section does not relieve a unit owner of liability in case of his willful misconduct nor relieve a declarant or any other person of liability for failure to adhere to the plats and plans.]	
SECTION 2-115. USE FOR SALES PURPOSES. A declarant may maintain sales offices, management offices, and models in units or on common elements in the common interest community only if the declaration	§ 2-115. [Use for Sales Purposes] A declarant may maintain sales offices, management offices, and models in units or on common elements in the condominium only if the declaration so provides and specifies the	

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Uniform Common Interest Ownership Act (1994)	Uniform Condominium Act (1980)	Hawaii HRS Chapter 514A
so provides and specifies the rights of a declarant with regard to the number, size, location, and relocation thereof. In a cooperative or condominium, any sales office, management office, or model not designated a unit by the declaration is a common element. If a declarant ceases to be a unit owner, he ceases to have any rights with regard thereto unless it is removed promptly from the common interest community in accordance with a right to remove reserved in the declaration. Subject to any limitations in the declaration, a declarant may maintain signs on the common elements advertising the common interest community. This section is subject to the provisions of other state law and to local ordinances.	rights of a declarant with regard to the number, size, location, and relocation thereof. Any sales office, management office, or model not designated a unit by the declaration is a common element, and if a declarant ceases to be a unit owner, he ceases to have any rights with regard thereto unless it is removed promptly from the condominium in accordance with a right to remove reserved in the declaration. Subject to any limitations in the declaration, a declarant may maintain signs on the common elements advertising the condominium. The provisions of this section are subject to the provisions of other state law, and to local ordinances.	
SECTION 2-116. EASEMENT RIGHTS.	§ 2-116. [Easement Rights]	
(a) Subject to the provisions of the declaration, a declarant has an easement through the common elements as may be reasonably necessary for the purpose of discharging the declarant's obligations or exercising special declarant rights, whether arising under this [Act] or reserved in the declaration.	Subject to the provisions of the declaration, a declarant has an easement through the common elements as may be reasonably necessary for the purpose of discharging a declarant's obligations or exercising special declarant rights, whether arising under this Act or reserved in the declaration.	
(b) In a planned community, subject to the provisions of Sections 3-102(a)(6) and 3-112, the unit owners have an easement (i) in the common elements for purposes of access to their units and (ii) to use the common elements and all real estate that must become common elements (Section 2-105(a)(6)) for all other purposes.		
SECTION 2-117. AMENDMENT OF DECLARATION.	§ 2-117. [Amendment of Declaration]	
(a) Except in cases of amendments that may be executed by a declarant under Section 2-109(f) or 2-110, or by the association under Section 1-107, 2-106(d), 2-108(c), 2-112(a), or 2-113, or by certain unit owners under Section 2-108(b), 2-112(a), 2-113(b), or 2-118(b), and except as limited by subsection (d), the declaration, including any plats and plans, may be amended only by vote or agreement of unit owners of units to which at least [67] percent of the votes in the association are allocated, or any larger majority the declaration specifies. The declaration may specify a smaller number only if all of the units are restricted exclusively to nonresidential use.	(a) Except in cases of amendments that may be executed by a declarant under Section 2-109(f) or 2-110; the association under Section 1-107, 2-106(d), 2-108(c), 2-112(a), or 2-113; or certain unit owners under Section 2-108(b), 2-112(a), 2-113(b), or 2-118(b), and except as limited by subsection (d), the declaration, including the plats and plans, may be amended only by vote or agreement of unit owners of units to which at least [67] percent of the votes in the association are allocated, or any larger majority the declaration specifies. The declaration may specify a smaller number only if all of the units are restricted exclusively to non-residential use.	
(b) No action to challenge the validity of an amendment adopted by the association pursuant to this section may be brought more than one year after the amendment is recorded.	(b) No action to challenge the validity of an amendment adopted by the association pursuant to this section may be brought more than one year after the amendment is recorded.	
(c) Every amendment to the declaration must be	(c) Every amendment to the declaration must be	

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recorded in every [county] in which any portion of the common interest community is located and is effective only upon recordation. An amendment, except an amendment pursuant to Section 2-112(a), must be indexed [in the grantee's index] in the name of the common interest community and the association and [in the grantor's index] in the name of the parties executing the amendment.	recorded in every [county] in which any portion of the condominium is located, and is effective only upon recordation. An amendment shall be indexed [in the Grantee's index] in the name of the condominium and the association and [in the Grantor's index] in the name of the parties executing the amendment.	
(d) Except to the extent expressly permitted or required by other provisions of this [Act], no amendment may create or increase special declarant rights, increase the number of units, change the boundaries of any unit or the allocated interests of a unit, in the absence of unanimous consent of the unit owners.	(d) Except to the extent expressly permitted or required by other provisions of this Act, no amendment may create or increase special declarant rights, increase the number of units, change the boundaries of any unit, the allocated interests of a unit, or the uses to which any unit is restricted, in the absence of unanimous consent of the unit owners.	
(e) Amendments to the declaration required by the [Act] to be recorded by the association must be prepared, executed, recorded, and certified on behalf of the association by any officer of the association designated for that purpose or, in the absence of designation, by the president of the association.	(e) Amendments to the declaration required by this Act to be recorded by the association shall be prepared, executed, recorded, and certified on behalf of the association by any office of the association designated for that purpose or, in the absence of designation, by the president of the association.	
(f) By vote or agreement of unit owners of units to which at least 80 percent of the votes in the association are allocated, or any larger percentage specified in the declaration, an amendment to the declaration may prohibit or materially restrict the permitted uses of or behavior in a unit or the number or other qualifications of persons who may occupy units. The amendment must provide reasonable protection for a use or occupancy permitted at the time the amendment was adopted.		
(g) The time limits specified in the declaration pursuant to Section 2-105(a)(8) (Contents of the Declaration) within which reserved development rights must be exercised may be extended, and additional development rights may be created, if persons entitled to cast at least 80 percent of the votes in the association, including 80 percent of the votes allocated to units not owned by the declarant, agree to that action. The agreement is effective 30 days after an amendment to the declaration reflecting the terms of the agreement is recorded unless all the persons holding the affected special declarant rights, or security interests in those rights, record a written objection within the 30-day period, in which case the amendment is void, or consent in writing at the time the amendment is recorded, in which case the amendment is effective when recorded.		

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SECTION 2-118. TERMINATION OF COMMON INTEREST COMMUNITY.	§ 2-118. [Termination of Condominium]	§514A-21 Removal from provisions of this chapter.
(a) Except in the case of a taking of all the units by eminent domain (Section 1-107) or in the case of foreclosure against an entire cooperative of a security interest that has priority over the declaration, a common interest community may be terminated only by agreement of unit owners of units to which at least 80 percent of the votes in the association are allocated, or any larger percentage the declaration specifies. The declaration may specify a smaller percentage only if all of the units are restricted exclusively to nonresidential uses.	(a) Except in the case of a taking of all the units by eminent domain (Section 1-107), a condominium may be terminated only by agreement of unit owners of units to which at least 80 percent of the votes in the association are allocated, or any larger percentage the declaration specifies. The declaration may specify a smaller percentage only if all of the units in the condominium are restricted exclusively to non-residential uses.	(a) If: (1) Apartment owners owning not less than eighty per cent in number of apartments in the aggregate, and owning apartments to which are appurtenant not less than eighty per cent of the common interests, execute and record an instrument to the effect that they desire to remove the property from this chapter, and the holders of all liens affecting any of the apartments of the apartment owners executing such instrument consent thereto by instruments duly recorded, or
		(2) The common elements suffer substantial damage or destruction and such damage or destruction has not been rebuilt, repaired, or restored within a reasonable time after the occurrence thereof or the apartment owners have earlier determined as provided in the declaration that such damage or destruction shall not be rebuilt, repaired, or restored,
		then, and in either event, the property shall be subject to an action for partition by any apartment owner or lienor as if owned in common, in which event the sale of the property shall be ordered by the court and the net proceeds of sale, together with the net proceeds of the insurance on the property, if any, shall be considered as one fund and shall be divided among all the apartment owners in proportion to their respective common interests, provided that no payment shall be made to an apartment owner until there has first been paid out of the owner's share of such net proceeds all liens on the owner's apartment. Upon such sale, the property ceases to be the subject of a condominium property regime or subject to this chapter.
(b) An agreement to terminate must be evidenced by the execution of a termination agreement, or ratifications thereof, in the same manner as a deed, by the requisite number of unit owners. The termination agreement must specify a date after which the agreement will be void unless it is recorded before that date. A termination agreement and all ratifications thereof must be recorded in every [county] in which a portion of the common interest community is situated and is effective only upon recordation.	(b) An agreement to terminate must be evidenced by the execution of a termination agreement, or ratifications thereof, in the same manner as a deed, by the requisite number of unit owners. The termination agreement must specify a date after which the agreement will be void unless it is recorded before that date. A termination agreement and all ratifications thereof must be recorded in every [county] in which a portion of the condominium is situated, and is effective only upon recordation.	(b) All of the apartment owners may remove a property, or a part of a property, from this chapter by an instrument to that effect, duly recorded, provided that the holders of all liens affecting any of the apartments consent thereto, by instruments duly recorded. Upon such removal from this chapter, the property, or the part of the property designated in the instrument, ceases to be the subject of a condominium property regime or subject to this chapter, and is deemed to be owned in common by the apartment owners in proportion to their respective common interests.
(c) In the case of a condominium or planned community	(c) In the case of a condominium containing only units	

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Uniform Common Interest Ownership Act (1994)	Uniform Condominium Act (1980)	Hawaii HRS Chapter 514A
containing only units having horizontal boundaries described in the declaration, a termination agreement may provide that all of the common elements and units of the common interest community must be sold following termination. If, pursuant to the agreement, any real estate in the common interest community is to be sold following termination, the termination agreement must set forth the minimum terms of the sale.	having horizontal boundaries described in the declaration, a termination agreement may provide that all the common elements and units of the condominium shall be sold following termination. If, pursuant to the agreement, any real estate in the condominium is to be sold following termination, the termination agreement must set forth the minimum terms of the sale.	
(d) In the case of a condominium or planned community containing any units not having horizontal boundaries described in the declaration, a termination agreement may provide for sale of the common elements, but it may not require that the units be sold following termination, unless the declaration as originally recorded provided otherwise or all the unit owners consent to the sale.	(d) In the case of a condominium containing any units not having horizontal boundaries described in the declaration, a termination agreement may provide for sale of the common elements, but may not require that the units be sold following termination, unless the declaration as originally recorded provided otherwise or unless all the unit owners consent to the sale.	
(e) The association, on behalf of the unit owners, may contract for the sale of real estate in a common interest community, but the contract is not binding on the unit owners until approved pursuant to subsections (a) and (b). If any real estate is to be sold following termination, title to that real estate, upon termination, vests in the association as trustee for the holders of all interests in the units. Thereafter, the association has all powers necessary and appropriate to effect the sale. Until the sale has been concluded and the proceeds thereof distributed, the association continues in existence with all powers it had before termination. Proceeds of the sale must be distributed to unit owners and lien holders as their interests may appear, in accordance with subsections (h), (i), and (j). Unless otherwise specified in the termination agreement, as long as the association holds title to the real estate, each unit owner and the unit owner's successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted the unit. During the period of that occupancy, each unit owner and the unit owner's successors in interest remain liable for all assessments and other obligations imposed on unit owners by this [Act] or the declaration.	(e) The association, on behalf of the unit owners, may contract for the sale of real estate in the condominium, but the contract is not binding on the unit owners until approved pursuant to subsections (a) and (b). If any real estate in the condominium is to be sold following termination, title to that real estate, upon termination, vests in the association as trustee for the holders of all interests in the units. Thereafter, the association has all powers necessary and appropriate to effect the sale. Until the sale has been concluded and the proceeds thereof distributed, the association continues in existence with all powers it had before termination. Proceeds of the sale must be distributed to unit owners and lien holders as their interests may appear, in proportion to the respective interests of unit owners as provided in subsection (h). Unless otherwise specified in the termination agreement, as long as the association holds title to the real estate, each unit owner and his successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted his unit. During the period of that occupancy, each unit owner and his successors in interest remain liable for all assessments and other obligations imposed on unit owners by this Act or the declaration.	
(f) In a condominium or planned community, if the real estate constituting the common interest community is not to be sold following termination, title to the common elements and, in a common interest community containing only units having horizontal boundaries described in the declaration, title to all the real estate in the common interest community, vests in the unit owners	(f) If the real estate constituting the condominium is not to be sold following termination, title to the common elements and, in a condominium containing only units having horizontal boundaries described in the declaration, title to all the real estate in the condominium, vests in the unit owners upon termination as tenants in common in proportion to their respective	[See, §514A-21(b) above, which in pertinent part reads: "Upon such removal from this chapter, the property, or the part of the property designated in the instrument, ceases to be the subject of a condominium property regime or subject to this chapter, and is deemed to be owned in common by the apartment owners in proportion to their respective common interests."]

Comparison of UCIOA, UCA, and HRS (includes 2001 amendments)

Uniform Common Interest Ownership Act (1994)	Uniform Condominium Act (1980)	Hawaii HRS Chapter 514A
upon termination as tenants in common in proportion to their respective interests as provided in subsection (j), and liens on the units shift accordingly. While the tenancy in common exists, each unit owner and the unit owner's successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted the unit.	interests as provided in subsection (h), and liens on the units shift accordingly. While the tenancy in common exists, each unit owner and his successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted his unit.	
(g) Following termination of the common interest community, the proceeds of any sale of real estate, together with the assets of the association, are held by the association as trustee for unit owners and holders of liens on the units as their interests may appear.	(g) Following termination of the condominium, the proceeds of any sale of real estate, together with the assets of the association, are held by the association as trustee for unit owners and holders of liens on the units as their interests may appear. Following termination, creditors of the association holding liens on the units, which were [recorded] [docketed] [(insert other procedures required under state law to perfect a lien on real estate as a result of a judgment)] before termination, may enforce those liens in the same manner as any lien holder. All other creditors of the association are to be treated as if they had perfected liens on the units immediately before termination.	
(h) Following termination of a condominium or planned community, creditors of the association holding liens on the units, which were [recorded] [docketed] [insert other procedures required under state law to perfect a lien on real estate as a result of a judgment] before termination, may enforce those liens in the same manner as any lien holder. All other creditors of the association are to be treated as if they had perfected liens on the units immediately before termination.		
(i) In a cooperative, the declaration may provide that all creditors of the association have priority over any interests of unit owners and creditors of unit owners. In that event, following termination, creditors of the association holding liens on the cooperative which were [recorded] [docketed] [insert other procedures required under state law to perfect a lien on real estate as a result of a judgment] before termination may enforce their liens in the same manner as any lien holder, and any other creditor of the association is to be treated as if he had perfected a lien against the cooperative immediately before termination. Unless the declaration provides that all creditors of the association have that priority:		
(1) the lien of each creditor of the association which was perfected against the association before termination becomes, upon termination, a lien against each unit owner's interest in the unit as of the date the lien was		

Comparison of UCIOA, UCA, and HRS (includes 2001 amendments)

Uniform Common Interest Ownership Act (1994)	Uniform Condominium Act (1980)	Hawaii HRS Chapter 514A
perfected;		
(2) any other creditor of the association is to be treated upon termination as if the creditor had perfected a lien against each unit owner's interest immediately before termination;		
(3) the amount of the lien of an association's creditor described in paragraphs (1) and (2) against each of the unit owners' interest must be proportionate to the ratio which each unit's common expense liability bears to the common expense liability of all of the units;		
(4) the lien of each creditor of each unit owner which was perfected before termination continues as a lien against that unit owner's unit as of the date the lien was perfected; and		
(5) the assets of the association must be distributed to all unit owners and all lien holders as their interests may appear in the order described above. Creditors of the association are not entitled to payment from any unit owner in excess of the amount of the creditor's lien against that unit owner's interest.		
(j) The respective interests of unit owners referred to in subsections (e), (f), (g), (h), and (i) are as follows:	(h) The respective interests of unit owners referred to in subsections (e), (f) and (g) are as follows:	
(1) Except as provided in paragraph (2), the respective interests of unit owners are the fair market values of their units, allocated interests, and any limited common elements immediately before the termination, as determined by one or more independent appraisers selected by the association. The decision of the independent appraisers must be distributed to the unit owners and becomes final unless disapproved within 30 days after distribution by unit owners of units to which 25 percent of the votes in the association are allocated. The proportion of any unit owner's interest to that of all unit owners is determined by dividing the fair market value of that unit owner's unit and its allocated interests by the total fair market values of all the units and their allocated interests.	(1) Except as provided in paragraph (2), the respective interests of unit owners are the fair market values of their units, limited common elements, and common element interests immediately before the termination, as determined by one or more independent appraisers selected by the association. The decision of the independent appraisers shall be distributed to the unit owners and becomes final unless disapproved within 30 days after distribution by unit owners of units to which 25 percent of the votes in the association are allocated. The proportion of any unit owner's interest to that of all unit owners is determined by dividing the fair market value of that unit owner's unit and common element interest by the total fair market values of all the units and common elements.	
(2) If any unit or any limited common element is destroyed to the extent that an appraisal of the fair market value thereof before destruction cannot be made, the interests of all unit owners are: (i) in a condominium, their respective common element interests immediately before the termination, (ii) in a cooperative, their respective ownership interests immediately before the termination, and (iii) in a planned community, their respective common expense liabilities immediately	(2) If any unit or any limited common element is destroyed to the extent that an appraisal of the fair market value thereof before destruction cannot be made, the interests of all unit owners are their respective common element interests immediately before the termination.	

Comparison of UCIOA, UCA, and HRS (includes 2001 amendments)

Uniform Common Interest Ownership Act (1994)	Uniform Condominium Act (1980)	Hawaii HRS Chapter 514A
before the termination.		
(k) In a condominium or planned community, except as provided in subsection (l), foreclosure or enforcement of a lien or encumbrance against the entire common interest community does not terminate, of itself, the common interest community, and foreclosure or enforcement of a lien or encumbrance against a portion of the common interest community, other than withdrawable real estate, does not withdraw that portion from the common interest community. Foreclosure or enforcement of a lien or encumbrance against withdrawable real estate, or against common elements that have been subjected to a security interest by the association under Section 3-112, does not withdraw, of itself, that real estate from the common interest community, but the person taking title thereto may require from the association, upon request, an amendment excluding the real estate from the common interest community.	(i) Except as provided in subsection (j), foreclosure or enforcement of a lien or encumbrance against the entire condominium does not of itself terminate the condominium, and foreclosure or enforcement of a lien or encumbrance against a portion of the condominium, other than withdrawable real estate, does not withdraw that portion from the condominium. Foreclosure or enforcement of a lien or encumbrance against withdrawable real estate does not of itself withdraw that real estate from the condominium, but the person taking title thereto has the right to require from the association, upon request, an amendment excluding the real estate from the condominium.	
(l) In a condominium or planned community, if a lien or encumbrance against a portion of the real estate comprising the common interest community has priority over the declaration and the lien or encumbrance has not been partially released, the parties foreclosing the lien or encumbrance, upon foreclosure, may record an instrument excluding the real estate subject to that lien or encumbrance from the common interest community.	(j) If a lien or encumbrance against a portion of the real estate comprising the condominium has priority over the declaration, and the lien or encumbrance has not been partially released, the parties foreclosing the lien or encumbrance may upon foreclosure, record an instrument excluding the real estate subject to that lien or encumbrance from the condominium.	
		(c) Notwithstanding subsections (a) and (b), if the apartment leases for a leasehold project (including condominium conveyance documents, ground leases, or similar instruments creating a leasehold interest in the land) provide that:
		(1) The estate and interest of the apartment owner shall cease and determine upon the acquisition, by an authority with power of eminent domain of title and right to possession of any part of the project;
		(2) The apartment owner shall not by reason of the acquisition or right to possession be entitled to any claim against the lessor or others for compensation or indemnity for the apartment owner's leasehold interest;
		(3) All compensation and damages for or on account of any land shall be payable to and become the sole property of the lessor;
		(4) All compensation and damages for or on account of any buildings or improvements on the demised land shall be payable to and become the sole property of the

Comparison of UCIOA, UCA, and HRS (includes 2001 amendments)

Uniform Common Interest Ownership Act (1994)	Uniform Condominium Act (1980)	Hawaii HRS Chapter 514A
		apartment owners of the buildings and improvements in accordance with their interests; and
		(5) The apartment lease rents are reduced in proportion to the land so acquired or possessed;
		then, the lessor and the declarant shall file an amendment to the declaration to reflect any acquisition or right to possession. The consent or joinder of the apartment owners or their respective mortgagees shall not be required, if the land so acquired or possessed constitutes no more than five per cent of the total land of the project. Upon the filing of the amendment, the land acquired or possessed shall cease to be the subject of a condominium property regime or this chapter. The lessor shall notify each apartment owner in writing of the filing of the amendment and the rent abatement to which the apartment owner is entitled. The lessor shall provide the association of apartment owners, through its board of directors, with a copy of the amendment.
		For purposes of this subsection, the acquisition or right to possession may be effected:
		(1) By a taking or condemnation of property by the State or a county pursuant to chapter 101;
		(2) By the conveyance of property to the State or county under threat of condemnation; or
		(3) By the dedication of property to the State or county if the dedication is required by state law or county ordinance.
		§514A-22 Removal no bar to subsequent resubmission. The removal provided for in section 514A-21 shall in no way bar the subsequent resubmission of the property to this chapter.
		§514A-16 Liens against apartments; removal from lien; effect of part payment. (a) Subsequent to substantial completion of the project and the recordation of the first conveyance or lease of an apartment in the project to a bona fide purchaser, and thereafter while the property remains the subject of a condominium property regime, no lien shall arise or be created against the common elements. Following such completion and first recordation, liens may arise or be created only against the several apartments and their respective common interests. During such period while
		(1) The developer retains ownership of any apartment other than:

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Uniform Common Interest Ownership Act (1994)	Uniform Condominium Act (1980)	Hawaii HRS Chapter 514A
		(A) The mere reservation of legal title under an agreement of sale to a bona fide purchaser; and (B) The apartment in respect of which a binding contract of sale has been entered into with a bona fide purchaser but which has not, at the time of filing of the application of a mechanic's lien, closed escrow; or
		(2) Any other person retains ownership of any apartment prior to the first conveyance or lease of such apartment to a bona fide purchaser,
		mechanics' and materialmen's liens may arise or be created for labor or material furnished in project construction performed before the completion of construction, and such liens shall affect every apartment and its respective common interests so retained until released or until the period for making application for such liens has expired without any such application having been filed.
		(b) Labor performed on or materials furnished to an apartment shall not be the basis of a lien pursuant to part II of chapter 507 against the apartment of any apartment owner not expressly consenting to or requesting the same, except that express consent shall be deemed to be given by the owner of any apartment in the case of emergency repairs thereto. No labor performed on or materials furnished to the common elements shall be the basis of a lien thereon.
		§514A-18 Blanket mortgages and other blanket liens affecting an apartment at time of first conveyance or lease. At the time of the first conveyance or lease of each apartment, every mortgage and other lien, except any improvement district or utility assessment, affecting both the apartment and any other apartment shall be paid and satisfied of record, or the apartment being conveyed or leased and its common interest shall be released therefrom by partial release duly recorded.
SECTION 2-119. RIGHTS OF SECURED LENDERS.	§ 2-119. [Rights of Secured Lenders]	
(a) The declaration may require that all or a specified number or percentage of the lenders who hold security interests encumbering the units or who have extended credit to the association approve specified actions of the unit owners or the association as a condition to the effectiveness of those actions, but no requirement for approval may operate to (i) deny or delegate control over the general administrative affairs of the association by the unit owners or the executive board, or (ii) prevent the association or the executive board from commencing,	The declaration may require that all or a specified number or percentage of the mortgagees or beneficiaries of deeds of trust encumbering the units approve specified actions of the unit owners or the association as a condition to the effectiveness of those actions, but no requirement for approval may operate to (i) deny or delegate control over the general administrative affairs of the association by the unit owners or the executive board, or (ii) prevent the association or the executive board from commencing,	

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Uniform Common Interest Ownership Act (1994)	Uniform Condominium Act (1980)	Hawaii HRS Chapter 514A
intervening in, or settling any litigation or proceeding, or (iii) prevent any insurance trustee or the association from receiving and distributing any insurance proceeds except pursuant to Section 3-113.	intervening in, or settling any litigation or proceeding, or receiving and distributing any insurance proceeds except pursuant to Section 3-113.	
(b) A lender who has extended credit to an association secured by an assignment of income (Section 3-102(14)) or an encumbrance on the common elements (Section 3-112) may enforce its security agreement in accordance with its terms, subject to the requirements of this [Act] and other law. Requirements that the association must deposit its periodic common charges before default with the lender to which the association's income has been assigned, or increase its common charges at the lender's direction by amounts reasonably necessary to amortize the loan in accordance with its terms, do not violate the prohibitions on lender approval contained in subsection (a).		
SECTION 2-120. MASTER ASSOCIATIONS.	§ 2-120. [Master Associations]	
(a) If the declaration provides that any of the powers described in Section 3-102 are to be exercised by or may be delegated to a profit or nonprofit corporation [or unincorporated association] that exercises those or other powers on behalf of one or more common interest communities or for the benefit of the unit owners of one or more common interest communities, all provisions of this [Act] applicable to unit owners' associations apply to any such corporation [or unincorporated association], except as modified by this section.	(a) If the declaration for a condominium provides that any of the powers described in Section 3-102 are to be exercised by or may be delegated to a profit or nonprofit corporation (or unincorporated association) which exercises those or other powers on behalf of one or more condominiums or for the benefit of the unit owners of one or more condominiums, all provisions of this Act applicable to unit owners' associations apply to any such corporation (or unincorporated association), except as modified by this Section.	
(b) Unless it is acting in the capacity of an association described in Section 3-101, a master association may exercise the powers set forth in Section 3-102(a)(2) only to the extent expressly permitted in the declarations of common interest communities which are part of the master association or expressly described in the delegations of power from those common interest communities to the master association.	(b) Unless a master association is acting in the capacity of an association described in Section 3-101, it may exercise the powers set forth in Section 3-102(a)(2) only to the extent expressly permitted in the declarations of condominiums which are part of the master association or expressly described in the delegations of power from those condominiums to the master association.	
(c) If the declaration of any common interest community provides that the executive board may delegate certain powers to a master association, the members of the executive board have no liability for the acts or omissions of the master association with respect to those powers following delegation.	(c) If the declaration of any condominium provides that the executive board may delegate certain powers to a master association, the members of the executive board have no liability for the acts or omissions of the master association with respect to those powers following delegation.	
(d) The rights and responsibilities of unit owners with respect to the unit owners' association set forth in Sections 3-103, 3-108, 3-109, 3-110, and 3-112 apply in the conduct of the affairs of a master association only to	(d) The rights and responsibilities of unit owners with respect to the unit owners' association set forth in Sections 3-103, 3-108, 3-109, 3-110, and 3-112 apply in the conduct of the affairs of a master association only to	

Comparison of UCIOA, UCA, and HRS (includes 2001 amendments)

Uniform Common Interest Ownership Act (1994)	Uniform Condominium Act (1980)	Hawaii HRS Chapter 514A
persons who elect the board of a master association, whether or not those persons are otherwise unit owners within the meaning of this [Act].	those persons who elect the board of a master association, whether or not those persons are otherwise unit owners within the meaning of this Act.	
(e) Even if a master association is also an association described in Section 3-101, the certificate of incorporation or other instrument creating the master association and the declaration of each common interest community, the powers of which are assigned by the declaration or delegated to the master association, may provide that the executive board of the master association must be elected after the period of declarant control in any of the following ways:	(e) Notwithstanding the provisions of Section 3-103(f) with respect to the election of the executive board of an association, by all unit owners after the period of declarant control ends, and even if a master association is also an association described in Section 3-101, the certificate of incorporation or other instrument creating the master association and the declaration of each condominium the powers of which are assigned by the declaration or delegated to the master association, may provide that the executive board of the master association must be elected after the period of declarant control in any of the following ways:	
(1) All unit owners of all common interest communities subject to the master association may elect all members of the master association's executive board.	(1) All unit owners of all condominiums subject to the master association may elect all members of that executive board.	
(2) All members of the executive boards of all common interest communities subject to the master association may elect all members of the master association's executive board.	(2) All members of the executive boards of all condominiums subject to the master association may elect all members of that executive board.	
(3) All unit owners of each common interest community subject to the master association may elect specified members of the master association's executive board.	(3) All unit owners of each condominium subject to the master association may elect specified members of that executive board.	
(4) All members of the executive board of each common interest community subject to the master association may elect specified members of the master association's executive board.	(4) All members of the executive board of each condominium subject to the master association may elect specified members of that executive board.	
SECTION 2-121. MERGER OR CONSOLIDATION OF COMMON INTEREST COMMUNITIES.	§ 2-121. [Merger or Consolidation of Condominiums]	§514A-19 Merger of increments.
(a) Any two or more common interest communities of the same form of ownership, by agreement of the unit owners as provided in subsection (b), may be merged or consolidated into a single common interest community. In the event of a merger or consolidation, unless the agreement otherwise provides, the resultant common interest community is the legal successor, for all purposes, of all of the pre-existing common interest communities, and the operations and activities of all associations of the pre-existing common interest communities are merged or consolidated into a single association that holds all powers, rights, obligations, assets, and liabilities of all pre-existing associations.	(a) Any 2 or more condominiums, by agreement of the unit owners as provided in subsection (b), may be merged or consolidated into a single condominium. in the event of a merger or consolidation, unless the agreement otherwise provides, the resultant condominium is, for all purposes, the legal successor of all of the preexisting condominiums and the operations and activities of all associations of the preexisting condominiums shall be merged or consolidated into a single association which shall hold all powers, rights, obligations, assets and liabilities of all preexisting associations.	(a) Two or more condominium projects, whether or not adjacent to one another, but which are part of the same incremental plan of development and in the same vicinity, may be merged together so as to permit the joint use of the common elements of the projects by all the owners of the apartments in the merged projects. The merger documents may provide for a single association of apartment owners and board of directors for the merged projects and for a sharing of the common expenses of the projects among all the owners of the apartments in the merged projects.
(b) An agreement of two or more common interest	(b) An agreement of two or more condominiums to	(b) Upon the recording in the office of the assistant

Comparison of UCIOA, UCA, and HRS (includes 2001 amendments)

Uniform Common Interest Ownership Act (1994)	Uniform Condominium Act (1980)	Hawaii HRS Chapter 514A
<p>communities to merge or consolidate pursuant to subsection (a) must be evidenced by an agreement prepared, executed, recorded, and certified by the president of the association of each of the pre-existing common interest communities following approval by owners of units to which are allocated the percentage of votes in each common interest community required to terminate that common interest community. The agreement must be recorded in every [county] in which a portion of the common interest community is located and is not effective until recorded.</p>	<p>merge or consolidate pursuant to subsection (a) must be evidenced by an agreement prepared, executed, recorded and certified by the president of the association of each of the pre-existing condominiums following approval by owners of units to which are allocated the percentage of votes in each condominium required to terminate that condominium. Any such agreement must be recorded in every (county) in which a portion of the condominium is located and is not effective until recorded.</p>	<p>registrar of the land court of the State of Hawaii of a certificate of merger that indicates that the fee simple title to the lands of the merged projects are merged, the assistant registrar shall cancel all existing certificates of title for the apartments in the condominium projects being merged and shall issue new certificates of title for the apartments in the merged project, covering all of the land of the merged condominium projects. The new certificates of title for the apartments in the merged condominium project shall describe, among other things, the new undivided interest in the land appertaining to each apartment in the merged condominium projects. The certificate of merger shall at least set forth all of the apartments of the merged condominium projects, their new undivided interest, and their current certificate of title numbers in the common elements of the merged condominium projects.</p>
<p>(c) Every merger or consolidation agreement must provide for the reallocation of the allocated interests in the new association among the units of the resultant common interest community either (i) by stating the reallocations or the formulas upon which they are based or (ii) by stating the percentage of overall allocated interests of the new common interest community which are allocated to all of the units comprising each of the pre-existing common interest communities, and providing that the portion of the percentages allocated to each unit formerly comprising a part of the pre-existing common interest community must be equal to the percentages of allocated interests allocated to that unit by the declaration of the pre-existing common interest community.</p>	<p>(c) Every merger or consolidation agreement must provide for the reallocation of the allocated interests in the new association among the units of the resultant condominium either (i) by stating the reallocations or the formulas upon which they are based or (ii) by stating the percentage of overall allocated interests of the new condominium which are allocated to all of the units comprising each of the preexisting condominiums, and providing that the portion of the percentages allocated to each unit formerly comprising a part of the preexisting condominium must be equal to the percentages of allocated interests allocated to that unit by the declaration of the preexisting condominium.</p>	
<p>SECTION 2-122. ADDITION OF UNSPECIFIED REAL ESTATE. In a planned community, if the right is originally reserved in the declaration, the declarant in addition to any other development right, may amend the declaration at any time during as many years as are specified in the declaration for adding additional real estate to the planned community without describing the location of that real estate in the original declaration; but, the amount of real estate added to the planned community pursuant to this section may not exceed 10 percent of the real estate described in Section 2-105(a)(3) and the declarant may not in any event increase the number of units in the planned community beyond the number stated in the original declaration</p>		

Comparison of UCIOA, UCA, and HRS (includes 2001 amendments)

Uniform Common Interest Ownership Act (1994)	Uniform Condominium Act (1980)	Hawaii HRS Chapter 514A
pursuant to Section 2-105(a)(5).		
SECTION 2-123. MASTER PLANNED COMMUNITIES.		
(a) The declaration for a common interest community may state that it is a master planned community if the declarant has reserved the development right to create at least [500] units that may be used for residential purposes, and at the time of the reservation that declarant owns or controls more than [500] acres on which the units may be built.		
(b) If the requirements of subsection (a) are satisfied, the declaration for the master planned community need not state a maximum number of units and need not contain any of the information required by Section 2-105(a)(3) through (14) until the declaration is amended under subsection (c).		
(c) When each unit in a master planned community is conveyed to a purchaser, the declaration must contain (i) a sufficient legal description of the unit and all portions of the master planned community in which any other units have been conveyed to a purchaser; and (ii) all the information required by Section 2-105(a)(3) through (14) with respect to that real estate.		
(d) The only real estate in a master planned community which is subject to this [Act] is units that have been declared or which are being offered for sale and any other real estate described pursuant to subsection (c). Other real estate that is or may become part of the master planned community is only subject to other law and to any other restrictions and limitations that appear of record.		
(e) If the public offering statement conspicuously identifies the fact that the community is a master planned community, the disclosure requirements contained in [Article] 4 apply only with respect to units that have been declared or are being offered for sale in connection with the public offering statement and to the real estate described pursuant to subsection (c).		
(f) Limitations in this [Act] on the addition of unspecified real estate (Section 2-122) do not apply to a master planned community.		
(g) The period of declarant control of the association for a master planned community terminates in accordance with any conditions specified in the declaration or otherwise at the time the declarant, in a recorded instrument and after giving written notice to all the unit owners, voluntarily surrenders all rights to control the		

Comparison of UCIOA, UCA, and HRS (includes 2001 amendments)

Uniform Common Interest Ownership Act (1994)	Uniform Condominium Act (1980)	Hawaii HRS Chapter 514A
activities of the association.		
[ARTICLE] 3. MANAGEMENT OF THE COMMON INTEREST COMMUNITY	ARTICLE 3. MANAGEMENT OF CONDOMINIUM	PART V. CONDOMINIUM MANAGEMENT
SECTION 3-101. ORGANIZATION OF UNIT OWNERS' ASSOCIATION. A unit owners' association must be organized no later than the date the first unit in the common interest community is conveyed. The membership of the association at all times consists exclusively of all unit owners or, following termination of the common interest community, of all former unit owners entitled to distributions of proceeds under Section 2-118 or their heirs, successors, or assigns. The association must be organized as a profit or nonprofit corporation, trust, [or] partnership [, or as an unincorporated association].	§ 3-101. [Organization of Unit Owners' Association] A unit owners' association must be organized no later than the date the first unit in the condominium is conveyed. The membership of the association at all times shall consist exclusively of all the unit owners or, following termination of the condominium, of all former unit owners entitled to distributions of proceeds under Section 2-118, or their heirs, successors, or assigns. The association shall be organized as a profit or nonprofit corporation [or as an unincorporated association.]	[See, §514A-82(a)(11) below, which reads: "The first meeting of the association of apartment owners 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, an annual meeting shall be called; provided ten per cent of the apartment owners so request;"]
SECTION 3-102. POWERS OF UNIT OWNERS' ASSOCIATION.	§ 3-102. [Powers of Unit Owners' Association]	
(a) Except as provided in subsection (b), and subject to the provisions of the declaration, the association [, even if unincorporated,] may:	(a) Except as provided in subsection (b), and subject to the provisions of the declaration, the association [, even if unincorporated,] may:	
(1) adopt and amend bylaws and rules and regulations;	(1) adopt and amend bylaws and rules and regulations;	
		[§514A-82.15] Mixed use property; representation on the board of directors. (a) The bylaws of an association of apartment owners may be amended to provide that the composition of the board reflect the proportionate number of apartments for a particular use, as set forth in the declaration. For example, an association of apartment owners may provide that for a nine-member board where two-thirds of the apartments are for residential use and one-third is for commercial use, sixty-six and two-thirds per cent of the nine-member board, or six members, shall be owners of residential use apartments and thirty-three and one-third per cent, or three members, shall be owners of commercial use apartments.
		(b) Any proposed bylaws amendment to modify the composition of the board in accordance with subsection (a) may be initiated by:
		(1) A majority vote of the board of directors; or
		(2) A submission of the proposed bylaw amendment to the board of directors from a volunteer apartment owner's committee accompanied by a petition from twenty-five per cent of the apartment owners of record.

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		(c) Within thirty days of a decision by the board or receipt of a petition to initiate a bylaws amendment, the board of directors shall mail a ballot with the proposed bylaws amendment to all of the apartment owners of record. For purposes of this section only and notwithstanding section 514A-82(b)(2), the bylaws may be initially amended by a vote or written consent of the majority (at least fifty-one per cent) of the apartment owners; and thereafter by sixty-five per cent of all apartment owners; provided that each of the requirements set forth in this section shall be embodied in the bylaws.
		(d) The bylaws, as amended pursuant to this section, shall be recorded in the bureau of conveyances or filed in land court, as the case may be.
		(e) Election of the new board of directors in accordance with an amendment adopted pursuant to this section shall be held within sixty days from the date the amended bylaws are recorded pursuant to subsection (d).
		(f) As permitted in the bylaws or declaration, the vote of a commercial apartment owner shall be cast and counted only for the commercial seats available on the board of directors and the vote of a residential apartment owner shall be cast and counted only for the residential seats available on the board of directors.
		(g) No petition for a bylaw amendment pursuant to subsection (b)(2) to modify the composition of the board shall be distributed to the apartment owners within one year of the distribution of a prior petition to modify the composition of the board pursuant to that subsection.
		(h) This section shall not preclude the removal and replacement of any one or more members of the board pursuant to section 514A-82(b)(1). Any removal and replacement shall not affect the proportionate composition of the board as prescribed in the bylaws as amended pursuant to this section.
		(i) This section shall be deemed incorporated into the bylaws of all properties subject to this chapter existing as of July 1, 1998, and thereafter.
		[§514A-82.2] Restatement of declaration and bylaws. (a) Notwithstanding any other provision of this chapter or of any other statute or instrument, an association of apartment owners may at any time restate the declaration of condominium property regime of the project or the bylaws of the association to set forth all

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		amendments thereof by a resolution adopted by the board of directors.
		(b) An association of apartment owners may at any time restate the declaration of condominium property regime of the project or the bylaws of the association to amend the declaration or bylaws as may be required in order to conform with the provisions of this chapter or of any other statute, ordinance, rule or regulation enacted by any governmental authority, by a resolution adopted by the board of directors, and the restated declaration or bylaws shall be as fully effective for all purposes as if adopted by the vote or written consent of the apartment owners; provided that any declaration of condominium property regime or bylaws restated pursuant to this subsection shall identify each portion so restated and shall contain a statement that those portions have been restated solely for purposes of information and convenience, identifying the statute, ordinance, rule, or regulation implemented by the amendment, and that in the event of any conflict, the restated declaration or bylaws shall be subordinate to the cited statute, ordinance, rule, or regulation.
		(c) Upon the adoption of a resolution pursuant to subsection (a) or (b), the restated declaration of condominium property regime or bylaws shall set forth all of the operative provisions of the declaration of condominium property regime or bylaws, as amended, together with a statement that the restated declaration of condominium property regime or bylaws correctly sets forth without change the corresponding provisions of the declaration of condominium property regime or bylaws, as amended, and that the restated declaration of condominium property regime or bylaws supersede the original declaration of condominium property regime or bylaws and all prior amendments thereto.
		(d) The restated declaration of condominium property regime or bylaws shall be recorded in the manner provided in section 514A-11 or 514A-82 or both and upon recordation shall supersede the original declaration of condominium property regime or bylaws and all prior amendments thereto; provided that in the event of any conflict, the restated declaration of condominium property regime or bylaws shall be subordinate to the original declaration of condominium property regime or bylaws and all prior amendments thereto.
(2) adopt and amend budgets for revenues,	(2) adopt and amend budgets for revenues,	

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expenditures, and reserves and collect assessments for common expenses from unit owners;	expenditures, and reserves and collect assessments for common expenses from unit owners;	
(3) hire and discharge managing agents and other employees, agents, and independent contractors;	(3) hire and discharge managing agents and other employees, agents, and independent contractors;	
		<p>[§514A-82.1] Employees of condominiums; background check. The board of directors of an association of apartment owners or the manager of a condominium project, upon the written authorization of an applicant for employment as security guard or manager or for a position which would allow the employee access to the keys of or entry into the units in the condominium project or access to association funds, may conduct a background check on the applicant or direct another responsible party to conduct the check. Before initiating or requesting a check, the board of directors or the manager shall first certify that the signature on the authorization is authentic and that the person is an applicant for such employment. The background check, at a minimum, shall require the applicant to disclose whether the applicant has been convicted in any jurisdiction of a crime which would tend to indicate that the applicant may be unsuited for employment as a condominium employee with access to association funds or the keys of or entry into the units in the condominium project, and the judgment of conviction has not been vacated. For the purpose of this section, the criminal history disclosure made by the applicant may be verified by the board of directors, manager, or other responsible party, if so directed by the board or the manager, by means of information obtained through the Hawaii criminal justice data center. Failure of an association of apartment owners or the manager to conduct or verify or cause to have conducted or verified a background check shall not alone give rise to any private cause of action against an association or manager for acts and omissions of the employee hired.</p>
		[See also, §514A-95 "Managing Agents" below]
(4) institute, defend, or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more unit owners on matters affecting the common interest community;	(4) institute, defend, or intervene in litigation or administrative proceedings in its own name on behalf of itself or 2 or more unit owners on matters affecting the condominium;	<p>§514A-93 Actions. Without limiting the rights of any apartment owner, actions may be brought by the manager or board of directors, in either case in the discretion of the board of directors on behalf of two or more of the apartment owners, as their respective interests may appear, with respect to any cause of action relating to the common elements or more than one apartment. Service of process on two or more apartment owners in any action relating to the common</p>

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		elements or more than one apartment may be made on the person designated in the declaration to receive service of process.
		[See also, §514A-94 "Attorneys' fees, delinquent assessments, and expenses of enforcement" below]
(5) make contracts and incur liabilities;	(5) make contracts and incur liabilities;	§514A-82.3 Borrowing of money. Subject to any approval requirements and spending limits contained in the declaration or bylaws of the association of apartment owners, the board of directors may authorize the borrowing of money to be used by the association for the repair, replacement, maintenance, operation, or administration of the common elements of the project, or the making of any additions, alterations, and improvements thereto. The cost of such borrowing, including, without limitation, all principal, interest, commitment fees, and other expenses payable with respect to such borrowing, shall be a common expense of the project; provided that owners representing fifty per cent of the common interest and apartments give written consent to such borrowing, having been first notified of the purpose and use of the funds.
(6) regulate the use, maintenance, repair, replacement, and modification of common elements;	(6) regulate the use, maintenance, repair, replacement, and modification of common elements;	
(7) cause additional improvements to be made as a part of the common elements;	(7) cause additional improvements to be made as a part of the common elements;	
(8) acquire, hold, encumber, and convey in its own name any right, title, or interest to real estate or personal property, but (i) common elements in a condominium or planned community may be conveyed or subjected to a security interest only pursuant to Section 3-112 and (ii) part of a cooperative may be conveyed, or all or part of a cooperative may be subjected to a security interest, only pursuant to Section 3-112;	(8) acquire, hold, encumber, and convey in its own name any right, title, or interest to real or personal property, but common elements may be conveyed or subjected to a security interest only pursuant to Section 3-112;	
(9) grant easements, leases, licenses, and concessions through or over the common elements;	(9) grant easements, leases, licenses, and concessions through or over the common elements;	
(10) impose and receive any payments, fees, or charges for the use, rental, or operation of the common elements, other than limited common elements described in Section 2-102(2) and (4), and for services provided to unit owners;	(10) impose and receive any payments, fees, or charges for the use, rental, or operation of the common elements (other than limited common elements described in Sections 2-102(2) and (4)) and for services provided to unit owners;	
(11) impose charges for late payment of assessments and, after notice and an opportunity to be heard, levy reasonable fines for violations of the declaration, bylaws, rules, and regulations of the association;	(11) impose charges for late payment of assessments and, after notice and an opportunity to be heard, levy reasonable fines for violations of the declaration, bylaws, and rules and regulations of the association;	
(12) impose reasonable charges for the preparation	(12) impose reasonable charges for the preparation	

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and recordation of amendments to the declaration, resale certificates required by Section 4-109, or statements of unpaid assessments;	and recordation of amendments to the declaration, resale certificates required by Section 4-109, or statements of unpaid assessments;	
(13) provide for the indemnification of its officers and executive board and maintain directors' and officers' liability insurance;	(13) provide for the indemnification of its officers and executive board and maintain directors' and officers' liability insurance;	[See, §514A-86(b) below, which reads: "The association of apartment owners may purchase and maintain directors' and officers' liability insurance with minimum coverage in such amount as shall be determined by the board of directors. Premiums shall be common expenses."]
(14) assign its right to future income, including the right to receive common expense assessments, but only to the extent the declaration expressly so provides;	(14) assign its right to future income, including the right to receive common expense assessments, but only to the extent the declaration expressly so provides;	
(15) exercise any other powers conferred by the declaration or bylaws;	(15) exercise any other powers conferred by the declaration or bylaws;	
(16) exercise all other powers that may be exercised in this State by legal entities of the same type as the association;	(16) exercise all other powers that may be exercised in this State by legal entities of the same type as the association; and	
(17) exercise any other powers necessary and proper for the governance and operation of the association; and	(17) exercise any other powers necessary and proper for the governance and operation of the association.	
(18) by regulation, require that disputes between the executive board and unit owners or between two or more unit owners regarding the common interest community must be submitted to nonbinding alternative dispute resolution in the manner described in the regulation as a prerequisite to commencement of a judicial proceeding.		[See, Part VII "Arbitration" below]
(b) The declaration may not impose limitations on the power of the association to deal with the declarant which are more restrictive than the limitations imposed on the power of the association to deal with other persons.	(b) The declaration may not impose limitations on the power of the association to deal with the declarant which are more restrictive than the limitations imposed on the power of the association to deal with other persons.	
(c) Unless otherwise permitted by the declaration or this [Act], an association may adopt rules and regulations that affect the use of or behavior in units that may be used for residential purposes only to:		
(1) prevent any use of a unit which violates the declaration;		
(2) regulate any behavior in or occupancy of a unit which violates the declaration or adversely affects the use and enjoyment of other units or the common elements by other unit owners; or		
(3) restrict the leasing of residential units to the extent those rules are reasonably designed to meet underwriting requirements of institutional lenders who regularly lend money secured by first mortgages on units in common interest communities or regularly purchase those mortgages.		

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Otherwise, the association may not regulate any use of or behavior in units.		
		[§514A-82.5] Pets in apartments. (a) Whenever the bylaws do not forbid apartment owners from keeping animals as pets in their apartments, the bylaws shall not forbid the tenants of the apartment owners from keeping pets in the apartments rented or leased from the owners; provided that:
		(1) The apartment owner agrees in writing to allow the apartment owner's tenant to keep a pet in the apartment;
		(2) The tenants may keep only those types of pets which may be kept by apartment owners;
		(3) The bylaws may allow each owner or tenant to keep only one pet in the apartment;
		(4) The animals shall not include those described as pests under section 150A-2, or animals prohibited from importation under section 141-2, 150A-5, or 150A-6;
		(5) The bylaws may include reasonable restrictions or prohibitions against excessive noise or other problems caused by pets on the property; and
		(6) The bylaws may reasonably restrict or prohibit the running of pets at large in the common areas of the property.
		(b) Any amendments to the bylaws pertaining to pet restrictions or prohibitions which exempt circumstances existing prior to the adoption of the amendments shall apply equally to apartment owners and tenants.
		[§514A-82.6] Pets, replacement of subsequent to prohibition. (a) Any apartment owner who keeps a pet in the owner's apartment pursuant to a provision in the bylaws which allows owners to keep pets or in the absence of any provision in the bylaws to the contrary may, upon the death of the animal, replace the animal with another and continue to do so for as long as the owner continues to reside in the owner's apartment or another apartment subject to the same bylaws.
		(b) Any apartment owner who is keeping a pet pursuant to subsection (a) as of the effective date of an amendment to the bylaws which prohibits owners from keeping pets in their apartments shall not be subject to the prohibition but shall be entitled to keep the pet and acquire new pets as provided in subsection (a).
(d) If a tenant of a unit owner violates the declaration, bylaws, or rules and regulations of the association, in addition to exercising any of its powers against the unit		

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owner, the association may:		
(1) exercise directly against the tenant the powers described in subsection (a)(11);		
(2) after giving notice to the tenant and the unit owner and an opportunity to be heard, levy reasonable fines against the tenant for the violation; and		
(3) enforce any other rights against the tenant for the violation which the unit owner as landlord could lawfully have exercised under the lease or which the association could lawfully have exercised directly against the unit owner, or both.		
(f) Unless a lease otherwise provides, this section does not:		
(1) affect rights that the unit owner has to enforce the lease or that the association has under other law; or		
(2) permit the association to enforce a lease to which it is not a party in the absence of a violation of the declaration, bylaws, or rules and regulations.		
		[§514A-93.5] Disposition of unclaimed possessions. (a) When personalty in or on the common elements of a project has been abandoned, the board of directors may sell the personalty in a commercially reasonable manner, store such personalty at the expense of its owner, donate such personalty to a charitable organization, or otherwise dispose of such personalty in its sole discretion; provided that no such sale, storage, or donation shall occur until sixty days after the board complies with the following:
		(1) The board notifies the owner in writing of: (A) The identity and location of the personalty, and (B) The board of directors' intent to so sell, store, donate, or dispose of the personalty. Notification shall be by certified mail, return receipt requested to the owner's address as shown by the records of the association or to an address designated by the owner for the purpose of notification or, if neither of these is available, to the owner's last known address, if any; or
		(2) If the identity or address of the owner is unknown, the board of directors shall first advertise the sale, donation, or disposition at least once in a daily paper of general circulation within the circuit in which the personalty is located.
		(b) The proceeds of any sale or disposition of personalty under subsection (a) shall, after deduction of any

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		accrued costs of mailing, advertising, storage, and sale, be held for the owner for thirty days. Any proceeds not claimed within this period shall become the property of the association of apartment owners.
		§514A-94 Attorneys' fees, delinquent assessments, and expenses of enforcement. (a) All costs and expenses, including reasonable attorneys' fees, incurred by or on behalf of the association for:
		(1) Collecting any delinquent assessments against any owner's apartment;
		(2) Foreclosing any lien thereon; or
		(3) Enforcing any provision of the declaration, bylaws, house rules, and the Condominium Property Act; or the rules of the real estate commission;
		against an owner, occupant, tenant, employee of an owner, or any other person who may in any manner use the property shall be promptly paid on demand to the association by such person or persons; provided that if the claims upon which the association takes any action are not substantiated, all costs and expenses, including reasonable attorneys' fees, incurred by any such person or persons as a result of the action of the association, shall be promptly paid on demand to such person or persons by the association.
		(b) If any claim by an owner is substantiated in any action against an association, any of its officers or directors, or its board of directors to enforce any provision of the declaration, bylaws, house rules, or this chapter, then all reasonable and necessary expenses, costs, and attorneys' fees incurred by an owner shall be awarded to such owner; provided that no such award shall be made in any derivative action unless:
		(1) The owner first shall have demanded and allowed reasonable time for the board of directors to pursue such enforcement; or
		(2) The owner demonstrates to the satisfaction of the court that a demand for enforcement made to the board of directors would have been fruitless.
		If any claim by an owner is not substantiated in any court action against an association, any of its officers or directors, or its board of directors to enforce any provision of the declaration, bylaws, house rules, or this chapter, then all reasonable and necessary expenses, costs, and attorneys' fees incurred by an association shall be awarded to the association, unless the action

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		was filed in small claims court or prior to filing the action in a higher court the owner has first submitted the claim to mediation, or to arbitration under part VII of this chapter, and made a good faith effort to resolve the dispute under any of those procedures.
		(c) Anyone contracted by the association of apartment owners to collect delinquent assessments against any owner's apartment shall not share in any portion of any penalties or late charges collected.
SECTION 3-103. EXECUTIVE BOARD MEMBERS AND OFFICERS.	§ 3-103. [Executive Board Members and Officers]	
(a) Except as provided in the declaration, the bylaws, subsection (b), or other provisions of this [Act], the executive board may act in all instances on behalf of the association. In the performance of their duties, officers and members of the executive board appointed by the declarant shall exercise the degree of care and loyalty required of a trustee. Officers and members of the executive board not appointed by the declarant shall exercise the degree of care and loyalty required of an officer or director of a corporation organized under [insert reference to state non-profit corporation law].	(a) Except as provided in the declaration, the bylaws, in subsection (b), or other provisions of this Act, the executive board may act in all instances on behalf of the association. In the performance of their duties, the officers and members of the executive board are required to exercise (i) if appointed by the declarant, the care required of fiduciaries of the unit owners and (ii) if elected by the unit owners, ordinary and reasonable care.	[§514A-82.4] Duty of directors. Each director shall owe the association of apartment owners a fiduciary duty in the performance of the director's responsibilities.
(b) The executive board may not act on behalf of the association to amend the declaration (Section 2-117), to terminate the common interest community (Section 2-118), or to elect members of the executive board or determine the qualifications, powers and duties, or terms of office of executive board members (Section 3-103(f)), but the executive board may fill vacancies in its membership for the unexpired portion of any term.	(b) The executive board may not act on behalf of the association to amend the declaration (Section 2-117), to terminate the condominium (Section 2-118), or to elect members of the executive board or determine the qualifications, powers and duties, or terms of office of executive board members (Section 3-103(f)), but the executive board may fill vacancies in its membership for the unexpired portion of any term.	
(c) Within [30] days after adoption of any proposed budget for the common interest community, the executive board shall provide a summary of the budget to all the unit owners, and shall set a date for a meeting of the unit owners to consider ratification of the budget not less than 14 nor more than 30 days after mailing of the summary. Unless at that meeting a majority of all unit owners or any larger vote specified in the declaration reject the budget, the budget is ratified, whether or not a quorum is present. In the event the proposed budget is rejected, the periodic budget last ratified by the unit owners must be continued until such time as the unit owners ratify a subsequent budget proposed by the executive board.	(c) Within [30] days after adoption of any proposed budget for the condominium, the executive board shall provide a summary of the budget to all the unit owners, and shall set a date for a meeting of the unit owners to consider ratification of the budget not less than 14 nor more than 30 days after mailing of the summary. Unless at that meeting a majority of all the unit owners or any larger vote specified in the declaration reject the budget, the budget is ratified, whether or not a quorum is present. In the event the proposed budget is rejected, the periodic budget last ratified by the unit owners shall be continued until such time as the unit owners ratify a subsequent budget proposed by the executive board.	
(d) Subject to subsection (e), the declaration may provide for a period of declarant control of the	(d) Subject to subsection (e), the declaration may provide for a period of declarant control of the	

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association, during which a declarant, or persons designated by him, may appoint and remove the officers and members of the executive board. Regardless of the period provided in the declaration, and except as provided in Section 2-123(g) (Master Planned Communities), a period of declarant control terminates no later than the earlier of: (i) [60] days after conveyance of [75] percent of the units that may be created to unit owners other than a declarant; (ii) [2] years after all declarants have ceased to offer units for sale in the ordinary course of business; (iii) [2] years after any right to add new units was last exercised; or (iv) the day the declarant, after giving written notice to unit owners, records an instrument voluntarily surrendering all rights to control activities of the association. A declarant may voluntarily surrender the right to appoint and remove officers and members of the executive board	association, during which period a declarant, or persons designated by him, may appoint and remove the officers and members of the executive board. Regardless of the period provided in the declaration, a period of declarant control terminates no later than the earlier of: (i) [60] days after conveyance of [75] percent of the units which may be created to unit owners other than a declarant; (ii) [2] years after all declarants have ceased to offer units for sale in the ordinary course of business; or (iii) [2] years after any development right to add new units was last exercised. A declarant may voluntarily surrender the right to appoint and remove officers and members of the executive board before termination of that period, but in that event he may require, for the duration of the period of declarant control, that specified actions of the association or executive board, as described in a recorded instrument	
(e) Not later than [60] days after conveyance of [25] percent of the units that may be created to unit owners other than a declarant, at least one member and not less than [25] percent of the members of the executive board must be elected by unit owners other than the declarant. Not later than [60] days after conveyance of [50] percent of the units that may be created to unit owners other than a declarant, not less than [33-1/3] percent of the members of the executive board must be elected by unit owners other than the declarant.	(e) Not later than [60] days after conveyance of [25] percent of the units which may be created to unit owners other than a declarant, at least one member and not less than [25] percent of the members of the executive board must be elected by unit owners other than the declarant. Not later than [60] days after conveyance of [50] percent of the units which may be created to unit owners other than a declarant, not less than [33 1/3] percent of the members of the executive board must be elected by unit owners other than the declarant.	
(f) Except as otherwise provided in Section 2-120(e), not later than the termination of any period of declarant control, the unit owners shall elect an executive board of at least three members, at least a majority of whom must be unit owners. The executive board shall elect the officers. The executive board members and officers shall take office upon election.	(f) Not later than the termination of any period of declarant control, the unit owners shall elect an executive board of at least 3 members, at least a majority of who must be unit owners. The executive board shall elect the officers. The executive board members and officers shall taken office upon election.	
(g) Notwithstanding any provision of the declaration or bylaws to the contrary, the unit owners, by a two-thirds vote of all persons present and entitled to vote at any meeting of the unit owners at which a quorum is present, may remove any member of the executive board with or without cause, other than a member appointed by the declarant.	(g) Notwithstanding any provision of the declaration or bylaws to the contrary, the unit owners, by a two-thirds vote of all persons present and entitled to vote at any meeting of the unit owners at which a quorum is present, may remove any member of the executive board with or without cause, other than a member appointed by the declarant.	
		§514A-95 Managing agents. (a) Every managing agent shall:
		(1) Be licensed as a real estate broker in compliance with chapter 467 and the rules of the commission or be a corporation authorized to do business under article 8 of

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		chapter 412; (2) Register with the commission prior to conducting managing agent activity through approval of a completed registration application, payment of fees, and submission of any other additional information set forth by the commission. The registration shall be for a biennial period with termination on December 31 of an even-numbered year. The commission shall prescribe a deadline date prior to the termination date for the submission of a completed reregistration application, payment of fees, and any other additional information set forth by the commission. Any managing agent who has not met the submission requirements by the deadline date shall be considered a new applicant for registration and subject to initial registration requirements. The information required to be submitted with any application shall include the name, business address, phone number, and names of association of apartment owners managed;
		(3) Obtain and keep current a fidelity bond in an amount equal to \$500 multiplied by the aggregate number of apartments of the association of apartment owners managed by the managing agent; provided that the amount of the fidelity bond shall not be less than \$20,000 nor greater than \$100,000. Upon request by the commission, the managing agent shall provide evidence of a current fidelity bond or a certification statement from an insurance company authorized by the insurance division of the department of commerce and consumer affairs certifying that the fidelity bond is in effect and meets the requirement of this section and the rules adopted by the commission. The managing agent shall permit only employees covered by the fidelity bond to handle or have custody or control of any association of apartment owners funds, except any principals of the managing agent that cannot be covered by the fidelity bond. The fidelity bond shall protect the managing agent against the loss of any association of apartment owners' moneys, securities, or other properties caused by the fraudulent or dishonest acts of employees of the managing agent. Failure to obtain or maintain a fidelity bond in compliance with this chapter and the rules adopted pursuant thereto, including failure to provide evidence of the fidelity bond coverage in a timely manner to the commission, shall result in non-registration or the automatic termination of the

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		<p>registration, unless an approved exemption or a bond alternative is presently maintained. A managing agent who is unable to obtain a fidelity bond may seek an exemption from the fidelity bond requirement from the commission. The commission shall adopt rules establishing the conditions and terms by which it may grant an exemption or a bond alternative, or permit deductibles;</p>
		<p>(4) Act promptly and diligently to recover from the fidelity bond, if the fraud or dishonesty of the managing agent's employees causes a loss to an association of apartment owners, and apply the fidelity bond proceeds, if any, to reduce the association of apartment owners' loss. If more than one association of apartment owners suffers a loss, the managing agent shall divide the proceeds among the associations of apartment owners in proportion to each association of apartment owners' loss. An association of apartment owners may request a court order requiring the managing agent to act promptly and diligently to recover from the fidelity bond. If an association of apartment owners cannot recover its loss from the fidelity bond proceeds of the managing agent, the association of apartment owners may recover by court order from the real estate recovery fund established under section 467-16, provided that:</p> <p style="margin-left: 40px;">(A) The loss is caused by the fraud, misrepresentation, or deceit of the managing agent or its employees;</p> <p style="margin-left: 40px;">(B) The managing agent is a licensed real estate broker; and</p> <p style="margin-left: 40px;">(C) The association of apartment owners fulfills the requirements of sections 467-16 and 467-18 and any applicable rules of the commission;</p>
		<p>(5) Pay a nonrefundable application fee and, upon approval, an initial registration fee, and subsequently pay a reregistration fee, as prescribed by rules adopted by the director of commerce and consumer affairs pursuant to chapter 91. A compliance resolution fee shall also be paid pursuant to section 26-9(o) and the rules adopted pursuant thereto; and</p>
		<p>(6) Report immediately in writing to the commission any changes to the information contained on the registration application or any other documents provided for registration. Failure to do so may result in termination of registration and subject the managing agent to initial registration requirements.</p>

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		(b) The commission may deny any registration or reregistration application or terminate a registration without hearing if the fidelity bond and its evidence fail to meet the requirements of this chapter and the rules adopted pursuant thereto.
		(c) Every managing agent shall be considered a fiduciary with respect to any property managed by that managing agent.
		§514A-95.1 Association of apartment owners registration; fidelity bond. (a) Each condominium project or association of apartment owners having six or more apartments shall:
		(1) Secure a fidelity bond in an amount equal to \$500 multiplied by the number of apartments, to cover all officers, directors, employees, and managing agents of the association of apartment owners who handle, control, or have custody of the funds of the association of apartment owners; provided that the amount of the fidelity bond required by this subsection shall not be less than \$20,000 nor greater than \$100,000. The fidelity bond shall protect the association of apartment owners against fraudulent or dishonest acts by persons, including any managing agent, handling the funds of the association of apartment owners. An association of apartment owners shall act promptly and diligently to recover from the fidelity bond required by this section. An association of apartment owners that is unable to obtain a fidelity bond may seek approval for an exemption or a bond alternative from the commission. The commission shall adopt rules establishing the conditions and terms for which it may grant an exemption or a bond alternative, or permit deductibles. Failure to obtain or maintain a fidelity bond in compliance with this chapter and the rules adopted pursuant thereto, including failure to provide current evidence of the fidelity bond coverage in a timely manner to the commission, shall result in non-registration or the automatic termination of the registration, unless an approved exemption or a bond alternative is presently maintained. Current evidence of a fidelity bond includes a certification statement from an insurance company registered with the department of commerce and consumer affairs certifying that the bond is in effect and meets the requirement of this section and the rules adopted by the commission;
		(2) Register with the commission through approval of a

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		<p>completed registration application, payment of fees, and submission of any other additional information set forth by the commission. Beginning June 30, 1997, the registration shall be for a biennial period with termination on June 30 of an odd-numbered year. The commission shall prescribe a deadline date prior to the termination date for the submission of a completed reregistration application, payment of fees, and any other additional information set forth by the commission. Any condominium project or association of apartment owners that has not met the submission requirements by the deadline date shall be considered a new applicant for registration and subject to initial registration requirements. Any new condominium project or association of apartment owners shall register within thirty days of the association of apartment owners' first meeting. If the association of apartment owners has not held its first meeting and it is at least one year after the recordation of the purchase of the first apartment in the condominium project, the developer or developer's affiliate or the managing agent shall register on behalf of the unorganized association of apartment owners and shall comply with this section, except the fidelity bond requirement for association of apartment owners. The public information required to be submitted on any completed application form shall include but not be limited to evidence of and information on fidelity bond coverage, names and positions of the officers of the association, the name of the association of apartment owners' managing agent, if any, the street and the postal address of the condominium, and the name and current mailing address of a designated officer of the association of apartment owners where the officer can be contacted directly;</p>
		<p>(3) Pay a nonrefundable application fee and, upon approval, an initial registration fee and subsequently pay a reregistration fee, and the condominium management education fund fee, as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91;</p>
		<p>(4) Register or reregister and pay the required fees by the due date. Failure to register or reregister or pay the required fees by the due date shall result in the assessment of a penalty equal to the amount of the registration or reregistration fee; and</p>
		<p>(5) Report immediately in writing to the commission</p>

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		any changes to the information contained on the registration or reregistration application, the evidence of the fidelity bond, or any other documents set forth by the commission. Failure to do so may result in termination of registration and subject the condominium project or the association of apartment owners to initial registration requirements.
		(b) The commission may reject or terminate any registration submitted by a condominium project or an association of apartment owners that fails to comply with this section. Any association of apartment owners that fails to register as required by this section or whose registration is rejected or terminated shall not have standing to maintain any action or proceeding in the courts of this State until it registers. The failure of an association of apartment owners to register, or rejection or termination of its registration, shall not impair the validity of any contract or act of the association of apartment owners nor prevent the association of apartment owners from defending any action or proceeding in any court in this State.
SECTION 3-104. TRANSFER OF SPECIAL DECLARANT RIGHTS.	§ 3-104. [Transfer of Special Declarant Rights]	
(a) A special declarant right (Section 1-103(29)) created or reserved under this [Act] may be transferred only by an instrument evidencing the transfer recorded in every [county] in which any portion of the common interest community is located. The instrument is not effective unless executed by the transferee.	(a) No special declarant right (Section 1-103(23)) created or reserved under this Act may be transferred except by an instrument evidencing the transfer recorded in every (county) in which any portion of the condominium is located. The instrument is not effective unless executed by the transferee.	
(b) Upon transfer of any special declarant right, the liability of a transferor declarant is as follows:	(b) Upon transfer of any special declarant right, the liability of a transferor declarant is as follows:	
(1) A transferor is not relieved of any obligation or liability arising before the transfer and remains liable for warranty obligations imposed upon him by this [Act]. Lack of privity does not deprive any unit owner of standing to maintain an action to enforce any obligation of the transferor.	(1) A transferor is not relieved of any obligation or liability arising before the transfer and remains liable for warranty obligations imposed upon him by this Act. Lack of privity does not deprive any unit owner of standing to maintain an action to enforce any obligation of the transferor.	
(2) If a successor to any special declarant right is an affiliate of a declarant (Section 1-103(1)), the transferor is jointly and severally liable with the successor for any obligations or liabilities of the successor relating to the common interest community.	(2) If a successor to any special declarant right is an affiliate of a declarant (Section 1-103(1)), the transferor is jointly and severally liable with the successor for any obligations or liabilities of the successor relating to the condominium.	
(3) If a transferor retains any special declarant rights, but transfers other special declarant rights to a successor who is not an affiliate of the declarant, the transferor is liable for any obligations or liabilities	(3) If a transferor retains any special declarant right, but transfers other special declarant rights to a successor who is not an affiliate of the declarant, the transferor is liable for any obligations or liabilities	

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Uniform Common Interest Ownership Act (1994)	Uniform Condominium Act (1980)	Hawaii HRS Chapter 514A
imposed on a declarant by this [Act] or by the declaration relating to the retained special declarant rights and arising after the transfer.	imposed on a declarant by this Act or by the declaration relating to the retained special declarant rights and arising after the transfer.	
(4) A transferor has no liability for any act or omission or any breach of a contractual or warranty obligation arising from the exercise of a special declarant right by a successor declarant who is not an affiliate of the transferor.	(4) A transferor has no liability for any act or omission or any breach of a contractual or warranty obligation arising from the exercise of a special declarant right by a successor declarant who is not an affiliate of the transferor.	
(c) Unless otherwise provided in a mortgage instrument, deed of trust, or other agreement creating a security interest, in case of foreclosure of a security interest, sale by a trustee under an agreement creating a security interest, tax sale, judicial sale, or sale under Bankruptcy Code or receivership proceedings, of any units owned by a declarant or real estate in a common interest community subject to development rights, a person acquiring title to all the property being foreclosed or sold, but only upon his request, succeeds to all special declarant rights related to that property held by that declarant, or only to any rights reserved in the declaration pursuant to Section 2-115 and held by that declarant to maintain models, sales offices, and signs. The judgment or instrument conveying title must provide for transfer of only the special declarant rights requested.	(c) Unless otherwise provided in a mortgage instrument or deed of trust, in case of foreclosure of a mortgage, tax sale, judicial sale, sale by a trustee under a deed of trust, or sale under Bankruptcy Code or receivership proceedings, of any units owned by a declarant or real estate in a condominium subject to development rights, a person acquiring title to all the real estate being foreclosed or sold, but only upon his request, succeeds to all special declarant rights related to that real estate held by that declarant, or only to any rights reserved in the declaration pursuant to Section 2-115 and held by that declarant to maintain models, sales offices and signs. The judgment or instrument conveying title shall provide for transfer of only the special declarant rights requested.	
(d) Upon foreclosure of a security interest, sale by a trustee under an agreement creating a security interest, tax sale, judicial sale, or sale under Bankruptcy Code or receivership proceedings, of all interests in a common interest community owned by a declarant:	(d) Upon foreclosure, tax sale, judicial sale, sale by a trustee under a deed of trust, or sale under Bankruptcy Code or receivership proceedings, of all units and other real estate in a condominium owned by a declarant:	
(1) the declarant ceases to have any special declarant rights, and	(1) the declarant ceases to have any special declarant rights, and	
(2) the period of declarant control (Section 3-103(d)) terminates unless the judgment or instrument conveying title provides for transfer of all special declarant rights held by that declarant to a successor declarant.	(2) the period of declarant control (Section 3-103(d)) terminates unless the judgment or instrument conveying title provides for transfer of all special declarant rights held by that declarant to a successor declarant.	
(e) The liabilities and obligations of a person who succeeds to special declarant rights are as follows:	(e) The liabilities and obligations of a person who succeeds to special declarant rights are as follows:	
(1) A successor to any special declarant right who is an affiliate of a declarant is subject to all obligations and liabilities imposed on the transferor by this [Act] or by the declaration.	(1) A successor to any special declarant right who is an affiliate of a declarant is subject to all obligations and liabilities imposed on the transferor by this Act or by the declaration.	
(2) A successor to any special declarant right, other than a successor described in paragraph (3) or (4) or a successor who is an affiliate of a declarant, is subject to the obligations and liabilities imposed by this [Act] or the	(2) A successor to any special declarant right, other than a successor described in paragraphs (3) or (4), who is not an affiliate of a declarant, is subject to all obligations and liabilities imposed by this Act or the	

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<p>declaration:</p> <ul style="list-style-type: none"> (i) on a declarant which relate to the successor's exercise or nonexercise of special declarant rights; or (ii) on his transferor, other than: <ul style="list-style-type: none"> (A) misrepresentations by any previous declarant; (B) warranty obligations on improvements made by any previous declarant, or made before the common interest community was created; (C) breach of any fiduciary obligation by any previous declarant or his appointees to the executive board; or (D) any liability or obligation imposed on the transferor as a result of the transferor's acts or omissions after the transfer. 	<p>declaration:</p> <ul style="list-style-type: none"> (i) on a declarant which relate to his exercise or non-exercise of special declarant rights; or (ii) on his transferor, other than; <ul style="list-style-type: none"> (A) misrepresentations by any previous declarant; (B) warranty obligations on improvements made by any previous declarant, or made before the condominium was created; (C) breach of any fiduciary obligation by any previous declarant or his appointees to the executive board; or (D) any liability or obligation imposed on the transferor as a result of the transferor's acts or omissions after the transfer. 	
<p>(3) A successor to only a right reserved in the declaration to maintain models, sales offices, and signs (Section 2-115), may not exercise any other special declarant right, and is not subject to any liability or obligation as a declarant, except the obligation to provide a public offering statement [,] and any liability arising as a result thereof [, an obligations under [Article] 5].</p>	<p>(3) A successor to only a right reserved in the declaration to maintain models, sales offices, and signs (Section 2-115), if he is not an affiliate of a declarant, may not exercise any other special declarant right, and is not subject to any liability or obligation as a declarant, except the obligation to provide a public offering statement[,] [and] any liability arising as a result thereof [, and obligations under Article 5.]</p>	
<p>(4) A successor to all special declarant rights held by a transferor who succeeded to those rights pursuant to a deed or other instrument of conveyance in lieu of foreclosure or a judgment or instrument conveying title under subsection (c), may declare in a recorded instrument the intention to hold those rights solely for transfer to another person. Thereafter, until transferring all special declarant rights to any person acquiring title to any unit or real estate subject to development rights owned by the successor, or until recording an instrument permitting exercise of all those rights, that successor may not exercise any of those rights other than any right held by his transferor to control the executive board in accordance with Section 3-103(d) for the duration of any period of declarant control, and any attempted exercise of those rights is void. So long as a successor declarant may not exercise special declarant rights under this subsection, the successor declarant is not subject to any liability or obligation as a declarant other than liability for his acts and omissions under Section 3-103(d).</p>	<p>(4) A successor to all special declarant rights held by his transferor who is not an affiliate of that declarant and who succeeded to those rights pursuant to a deed in lieu of foreclosure or a judgment or instrument conveying title to units under subsection (c), may declare his intention in a recorded instrument to hold those rights solely for transfer to another person. Thereafter, until transferring all special declarant rights to any person acquiring title to any unit owned by the successor, or unit recording an instrument permitting exercise of all those rights, that successor may not exercise any of those rights other than any right held by his transferor to control the executive board in accordance with the provisions of Section 3-103(d) for the duration of any period of declarant control, and any attempted exercise of those rights is void. So long as a successor declarant may not exercise special declarant rights under this subsection, he is not subject to any liability or obligation as a declarant other than liability for his acts and omissions under Section 3-103(d).</p>	
<p>(f) Nothing in this section subjects any successor to a special declarant right to any claims against or other obligations of a transferor declarant, other than claims and obligations arising under this [Act] or the declaration.</p>	<p>(f) Nothing in this section subjects any successor to a special declarant right to any claims against or other obligations of a transferor declarant, other than claims and obligations arising under this Act or the declaration.</p>	
SECTION 3-105. TERMINATION OF CONTRACTS	§ 3-105. [Termination of Contracts and Leases of	§514A-84 Management and contracts; developer,

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<p>AND LEASES OF DECLARANT. Except as provided in Section 1-207, if entered into before the executive board elected by the unit owners pursuant to Section 3-103(f) takes office, (i) any management contract, employment contract, or lease of recreational or parking areas or facilities, (ii) any other contract or lease between the association and a declarant or an affiliate of a declarant, or (iii) any contract or lease that is not bona fide or was unconscionable to the unit owners at the time entered into under the circumstances then prevailing, may be terminated without penalty by the association at any time after the executive board elected by the unit owners pursuant to Section 3-103(f) takes office upon not less than [90] days' notice to the other party. This section does not apply to: (i) any lease the termination of which would terminate the common interest community or reduce its size, unless the real estate subject to that lease was included in the common interest community for the purpose of avoiding the right of the association to terminate a lease under this section, or (ii) a proprietary lease.</p>	<p>Declarant] If entered into before the executive board elected by the unit owners pursuant to Section 3-103(f) takes office, (i) any management contract, employment contract, or lease of recreational or parking areas or facilities, (ii) any other contract or lease between the association and a declarant or an affiliate of a declarant, or (iii) any contract or lease that is not bona fide or was unconscionable to the unit owners at the time entered into under the circumstances then prevailing, may be terminated without penalty by the association at any time after the executive board elected by the unit owners pursuant to Section 3-103(f) takes office upon not less than (90) days' notice to the other party. This section does not apply to any lease the termination of which would terminate the condominium or reduce its size, unless the real estate subject to that lease was included in the condominium for the purpose of avoiding the right of the association to terminate a lease under this section.</p>	<p>managing agent, and association of apartment owners. (a) If the developer or any affiliate of the developer acts as the first managing agent for the association of apartment owners following its organization, the contract shall not have a term exceeding one year and shall contain a provision that the contract may be terminated by either party thereto on not more than sixty days' written notice. The identity of the managing agent as the developer or the developer's affiliate shall be disclosed to the association of apartment owners no later than the first meeting of the association of apartment owners, which is when the association of apartment owners is organized. An affiliate of, or person affiliated with, a developer is a person that directly or indirectly controls, is controlled by, or is under common control with, the developer.</p>
		<p>(b) Any developer or affiliate of the developer or a managing agent, who manages the operation of the property from the date of recordation of the first apartment conveyance until the organization of the association of apartment owners, shall comply with the requirements of sections 514A-95.1, 514A-97, and 514A-132, with the exception of the fidelity bond requirement for the association of apartment owners.</p>
		<p>(c) The developer, affiliate of the developer, managing agent, and the association of apartment owners shall ensure that there is a written contract for managing the operation of the property, expressing the agreements of all parties including but not limited to financial and accounting obligations, services provided, and any compensation arrangements, including any subsequent amendments. Copies of the executed contract and any amendments shall be provided to all parties to the contract. Prior to the organization of the association of apartment owners, any apartment owner may request to inspect as well as receive a copy of the management contract from the entity that manages the operation of the property.</p>
<p>SECTION 3-106. BYLAWS.</p>	<p>§ 3-106. [Bylaws]</p>	<p>§514A-81 Bylaws. The operation of the property shall be governed by bylaws, a true copy of which shall be recorded in the same manner as the declaration. No</p>

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		amendment to the bylaws is valid unless the amendment is duly recorded.
(a) The bylaws of the association must provide:	(a) The bylaws of the association must provide for:	§514A-82 Contents of bylaws. (a) The bylaws shall provide for at least the following:
		(1) Board of directors;
(1) the number of members of the executive board and the titles of the officers of the association;	(1) the number of members of the executive board and the titles of the officers of the association;	(B) The number of persons constituting the board; provided that condominiums with more than one hundred individual apartment units shall have an elected board of not less than nine members unless not less than sixty-five per cent of all apartment owners vote by mail ballot, or at a special or annual meeting, to reduce the minimum number of directors;
(2) election by the executive board of a president, treasurer, secretary, and any other officers of the association the bylaws specify;	(2) election by the executive board of a president, treasurer, secretary, and any other officers of the association the bylaws specify;	(A) The election of a board of directors;
(3) the qualifications, powers and duties, terms of office, and manner of electing and removing executive board members and offices and filling vacancies;	(3) the qualifications, powers and duties, terms of office, and manner of electing and removing executive board members and officers and filling vacancies;	(D) The powers and duties of the board;
(4) which, if any, of its powers the executive board or officers may delegate to other persons or to a managing agent;	(4) which, if any, of its powers the executive board or officers may delegate to other persons or to a managing agent;	(F) Whether or not the board may engage the services of a manager or managing agent, or both, and specifying which of the powers and duties granted to the board by this chapter or otherwise may be delegated by the board to either or both of them;
(5) which of its officers may prepare, execute, certify, and record amendments to the declaration on behalf of the association; and	(5) which of its officers may prepare, execute, certify, and record amendments to the declaration on behalf of the association; and	
		(C) That 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;
		(E) The compensation, if any, of the directors; and
(6) a method for amending the bylaws.	(6) the method of amending the bylaws.	
(b) Subject to the provisions of the declaration, the bylaws may provide for any other matters the association deems necessary and appropriate.	(b) Subject to the provisions of the declaration, the bylaws may provide for any other matters the association deems necessary and appropriate.	
		(2) Method of calling meetings of the apartment owners; what percentage, if other than a majority of apartment owners, constitutes a quorum; what percentage, consistent with this chapter, is necessary to adopt decisions binding on all apartment owners and that votes allocated to any area that constitutes a common element under section 514A-13(h) shall not be cast at any association meeting, regardless of whether it is so designated in the declaration;
		(3) Election of a president from among the board of

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		directors who shall preside over the meetings of the board of directors and of the association of apartment owners;
		(4) Election of a secretary who shall keep the minute book wherein resolutions shall be recorded;
		(5) Election of a treasurer who shall keep the financial records and books of account;
		(6) Operation of the property, payment of the common expenses, and determination and collection of the common charges;
		(7) Manner of collecting common expenses, expenses, costs, and fees recoverable by the association under section 514A-94, and any penalties and late charges;
		(8) Designation and removal of personnel necessary for the maintenance, repair, and replacement of the common elements;
		(9) Method of adopting and amending administrative rules governing the details of the operation and use of the common elements;
		(10) The restrictions on and requirements respecting the use and maintenance of the apartments and the use of the common elements, not set forth in the declaration, as are designed to prevent unreasonable interference with the use of their respective apartments and of the common elements by the several apartment owners;
		(11) The first meeting of the association of apartment owners 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, an annual meeting shall be called; provided ten per cent of the apartment owners so request;
		(12) All members of the board of directors shall be owners, co-owners, vendees under an agreement of sale, or an officer of any corporate owner of an apartment. The partners in a general partnership and the general partners of a limited partnership shall be deemed to be the owners of an apartment for this purpose. There shall not be more than one representative on the board of directors from any one apartment;
		(13) A director shall not cast any proxy vote at any board meeting, nor shall a director vote at any board meeting on any issue in which the director has a conflict

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		of interest;
		(14) No resident manager of a condominium shall serve on its board of directors;
		(15) The board of directors shall meet at least once a year;
		(16) All association and board of directors meetings shall be conducted in accordance with the most current edition of Robert's Rules of Order;
		(17) All meetings of the association of apartment owners shall be held at the address of the condominium project or elsewhere within the State as determined by the board of directors; and
		(18) Penalties chargeable against persons for violation of the covenants, conditions, or restrictions set forth in the declaration, or of the bylaws and administrative rules adopted pursuant thereto, method of determination of violations, and manner of enforcing penalties, if any.
		(b) In addition to the requirements of subsection (a), the bylaws shall be consistent with the following provisions:
		(1) At any regular or special meeting of the apartment owners, any one or more members of the board of directors may be removed by the apartment owners and successors shall then and there be elected for the remainder of the term to fill the vacancies thus created. The removal and replacement shall be in accordance with all applicable requirements and procedures in the bylaws for the removal and replacement of directors, including any provision relating to cumulative voting. If removal and replacement is to occur at a special association meeting, the call for the meeting shall be by the president or by a petition to the secretary or managing agent signed by not less than twenty-five per cent of the apartment owners as shown in the association's record of ownership; provided that if the secretary or managing agent shall fail to send out the notices for the special meeting within fourteen days of receipt of the petition, then the petitioners shall have the authority to set the time, date, and place for the special meeting and to send out the notices for the special meeting in accordance with the requirements of the bylaws. Except as otherwise provided in this section, the meeting for the removal and replacement from office of directors shall be scheduled, noticed, and conducted in accordance with the bylaws of the association.
		(2) The bylaws may be amended at any time by the vote or written consent of sixty-five per cent of all

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		<p>apartment owners; provided that each one of the particulars set forth in this section shall be embodied in the bylaws always; and provided further that any proposed bylaws with the rationale for the proposal may be submitted by the board of directors or by a volunteer apartment owners' committee. If submitted by that committee, the proposal shall be accompanied by a petition signed by not less than twenty-five per cent of the apartment 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 of directors 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 of directors. The vote or written consent required to adopt the proposed bylaw shall not be less than sixty-five per cent of all apartment owners; provided that the vote or written consent must be obtained within one hundred twenty days after mailing. In the event that the bylaw is duly adopted, then the board shall cause the bylaw amendment to be recorded in the bureau of conveyances or filed in the land court, as the case may be. The volunteer apartment owners' committee 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 one year after the original petition was submitted to the board. This subsection shall not preclude any apartment owner or voluntary apartment owners' committee from proposing any bylaw amendment at any annual association meeting.</p>
		<p>(3) Notices of association meetings, whether annual or special, shall be sent to each member of the association of apartment owners at least fourteen days prior to the meeting and shall contain at least: the date, time, and place of the meeting, the items on the agenda for the meeting, and a standard proxy form authorized by the association, if any.</p>
		<p>(4) No resident manager or managing agent shall solicit, for use by the manager or managing agent, any proxies from any apartment owner of the association of owners that employs the resident manager or managing agent, nor shall the resident manager or managing agent cast any proxy vote at any association meeting except for the purpose of establishing a quorum. Any board of directors that intends to use association funds to</p>

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		distribute proxies, including the standard proxy form referred to in paragraph (3), shall first post notice of its intent to distribute proxies in prominent locations within the project at least thirty days prior to its distribution of proxies; provided that 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 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 shall not exceed one hundred words, indicating the owner's qualifications to serve on the board and reasons for wanting to receive proxies.
		(5) 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.
		(6) The apartment owners shall have the irrevocable right, to be exercised by the board of directors, to have access to each apartment from time to time during reasonable hours as may be necessary for the operation of the property or for making emergency repairs therein necessary to prevent damage to the common elements or to another apartment or apartments.
		(7) An owner shall not act as an officer of an association and an employee of the managing agent employed by the association.
		(8) An association's employees shall not engage in selling or renting apartments in the condominium in which they are employed except association-owned units, unless such activity is approved by an affirmative vote of sixty-five per cent of the membership.
		(9) The board of directors shall meet at least once a year. Whenever practicable, notice of all board meetings shall be posted by the 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 of directors.
		(10) Directors shall not expend association funds for

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		their travel, directors' fees, and per diem, unless owners are informed and a majority approve of these expenses.
		(11) 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 this chapter with amendments.
		(12) 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 under this subsection shall be subject to the requirements of paragraph (10).
		(13) A lien created pursuant to section 514A-90 may be enforced by the association in any manner permitted by law, including nonjudicial or power of sale foreclosure procedures authorized by chapter 667, as that chapter may be amended from time to time.
		The provisions of this subsection shall be deemed incorporated into the bylaws of all condominium projects existing as of January 1, 1988, and all condominium projects created after that date.
SECTION 3-107. UPKEEP OF COMMON INTEREST COMMUNITY.	§ 3-107. [Upkeep of Condominium]	
(a) Except to the extent provided by the declaration, subsection (b), or Section 3-113(h), the association is responsible for maintenance, repair, and replacement of the common elements, and each unit owner is responsible for maintenance, repair, and replacement of his unit. Each unit owner shall afford to the association and the other unit owners, and to their agents or employees, access through his unit reasonably necessary for those purposes. If damage is inflicted on the common elements or on any unit through which access is taken, the unit owner responsible for the damage, or the association if it is responsible, is liable for the prompt repair thereof.	(a) Except to the extent provided by the declaration, subsection (b), or Section 3-113(h), the association is responsible for maintenance, repair, and replacement of the common elements, and each unit owner is responsible for maintenance, repair, and replacement of his unit. Each unit owner shall afford to the association and the other unit owners, and to their agents or employees, access through his unit reasonably necessary for those purposes. If damage is inflicted on the common elements, or on any unit through which access is taken, the unit owner responsible for the damage, or the association if it is responsible, is liable for the prompt repair thereof.	
(b) In addition to the liability that a declarant as a unit owner has under this [Act], the declarant alone is liable for all expenses in connection with real estate subject to development rights. No other unit owner and no other	(b) In addition to the liability that a declarant as a unit owner has under this Act, the declarant alone is liable for all expenses in connection with real estate subject to development rights. No other unit owner and no other	

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portion of the common interest community is subject to a claim for payment of those expenses. Unless the declaration provides otherwise, any income or proceeds from real estate subject to development rights inures to the declarant.	portion of the condominium is subject to a claim for payment of those expenses. Unless the declaration provides otherwise, any income or proceeds from real estate subject to development rights inures to the declarant.	
(c) In a planned community, if all development rights have expired with respect to any real estate, the declarant remains liable for all expenses of that real estate unless, upon expiration, the declaration provides that the real estate becomes common elements or units.		
SECTION 3-108. MEETINGS. A meeting of the association must be held at least once each year. Special meetings of the association may be called by the president, a majority of the executive board, or by unit owners having 20 percent, or any lower percentage specified in the bylaws, of the votes in the association. Not less than [10] nor more than [60] days in advance of any meeting, the secretary or other officer specified in the bylaws shall cause notice to be hand-delivered or 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. The notice of any meeting must state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to the declaration or bylaws, any budget changes, and any proposal to remove an officer or member of the executive board.	§ 3-108. [Meetings] A meeting of the association must be held at least one each year. Special meetings of the association may be called by the president, a majority of the executive board or by unit owners having 20 percent, or any lower percentage specified in the bylaws, of the votes in the association. Not less than (10) nor more than [60] days in advance of any meeting, the secretary or other officer specified in the bylaws shall cause notice to be hand-delivered or 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. The notice of any meeting must state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to the declaration or bylaws, any budget changes, and any proposal to remove a director or officer.	[See, §514A-82(a)(15) above, which reads: "(15) The board of directors shall meet at least once a year;"] [See also, §514A-82(a)(16) above, which reads: "(16) All association and board of directors meetings shall be conducted in accordance with the most current edition of Robert's Rules of Order;"] [See also, §514A-82(a)(17) above, which reads: "(17) All meetings of the association of apartment owners shall be held at the address of the condominium project or elsewhere within the State as determined by the board of directors;"] [See also, §514A-82(b)(3) above, which reads: "(3) Notices of association meetings, whether annual or special, shall be sent to each member of the association of apartment owners at least fourteen days prior to the meeting and shall contain at least: the date, time, and place of the meeting, the items on the agenda for the meeting, and a standard proxy form authorized by the association, if any."]
		[See also, §514A-82(b)(1) above, which reads: "(1) At any regular or special meeting of the apartment owners, any one or more members of the board of directors may be removed by the apartment owners and successors shall then and there be elected for the remainder of the term to fill the vacancies thus created. The removal and replacement shall be in accordance with all applicable requirements and procedures in the bylaws for the removal and replacement of directors, including any provision relating to cumulative voting. If removal and replacement is to occur at a special association meeting, the call for the meeting shall be by the president or by a petition to the secretary or managing agent signed by not less than twenty-five per cent of the apartment owners as shown in the association's record of ownership; provided that if the secretary or managing agent shall fail to send out the notices for the special

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		meeting within fourteen days of receipt of the petition, then the petitioners shall have the authority to set the time, date, and place for the special meeting and to send out the notices for the special meeting in accordance with the requirements of the bylaws. Except as otherwise provided in this section, the meeting for the removal and replacement from office of directors shall be scheduled, noticed, and conducted in accordance with the bylaws of the association."]
		§514A-83.1 Board meetings. (a) All meetings of the board of directors, other than executive sessions, shall be open to all members of the association, and association members who are not on the board of directors may participate in any deliberation or discussion, other than executive sessions, unless a majority of a quorum of the board of directors votes otherwise.
		(b) The board of directors, with the approval of a majority of a quorum of its members, may adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters or litigation in which the association is or may become involved. The nature of any and all business to be considered in executive session shall first be announced in open session.
SECTION 3-109. QUORUMS.	§ 3-109. [Quorums]	
(a) Unless the bylaws provide otherwise, a quorum is present throughout any meeting of the association if persons entitled to cast [20] percent of the votes that may be cast for election of the executive board are present in person or by proxy at the beginning of the meeting.	(a) Unless the bylaws provide otherwise, a quorum is present throughout any meeting of the association if persons entitled to cast [20] percent of the votes which may be cast for election of the executive board are present in person or by proxy at the beginning of the meeting.	
(b) Unless the bylaws specify a larger percentage, a quorum is deemed present throughout any meeting of the executive board if persons entitled to cast [50] percent of the votes on that board are present at the beginning of the meeting.	(b) Unless the bylaws specify a larger percentage, a quorum is deemed present throughout any meeting of the executive board if persons entitled to cast [50] percent of the votes on that board are present at the beginning of the meeting.	
SECTION 3-110. VOTING; PROXIES.	§ 3-110. [Voting; Proxies]	
(a) 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 are 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 expressly provides otherwise. There is majority agreement if any one of the owners casts the votes allocated to that unit without protest being made	(a) If only one of the multiple owners of a unit is present at a meeting of the association, he is entitled to cast all the votes allocated to that unit. If more than one of the multiple owners are present, the votes allocated to that unit may be cast only in accordance with the agreement of a majority in interest of the multiple owners, unless the declaration expressly provides otherwise. There is majority agreement if any one of the multiple owners casts the votes allocated to that unit without protest	

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promptly to the person presiding over the meeting by any of the other owners of the unit.	being made promptly to the person presiding over the meeting by any of the other owners of the unit.	
(b) Votes allocated to a unit may be cast pursuant to a proxy duly executed by a unit owner. 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. A unit owner may revoke a proxy given pursuant to this section only by actual notice of revocation to the person presiding over a meeting of the association. A proxy is void if it is not dated or purports to be revocable without notice. A proxy terminates one year after its date, unless it specifies a shorter term.	(b) Votes allocated to a unit may be cast pursuant to proxy duly executed by a unit owner. 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. A unit owner may not revoke a proxy given pursuant to this section except by actual notice of revocation to the person presiding over a meeting of the association. A proxy is void if it is not dated or purports to be revocable without notice. A proxy terminates one year after its date, unless it specifies a shorter term.	<p>§514A-83.2 Proxies. (a) A proxy, to be valid, must:</p> <p>(1) Be delivered to the secretary of the association of apartment owners 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;</p> <p>(2) Contain at least the name of the association of apartment owners, the date of the meeting of the association of apartment owners, the printed names and signatures of the persons giving the proxy, the apartments for which the proxy is given, and the date that the proxy is given; and</p>
		<p>(3) Contain boxes wherein the owner has indicated that the proxy is given:</p> <p>(A) For quorum purposes only;</p> <p>(B) To the individual whose name is printed on a line next to this box;</p> <p>(C) To the board of directors as a whole and that the vote be made on the basis of the preference of the majority of the board; or</p> <p>(D) To those directors present at the meeting and the vote to be shared with each board member receiving an equal percentage.</p>
		(b) 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 apartment owner desires and indicates; provided that no proxy shall be irrevocable unless coupled with a financial interest in the unit.
		(c) No board of directors or member of the board shall use association funds to solicit proxies except for the distribution of proxies as set forth in section 514A-82(b)(4); provided that this shall not prevent an individual member of the board from soliciting proxies as an apartment owner under section 514A-82(b)(4).
		(d) A copy, facsimile telecommunication, 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 telecommunication, or other reproduction shall be a complete reproduction of the entire original proxy.
		(e) Nothing in this section shall affect the holder of any proxy under a first mortgage of record encumbering an apartment or under an agreement of sale affecting an apartment.

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		<p>§514A-83.3 Membership list. The resident manager or managing agent or board of directors shall keep an accurate and current list of members of the association of apartment owners and their current addresses and the names and addresses of the vendees under an agreement of sale, if any. The list shall be maintained at a place designated by the board of directors and a copy shall be available, at cost, to any member of the association as provided in the declaration or bylaws or rules and regulations or, in any case, to any member who furnishes to the resident manager or managing agent or board of directors a duly executed and acknowledged affidavit stating that the list (1) will be used by such owner personally and only for the purpose of soliciting votes or proxies or providing information to other owners with respect to association matters, and (2) shall not be used by such owner or furnished to anyone else for any other purpose. No board of directors shall adopt any rule prohibiting the solicitation of proxies or distribution of materials relating to association matters on the common elements by apartment owners; provided that a board of directors may adopt rules regulating reasonable time, place, and manner of such solicitations or distributions, or both. A board of directors may prohibit commercial solicitations.</p>
<p>(c) If the declaration requires that votes on specified matters affecting the common interest community be cast by lessees rather than unit owners of leased units: (i) the provisions of subsections (a) and (b) apply to lessees as if they were unit owners; (ii) unit owners who have leased their units to other persons may not cast votes on those specified matters; and (iii) lessees are entitled to notice of meetings, access to records, and other rights respecting those matters as if they were unit owners. Unit owners must also be given notice, in the manner provided in Section 3-108, of all meetings at which lessees are entitled to vote.</p>	<p>(c) If the declaration requires that votes on specified matters affecting the condominium be cast by lessees rather than unit owners of leased units; (i) the provisions of subsection (a) and (b) apply to lessees as if they were unit owners; (ii) unit owners who have leased their units to other persons may not cast votes on those specified matters; and (iii) lessees are entitled to notice of meetings, access to records, and other rights respecting those matters as if they were unit owners. Unit owners must also be given notice, in the manner provided in Section 3-108, of all meetings at which lessees may be entitled to vote.</p>	
<p>(d) No votes allocated to a unit owned by the association may be cast.</p>	<p>(d) No votes allocated to a unit owned by the association may be cast.</p>	
		<p>§514A-83 Purchaser's right to vote. The purchaser of an apartment pursuant to an agreement of sale recorded in the bureau of conveyances or land court shall have all the rights of an apartment owner, including the right to vote; provided that the seller may retain the right to vote on matters substantially affecting the seller's security interest in the apartment, including but not limited to, the</p>

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		right to vote on:
		(1) Any partition of all or part of the project;
		(2) The nature and amount of any insurance covering the project and the disposition of any proceeds thereof;
		(3) The manner in which any condemnation of the project shall be defended or settled and the disposition of any award or settlement in connection therewith;
		(4) The payment of any amount in excess of insurance or condemnation proceeds;
		(5) The construction of any additions or improvements, and any substantial repair or rebuilding of any portion of the project;
		(6) The special assessment of any expenses;
		(7) The acquisition of any apartment in the project;
		(8) Any amendment to the declaration of condominium property regime or bylaws;
		(9) Any removal of the project from the provisions of this chapter; and
		(10) Any other matter which would substantially affect the security interest of the seller.
		§514A-83.4 Meeting minutes. (a) Minutes of meetings of the board of directors and association of apartment owners shall include the recorded vote of each board member on all motions except motions voted on in executive session.
		(b) Minutes of meetings of the board of directors and association of apartment owners shall be approved at the next succeeding meeting; provided that for board of directors meetings, no later than the second succeeding meeting.
		(c) Minutes of all meetings 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.
SECTION 3-111. TORT AND CONTRACT LIABILITY; TOLLING OF LIMITATION PERIOD.	§ 3-111. [Tort and Contract Liability]	
(a) A unit owner is not liable, solely by reason of being a unit owner, for an injury or damage arising out of the condition or use of the common elements. Neither the association nor any unit owner except the declarant is liable for that declarant's torts in connection with any part of the common interest community which that declarant	Neither the association nor any unit owner except the declarant is liable for that declarant's torts in connection with any part of the condominium which that declarant has the responsibility to maintain.	

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has the responsibility to maintain.		
(b) An action alleging a wrong done by the association, including an action arising out of the condition or use of the common elements, may be maintained only against the association and not against any unit owner. If the wrong occurred during any period of declarant control and the association gives the declarant reasonable notice of and an opportunity to defend against the action, the declarant who then controlled the association is liable to the association or to any unit owner for (i) all tort losses not covered by insurance suffered by the association or that unit owner, and (ii) all costs that the association would not have incurred but for a breach of contract or other wrongful act or omission. Whenever the declarant is liable to the association under this section, the declarant is also liable for all expenses of litigation, including reasonable attorney's fees, incurred by the association.	Otherwise, an action alleging a wrong done by the association must be brought against the association and not against any unit owner. If the wrong occurred during any period of declarant control and the association gives the declarant reasonable notice of and an opportunity to defend against the action, the declarant who then controlled the association is liable to the association or to any unit owner: (i) for all tort losses not covered by insurance suffered by the association or that unit owner, and (ii) for all costs which the association would not have incurred but for a breach of contract or other wrongful act or omission. Whenever the declarant is liable to the association under this section, the declarant is also liable for all litigation expenses, including reasonable attorneys fees, incurred by the association.	
(c) Except as provided in Section 4-116(d) with respect to warranty claims, any statute of limitation affecting the association's right of action against a declarant under this [Act] is tolled until the period of declarant control terminates. A unit owner is not precluded from maintaining an action contemplated by this section because he is a unit owner or a member or officer of the association. Liens resulting from judgments against the association are governed by Section 3-117 (Other Liens).	Any statute of limitation affecting the association's right of action under this section is tolled until the period of declarant control terminates. A unit owner is not precluded from bringing an action contemplated by this section because he is a unit owner or a member or officer of the association. Liens resulting from judgments against the association are governed by Section 3-117 (Other Liens Affecting the Condominium).	
SECTION 3-112. CONVEYANCE OR ENCUMBRANCE OF COMMON ELEMENTS.	§ 3-112. [Conveyance or Encumbrance of Common Elements]	
(a) In a condominium or planned community, portions of the common elements may be conveyed or subjected to a security interest by the association if persons entitled to cast at least [80] percent of the votes in the association, including [80] percent of the votes allocated to units not owned by a declarant, or any larger percentage the declaration specifies, agree to that action; but all owners of units to which any limited common element is allocated must agree in order to convey that limited common element or subject it to a security interest. The declaration may specify a smaller percentage only if all of the units are restricted exclusively to non-residential uses. Proceeds of the sale are an asset of the association, but the proceeds of the sale of limited common elements must be distributed equitably among the owners of units to which the limited	(a) Portions of the common elements may be conveyed or subjected to a security interest by the association if persons entitled to cast at least [80] percent of the votes in the association, including [80] percent of the votes allocated to units not owned by a declarant, or any larger percentage the declaration specifies, agree to that action; but all the owners of units to which any limited common element is allocated must agree in order to convey that limited common element or subject it to a security interest. The declaration may specify a smaller percentage only if all of the units are restricted exclusively to non-residential uses. Proceeds of the sale are an asset of the association.	

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common elements were allocated.		
(b) Part of a cooperative may be conveyed and all or part of a cooperative may be subjected to a security interest by the association if persons entitled to cast at least [80] percent of the votes in the association, including [80] percent of the votes allocated to units not owned by a declarant, or any larger percentage the declaration specifies, agree to that action; but, if fewer than all of the units or limited common elements are to be conveyed or subjected to a security interest, then all unit owners of those units, or the units to which those limited common elements are allocated, must agree in order to convey those units or limited common elements or subject them to a security interest. The declaration may specify a smaller percentage only if all of the units are restricted exclusively to nonresidential uses. Proceeds of the sale are an asset of the association. Any purported conveyance or other voluntary transfer of an entire cooperative, unless made pursuant to Section 2-118, is void.		
(c) An agreement to convey common elements in a condominium or planned community, or to subject them to a security interest, or in a cooperative, an agreement to convey any part of a cooperative or subject it to a security interest, must be evidenced by the execution of an agreement, or ratifications thereof, in the same manner as a deed, by the requisite number of unit owners. The agreement must specify a date after which the agreement will be void unless recorded before that date. The agreement and all ratifications thereof must be recorded in every [county] in which a portion of the common interest community is situated, and is effective only upon recordation.	(b) An agreement to convey common elements or subject them to a security interest must be evidenced by the execution of an agreement, or ratifications thereof, in the same manner as a deed, by the requisite number of unit owners. The agreement must specify a date after which the agreement will be void unless recorded before that date. The agreement and all ratifications thereof must be recorded in every [county] in which a portion of the condominium is situated, and is effective only upon recordation.	
(d) The association, on behalf of the unit owners, may contract to convey an interest in a common interest community pursuant to subsection (a), but the contract is not enforceable against the association until approved pursuant to subsections (a), (b), and (c). Thereafter, the association has all powers necessary and appropriate to effect the conveyance or encumbrance, including the power to execute deeds or other instruments.	(c) The association, on behalf of the unit owners, may contract to convey common elements, or subject them to a security interest, but the contract is not enforceable against the association until approved pursuant to subsections (a) and (b). Thereafter, the association has all powers necessary and appropriate to effect the conveyance or encumbrance, including the power to execute deeds or other instruments.	
(e) Unless made pursuant to this section, any purported conveyance, encumbrance, judicial sale, or other voluntary transfer of common elements or of any other part of a cooperative is void.	(d) Any purported conveyance, encumbrance, judicial sale or other voluntary transfer of common elements, unless made pursuant to this section, is void.	
(f) A conveyance or encumbrance of common elements	(e) A conveyance or encumbrance of common elements	

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or of a cooperative pursuant to this section does not deprive any unit of its rights of access and support.	pursuant to this section does not deprive any unit of its rights of access and support.	
(g) Unless the declaration otherwise provides, if the holders of first security interests on 80 percent of the units that are subject to security interests on the day the unit owners' agreement under subsection (c) is recorded consent in writing:	(f) [Unless the declaration otherwise provides,] a conveyance or encumbrance of common elements pursuant to this section does not affect the priority or validity of pre-existing encumbrances.	
(1) a conveyance of common elements pursuant to this section terminates both the undivided interests in those common elements allocated to the units and the security interests in those undivided interests held by all persons holding security interests in the units; and		
(2) an encumbrance of common elements pursuant to this section has priority over all preexisting encumbrances on the undivided interests in those common elements held by all persons holding security interests in the units.		
(h) The consents by holders of first security interests on units described in subsection (g), or a certificate of the secretary affirming that those consents have been received by the association, may be recorded at any time before the date on which the agreement under subsection (c) becomes void. Consents or certificates so recorded are valid from the date they are recorded for purposes of calculating the percentage of consenting first security interest holders, regardless of later sales or encumbrances on those units. Even if the required percentage of first security interest holders so consent, a conveyance or encumbrance of common elements does not affect interests having priority over the declaration, or created by the association after the declaration was recorded.		
(i) In a cooperative, the association may acquire, hold, encumber, or convey a proprietary lease without complying with this section.		
SECTION 3-113. INSURANCE.	§ 3-113. [Insurance]	§514A-86 Insurance.
(a) Commencing not later than the time of the first conveyance of a unit to a person other than a declarant, the association shall maintain, to the extent reasonably available:	(a) Commencing not later than the time of the first conveyance of a unit to a person other than a declarant, the association shall maintain, to the extent reasonably available:	
(1) property insurance on the common elements and, in a planned community, also on property that must become common elements, insuring against all risks of direct physical loss commonly insured against or, in the case of a conversion building, against fire and extended coverage perils. The total amount of insurance after	(1) property insurance on the common elements insuring against all risks of direct physical loss commonly insured against or, in the case of a conversion building, against fire and extended coverage perils. The total amount of insurance after application of any deductibles shall be not less than 80 percent of the	(a) The association of apartment owners shall purchase and at all times maintain insurance which covers the common elements and, whether or not part of the common elements, all exterior and interior walls, floors, and ceilings, in accordance with the as-built condominium plans and specifications, against loss or

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application of any deductibles must be not less than 80 percent of the actual cash value of the insured property at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations, and other items normally excluded from property policies; and	actual cash value of the insured property at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations and other items normally excluded from property policies; and	damage by fire sufficient to provide for the repair or replacement thereof in the event of such loss or damages. Flood insurance shall also be provided under the federal Flood Disaster Protection Act if the property is located in an identified flood hazard area as designated by the federal Department of Housing and Urban Development. Exterior glass may be insured at the option of the association of apartment owners. The insurance coverage shall be written on the property in the name of the association of apartment owners. Premiums shall be common expenses. Provision for the insurance shall be without prejudice to the right of each apartment owner to insure the owner's own apartment for the owner's benefit.
(2) liability insurance, including medical payments insurance, in an amount determined by the executive board but not less than any amount specified in the declaration, covering all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the common elements and, in cooperatives, also of all units.	(2) liability insurance, including medical payments insurance, in an amount determined by the executive board but not less than any amount specified in the declaration, covering all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the common elements.	
		(b) The association of apartment owners may purchase and maintain directors' and officers' liability insurance with minimum coverage in such amount as shall be determined by the board of directors. Premiums shall be common expenses.
(b) In the case of a building that is part of a cooperative or that contains units having horizontal boundaries described in the declaration, the insurance maintained under subsection (a)(1), to the extent reasonably available, must include the units, but need not include improvements and betterments installed by unit owners.	(b) In the case of a building containing units having horizontal boundaries described in the declaration, the insurance maintained under subsection (a)(1), to the extent reasonably available, shall include the units, but need not include improvements and betterments installed by unit owners.	
(c) If the insurance described in subsections (a) and (b) is not reasonably available, the association promptly shall cause notice of that fact to be hand-delivered or sent prepaid by United States mail to all unit owners. The declaration may require the association to carry any other insurance, and the association in any event may carry any other insurance it considers appropriate to protect the association or the unit owners.	(c) If the insurance described in subsections (a) and (b) is not reasonably available, the association promptly shall cause notice of that fact to be hand-delivered or sent prepaid by United States mail to all unit owners. The declaration may require the association to carry any other insurance, and the association in any event may carry any other insurance it deems appropriate to protect the association or the unit owners.	
(d) Insurance policies carried pursuant to subsections (a) and (b) must provide that:	(d) Insurance policies carried pursuant to subsection (a) must provide that:	
(1) each unit owner is an insured person under the policy with respect to liability arising out of his interest in the common elements or membership in the association;	(1) each unit owner is an insured person under the policy with respect to liability arising out of his interest in the common elements or membership in the association;	

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(2) the insurer waives its right to subrogation under the policy against any unit owner or member of his household;	(2) the insurer waives its right to subrogation under the policy against any unit owner or member of his household;	
(3) no act or omission by any unit owner, unless acting within the scope of his authority on behalf of the association, will void the policy or be a condition to recovery under the policy; and	(3) no act or omission by any unit owner, unless acting within the scope of his authority on behalf of the association, will void the policy or be a condition to recovery under the policy; and	
(4) if, at the time of a loss under the policy, there is other insurance in the name of a unit owner covering the same risk covered by the policy, the association's policy provides primary insurance.	(4) if, at the time of a loss under the policy, there is other insurance in the name of a unit owner covering the same risk covered by the policy, the association's policy provides primary insurance.	
(e) Any loss covered by the property policy under subsections (a)(1) and (b) must be adjusted with the association, but the insurance proceeds for that loss are payable to any insurance trustee designated for that purpose, or otherwise to the association, and not to any holder of a security interest. The insurance trustee or the association shall hold any insurance proceeds in trust for the association, unit owners, and lien holders as their interests may appear. Subject to the provisions of subsection (h), the proceeds must be disbursed first for the repair or restoration of the damaged property, and the association, unit owners, and lien holders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored, or the common interest community is terminated.	(e) Any loss covered by the property policy under subsections (a)(1) and (b) must be adjusted with the association, but the insurance proceeds for that loss are payable to any insurance trustee designated for that purpose, or otherwise to the association, and not to any mortgagee or beneficiary under a deed of trust. The insurance trustee or the association shall hold any insurance proceeds in trust for unit owners and lien holders as their interests may appear. Subject to the provisions of subsection (h), the proceeds must be disbursed first for the repair or restoration of the damaged property, and unit owners and lien holders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored, or the condominium is terminated.	
(f) An insurance policy issued to the association does not prevent a unit owner from obtaining insurance for his own benefit.	(f) An insurance policy issued to the association does not prevent a unit owner from obtaining insurance for his own benefit.	
(g) An insurer that has issued an insurance policy under this section shall issue certificates or memoranda of insurance to the association and, upon written request, to any unit owner or holder of a security interest. The insurer issuing the policy may not cancel or refuse to renew it until [30] days after notice of the proposed cancellation or non-renewal has been mailed to the association, each unit owner and each holder of a security interest to whom a certificate or memorandum of insurance has been issued at their respective last known addresses.	(g) An insurer that has issued an insurance policy under this section shall issue certificates or memoranda of insurance to the association and, upon written request, to any unit owner, mortgagee, or beneficiary under a deed of trust. The insurer issuing the policy may not cancel or refuse to renew it until [30] days after notice of the proposed cancellation or non-renewal has been mailed to the association, each unit owner and each mortgagee or beneficiary under a deed of trust to whom a certificate or memorandum of insurance has been issued at their respective last known addresses.	(c) Any insurance policy providing the coverage required by subsections (a) and (b) shall contain a provision requiring the insurance carrier, at the inception of the policy and on each anniversary date thereof, to provide the board of directors with a written summary, in layperson's terms, of the policy. The summary shall include the type of policy, a description of the coverage and the limits thereof, amount of annual premium, and renewal dates. The board of directors shall provide this information to each apartment owner.
(h) Any portion of the common interest community for which insurance is required under this section which is damaged or destroyed must be repaired or replaced promptly by the association unless (i) the common interest community is terminated, in which case Section	(h) Any portion of the condominium for which insurance is required under this section which is damaged or destroyed shall be repaired or replaced promptly by the association unless (i) the condominium is terminated, (ii) repair or replacement would be illegal under any state or	

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<p>2-118 applies (ii) repair or replacement would be illegal under any state or local statute or ordinance governing health or safety, or (iii) [80] percent of the unit owners, including every owner of a unit or assigned limited common element that will not be rebuilt, vote not to rebuild. The cost of repair or replacement in excess of insurance proceeds and reserves is a common expense. If the entire common interest community is not repaired or replaced, (i) the insurance proceeds attributable to the damaged common elements must be used to restore the damaged area to a condition compatible with the remainder of the common interest community, and (ii) except to the extent that other persons will be distributees (Section 2-105(a)(12)(ii)), (A) the insurance proceeds attributable to units and limited common elements that are not rebuilt must be distributed to the owners of those units and the owners of the units to which those limited common elements were allocated, or to lien holders, as their interests may appear, and (B) the remainder of the proceeds must be distributed to all the unit owners or lien holders, as their interests may appear, as follows: (1) in a condominium, in proportion to the common element interests of all the units and (2) in a cooperative or planned community, in proportion to the common expense liabilities of all the units. If the unit owners vote not to rebuild any unit, that unit's allocated interests are automatically reallocated upon the vote as if the unit had been condemned under Section 1-107(a), and the association promptly shall prepare, execute, and record an amendment to the declaration reflecting the reallocations.</p>	<p>local health or safety statute or ordinance, or (iii) [80] percent of the unit owners, including every owner of a unit or assigned limited common element which will not be rebuilt, vote not to rebuild. The cost of repair or replacement in excess of insurance proceeds and reserves is a common expense. If the entire condominium is not repaired or replaced, (i) the insurance proceeds attributable to the damaged common elements must be used to restore the damaged area to a condition compatible with the remainder of the condominium, (ii) the insurance proceeds attributable to units and limited common elements which are not rebuilt must be distributed to the owners of those units and the owners of the units to which those limited common elements were allocated, or to lienholders, as their interests may appear, and (iii) the remainder of the proceeds must be distributed to all the unit owners or lienholders, as their interests may appear, in proportion to the common element interests of all the units. If the unit owners vote not to rebuild any unit, that unit's allocated interests are automatically reallocated upon the vote as if the unit had been condemned under Section 1-107(a), and the association promptly shall prepare, execute, and record an amendment to the declaration reflecting the reallocations. Notwithstanding the provisions of this subsection, Section 2-118 (Termination of Condominium) governs the distribution of insurance proceeds if the condominium is terminated.</p>	
<p>(i) The provisions of this section may be varied or waived in the case of a common interest community all of whose units are restricted to non-residential use.</p>	<p>(i) The provisions of this section may be varied or waived in the case of a condominium all of whose units are restricted to non-residential use.</p>	
<p>SECTION 3-114. SURPLUS FUNDS. Unless otherwise provided in the declaration, any surplus funds of the association remaining after payment of or provision for common expenses and any prepayment of reserves must be paid to the unit owners in proportion to their common expense liabilities or credited to them to reduce their future common expense assessments.</p>	<p>§ 3-114. [Surplus Funds] Unless otherwise provided in the declaration, any surplus funds of the association remaining after payment of or provision for common expenses and any prepayment of reserves must be paid to the unit owners in proportion to their common expense liabilities or credited to them to reduce their future common expense assessments.</p>	
<p>SECTION 3-115. ASSESSMENTS FOR COMMON EXPENSES.</p>	<p>§ 3-115. [Assessments for Common Expenses]</p>	
<p>(a) Until the association makes a common expense assessment, the declarant shall pay all common expenses. After an assessment has been made by the</p>	<p>(a) Until the association makes a common expense assessment, the declarant shall pay all common expenses. After any assessment has been made by the</p>	<p>§514A-83.6 Associations of apartment owners; budgets and reserves. (a) The board of directors of each association of apartment owners shall prepare and</p>

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association, assessments must be made at least annually, based on a budget adopted at least annually by the association.	association, assessments must be made at least annually, based on a budget adopted at least annually by the association.	adopt an annual operating budget and distribute it to the apartment owners. At a minimum, the budget shall include the following:
		(1) The estimated revenues and operating expenses of the association;
		(2) Information as to whether the budget has been prepared on a cash or accrual basis;
		(3) The total replacement reserves of the association as of the date of the budget;
		(4) The estimated replacement reserves the association will require to maintain the property based on a reserve study performed by the association;
		(5) A general explanation of how the estimated replacement reserves are computed;
		(6) The amount the association must collect for the fiscal year to fund the estimated replacement reserves; and
		(7) Information as to whether the amount the association must collect for the fiscal year to fund the estimated replacement reserves was calculated using a per cent funded or cash flow plan. The method or plan shall not circumvent the estimated replacement reserves amount determined by the reserve study pursuant to paragraph (4).
		(b) The association shall assess the apartment owners to either fund a minimum of fifty per cent of the estimated replacement reserves or fund one hundred per cent of the estimated replacement reserves when using a cash flow plan; provided that a new association created after January 1, 1993, need not collect estimated replacement reserves until the fiscal year which begins after the association's first annual meeting. For each fiscal year, the association shall collect the amount assessed to fund the estimated replacement for that fiscal year reserves, as determined by the association's plan, except:
		(1) The commission shall adopt rules to permit an existing association to fund its estimated replacement reserves in increments after January 1, 1993 and prior to January 1, 2000; and
		(2) The commission shall adopt rules to permit an association to fund in increments, over three years, estimated replacement reserves that have been substantially depleted by an emergency.
		(c) The association shall compute the estimated

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		replacement reserves by a formula which is based on the estimated life and the estimated capital expenditure or major maintenance required for each part of the property. The estimated replacement reserves shall include:
		(1) Adjustments for revenues which will be received and expenditures which will be made before the beginning of the fiscal year to which the budget relates; and
		(2) Separate, designated reserves for each part of the property for which capital expenditures or major maintenance will exceed \$10,000. Parts of the property for which capital expenditures or major maintenance will not exceed \$10,000 may be aggregated in a single designated reserve.
		(d) No association or apartment owner, director, officer, managing agent, or employee of an association who makes a good faith effort to calculate the estimated replacement reserves for an association shall be liable if the estimate subsequently proves incorrect.
		(e) The commission may request a copy of the annual operating budget of the association of apartment owners as part of the association's registration with the commission under section 514A-95.1.
		(f) A board may not exceed its total adopted annual operating budget by more than twenty per cent during the fiscal year to which the budget relates, except in emergency situations. Prior to the imposition or collection of an assessment under this paragraph, the board shall pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process, and the resolution shall be distributed to the members with the notice of assessment.
		(g) The requirements of this section shall override any requirements in an association's declaration, bylaws, or any other association documents relating to preparation of budgets, calculation of reserve requirements, assessment and funding of reserves, with the exception of:
		(1) Any provisions relating to the repair and maintenance of property;
		(2) Any requirements in an association's declaration, bylaws, or any other association documents which require the association to collect more than fifty per cent

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		of reserve requirements; or
		(3) Any provisions relating to upgrading the common elements, such as additions, improvements, and alterations to the common elements.
		(h) Subject to the procedures of section 514A-94 and any rules adopted by the commission, any apartment owner whose association board fails to comply with this section may enforce compliance by the board. In any proceeding to enforce compliance, a board which has not prepared an annual operating budget and reserve study shall have the burden of proving it has complied with this section.
		(i) The commission may adopt rules to implement this section.
		(j) As used in this section:
		"Capital expenditure" means an expense that results from the purchase or replacement of an asset whose life is greater than one year, or the addition of an asset that extends the life of an existing asset for a period greater than one year.
		"Cash flow plan" means a minimum twenty-year projection of an association's future income and expense requirements to fund fully its replacement reserves requirements each year during that twenty-year period, except in an emergency; provided that it does not include a projection of special assessments or loans during that twenty-year period, except in an emergency.
		"Emergency situation" means any extraordinary expenses: (1) Required by an order of a court; (2) Necessary to repair or maintain any part of the property for which the association is responsible where a threat to personal safety on the property is discovered; (3) Necessary to repair any part of the property for which the association is responsible that could not have been reasonably foreseen by the board in preparing and distributing the annual operating budget; or (4) Necessary to respond to any legal or administrative proceeding brought against the association that could not have been reasonably foreseen by the board in preparing and distributing the annual operating budget. (5) Necessary for the association to obtain adequate insurance for the property which the association must insure.
		"Major maintenance" means an expenditure for maintenance or repair that will result in extending the life

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		of an asset for a period greater than one year.
		"Replacement reserves" means funds for the upkeep, repair, or replacement of those parts of the property, including, but not limited to roofs, walls, decks, paving, and equipment, that the association is obligated to maintain.
(b) Except for assessments under subsections (c), (d), and (e), all common expenses must be assessed against all the units in accordance with the allocations set forth in the declaration pursuant to Section 2-107(a) and (b). Any past due common expense assessment or installment thereof bears interest at the rate established by the association not exceeding [18] percent per year.	(b) Except for assessments under subsections (c), (d), and (e), all common expenses must be assessed against all the units in accordance with the allocations set forth in the declaration pursuant to Section 2-107(a). Any past due common expense assessment or installment thereof bears interest at the rate established by the association not exceeding [18] percent per year.	
(c) To the extent required by the declaration:	(c) To the extent required by the declaration:	
(1) any common expense associated with the maintenance, repair, or replacement of a limited common element must be assessed against the units to which that limited common element is assigned, equally, or in any other proportion the declaration provides;	(1) any common expense associated with the maintenance, repair, or replacement of a limited common element must be assessed against the units to which that limited common element is assigned, equally, or in any other proportion that the declaration provides;	
(2) any common expense or portion thereof benefiting fewer than all of the units must be assessed exclusively against the units benefitted; and	(2) any common expense or portion thereof benefiting fewer than all of the units must be assessed exclusively against the units benefitted; and	
(3) the costs of insurance must be assessed in proportion to risk and the costs of utilities must be assessed in proportion to usage.	(3) the costs of insurance must be assessed in proportion to risk and the costs of utilities must be assessed in proportion to usage.	
(d) Assessments to pay a judgment against the association (Section 3-117(a)) may be made only against the units in the common interest community at the time the judgment was entered, in proportion to their common expense liabilities.	(d) Assessments to pay a judgment against the association (Section 3-117(a)) may be made only against the units in the condominium at the time the judgment was entered, in proportion to their common expense liabilities.	
(e) If any common expense is caused by the misconduct of any unit owner, the association may assess that expense exclusively against his unit.	(e) If any common expense is caused by the misconduct of any unit owner, the association may assess that expense exclusively against his unit.	
(f) If common expense liabilities are reallocated, common expense assessments and any installment thereof not yet due must be recalculated in accordance with the reallocated common expense liabilities.	(f) If common expense liabilities are reallocated, common expense assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated common expense liabilities.	
		§514A-91 Joint and several liability of grantor and grantee for unpaid common expenses. In a voluntary conveyance the grantee of an apartment is jointly and severally liable with the grantor for all unpaid assessments against the latter for the grantor's share of the common expenses up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the

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		grantee therefor. However, any such grantor or grantee is entitled to a statement from the manager or board of directors setting forth the amount of the unpaid assessments against the grantor, and except as to the amount of subsequently dishonored checks mentioned in such statement as having been received within the thirty-day period immediately preceding the date of such statement, the grantee is not liable for, nor is the apartment conveyed subject to a lien for, any unpaid assessments against the grantor in excess of the amount therein set forth.
		§514A-92 Waiver of use of common elements; abandonment of apartment; conveyance to board of directors. No apartment owner may exempt himself from liability for his contribution towards the common expenses by waiver of the use or enjoyment of any of the common elements or by abandonment of his apartment. Subject to such terms and conditions as may be specified in the bylaws, any apartment owner may, by conveying his apartment and his common interest to the board of directors on behalf of all other apartment owners, exempt himself from common expenses thereafter accruing.
		§514A-92.1 Designation of additional areas. Designation of additional areas to be common elements or subject to common expenses after the initial filing of the bylaws or declaration shall require the approval of ninety per cent of the apartment owners; provided that if the developer discloses to the initial buyer in writing that additional areas will be designated as common elements pursuant to an incremental or phased project, this requirement shall not apply as to those additional areas.
		§514A-92.2 Notification of maintenance fee increases. The manager or board of directors shall notify the apartment owners in writing of maintenance fee increases at least thirty days prior to such an increase.
		§514A-97 Association of apartment owners funds; handling and disbursement. (a) The funds in the general operating account of the association of apartment owners shall not be commingled with funds of other activities such as lease rent collections and rental operations, nor shall a managing agent commingle any association funds with the managing agent's own funds.
		(b) For purposes of subsection (a), lease rent collections and rental operations shall not include the rental or

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		leasing of common elements that is conducted on behalf of the association or the collection of ground lease rents from individual apartment owners of a project and the payment of such ground lease rents to the ground lessor; provided that:
		(1) The collection is allowed by the provisions of the declaration, bylaws, master deed, master lease, or individual apartment leases of the project;
		(2) If a management contract exists, it requires the managing agent to collect ground lease rents from the individual apartment owners and pay the ground lease rents to the ground lessor;
		(3) The system of lease rent collection is approved by a majority vote of all apartment owners at a meeting of the association; and
		(4) No managing agent or association shall pay ground lease rent to the ground lessor in excess of actual ground lease rent collected from individual apartment owners.
		(c) All funds collected by an association, or by a managing agent for any association, shall be:
		(1) Deposited in a financial institution, including a federal or community credit union, located in the State and whose deposits are insured by an agency of the United States government;
		(2) Held by a corporation authorized to do business under article 8 of chapter 412;
		(3) Held by the United States Treasury; or
		(4) Purchased in the name of and held for the benefit of the association through a securities broker that is registered with the Securities and Exchange Commission, has an office in the State, and the accounts of which are held by member firms of the New York Stock Exchange or National Association of Securities Dealers and insured by the Securities Insurance Protection Corporation.
		All funds collected by an association, or by a managing agent for any association, shall be invested only in:
		(1) Demand deposits, investment certificates, and certificates of deposit;
		(2) Obligations of the United States government, the State of Hawaii, or their respective agencies; provided that those obligations shall have stated maturity dates no more than ten years after the purchase date unless approved otherwise by a majority vote of the apartment

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		owners at an annual or special meeting of the association or by written consent of a majority of the apartment owners; or
		(3) Mutual funds comprised solely of investments in the obligations of the United States government, the State of Hawaii, or their respective agencies; provided that those obligations shall have stated maturity dates no more than ten years after the purchase date unless approved otherwise by a majority vote of the apartment owners at an annual or special meeting of the association or by written consent of a majority of the apartment owners;
		provided that before any investment longer than one year is made by an association, the board must approve the action; and provided further that the board must clearly disclose to owners all investments longer than one year at each year's association annual meeting.
		Records of the deposits and disbursements shall be disclosed to the commission upon request. All funds collected by an association shall only be disbursed by employees of the association under the supervision of the association's board of directors. All funds collected by a managing agent from an association shall be held in a client trust fund account and shall be disbursed only by the managing agent or the managing agent's employees under the supervision of the association's board of directors. The commission may draft rules governing the handling and disbursement of condominium association funds.
		(d) A managing agent or board of directors shall not transfer association funds by telephone between accounts, including but not limited to the general operating account and reserve fund account.
		(e) A managing agent shall keep and disburse funds collected on behalf of the condominium owners in strict compliance with any agreement made with the condominium owners, chapter 467, the rules of the commission, and all other applicable laws.
		(f) Any person who embezzles or knowingly misapplies association funds received by a managing agent or association of apartment owners shall be guilty of a class C felony.
SECTION 3-116. LIEN FOR ASSESSMENTS.	§ 3-116. [Lien for Assessments]	§514A-90 Priority of lien. [Repeal and reenactment on December 31, 2003. L 2000, c 39, §4.]
(a) The association has a statutory lien on a unit for any assessment levied against that unit or fines imposed	(a) The association has a lien on a unit for any assessment levied against that unit or fines imposed	

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<p>against its unit owner. Unless the declaration otherwise provides, fees, charges, late charges, fines, and interest charged pursuant to Section 3-102(a)(10), (11), and (12) are enforceable as assessments under this section. If an assessment is payable in installments, the lien is for the full amount of the assessment from the time the first installment thereof becomes due.</p>	<p>against its unit owner from the time the assessment or fine becomes due. The association's lien may be foreclosed in like manner as a mortgage on real estate [or a power of sale under (insert appropriate state statute)] [but the association shall give reasonable notice of its action to all lienholders of the unit whose interest would be affected]. Unless the declaration otherwise provides, fees, charges, late charges, fines, and interest charged pursuant to Section 3-102(a)(10), (11) and (12) are enforceable as assessments under this section. If an assessment is payable in instalments, the full amount of the assessment is a lien from the time the first instalment thereof becomes due.</p>	
<p>(b) A lien under this section is prior to all other liens and encumbrances on a unit except (i) liens and encumbrances recorded before the recordation of the declaration and, in a cooperative, liens and encumbrances which the association creates, assumes, or takes subject to, (ii) a first security interest on the unit recorded before the date on which the assessment sought to be enforced became delinquent, or, in a cooperative, the first security interest encumbering only the unit owner's interest and perfected before the date on which the assessment sought to be enforced became delinquent, and (iii) liens for real estate taxes and other governmental assessments or charges against the unit or cooperative. The lien is also prior to all security interests described in clause (ii) above to the extent of the common expense assessments based on the periodic budget adopted by the association pursuant to Section 3-115(a) which would have become due in the absence of acceleration during the six months immediately preceding institution of an action to enforce the lien. This subsection does not affect the priority of mechanics' or materialmen's liens, or the priority of liens for other assessments made by the association. [The lien under this section is not subject to the provisions of [insert appropriate reference to state homestead, dower and curtesy, or other exemptions].]</p>	<p>(b) A lien under this section is prior to all other liens and encumbrances on a unit except (i) liens and encumbrances recorded before the recordation of the declaration, (ii) a first mortgage or deed of trust on the unit recorded before the date on which the assessment sought to be enforced became delinquent, and (iii) liens for real estate taxes and other governmental assessments or charges against the unit. The lien is also prior to the mortgages and deeds of trust described in clause (ii) above to the extent of the common expense assessments based on the periodic budget adopted by the association pursuant to Section 3-115(a) which would have become due in the absence of acceleration during the 6 months immediately preceding institution of an action to enforce the lien. This subsection does not affect the priority of mechanics' or materialmen's liens, or the priority of liens for other assessments made by the association. [The lien under this section is not subject to the provisions of (insert appropriate reference to state homestead, dower and curtesy, or other exemptions).]</p>	<p>(a) All sums assessed by the association of apartment owners but unpaid for the share of the common expenses chargeable to any apartment constitute a lien on the apartment prior to all other liens, except:</p> <p>(1) Liens for taxes and assessments lawfully imposed by governmental authority against the apartment; and</p> <p>(2) All sums unpaid on any mortgage of record that was recorded prior to the recordation of a notice of a lien by the association of apartment owners, and costs and expenses including attorneys' fees provided in such mortgages.</p> <p>The lien of the association of apartment owners may be foreclosed by action or by nonjudicial or power of sale foreclosure procedures set forth in chapter 667, by the managing agent or board of directors, acting on behalf of the association of apartment owners, in like manner as a mortgage of real property. In any such foreclosure the apartment owner shall be required to pay a reasonable rental for the apartment, if so provided in the bylaws, and the plaintiff in the foreclosure shall be entitled to the appointment of a receiver to collect the rental owed. The managing agent or board of directors, acting on behalf of the association of apartment owners, unless prohibited by the declaration, may bid on the apartment at foreclosure sale, and acquire and hold, lease, mortgage, and convey the apartment. Action to recover a money judgment for unpaid common expenses shall be maintainable without foreclosing or waiving the lien securing the unpaid common expenses owed.</p>
<p>(c) Unless the declaration otherwise provides, if two or more associations have liens for assessments created at any time on the same property, those liens have equal priority.</p>	<p>(c) Unless the declaration otherwise provides, if 2 or more associations have liens for assessments created at any time on the same real estate, those liens have equal priority.</p>	

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(d) Recording of the declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessment under this section is required.	(d) Recording of the declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessment under this section is required.	
(e) A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within [3] years after the full amount of the assessments becomes due.	(e) A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within [3] years after the full amount of the assessments becomes due.	
(f) This section does not prohibit actions to recover sums for which subsection (a) creates a lien or prohibit an association from taking a deed in lieu of foreclosure.	(f) This section does not prohibit actions to recover sums for which subsection (a) creates a lien or prohibit an association from taking a deed in lieu of foreclosure.	
(g) A judgment or decree in any action brought under this section must include costs and reasonable attorney's fees for the prevailing party.	(g) A judgment or decree in any action brought under this section must include costs and reasonable attorney's fees for the prevailing party.	[See, §514A-94(a) above, which in pertinent part reads: "All costs and expenses, including reasonable attorneys' fees, incurred by or on behalf of the association for: (1) Collecting any delinquent assessments against any owner's apartment; (2) Foreclosing any lien thereon; ... against an owner, occupant, tenant, employee of an owner, or any other person who may in any manner use the property shall be promptly paid on demand to the association by such person or persons; provided that if the claims upon which the association takes any action are not substantiated, all costs and expenses, including reasonable attorneys' fees, incurred by any such person or persons as a result of the action of the association, shall be promptly paid on demand to such person or persons by the association."]
(h) The association upon written request shall furnish to a unit owner a statement setting forth the amount of unpaid assessments against the unit. If the unit owner's interest is real estate, the statement must be in recordable form. The statement must be furnished within [10] business days after receipt of the request and is binding on the association, the executive board, and every unit owner.	(h) The association upon written request shall furnish to a unit owner a recordable statement setting forth the amount of unpaid assessments against his unit. The statement must be furnished within (10) business days after receipt of the request and is binding on the association, the executive board, and every unit owner.	[See, §514A-90(c) below, which in pertinent part reads: "An apartment owner who disputes the amount of an assessment may request a written statement clearly indicating: (1) The amount of common expenses included in the assessment, including the due date of each amount claimed; (2) The amount of any penalty, late fee, lien filing fee, and any other charge included in the assessment; (3) The amount of attorneys' fees and costs, if any, included in the assessment; (4) That under Hawaii law, an apartment owner has no right to withhold assessments for any reason; (5) That an apartment owner has a right to demand mediation or arbitration to resolve disputes about the amount or validity of an association's assessment, provided the apartment owner immediately pays the assessment in full and keeps assessments current; and

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Uniform Common Interest Ownership Act (1994)	Uniform Condominium Act (1980)	Hawaii HRS Chapter 514A
		(6) That payment in full of the assessment does not prevent the owner from contesting the assessment or receiving a refund of amounts not owed."]
(i) In a cooperative, upon nonpayment of an assessment on a unit, the unit owner may be evicted in the same manner as provided by law in the case of an unlawful holdover by a commercial tenant, and the lien may be foreclosed as provided by this section.		
(j) The association's lien may be foreclosed as provided in this subsection:		
(1) In a condominium or planned community, the association's lien must be foreclosed in like manner as a mortgage on real estate [or by power of sale under [insert appropriate state statute]];		[See, §514A-90(a) above, which in pertinent part reads: "The lien of the association of apartment owners may be foreclosed by action or by nonjudicial or power of sale foreclosure procedures set forth in chapter 667, by the managing agent or board of directors, acting on behalf of the association of apartment owners, in like manner as a mortgage of real property. In any such foreclosure the apartment owner shall be required to pay a reasonable rental for the apartment, if so provided in the bylaws, and the plaintiff in the foreclosure shall be entitled to the appointment of a receiver to collect the rental owed. The managing agent or board of directors, acting on behalf of the association of apartment owners, unless prohibited by the declaration, may bid on the apartment at foreclosure sale, and acquire and hold, lease, mortgage, and convey the apartment. Action to recover a money judgment for unpaid common expenses shall be maintainable without foreclosing or waiving the lien securing the unpaid common expenses owed."]
(2) In a cooperative whose unit owners' interests in the units are real estate (Section 1-105), the association's lien must be foreclosed in like manner as a mortgage on real estate [or by power of sale under [insert appropriate state statute]] [or by power of sale under subsection (k)]; or		
(3) In a cooperative whose unit owners' interests in the units are personal property (Section 1-105), the association's lien must be foreclosed in like manner as a security interest under [insert reference to Article 9, Uniform Commercial Code.]		
[(4) In the case of foreclosure under [insert reference to state power of sale statute], the association shall give reasonable notice of its action to all lien holders of the unit whose interest would be affected.]		
[(k) In a cooperative, if the unit owner's interest in a unit is real estate (Section 1-105):		

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<p>(1) The association, upon non-payment of assessments and compliance with this subsection, may sell that unit at a public sale or by private negotiation, and at any time and place. Every aspect of the sale, including the method, advertising, time, place, and terms must be reasonable. The association shall give to the unit owner and any lessees of the unit owner reasonable written notice of the time and place of any public sale or, if a private sale is intended, or the intention of entering into a contract to sell and of the time after which a private disposition may be made. The same notice must also be sent to any other person who has a recorded interest in the unit which would be cut off by the sale, but only if the recorded interest was on record seven weeks before the date specified in the notice as the date of any public sale or seven weeks before the date specified in the notice as the date after which a private sale may be made. The notices required by this subsection may be sent to any address reasonable in the circumstances. Sale may not be held until five weeks after the sending of the notice. The association may buy at any public sale and, if the sale is conducted by a fiduciary or other person not related to the association, at a private sale.</p>		
<p>(2) Unless otherwise agreed, the debtor is liable for any deficiency in a foreclosure sale.</p>		
<p>(3) The proceeds of a foreclosure sale must be applied in the following order:</p> <ul style="list-style-type: none"> (i) the reasonable expenses of sale; (ii) the reasonable expenses of securing possession before sale; holding, maintaining, and preparing the unit for sale, including payment of taxes and other governmental charges, premiums on hazard and liability insurance, and, to the extent provided for by agreement between the association and the unit owner, reasonable attorney's fees and other legal expenses incurred by the association; (iii) satisfaction of the association's lien; (iv) satisfaction in the order of priority of any subordinate claim of record; and (v) remittance of any excess to the unit owner. 		
<p>(4) A good faith purchaser for value acquires the unit free of the association's debt that gave rise to the lien under which the foreclosure sale occurred and any subordinate interest, even though the association or other person conducting the sale failed to comply with the requirements of this section. The person conducting</p>		

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<p>the sale shall execute a conveyance to the purchaser sufficient to convey the unit and stating that it is executed by him after a foreclosure of the association's lien by power of sale and that he was empowered to make the sale. Signature and title or authority of the person signing the conveyance as grantor and a recital of the facts of non-payment of the assessment and of the giving of the notices required by this subsection are sufficient proof of the facts recited and of his authority to sign. Further proof of authority is not required even though the association is named as grantee in the conveyance.</p>		
<p>(5) At any time before the association has disposed of a unit in a cooperative or entered into a contract for its disposition under the power of sale, the unit owners or the holder of any subordinate security interest may cure the unit owner's default and prevent sale or other disposition by tendering the performance due under the security agreement, including any amounts due because of exercise of a right to accelerate, plus the reasonable expenses of proceeding to foreclosure incurred to the time of tender, including reasonable attorney's fees of the creditor.]</p>		
<p>(l) In an action by an association to collect assessments or to foreclose a lien for unpaid assessments, the court may appoint a receiver to collect all sums alleged to be due and owing to a unit owner before commencement or during pendency of the action. The receivership is governed by [insert state law generally applicable to receiverships]. The court may order the receiver to pay any sums held by the receiver to the association during pendency of the action to the extent of the association's common expense assessments based on a periodic budget adopted by the association pursuant to Section 3-115.</p>		
		<p>(b) Except as provided in subsection (g), when the mortgagee of a mortgage of record or other purchaser of an apartment obtains title to the apartment as a result of foreclosure of the mortgage, the acquirer of title and the acquirer's successors and assigns shall not be liable for the share of the common expenses or assessments by the association of apartment owners chargeable to the apartment which became due prior to the acquisition of title to the apartment by the acquirer. The unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from all of the</p>

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		apartment owners, including the acquirer and the acquirer's successors and assigns. The mortgagee of record or other purchaser of the apartment shall be deemed to acquire title and shall be required to pay the apartment's share of common expenses and assessments beginning:
		(1) Thirty-six days after the order confirming the sale to the purchaser has been filed with the court;
		(2) Sixty days after the hearing at which the court grants the motion to confirm the sale to the purchaser; or
		(3) Upon the recording of the deed,
		whichever occurs first.
		(c) No apartment owner shall withhold any assessment claimed by the association. An apartment owner who disputes the amount of an assessment may request a written statement clearly indicating:
		(1) The amount of common expenses included in the assessment, including the due date of each amount claimed;
		(2) The amount of any penalty, late fee, lien filing fee, and any other charge included in the assessment;
		(3) The amount of attorneys' fees and costs, if any, included in the assessment;
		(4) That under Hawaii law, an apartment owner has no right to withhold assessments for any reason;
		(5) That an apartment owner has a right to demand mediation or arbitration to resolve disputes about the amount or validity of an association's assessment, provided the apartment owner immediately pays the assessment in full and keeps assessments current; and
		(6) That payment in full of the assessment does not prevent the owner from contesting the assessment or receiving a refund of amounts not owed.
		Nothing in this section shall limit the rights of an owner to the protection of all fair debt collection procedures mandated under federal and state law.
		(d) An apartment owner who pays an association the full amount claimed by the association may file in small claims court or require the association to mediate to resolve any disputes concerning the amount or validity of the association's claim. If the apartment owner and the association are unable to resolve the dispute through mediation, either party may file for arbitration under part VII; provided that an apartment owner may only file for arbitration if all amounts claimed by the association are

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		paid in full on or before the date of filing. If the apartment owner fails to keep all association assessments current during the arbitration, the association may ask the arbitrator to temporarily suspend the arbitration proceedings. If the apartment owner pays all association assessments within thirty days of the date of suspension, the apartment owner may ask the arbitrator to recommence the arbitration proceedings. If the owner fails to pay all association assessments by the end of the thirty-day period, the association may ask the arbitrator to dismiss the arbitration proceedings. The apartment owner shall be entitled to a refund of any amounts paid to the association which are not owed.
		(e) As an alternative to foreclosure proceedings under subsection (a), where an apartment is owner-occupied, the association of apartment owners may authorize its managing agent or board of directors to, after sixty days' written notice to the apartment owner and to the apartment's first mortgagee of the nonpayment of the apartment's share of the common expenses, terminate the delinquent apartment's access to the common elements and cease supplying a delinquent apartment with any and all services normally supplied or paid for by the association of apartment owners. Any terminated services and privileges shall be restored upon payment of all delinquent assessments.
		(f) Before the board of directors or managing agent may take the actions permitted under subsection (e), the board must adopt a written policy providing for such actions and have the policy approved by a majority vote of the apartment owners at an annual or special meeting of the association or by the written consent of a majority of the apartment owners.
		(g) Subject to this subsection, and subsections (h) and (i), the board of an association of apartment owners may specially assess the amount of the unpaid regular monthly common assessments for common area expenses against a person who, in a judicial or nonjudicial power of sale foreclosure, purchases a delinquent apartment; provided that:
		(1) A purchaser who holds a mortgage on a delinquent apartment that was recorded prior to the filing of a notice of lien by the association of apartment owners and who acquires the delinquent apartment through a judicial or nonjudicial foreclosure proceeding, including purchasing the delinquent apartment at a foreclosure auction, shall

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		not be obligated to make, nor be liable for, payment of the special assessment as provided for under this subsection; and
		(2) A person who subsequently purchases the delinquent apartment from the mortgagee referred to in paragraph (1) shall be obligated to make, and shall be liable for, payment of the special assessment provided for under this subsection; provided that the association of apartment owners has filed a notice of lien against the delinquent apartment for the unpaid assessments for common area expenses which form the basis of the special assessment, prior to the subsequent purchaser's acquisition of title to the delinquent apartment.
		(h) The amount of the special assessment assessed under subsection (g) shall not exceed the total amount of unpaid regular monthly common assessments that were assessed during the six months immediately preceding the completion of the judicial or nonjudicial power of sale foreclosure, and for which the association of apartment owners had filed a notice of lien against the delinquent apartment pursuant to subsection (g)(2). In no event shall the amount of the special assessment exceed the sum of \$1,800.
		(i) For purposes of subsections (g) and (h), the following definitions shall apply:
		(1) "Completion" means: (A) In a nonjudicial power of sale foreclosure, when the affidavit required under section 667-5 is filed; and (B) In a judicial foreclosure, when a purchaser is deemed to acquire title pursuant to subsection (b).
		(2) "Regular monthly common assessments" shall not include: (A) Any other special assessment, except for a special assessment imposed on all apartments as part of a budget adopted pursuant to section 514A-83.6; (B) Late charges, fines, or penalties; (C) Interest assessed by the association of apartment owners; (D) Any lien arising out of the assessment; or (E) Any fees or costs related to the collection or enforcement of the assessment, including attorneys' fees and court costs.
		[§514A-90.5 Unpaid common expenses; collection from tenants.] (a) If the owner of an apartment rents or leases the apartment and is in default for thirty days or more in the payment of the apartment's share of the

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		common expenses, the board of directors, for as long as the default continues, may demand in writing and receive each month from any tenant occupying the apartment, an amount sufficient to pay all sums due from the apartment owner to the association, including interest, if any, but the amount shall not exceed the tenant's rent due each month. The tenant's payment under this section shall discharge that amount of payment from the tenant's rent obligation, and any contractual provision to the contrary shall be void as a matter of law.
		(b) Prior to taking any action under this section, the board of directors shall give to the delinquent apartment owner written notice of its intent to collect the rent owed. The notice shall:
		(1) Be sent both by first-class and certified mail;
		(2) Set forth the exact amount the association claims is due and owing by the apartment owner; and
		(3) Indicate the intent of the board of directors to collect such amount from the rent, along with any other amounts that become due and remain unpaid.
		(c) The apartment owner shall not take any retaliatory action against the tenant for payments made under this section.
		(d) The payment of any portion of the apartment's share of common expenses by the tenant pursuant to a written demand by the board is a complete defense, to the extent of the amount demanded and paid by the tenant, in an action for nonpayment of rent brought by the apartment owner against a tenant.
		(e) The board may not demand payment from the tenant pursuant to this section if:
		(1) A commissioner or receiver has been appointed to take charge of the premises pending a mortgage foreclosure;
		(2) A mortgagee is in possession pending a mortgage foreclosure; or
		(3) The tenant is served with a court order directing payment to a third party.
		(f) In the event of any conflict between this section and any provision of chapter 521, the conflict shall be resolved in favor of this section; provided that if the tenant is entitled to an offset of rent under chapter 521, the tenant may deduct the offset from the amount due to the association, up to the limits stated in chapter 521.

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		Nothing herein precludes the apartment owner or tenant from seeking equitable relief from a court of competent jurisdiction or seeking a judicial determination of the amount owed.
		(g) Before the board of directors may take the actions permitted under subsection (a), the board must adopt a written policy providing for the actions and have the policy approved by a majority vote of the apartment owners at an annual or special meeting of the association or by the written consent of a majority of the apartment owners.
SECTION 3-117. OTHER LIENS.	§ 3-117. [Other Liens Affecting the Condominium]	
(a) In a condominium or planned community:		
(1) Except as provided in paragraph (2), a judgment for money against the association [if recorded] [if docketed] [if [insert other procedures required under state law to perfect a lien on real estate as a result of a judgment]], is not a lien on the common elements, but is a lien in favor of the judgment lien holder against all of the units in the common interest community at the time the judgment was entered. No other property of a unit owner is subject to the claims of creditors of the association.	(a) Except as provided in subsection (b), a judgment for money against the association [if recorded] [if docketed] [if (insert other procedures required under state law to perfect a lien on real property as a result of a judgment)], is not a lien on the common elements, but is a lien in favor of the judgment lienholder against all of the units in the condominium at the time the judgment was entered. No other property of a unit owner is subject to the claims of creditors of the association.	
(2) If the association has granted a security interest in the common elements to a creditor of the association pursuant to Section 3-112, the holder of that security interest shall exercise its right against the common elements before its judgment lien on any unit may be enforced.	(b) If the association has granted a security interest in the common elements to a creditor of the association pursuant to Section 3-112, the holder of that security interest shall exercise its right against the common elements before its judgment lien on any unit may be enforced.	
(3) Whether perfected before or after the creation of the common interest community, if a lien, other than a deed of trust or mortgage (including a judgment lien or lien attributable to work performed or materials supplied before creation of the common interest community), becomes effective against two or more units, the unit owner of an affected unit may pay to the lien holder the amount of the lien attributable to his unit, and the lien holder, upon receipt of payment, promptly shall deliver a release of the lien covering that unit. The amount of the payment must be proportionate to the ratio which that unit owner's common expense liability bears to the common expense liabilities of all unit owners whose units are subject to the lien. After payment, the association may not assess or have a lien against that unit owner's unit for any portion of the common expenses incurred in connection with that lien.	(c) Whether perfected before or after the creation of the condominium, if a lien other than a deed of trust or mortgage, including a judgment lien or lien attributable to work performed or materials supplied before creation of the condominium, becomes effective against two or more units, the unit owner of an affected unit may pay to the lienholder the amount of the lien attributable to his unit, and the lienholder, upon receipt of payment, promptly shall deliver a release of the lien covering that unit. The amount of the payment must be proportionate to the ratio which that unit owner's common expense liability bears to the common expense liabilities of all unit owners whose units are subject to the lien. After payment, the association may not assess or have a lien against that unit owner's unit for any portion of the common expenses incurred in connection with that lien.	

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(4) A judgment against the association must be indexed in the name of the common interest community and the association and, when so indexed, is notice of the lien against the units.	(d) A judgment against the association must be indexed in the name of the condominium and the association and, when so indexed, is notice of the lien against the units.	
(b) In a cooperative: (1) If the association receives notice of an impending foreclosure on all or any portion of the association's real estate, the association shall promptly transmit a copy of that notice to each unit owner of a unit located within the real estate to be foreclosed. Failure of the association to transmit the notice does not affect the validity of the foreclosure.		
(2) Whether or not a unit owner's unit is subject to the claims of the association's creditors, no other property of a unit owner is subject to those claims.		
SECTION 3-118. ASSOCIATION RECORDS. The association shall keep financial records sufficiently detailed to enable the association to comply with Section 4-109. All financial and other records must be made reasonably available for examination by any unit owner and his authorized agents.	§ 3-118. [Association Records] The association shall keep financial records sufficiently detailed to enable the association to comply with Section 4-109. All financial and other records shall be made reasonable available for examination by any unit owner and his authorized agents.	[§514A-83.5] Documents of the association of apartment owners. (a) The association's most current financial statement and minutes of the board of directors' meetings, once approved, shall be available to any owner at no cost or on twenty-four hour loan, at a convenient location designated by the board of directors.
		(b) Minutes of meetings of the board of directors and the association for the current and prior year shall be available for examination by apartment owners at convenient hours at a place designated by the board. Minutes of meetings shall include the recorded vote of each board member on all motions except motions voted on in executive session. Copies of meeting minutes shall be provided to any owner upon the owner's request provided that the owner pay a reasonable fee for duplicating, postage, stationery, and other administrative costs associated with handling the request.
		(c) Financial statements, general ledgers, the accounts receivable ledger, accounts payable ledgers, check ledgers, insurance policies, contracts, and invoices of the association of apartment owners for the current and prior year and delinquencies of ninety days or more shall be available for examination by apartment owners at convenient hours at a place designated by the board; provided:
		(1) That the board may require owners to furnish to the association a duly executed and acknowledged affidavit stating that the information is requested in good faith for the protection of the interests of the association or its members or both; and
		(2) That owners pay for administrative costs in excess

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		of eight hours per year.
		Copies of these items shall be provided to any owner upon the owner's request, provided that the owner pay a reasonable fee for duplicating, postage, stationery, and other administrative costs associated with handling the request.
		(d) Owners shall also be permitted to view proxies, tally sheets, ballots, owners' check-in lists, and the certificate of election for a period of thirty days following any association meeting; provided:
		(1) That the board may require owners to furnish to the association a duly executed and acknowledged affidavit stating that the information is requested in good faith for the protection of the interest of the association or its members or both; and
		(2) That owners pay for administrative costs in excess of eight hours per year.
		Proxies and ballots may be destroyed following the thirty-day period. Copies of tally sheets, owners' check-in lists, and the certificates of election from the most recent association meeting shall be provided to any owner upon the owner's request, provided that the owner pay a reasonable fee for duplicating, postage, stationery, and other administrative costs associated with handling the request.
		(e) Owners may file a written request with the board to examine other documents. The board shall give written authorization or written refusal with an explanation of the refusal within thirty calendar days of receipt of the request.
		§514A-84.5 Availability of project documents. An accurate copy of the declaration of condominium property regime, the bylaws of the association of apartment owners, the house rules, if any, the master lease, if any, a sample original conveyance document, all public reports and any amendments thereto, shall be kept at the managing agent's office. The managing agent shall provide copies of those documents to owners, prospective purchasers and their prospective agents during normal business hours, upon payment to the managing agent of a reasonable charge to defray any administrative or duplicating costs. In the event that the project is not managed by a managing agent, the foregoing requirements shall be undertaken by a person or entity, if any, employed by the association of apartment owners, to whom this function is delegated.

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		§514A-85 Records; examination; disposal. (a) The managing agent or board of directors shall keep detailed, accurate records in chronological order, of the receipts and expenditures affecting the common elements, specifying and itemizing the maintenance and repair expenses of the common elements and any other expenses incurred. The managing agent or board of directors shall also keep monthly statements indicating the total current delinquent dollar amount of any unpaid assessments for common expenses.
		(b) All records and the vouchers authorizing the payments and statements shall be kept and maintained at the address of the project, or elsewhere within the State as determined by the board of directors.
		(c) A managing agent employed or retained by one or more condominium associations may dispose of the records of any condominium association which are more than five years old without liability if the managing agent first provides the board of directors of the condominium association affected with written notice of the managing agent's intent to dispose of the records if not retrieved by the board of directors within sixty days, which notice shall include an itemized list of the records which the managing agent intends to dispose of.
		(d) No person shall knowingly make any false certificate, entry, or memorandum upon any of the books or records of any managing agent or association. No person shall knowingly alter, destroy, mutilate, or conceal any books or records of a managing agent or association.
		§514A-96 Board of directors, audits, audited financial statement, transmittal. (a) The association of apartment owners shall require an annual audit of the association financial accounts and no less than one annual unannounced verification of the association's cash balance by a public accountant; provided that if the association is comprised of less than twenty owners, the annual audit and the annual unannounced cash balance verification may be waived by a majority vote of all apartment owners taken at an association meeting.
		(b) The board of directors of the association shall make available a copy of the annual audit to each apartment owner at least thirty days prior to the annual meeting which follows the end of the fiscal year. The board shall provide upon all official proxy forms a box wherein the owner may indicate that the owner wishes to obtain a copy of the annual audit report. The board shall not be

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		required to submit a copy of the annual audit report to the owner if the proxy form is not marked. If the annual audit has not been completed by that date, the board shall make available:
		(1) An unaudited year end financial statement for the fiscal year to each apartment owner at least thirty days prior to the annual meeting; and
		(2) The annual audit to all owners at the annual meeting, or as soon as the audit is completed, whichever occurs later.
		If the association's fiscal year ends less than two months prior to the convening of the annual meeting, the year to date unaudited financial statement may cover the period from the beginning of the association's fiscal year to the end of the month preceding the date on which notice of the annual meeting is mailed.
SECTION 3-119. ASSOCIATION AS TRUSTEE. With respect to a third person dealing with the association in the association's capacity as a trustee, the existence of trust powers and their proper exercise by the association may be assumed without inquiry. A third person is not bound to inquire whether the association has power to act as trustee or is properly exercising trust powers. A third person, without actual knowledge that the association is exceeding or improperly exercising its powers, is fully protected in dealing with the association as if it possessed and properly exercised the powers it purports to exercise. A third person is not bound to assure the proper application of trust assets paid or delivered to the association in its capacity as trustee.	§ 3-119. [Association as Trustee] With respect to a third person dealing with the association in the association's capacity as a trustee, the existence of trust powers and their proper exercise by the association may be assumed without inquiry. A third person is not bound to inquire whether the association has power to act as trustee or is properly exercising trust powers. A third person, without actual knowledge that the association is exceeding or improperly exercising its powers, is fully protected in dealing with the association as if it possessed and properly exercised the powers it purports to exercise. A third person is not bound to assure the proper application of trust assets paid or delivered to the association in its capacity as trustee.	
		§514A-87 Personal application. (a) All apartment owners, tenants of such owners, employees of owners and tenants, or any other persons that may in any manner use property or any part thereof submitted to this chapter are subject to this chapter and to the declaration and bylaws of the association of apartment owners adopted pursuant to this chapter.
		(b) All agreements, decisions, and determinations lawfully made by the association of apartment owners in accordance with the voting percentages established in this chapter, the declaration, or the bylaws are binding on all apartment owners.
		§514A-88 Compliance with covenants, bylaws, and administrative provisions. Each apartment owner, tenants and employees of an owner, and other persons using the property shall comply strictly with the bylaws

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Uniform Common Interest Ownership Act (1994)	Uniform Condominium Act (1980)	Hawaii HRS Chapter 514A
		and with the administrative rules and regulations adopted pursuant thereto, as either of the same may be lawfully amended from time to time, and with the covenants, conditions, and restrictions set forth in the declaration. Failure to comply with any of the same shall be ground for an action to recover sums due, for damages or injunctive relief, or both, maintainable by the manager or board of directors on behalf of the association of apartment owners or, in a proper case, by an aggrieved apartment owner.
		§514A-89 Certain work prohibited. No apartment owner shall do any work which could jeopardize the soundness or safety of the property, reduce the value thereof, or impair any easement or hereditament, nor may any apartment owner add any material structure or excavate any additional basement or cellar, without in every such case the consent of seventy-five per cent of the apartment owners, together with the consent of all apartment owners whose apartments or limited common elements appurtenant thereto are directly affected, being first obtained; provided that nonmaterial structural additions to the common elements, including, without limitation, the installation of solar energy devices, or additions to or alterations of an apartment made within such apartment or within a limited common element appurtenant to and for the exclusive use of the apartment shall require approval only by the board of directors of the association of apartment owners and such percentage, number, or group of apartment owners as may be required by the declaration or bylaws. "Nonmaterial structural additions to the common elements", as used in this section, means a structural addition to the common elements which does not jeopardize the soundness or safety of the property, reduce the value thereof, impair any easement or hereditament, detract from the appearance of the project, interfere with or deprive any nonconsenting owner of the use or enjoyment of any part of property, or directly affect any nonconsenting owner. For purposes of this section, "solar energy device" means any new identifiable facility, equipment, apparatus, or the like which makes use of solar energy for heating, cooling, or reducing the use of other types of energy dependent upon fossil fuel for its generation; provided that if the equipment sold cannot be used as a solar device without its incorporation with other equipment, it must be

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		installed in place and ready to be made operational in order to qualify as a "solar energy device".
		[§514A-90.6] Lease rent renegotiation. (a) Notwithstanding any provision in the declaration or bylaws of any property subject to this chapter, any lease or sublease of the property or of an apartment, or an undivided interest in the land to an apartment owner, whenever any lease or sublease of the property, an apartment, or an undivided interest in the land to an apartment owner provides for the periodic renegotiation of lease rent thereunder, the association of apartment owners shall represent the apartment owners in all negotiations and proceedings, including but not limited to appraisal or arbitration, for the determination of lease rent as a common expense of the association.
		(b) If some, but not all of the apartment owners have purchased the leased fee interest appurtenant to their apartments, all costs and expenses of the renegotiation shall be assessed to the remaining lessees in the same proportion that the common interest appurtenant to each lessee's apartment bears to the common interest appurtenant to all lessees' apartments. The unpaid amount of this assessment shall constitute a lien upon the lessee's apartment, which may be collected in accordance with sections 514A-90 and 514A-94 in the same manner as an unpaid common expense.
		§514A-98 False statement. It shall be unlawful for any person or person's agents to testify before or file with the commission any notice, statement, application, or other document required under this chapter that is false or untrue or contains any material misstatement of fact, or contains forgery. In addition to any sanctions or remedies as provided in this chapter, any violation of this section shall constitute a misdemeanor.
		§514A-99 Rules. The commission shall adopt, amend, or repeal such rules as it may deem proper to fully effectuate this chapter.
[ARTICLE] 4. PROTECTION OF PURCHASERS	ARTICLE 4. PROTECTION OF CONDOMINIUM PURCHASERS	PART IV. PROTECTION OF PURCHASERS
SECTION 4-101. APPLICABILITY; WAIVER.	§ 4-101. [Applicability; Waiver]	
(a) This [article] applies to all units subject to this [Act], except as provided in subsection (b) or as modified or waived by agreement of purchasers of units in a common interest community in which all units are restricted to non-residential use.	(a) This Article applies to all units subject to this Act, except as provided is subsection (b) or as modified or waived by agreement of purchasers of units in a condominium in which all units are restricted to non-residential use.	

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Uniform Common Interest Ownership Act (1994)	Uniform Condominium Act (1980)	Hawaii HRS Chapter 514A
(b) Neither a public offering statement nor a resale certificate need be prepared or delivered in the case of:	(b) Neither a public offering statement nor a resale certificate need be prepared or delivered in the case of:	
(1) a gratuitous disposition of a unit;	(1) a gratuitous disposition of a unit;	
(2) a disposition pursuant to court order;	(2) a disposition pursuant to court order;	
(3) a disposition by a government or governmental agency;	(3) a disposition by a government or governmental agency;	
(4) a disposition by foreclosure or deed in lieu of foreclosure;	(4) a disposition by foreclosure or deed in lieu of foreclosure;	
(5) a disposition to a dealer;	(5) a disposition to a person in the business of selling real estate who intends to offer those units to purchasers; or	
(6) a disposition that may be canceled at any time and for any reason by the purchase without penalty; or	(6) a disposition that may be canceled at any time and for any reason by the purchaser without penalty.	
(7) a disposition of a unit restricted to nonresidential purposes.		
SECTION 4-102. LIABILITY FOR PUBLIC OFFERING STATEMENT REQUIREMENTS.	§ 4-102. [Liability for Public Offering Statement Requirements]	
(a) Except as provided in subsection (b), a declarant, before offering any interest in a unit to the public, shall prepare a public offering statement conforming to the requirements of Sections 4-103, 4-104, 4-105, and 4-106.	(a) Except as provided in subsection (b), a declarant, prior to the offering of any interest in a unit to the public, shall prepare a public offering statement conforming to the requirements of Sections 4-103, 4-104, 4-105 and 4-106.	§514A-62 Copy of public report to be given to prospective purchaser. (a) The developer (or any other person offering any apartment in a condominium project prior to completion of its construction) shall not enter into a contract or agreement for the sale or resale of an apartment that is binding upon any prospective purchaser until:
		(1) The commission has issued an effective date for either a contingent final public report or a final public report on the project, and the developer has delivered, or caused to be delivered, to the prospective purchaser, either personally or by registered or certified mail with return receipt requested, a true copy of either the contingent final public report or the final public report together with a true copy of all prior public reports on the project, if any, that have not been previously delivered to such prospective purchaser; except that such prior public reports need not be delivered to the prospective purchaser if the contingent final public report or the final public report supersedes such prior public reports. If, prior to the entering into of such contract or agreement for sale or resale, the commission, subsequent to its issuance of an effective date for the contingent final public report or the final public report, has issued an effective date for a supplementary public report on the project, then a true copy of such supplementary public report shall also be delivered to such prospective purchaser in the same manner as the contingent final

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		public report or the final public report, except that if the supplementary public report supersedes all prior public reports on the project, then only the supplementary public report need be delivered to the prospective purchaser;
		(2) The prospective purchaser has been given an opportunity to read the report or reports; and
		(3) The prospective purchaser (A) executes the form of the receipt and notice set forth in subsection (d); and (B) waives the prospective purchaser's right to cancel; provided that if the prospective purchaser does not execute and return the receipt and notice within thirty days from the date of delivery of such reports, or if the apartment is conveyed to the prospective purchaser prior to the expiration of such thirty-day period, the prospective purchaser shall be deemed to have received for the reports and to have waived the prospective purchaser's right to cancel.
		[See also, §514A-62(g) below, which reads: "Notwithstanding any other provision to the contrary, this section shall not apply to a time share project duly registered under chapter 514E, and for which a disclosure statement is effective and required to be delivered to the purchaser or prospective purchaser."]
(b) A declarant may transfer responsibility for preparation of all or a part of the public offering statement to a successor declarant (Section 3-104) or to a dealer who intends to offer units in the common interest community. In the event of any such transfer, the transferor shall provide the transferee with any information necessary to enable the transferee to fulfill the requirements of subsection (a).	(b) A declarant may transfer responsibility for preparation of all or a part of the public offering statement to a successor declarant (Section 3-104) or to a person in the business of selling real estate who intends to offer units in the condominium for his own account. In the event of any such transfer, the transferor shall provide the transferee with any information necessary to enable the transferee to fulfill the requirements of subsection (a).	
(c) Any declarant or dealer who offers a unit to a purchaser shall deliver a public offering statement in the manner prescribed in subsection 4-108(a). The person who prepared all or a part of the public offering statement is liable under Sections 4-108 and [,] 4-117 [, 5-105, and 5-106] for any false or misleading statement set forth therein or for any omission of a material fact therefrom with respect to that portion of the public offering statement which he prepared. If a declarant did not prepare any part of a public offering statement that he delivers, he is not liable for any false or misleading statement set forth therein or for any omission of a material fact therefrom unless he had actual knowledge	(c) Any declarant or other person in the business of selling real estate who offers a unit for his own account to a purchaser shall deliver a public offering statement in the manner prescribed in subsection 4-108(a). The person who prepared all or a part of the public offering statement is liable under Sections 4-108 [and] [,] 4-117 [, 5-105, and 5-106] for any false or misleading statement set forth therein or for any omission of material fact therefrom with respect to that portion of the public offering statement which he prepared. If a declarant did not prepare any part of a public offering statement that he delivers, he is not liable for any false or misleading statement set forth therein or for any omission of	§514A-68 Misleading statements and omissions. No officer, agent, or employee of any company, and no other person may knowingly authorize, direct, or aid in the publication, advertisement, distribution, or circulation of any false statement or representation concerning any project offered for sale or lease, and no person may issue, circulate, publish, or distribute any advertisement, pamphlet, prospectus, or letter concerning any project which contains any written statement that is false or which contains an untrue statement of a material fact or omits to state a material fact necessary in order to make the statements therein made in the light of the circumstances under which they are made not

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of the statement or omission or, in the exercise of reasonable care, should have known of the statement or omission.	material fact therefrom unless he had actual knowledge of the statement or omission or, in the exercise of reasonable care, should have known of the statement or omission.	misleading.
		[See also, §514A-42 "True copies of public report; no misleading information" under "Administration and Registration" below - Article 5 (UCIOA & UCA)/Part III (HRS).]
		§514A-69 Remedies; sales voidable when and by whom. Every sale made in violation of section 514A-68 is voidable at the election of the purchaser; and the person making such sale and every director, officer, or agent of or for such seller, if the director, officer, or agent has personally participated or aided in any way in making the sale, is jointly and severally liable to the purchaser in an action in any court of competent jurisdiction upon tender of the units sold or of the contract made, for the full amount paid by the purchaser, with interest, together with all taxable court costs and reasonable attorney's fees; provided that no action shall be brought for the recovery of the purchase price after two years from the date of the sale and provided further that no purchaser otherwise entitled shall claim or have the benefit of this section who has refused or failed to accept within thirty days an offer in writing of the seller to take back the unit in question and to refund the full amount paid by the purchaser, together with interest at six per cent on such amount for the period from the date of payment by the purchaser down to the date of repayment.
(d) If a unit is part of a common interest community and is part of any other real estate regime in connection with the sale of which the delivery of a public offering statement is required under the laws of this State, a single public offering statement conforming to the requirements of Sections 4-103, 4-104, 4-105, and 4-106 as those requirements relate to each regime in which the unit is located, and to any other requirements imposed under the laws of this State, may be prepared and delivered in lieu of providing two or more public offering statements.	(d) If a unit is part of a condominium and is part of any other real estate regime in connection with the sale of which the delivery of a public offering statement is required under the laws of this State, a single public offering statement conforming to the requirements of Sections 4-103, 4-104, 4-105, and 4-106 as those requirements relate to all real estate regimes in which the unit is located, and to any other requirements imposed under the laws of this State, may be prepared and delivered in lieu of providing 2 or more public offering statements.	
		§514A-62 Copy of public report to be given to prospective purchaser. . . . (b) The receipts and notices taken hereunder shall be kept on file in possession of the developer (or such other person as may offer any apartment in a condominium project prior

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		to completion of its construction), and shall be subject to inspection at a reasonable time by the commission or its deputies, for a period of three years from the date the receipt and notice was taken.
		(c) Unless such right has previously been waived pursuant to subsection (a), a prospective purchaser shall have the right to cancel any agreement for the purchase or reservation of an apartment at any time prior to the earlier of:
		(1) The conveyance of the apartment to the prospective purchaser; or
		(2) Midnight of the thirtieth day following the date of delivery of the first of either the contingent final public report or the final public report to such purchaser,
		and, upon any such cancellation, shall be entitled to a prompt and full refund of all moneys paid, less any escrow cancellation fee and other costs associated with the purchase, up to a maximum of \$250.
		(d) Whenever a contingent final public report, final public report, or supplementary public report is delivered to a prospective purchaser pursuant to subsection (a), two copies of the receipt and notice set out below shall also be delivered to such purchaser, one of which may be used by the purchaser to cancel the transaction. Such receipt and notice shall be printed in capital and lower case letters of not less than twelve-point type on one side of a separate statement. The receipt and notice shall be in the following form:
		"RECEIPT FOR PUBLIC REPORT(S) AND NOTICE OF RIGHT TO CANCEL I acknowledge receipt of the Developer's (Preliminary, Contingent Final, Final, and Supplementary) Public Report(s) and Disclosure Abstract, contained in the public report, in connection with my purchase of apartment(s) (insert apartment numbers) in the (insert name of condominium project) condominium project. I understand that I have a legal right under Hawaii law to cancel my purchase, if I desire to do so, without any penalty or obligation within thirty days from the date the above Public Report or Reports were delivered to me. If I cancel, I understand that I will be entitled to receive the refund of any downpayment or deposit, less any escrow cancellation fees and other costs, up to \$250. If I decide to cancel, I understand that I can do so by notifying (insert name of seller) at (insert address of seller) by mail or telegram sent before: (1) the

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		<p>conveyance of my apartment(s) to me; or (2) midnight of the thirtieth day after delivery of the Public Report(s) to me, whichever is earlier. If I send or deliver my written notice some other way, it must be delivered to the above address no later than that time. I understand that I can use any written statement that is signed and dated by me and states my intention to cancel, or I may use this notice by checking the appropriate box and by signing and dating below.</p> <p>I understand that if I do not act within the above thirty-day period or if the apartment is conveyed to me within the above thirty-day period, I will be considered to have executed this receipt and to have waived my right to cancel my purchase. I also understand that I can waive my right to cancel by checking the appropriate box, by signing and dating below, and by returning this notice to (insert name of seller). I HAVE RECEIVED A COPY OF:</p> <p>(1) THE DEVELOPER'S (PRELIMINARY, CONTINGENT FINAL, FINAL, AND SUPPLEMENTARY) PUBLIC REPORT(S) ON (insert name of condominium project); AND</p> <p>(2) THE DISCLOSURE ABSTRACT CONTAINED IN THE PUBLIC REPORT.</p> <p>Purchaser's signature Date</p> <p>I HAVE HAD AN OPPORTUNITY TO READ THE PUBLIC REPORT(S) AND</p> <p><input type="checkbox"/> I WAIVE MY RIGHT TO CANCEL.</p> <p><input type="checkbox"/> I HEREBY EXERCISE MY RIGHT TO CANCEL.</p> <p>Purchaser's signature Date"</p>
		(e) No obligation to purchase an apartment under any agreement for the purchase or reservation of an apartment entered into prior to the purchaser's receipt of either a contingent final public report or a final public report is enforceable against the purchaser under such agreement.
		(f) Where a developer has delivered to a purchaser a contingent final public report and the purchaser has previously waived the purchaser's right to cancel the purchaser's agreement for the purchase or reservation of an apartment pursuant to this section:
		(1) The issuance of an effective date for a final public report prior to the expiration of the contingent final public report shall not affect the enforceability of the purchaser's obligations under the purchaser's agreement for the purchase of an apartment;
		(2) The developer shall not be required to deliver to the

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		purchaser the final public report for the project and receipt and notice set forth in subsection (d); and
		(3) The developer shall promptly deliver to the purchaser a disclosure statement informing them that the commission has issued an effective date for the final public report and containing all information contained in the final public report that is not contained in the contingent final public report.
		(g) Notwithstanding any other provision to the contrary, this section shall not apply to a time share project duly registered under chapter 514E, and for which a disclosure statement is effective and required to be delivered to the purchaser or prospective purchaser.
SECTION 4-103. PUBLIC OFFERING STATEMENT; GENERAL PROVISIONS.	§ 4-103. [Public Offering Statement; General Provisions]	§514A-61 Disclosure requirements.
(a) Except as provided in subsection (b), a public offering statement must contain or fully and accurately disclose:	(a) Except as provided in subsection (b), a public offering statement must contain or fully and accurately disclose;	(a) Each developer of a project subject to this chapter shall prepare and provide to each prospective initial purchaser an abstract which shall contain the following:
(1) the name and principal address of the declarant and of the common interest community, and a statement that the common interest community is either a condominium, cooperative, or planned community;	(1) the name and principal address of the declarant and of the condominium;	(1) The name and address of the project, and the name, address, and telephone number of the developer or the developer's agent and of the project manager or the project manager's agent;
(2) a general description of the common interest community, including to the extent possible, the types, number, and declarant's schedule of commencement and completion of construction of buildings, and amenities that the declarant anticipates including in the common interest community;	(2) a general description of the condominium, including to the extent possible, the types, number, and declarant's schedule of commencement and completion of construction of buildings, and amenities that declarant anticipates including in the condominium;	(4) A statement of the proposed number of apartments to be used for residential or hotel use in a mixed-use project containing apartments for both residential and hotel use; (5) A statement of the extent of commercial or other nonresidential development in the project.
(3) the number of units in the common interest community;	(3) the number of units in the condominium;	
(4) copies and a brief narrative description of the significant features of the declaration, other than any plats and plans, and any other recorded covenants, conditions, restrictions, and reservations affecting the common interest community; the bylaws, and any rules or regulations of the association; copies of any contracts and leases to be signed by purchasers at closing, and a brief narrative description of any contracts or leases that will or may be subject to cancellation by the association under Section 3-105;	(4) copies and a brief narrative description of the significant features of the declaration (other than the plats and plans) and any other recorded covenants, conditions, restrictions and reservations affecting the condominium; the bylaws, and any rules or regulations of the association; copies of any contracts and leases to be signed by purchasers at closing, and a brief narrative description of any contracts or leases that will or may be subject to cancellation by the association under Section 3-105;	
(5) any current balance sheet and a projected budget for the association, either within or as an exhibit to the public offering statement, for [one] year after the date of the first conveyance to a purchaser, and thereafter the current budget of the association, a statement of who	(5) any current balance sheet and a projected budget for the association, either within or as an exhibit to the public offering statement, for [one] year after the date of the first conveyance to a purchaser, and thereafter the current budget of the association, a statement of who	(2) A breakdown of the annual maintenance fees and the monthly estimated cost for each apartment, revised and updated at least every twelve months and certified to have been based on generally accepted accounting principles;

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<p>prepared the budget, and a statement of the budget's assumptions concerning occupancy and inflation factors. The budget must include, without limitation:</p> <ul style="list-style-type: none"> (i) a statement of the amount, or a statement that there is no amount, included in the budget as a reserve for repairs and replacement; (ii) a statement of any other reserves; (iii) the projected common expense assessment by category of expenditures for the association; and (iv) the projected monthly common expense assessment for each type of unit; 	<p>prepared the budget, and a statement of the budget's assumptions concerning occupancy and inflation factors. The budget must include, without limitation:</p> <ul style="list-style-type: none"> (i) a statement of the amount, or a statement that there is no amount, included in the budget as a reserve for repairs and replacement; (ii) a statement of any other reserves; (iii) the projected common expense assessment by category of expenditures for the association; and (iv) the projected monthly common expense assessment for each type of unit; 	
<p>(6) any services not reflected in the budget that the declarant provides, or expenses that he pays and which he expects may become at any subsequent time a common expense of the association and the projected common expense assessment attributable to each of those services or expenses for the association and for each type of unit;</p>	<p>(6) any services not reflected in the budget that the declarant provides, or expenses that he pays, and that he expects may become at any subsequent time a common expense of the association and the projected common expense assessment attributable to each of those services or expenses for the association and for each type of unit;</p>	
<p>(7) any initial or special fee due from the purchaser at closing, together with a description of the purpose and method of calculating the fee;</p>	<p>(7) any initial or special fee due from the purchase at closing, together with a description of the purpose and method of calculating the fee;</p>	
<p>(8) a description of any liens, defects, or encumbrances on or affecting the title to the common interest community;</p>	<p>(8) a description of any liens, defects, or encumbrances on or affecting the title to the condominium;</p>	
<p>(9) a description of any financing offered or arranged by the declarant;</p>	<p>(9) a description of any financing offered or arranged by the declarant;</p>	
<p>(10) the terms and significant limitations of any warranties provided by the declarant, including statutory warranties and limitations on the enforcement thereof or on damages;</p>	<p>(10) the terms and significant limitations of any warranties provided by the declarant, including statutory warranties and limitations on the enforcement thereof or on damages;</p>	<p>(3) A description of all warranties for the individual apartments and the common elements, including the date of initiation and expiration of any such warranties; and if no warranties exist, the developer shall state that no warranties exist;</p>
<p>(11) a statement that:</p> <ul style="list-style-type: none"> (i) within 15 days after receipt of a public offering statement a purchaser, before conveyance, may cancel any contract for purchase of a unit from a declarant, (ii) if a declarant fails to provide a public offering statement to a purchaser before conveying a unit, that purchaser may recover from the declarant [10] percent of the sales price of the unit plus [10] percent of the share, proportionate to his common expense liability, of any indebtedness of the association secured by security interests encumbering the common interest community, and (iii) if a purchaser receives the public offering statement more than 15 days before signing a contract, he cannot cancel the contract; 	<p>(11) a statement that:</p> <ul style="list-style-type: none"> (i) within 15 days after receipt of a public offering statement a purchaser, before conveyance, may cancel any contract for purchase of a unit from a declarant, (ii) if a declarant fails to provide a public offering statement to a purchaser before conveying a unit, that purchaser may recover from the declarant (10) percent of the sales price of the unit, and (iii) if a purchaser receives the public offering statement more than 15 days before signing a contract, he cannot cancel the contract; 	

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(12) a statement of any unsatisfied judgments or pending suits against the association, and the status of any pending suits material to the common interest community of which a declarant has actual knowledge;	(12) a statement of any unsatisfied judgments or pending suits against the association, and the status of any pending suits material to the condominium of which a declarant has actual knowledge;	
(13) a statement that any deposit made in connection with the purchase of a unit will be held in an escrow account until closing and will be returned to the purchaser if the purchaser cancels the contract pursuant to Section 4-108, together with the name and address of the escrow agent;	(13) a statement that any deposit made in connection with the purchase of a unit will be held in an escrow account until closing and will be returned to the purchaser if the purchaser cancels the contract pursuant to Section 4-108, together with the name and address of the escrow agent;	
(14) any restraints on alienation of any portion of the common interest community and any restrictions: (i) on use, occupancy, and alienation of the units, and (ii) on the amount for which a unit may be sold or on the amount that may be received by a unit owner on sale, condemnation, or casualty loss to the unit or to the common interest community, or on termination of the common interest community;	(14) any restraints on alienation of any portion of the condominium;	
(15) a description of the insurance coverage provided for the benefit of unit owners;	(15) a description of the insurance coverage provided for the benefit of unit owners;	
(16) any current or expected fees or charges to be paid by unit owners for the use of the common elements and other facilities related to the common interest community;	(16) any current or expected fees or charges to be paid by unit owners for the use of the common elements and other facilities related to the condominium;	
(17) the extent to which financial arrangements have been provided for completion of all improvements that the declarant is obligated to build pursuant to Section 4-119 (Declarant's Obligation to Complete and Restore);	(17) the extent to which financial arrangements have been provided for completion of all improvements labeled "MUST BE BUILT" pursuant to Section 4-119 (Declarant's Obligation to Complete and Restore); and	
(18) a brief narrative description of any zoning and other land use requirements affecting the common interest community;	(18) a brief narrative description of any zoning and other land use requirements affecting the condominium; and	
(19) all unusual and material circumstances, features, and characteristics of the common interest community and the units; and	(19) all unusual and material circumstances, features, and characteristics of the condominium and the units.	
(20) in a cooperative, (i) whether the unit owners will be entitled, for federal, state, and local income tax purposes, to a pass-through of deductions for payments made by the association for real estate taxes and interest paid the holder of a security interest encumbering the cooperative, and (ii) a statement as to the effect on every unit owner if the association fails to pay real estate taxes or payments due the holder of a security interest encumbering the cooperative.		
(b) If a common interest community composed of not more than 12 units is not subject to any development	(b) If a condominium composed of not more than 12 units is not subject to any development rights, and no	

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rights and no power is reserved to a declarant to make the common interest community part of a larger common interest community, group of common interest communities, or other real estate, a public offering statement may but need not include the information otherwise required by paragraphs (9), (10), (15), (16), (17), (18), and (19) of subsection (a) and the narrative descriptions of documents required by subsection (a)(4).	power is reserved to a declarant to make the condominium part of a larger condominium, group of condominiums, or other real estate, a public offering statement may but need not include the information otherwise required by paragraphs (9), (10), (15), (16), (17), (18), and (19) of subsection (a) and the narrative descriptions of documents required by paragraph (a)(4).	
		[Note, text of §514A-61(b), relating to disclosure requirements for conversion buildings, is located adjacent to §4-106 of UCIOA and UCA below]
(c) A declarant promptly shall amend the public offering statement to report any material change in the information required by this section.	(c) A declarant promptly shall amend the public offering statement to report any material change in the information required by this section.	
		(c) This section shall be administered by the commission. The commission may waive the requirements of subsections (a) and (b) if the information required to be contained in the disclosure abstract is included in the commission's public report on the project.
		(d) Notwithstanding any other provision to the contrary, this section shall not apply to a time share project duly registered under chapter 514E, and for which a disclosure statement is effective and required to be delivered to the purchaser or prospective purchaser.
SECTION 4-104. SAME; COMMON INTEREST COMMUNITIES SUBJECT TO DEVELOPMENT RIGHTS. If the declaration provides that a common interest community is subject to any development rights, the public offering statement must disclose, in addition to the information required by Section 4-103:	§ 4-104. [Same; Condominiums Subject To Development Rights] If the declaration provides that a condominium is subject to any development rights, the public offering statement must disclose, in addition to the information required by Section 4-103:	
(1) the maximum number of units, and the maximum number of units per acre, that may be created;	(1) the maximum number of units, and the maximum number of units per acre, that may be created;	
(2) a statement of how many or what percentage of the units that may be created will be restricted exclusively to residential use, or a statement that no representations are made regarding use restrictions;	(2) a statement of how many or what percentage of the units which may be created will be restricted exclusively to residential use, or a statement that no representations are made regarding use restrictions;	
(3) if any of the units that may be built within real estate subject to development rights are not to be restricted exclusively to residential use, a statement, with respect to each portion of that real estate, of the maximum percentage of the real estate areas, and the maximum percentage of the floor areas of all units that may be created therein, that are not restricted exclusively to residential use;	(3) if any of the units that may be built within real estate subject to development rights are not to be restricted exclusively to residential use, a statement, with respect to each portion of that real estate, of the maximum percentage of the real estate areas, and the maximum percentage of the floor areas of all units that may be created therein, that are not restricted exclusively to residential use;	
(4) a brief narrative description of any development	(4) a brief narrative description of any development	

Comparison of UCIOA, UCA, and HRS (includes 2001 amendments)

Uniform Common Interest Ownership Act (1994)	Uniform Condominium Act (1980)	Hawaii HRS Chapter 514A
rights reserved by a declarant and of any conditions relating to or limitations upon the exercise of development rights;	rights reserved by a declarant and of any conditions relating to or limitations upon the exercise of development rights;	
(5) a statement of the maximum extent to which each unit's allocated interests may be changed by the exercise of any development right described in paragraph (3);	(5) a statement of the maximum extent to which each unit's allocated interests may be changed by the exercise of any development right described in paragraph (3);	
(6) a statement of the extent to which any buildings or other improvements that may be erected pursuant to any development right in any part of the common interest community will be compatible with existing buildings and improvements in the common interest community in terms of architectural style, quality of construction, and size, or a statement that no assurances are made in those regards;	(6) a statement of the extent to which any buildings or other improvements that may be erected pursuant to any development right in any part of the condominium will be compatible with existing buildings and improvements in the condominium in terms of architectural style, quality of construction, and size, or a statement that no assurances are made in those regards;	
(7) general descriptions of all other improvements that may be made and limited common elements that may be created within any part of the common interest community pursuant to any development right reserved by the declarant, or a statement that no assurances are made in that regard;	(7) general descriptions of all other improvements that may be made and limited common elements that may be created within any part of the condominium pursuant to any development right reserved by the declarant, or a statement that no assurances are made in that regard;	
(8) a statement of any limitations as to the locations of any building or other improvement that may be made within any part of the common interest community pursuant to any development right reserved by the declarant, or a statement that no assurances are made in that regard;	(8) a statement of any limitations as to the locations of any building or other improvement that may be made within any part of the condominium pursuant to any development right reserved by the declarant, or a statement that no assurances are made in that regard;	
(9) a statement that any limited common elements created pursuant to any development right reserved by the declarant will be of the same general types and sizes as the limited common elements within other parts of the common interest community, or a statement of the types and sizes planned, or a statement that no assurances are made in that regard;	(9) a statement that any limited common elements created pursuant to any development right reserved by the declarant will be of the same general types and sizes as the limited common elements within other parts of the condominium, or a statement of the types and sizes planned, or a statement that no assurances are made in that regard;	
(10) a statement that the proportion of limited common elements to units created pursuant to any development right reserved by the declarant will be approximately equal to the proportion existing within other parts of the common interest community, or a statement of any other assurances in that regard, or a statement that no assurances are made in that regard;	(10) a statement that the proportion of limited common elements to units created pursuant to any development right reserved by the declarant will be approximately equal to the proportion existing within other parts of the condominium, or a statement of any other assurances in that regard, or a statement that no assurances are made in that regard;	
(11) a statement that all restrictions in the declaration affecting use, occupancy, and alienation of units will apply to any units created pursuant to any development right reserved by the declarant, or a statement of any differentiations that may be made as to those units, or a	(11) a statement that all restrictions in the declaration affecting use, occupancy, and alienation of units will apply to any units created pursuant to any development right reserved by the declarant, or a statement of any differentiations that may be made as to those units, or a	

Comparison of UCIOA, UCA, and HRS (includes 2001 amendments)

Uniform Common Interest Ownership Act (1994)	Uniform Condominium Act (1980)	Hawaii HRS Chapter 514A
statement that no assurances are made in that regard; and	statement that no assurances are made in that regard; and	
(12) a statement of the extent to which any assurances made pursuant to this section apply or do not apply in the event that any development right is not exercised by the declarant.	(12) a statement of the extent to which any assurances made pursuant to this section apply or do not apply in the event that any development right is not exercised by the declarant.	
SECTION 4-105. SAME; TIME SHARES. If the declaration provides that ownership or occupancy of any units, is or may be in time shares, the public offering statement shall disclose, in addition to the information required by Section 4-103:	§ 4-105. [Same; Time Shares] If the declaration provides that ownership or occupancy of any units is or may be in time shares, the public offering statement shall disclose, in addition to the information required by Section 4-103:	
(1) the number and identity of units in which time shares may be created;	(1) the number and identity of units in which time shares may be created;	
(2) the total number of time shares that may be created;	(2) the total number of time shares that may be created;	
(3) the minimum duration of any time shares that may be created; and	(3) the minimum duration of any time shares that may be created; and	
(4) the extent to which the creation of time shares will or may affect the enforceability of the association's lien for assessments provided in Section 3-116.	(4) the extent to which the creation of time shares will or may affect the enforceability of the association's lien for assessments provided in Section 3-116.	
SECTION 4-106. SAME; COMMON INTEREST COMMUNITIES CONTAINING CONVERSION BUILDINGS.	§ 4-106. [Same; Condominiums Containing Conversion Buildings]	§514A-61 Disclosure requirements.
(a) The public offering statement of a common interest community containing any conversion building must contain, in addition to the information required by Section 4-103:	(a) The public offering statement of a condominium containing any conversion building must contain, in addition to the information required by Section 4-103:	(b) In the case of a project which includes one or more existing structures being converted to condominium status:
(1) a statement by the declarant, based on a report prepared by an independent [registered] architect or engineer, describing the present condition of all structural components and mechanical and electrical installations material to the use and enjoyment of the building;	(1) a statement by the declarant, based on a report prepared by an independent (registered) architect or engineer, describing the present condition of all structural components and mechanical and electrical installations material to the use and enjoyment of the building;	(1) A statement by the declarant, based upon a report prepared by an independent Hawaii registered architect or engineer, describing the present condition of all structural components and mechanical and electrical installations material to the use and enjoyment of the condominium;
(2) a statement by the declarant of the expected useful life of each item reported on in paragraph (1) or a statement that no representations are made in that regard; and	(2) a statement by the declarant of the expected useful life of each item reported on in paragraph (1) or a statement that no representations are made in that regard; and	(2) A statement by the declarant of the expected useful life of each item reported on in paragraph (1) or a statement that no representations are made in that regard;
(3) a list of any outstanding notices of uncured violations of building code or other municipal regulations, together with the estimated cost of curing those violations.	(3) a list of any outstanding notices of uncured violations of building code or other municipal regulations, together with the estimated cost of curing those violations.	(3) A list of any outstanding notices of uncured violations of building code or other municipal regulations, together with the cost of curing these violations;
		(4) A statement whether the project is on a lot, or has structures or uses, which do not conform to present zoning requirements;
(b) This section applies only to buildings containing	(b) This section applies only to buildings containing units	provided that paragraphs (1), (2), and (3) apply only to

Comparison of UCIOA, UCA, and HRS (includes 2001 amendments)

Uniform Common Interest Ownership Act (1994)	Uniform Condominium Act (1980)	Hawaii HRS Chapter 514A
units that may be occupied for residential use.	that may be occupied for residential use.	apartments that may be occupied for residential use, and only to apartments that have been in existence for five years.
		[See, in addition, §514A-61(c) above: "This section shall be administered by the commission. The commission may waive the requirements of subsections (a) and (b) if the information required to be contained in the disclosure abstract is included in the commission's public report on the project."]
		[See, in addition, §514A-61(d) above: "Notwithstanding any other provision to the contrary, this section shall not apply to a time share project duly registered under chapter 514E, and for which a disclosure statement is effective and required to be delivered to the purchaser or prospective purchaser."]
SECTION 4-107. SAME; COMMON INTEREST COMMUNITY SECURITIES. If an interest in a common interest community is currently registered with the Securities and Exchange Commission of the United States, a declarant satisfies all requirements relating to the preparation of a public offering statement of this [Act] if he delivers to the purchaser [and files with the agency] a copy of the public offering statement filed with the Securities and Exchange Commission. [An interest in a common interest community is not a security under the provisions of [insert appropriate state securities regulation statutes].]	§ 4-107. [Same; Condominium Securities] If an interest in a condominium is currently registered with the Securities and Exchange Commission of the United States, a declarant satisfies all requirements relating to the preparation of a public offering statement of this Act if he delivers to the purchaser [and files with the Agency] a copy of the public offering statement filed with the Securities and Exchange Commission. [An interest in a condominium is not a security under the provisions of (insert appropriate state securities regulation statutes.)]	
SECTION 4-108. PURCHASER'S RIGHT TO CANCEL.	§ 4-108. [Purchaser's Right to Cancel]	
(a) A person required to deliver a public offering statement pursuant to Section 4-102(c) shall provide a purchaser with a copy of the public offering statement and all amendments thereto before conveyance of the unit, and not later than the date of any contract of sale. Unless a purchaser is given the public offering statement more than 15 days before execution of a contract for the purchase of a unit, the purchaser, before conveyance, may cancel the contract within 15 days after first receiving the public offering statement.	(a) A person required to deliver a public offering statement pursuant to Section 4-102(c) shall provide a purchaser of a unit with a copy of the public offering statement and all amendments thereto before conveyance of that unit, and not later than the date of any contract of sale. Unless a purchaser is given the public offering statement more than 15 days before execution of a contract for the purchase of a unit, the purchaser, before conveyance, may cancel the contract within 15 days after first receiving the public offering statement.	[See, §514A-62(c) above, which in pertinent part reads: "Unless such right has previously been waived pursuant to subsection (a), a prospective purchaser shall have the right to cancel any agreement for the purchase or reservation of an apartment at any time prior to the earlier of: (1) The conveyance of the apartment to the prospective purchaser; or (2) Midnight of the thirtieth day following the date of delivery of the first of either the contingent final public report or the final public report to such purchaser, and, upon any such cancellation, shall be entitled to a prompt and full refund of all moneys paid, less any escrow cancellation fee and other costs associated with the purchase, up to a maximum of \$250."]
		[See also, §514A-62(g) above, which reads: "Notwithstanding any other provision to the contrary, this section shall not apply to a time share project duly

Comparison of UCIOA, UCA, and HRS (includes 2001 amendments)

Uniform Common Interest Ownership Act (1994)	Uniform Condominium Act (1980)	Hawaii HRS Chapter 514A
		registered under chapter 514E, and for which a disclosure statement is effective and required to be delivered to the purchaser or prospective purchaser.”]
(b) If a purchaser elects to cancel a contract pursuant to subsection (a), he may do so by hand delivering notice thereof to the offeror or by mailing notice thereof by prepaid United States mail to the offeror or to his agent for service of process. Cancellation is without penalty, and all payments made by the purchaser before cancellation must be refunded promptly.	(b) If a purchaser elects to cancel a contract pursuant to subsection (a), he may do so by hand-delivering notice thereof to the offeror or by mailing notice thereof by prepaid United States mail to the offeror or to his agent for service of process. Cancellation is without penalty, and all payments made by the purchaser before cancellation shall be refunded promptly.	
(c) If a person required to deliver a public offering statement pursuant to Section 4-102(c) fails to provide a purchaser to whom a unit is conveyed with that public offering statement and all amendments thereto as required by subsection (a), the purchaser, in addition to any rights to damages or other relief, is entitled to receive from that person an amount equal to [10] percent of the sale price of the unit, plus [10] percent of the share, proportionate to his common expense liability, of any indebtedness of the association secured by security interests encumbering the common interest community.	(c) If a person required to deliver a public offering statement pursuant to Section 4-102(c) fails to provide a purchaser to whom a unit is conveyed with that public offering statement and all amendments thereto as required by subsection (a), the purchaser, in addition to any rights to damages or other relief, is entitled to receive from that person an amount equal to [10] percent of the sales price of the unit.	
		§514A-63 Rescission rights. (a) Except for any additions, deletions, modifications and reservations including, without limitation, the merger or addition or phasing of a project, made pursuant to the terms of the declaration, a purchaser shall have the right to rescind a sale made under a binding contract if there is a material change in the project which directly, substantially, and adversely affects the use or value of (1) such purchaser's apartment or appurtenant limited common elements, or (2) those amenities of the project available for such purchaser's use.
		(b) A purchaser's right of rescission under subsection (a) shall be waived upon (1) delivery to such purchaser, either personally or by registered or certified mail, return receipt requested, of a disclosure document which describes the material change and contains a provision for such purchaser's written approval or acceptance of such change, and (2) such purchaser's written approval or acceptance of the material change, or the lapse of ninety days since such purchaser has accepted the apartment, or the occupancy of the apartment by such purchaser; provided that if such purchaser does not rescind the contract or execute and return the written approval or acceptance of such change as provided in the disclosure document within thirty days from the date

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Uniform Common Interest Ownership Act (1994)	Uniform Condominium Act (1980)	Hawaii HRS Chapter 514A
		of delivery of such disclosure document, such purchaser shall be deemed to have approved and accepted such change; provided further that the deemed approval and acceptance shall be effective only if at the time of delivery of the disclosure document, such purchaser is notified in writing of the fact that such purchaser will be deemed to have approved and accepted the change upon such purchaser's failure to act within the thirty-day period; provided further that if, prior to delivery of such disclosure document, ninety days have lapsed since such purchaser has accepted the apartment, or such purchaser has occupied the apartment, then such purchaser's right of rescission under subsection (a) shall not be waived unless such purchaser shall execute the written approval or acceptance of such change as provided in the disclosure document within thirty days from the date of delivery of such disclosure document or such purchaser is deemed to have approved and accepted such change as set forth above. A copy of the form of disclosure document shall be delivered to the commission prior to delivery to purchasers.
		(c) In the event of rescission pursuant to the provisions of this section, a purchaser shall be entitled to a prompt and full refund of any moneys paid.
		(d) This section shall not preclude a purchaser from exercising any rescission rights pursuant to a contract for sale or any applicable common law remedies.
		§514A-64 REPEALED.
SECTION 4-109. RESALES OF UNITS.	§ 4-109. [Resales of Units]	
(a) Except in the case of a sale in which delivery of a public offering statement is required, or unless exempt under Section 4-101(b), a unit owner shall furnish to a purchaser before the earlier of conveyance or transfer of the right to possession of a unit, a copy of the declaration (other than any plats and plans), the bylaws, the rules or regulations of the association, and a certificate containing:	(a) Except in the case of a sale where delivery of a public offering statement is required, or unless exempt under Section 4-101(b), a unit owner shall furnish to a purchaser before execution of any contract for sale of a unit, or otherwise before conveyance, a copy of the declaration (other than the plats and plans), the bylaws, the rules or regulations of the association, and a certificate containing:	
(1) a statement disclosing the effect on the proposed disposition of any right of first refusal or other restraint on the free alienability of the unit held by the association;	(1) a statement disclosing the effect on the proposed disposition of any right of first refusal or other restraint on the free alienability of the unit;	
(2) a statement setting forth the amount of the periodic common expense assessment and any unpaid common expense or special assessment currently due and payable from the selling unit owner;	(2) a statement setting forth the amount of the monthly common expense assessment and any unpaid common expense or special assessment currently due and payable from the selling unit owner;	
(3) a statement of any other fees payable by the owner of the unit being sold;	(3) a statement of any other fees payable by unit owners;	

Comparison of UCIOA, UCA, and HRS (includes 2001 amendments)

Uniform Common Interest Ownership Act (1994)	Uniform Condominium Act (1980)	Hawaii HRS Chapter 514A
(4) a statement of any capital expenditures approved by the association for the current and succeeding fiscal years;	(4) a statement of any capital expenditures anticipated by the association for the current and 2 next succeeding fiscal years;	
(5) a statement of the amount of any reserves for capital expenditures and of any portions of those reserves designated by the association for any specified projects;	(5) a statement of the amount of any reserves for capital expenditures and of any portions of those reserves designated by the association for any specified projects;	
(6) the most recent regularly prepared balance sheet and income and expense statement, if any, of the association;	(6) the most recent regularly prepared balance sheet and income and expense statement, if any, of the association;	
(7) the current operating budget of the association;	(7) the current operating budget of the association;	
(8) a statement of any unsatisfied judgments against the association and the status of any pending suits in which the association is a defendant;	(8) a statement of any unsatisfied judgments against the association and the status of any pending suits in which the association is a defendant;	
(9) a statement describing any insurance coverage provided for the benefit of unit owners;	(9) a statement describing any insurance coverage provided for the benefit of unit owners;	
(10) a statement as to whether the executive board has given or received written notice that any existing uses, occupancies, alterations, or improvements in or to the unit or to the limited common elements assigned thereto violate any provision of the declaration;	(10) a statement as to whether the executive board has knowledge that any alterations or improvements to the unit or to the limited common elements assigned thereto violate any provision of the declaration;	
(11) a statement as to whether the executive board has received written notice from a governmental agency of any violation of environmental, health, or building codes with respect to the unit, the limited common elements assigned thereto, or any other portion of the common interest community which has not been cured;	(11) a statement as to whether the executive board has knowledge of any violations of the health or building codes with respect to the unit, the limited common elements assigned thereto, or any other portion of the condominium; and	
(12) a statement of the remaining term of any leasehold estate affecting the common interest community and the provisions governing any extension or renewal thereof;	(12) a statement of the remaining term of any leasehold estate affecting the condominium and the provisions governing any extension or renewal thereof.	
(13) a statement of any restrictions in the declaration affecting the amount that may be received by a unit owner upon sale, condemnation, casualty loss to the unit or the common interest community, or termination of the common interest community;		
(14) in a cooperative, an accountant's statement, if any was prepared, as to the deductibility for federal income tax purposes by the unit owner of real estate taxes and interest paid by the association;		
(15) a statement describing any pending sale or encumbrance of common elements; and		
(16) a statement disclosing the effect on the unit to be conveyed of any restrictions on the owner's right to use or occupy the unit or to lease the unit to another person.		

Comparison of UCIOA, UCA, and HRS (includes 2001 amendments)

Uniform Common Interest Ownership Act (1994)	Uniform Condominium Act (1980)	Hawaii HRS Chapter 514A
(b) The association, within 10 days after a request by a unit owner, shall furnish a certificate containing the information necessary to enable the unit owner to comply with this section. A unit owner providing a certificate pursuant to subsection (a) is not liable to the purchaser for any erroneous information provided by the association and included in the certificate.	(b) The association, within 10 days after a request by a unit owner, shall furnish a certificate containing the information necessary to enable the unit owner to comply with this section. A unit owner providing a certificate pursuant to subsection (a) is not liable to the purchaser for any erroneous information provided by the association and included in the certificate.	
(c) A purchaser is not liable for any unpaid assessment or fee greater than the amount set forth in the certificate prepared by the association. A unit owner is not liable to a purchaser for the failure or delay of the association to provide the certificate in a timely manner, but the purchase contract is voidable by the purchaser until the certificate has been provided and for [five] days thereafter or until conveyance, whichever first occurs.	(c) A purchaser is not liable for any unpaid assessment or fee greater than the amount set forth in the certificate prepared by the association. A unit owner is not liable to a purchaser for the failure or delay of the association to provide the certificate in a timely manner, but the purchase contract is voidable by the purchaser until the certificate has been provided and for (5) days thereafter or until conveyance, whichever first occurs.	
SECTION 4-110. ESCROW OF DEPOSITS. Any deposit made in connection with the purchase or reservation of a unit from a person required to deliver a public offering statement pursuant to Section 4-102(c) must be placed in escrow and held either in this State or in the State where the unit is located in an account designated solely for that purpose by [a licensed title insurance company] [an attorney] [a licensed real estate broker] [an independent bonded escrow company or] an institution whose accounts are insured by a governmental agency or instrumentality until (i) delivered to the declarant at closing; (ii) delivered to the declarant because of the purchaser's default under a contract to purchase the unit; or (iii) refunded to the purchaser.	§ 4-110. [Escrow of Deposits] Any deposit made in connection with the purchase or reservation of a unit from a person required to deliver a public offering statement pursuant to Section 4-102(c) shall be placed in escrow and held either in this State or in the state where the unit is located in an account designated solely for that purpose by [a licensed title insurance company] [an attorney] [a licensed real estate broker] [an independent bonded escrow company or] an institution whose accounts are insured by a governmental agency or instrumentality until (i) delivered to the declarant at closing; (ii) delivered to the declarant because of purchaser's default under a contract to purchase the unit; or (iii) refunded to the purchaser.	[\$514A-64.5] Protection of purchasers' funds. (a) If the commission issues an effective date for a contingent final public report for a project, the escrow agent shall deposit all purchasers' funds in a federally-insured, interest-bearing account at a bank, savings and loan association, or trust company authorized to do business in the State. The escrow agent shall not disburse the purchasers' funds from the account until the commission issues an effective date for a final public report for the project.
		(b) If the commission does not issue an effective date for a final public report for a project by the date on which the project's contingent final public report expires, then the developer shall promptly notify all purchasers thereof by certified mail and the developer or the purchaser, after the expiration of the contingent final public report, may rescind the purchaser's sales contract by giving written notice thereof to the other. In the event of rescission pursuant to this subsection a purchaser shall be entitled to a prompt and full refund of the purchaser's entire deposit together with all interest earned thereon, reimbursement of any required escrow fees, and, if the developer required the purchaser to secure a financing commitment, the purchaser shall also be entitled to reimbursement by the developer of any fees the purchaser incurred in securing that financing commitment.

Comparison of UCIOA, UCA, and HRS (includes 2001 amendments)

Uniform Common Interest Ownership Act (1994)	Uniform Condominium Act (1980)	Hawaii HRS Chapter 514A
		(c) If the commission issues an effective date for a contingent final public report for a project, the following notice shall be included in the contingent final public report and the receipt and notice required under section 514A-62(d):
		"The effective date for the Developer's Contingent Final Public Report was issued before the Developer submitted to the Real Estate Commission: the executed and recorded deed or master lease for the project site; the executed construction contract for the project; the building permit; satisfactory evidence of sufficient funds to cover the total project cost; or satisfactory evidence of a performance bond issued by a surety licensed in the State of not less than one hundred per cent of the cost of construction, or such other substantially equivalent or similar instrument or security approved by the Commission. Until the Developer submits each of the foregoing items to the Commission, all Purchaser deposits will be held by the escrow agent in a federally-insured, interest-bearing account at a bank, savings and loan association, or trust company authorized to do business in the State. If the Developer does not submit each of the foregoing items to the Commission and the Commission does not issue an effective date for the Final Public Report before the expiration of the Contingent Final Public Report, then:
		(1) The Developer will notify the Purchaser thereof by certified mail; and
		(2) Either the Developer or the Purchaser shall thereafter have the right under Hawaii law to rescind the Purchaser's sales contract. In the event of a rescission, the Developer shall return all of the Purchaser's deposits together with all interest earned thereon, reimbursement of any required escrow fees, and, if the Developer required the Purchaser to secure a financing commitment, reimburse any fees the Purchaser incurred to secure that financing commitment."
		§514A-65 Escrow requirement. All moneys paid by purchasers prior to the purchaser's receipt of the contingent final public report or the final public report on the project shall be deposited in trust under escrow arrangement with instructions that no disbursements shall be made from such trust funds on behalf of the seller until the contract has become binding, and the requirements of sections 514A-40, 514A-63, and 514A-64.5 have been met.

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Uniform Common Interest Ownership Act (1994)	Uniform Condominium Act (1980)	Hawaii HRS Chapter 514A
		§514A-66 REPEALED.
SECTION 4-111. RELEASE OF LIENS.	§ 4-111. [Release of Liens]	
(a) In the case of a sale of a unit where delivery of a public offering statement is required pursuant to Section 4-102(c), a seller	(a) In the case of a sale of a unit where delivery of a public offering statement is required pursuant to Section 4-102(c), a seller shall,	
(1) before conveying a unit, shall record or furnish to the purchaser releases of all liens, except liens on real estate that a declarant has the right to withdraw from the common interest community, that the purchaser does not expressly agree to take subject to or assume and that encumber: (i) in a condominium, that unit and its common element interest, and (ii) in a cooperative or planned community, that unit and any limited common elements assigned thereto, or	before conveying a unit, record or furnish to the purchaser, releases of all liens affecting that unit and its common element interest which the purchaser does not expressly agree to take subject to or assume	
(2) shall provide a surety bond or substitute collateral for or insurance against the lien as provided for liens on real estate in [insert appropriate references to general state law or Sections 5-211 and 5-212 of the State Uniform Simplification of Land Transfers Act].	[, or shall provide a surety bond or substitute collateral for or insurance against the lien as provided for liens on real estate in (insert appropriate references to general state law or Sections 5-211 and 5-212 of the State Uniform Simplification of Land Transfers Act).] This subsection does not apply to any real estate which a declarant has the right to withdraw.	
(b) Before conveying real estate to the association, the declarant shall have that real estate released from: (1) all liens the foreclosure of which would deprive unit owners of any right of access to or easement of support of their units, and (2) all other liens on that real estate unless the public offering statement describes certain real estate that may be conveyed subject to liens in specified amounts.	(b) Before conveying real estate to the association the declarant shall have that real estate released from: (1) all liens the foreclosure of which would deprive unit owners of any right of access to or easement of support of their units, and (2) all other liens on that real estate unless the public offering statement describes certain real estate which may be conveyed subject to liens in specified amounts.	
		§514A-67 Financing construction. Should the apartments be conveyed or leased prior to the completion of construction of the building or buildings for the purpose of financing such construction, all moneys from the sale of such apartments, including any payments made on loan commitments from lending institutions, shall be deposited by the developer in a trust fund with a bank, savings and loan association, or trust company authorized to do business in the State under an escrow arrangement. Disbursements from such fund may be made, from time to time, to pay for construction costs of the building or buildings in proportion to the valuation of the work completed by the contractor as certified by a registered architect or professional engineer, and for architectural, engineering, finance, and legal fees and for other incidental expenses of the

Comparison of UCIOA, UCA, and HRS (includes 2001 amendments)

Uniform Common Interest Ownership Act (1994)	Uniform Condominium Act (1980)	Hawaii HRS Chapter 514A
		condominium project as approved by the mortgagee. The balance of the moneys remaining in the trust fund shall be disbursed only upon completion of the building or buildings, free and clear of all mechanic's and materialman's liens. The real estate commission may impose other restrictions relative to the retention and disbursement of the trust fund.
SECTION 4-112. CONVERSION BUILDINGS.	§ 4-112. [Conversion Buildings]	
(a) A declarant of a common interest community containing conversion buildings, and any dealer who intends to offer units in such a common interest community, shall give each of the residential tenants and any residential subtenant in possession of a portion of a conversion building notice of the conversion and provide those persons with the public offering statement no later than 120 days before the tenants and any subtenant in possession are required to vacate. The notice must set forth generally the rights of tenants and subtenants under this section and must be hand delivered to the unit or mailed by prepaid United States mail to the tenant and subtenant at the address of the unit or any other mailing address provided by a tenant. No tenant or subtenant may be required to vacate upon less than 120 days' notice, except by reason of nonpayment of rent, waste, or conduct that disturbs other tenants' peaceful enjoyment of the premises, and the terms of the tenancy may not be altered during that period. Failure to give notice as required by this section is a defense to an action for possession.	(a) A declarant of a condominium containing conversion buildings, and any person in the business of selling real estate for his own account who intends to offer units in such a condominium shall give each of the residential tenants and any residential subtenant in possession of a portion of a conversion building notice of the conversion and provide those persons with the public offering statement no later than 120 days before the tenants and any subtenant in possession are required to vacate. The notice must set forth generally the rights of tenants and subtenants under this section and shall be hand-delivered to the unit or mailed by prepaid United States mail to the tenant and subtenant at the address of the unit or any other mailing address provided by a tenant. No tenant or subtenant may be required to vacate upon less than 120 days' notice, except by reason of nonpayment of rent, waste, or conduct that disturbs other tenants' peaceful enjoyment of the premises, and the terms of the tenancy may not be altered during that period. Failure to give notice as required by this section is a defense to an action for possession.	
(b) For [60] days after delivery or mailing of the notice described in subsection (a), the person required to give the notice shall offer to convey each unit or proposed unit occupied for residential use to the tenant who leases that unit. If a tenant fails to purchase the unit during that [60]-day period, the offeror may not offer to dispose of an interest in that unit during the following [180] days at a price or on terms more favorable to the offeree than the price or terms offered to the tenant. This subsection does not apply to any unit in a conversion building if that unit will be restricted exclusively to non-residential use or the boundaries of the converted unit do not substantially conform to the dimensions of the residential unit before conversion.	(b) For [60] days after delivery or mailing of the notice described in subsection (a), the person required to give the notice shall offer to convey each unit or proposed unit occupied for residential use to the tenant who leases that unit. If a tenant fails to purchase the unit during that [60]-day period, the offeror may not offer to dispose of an interest in that unit during the following [180] days at a price or on terms more favorable to the offeree than the price or terms offered to the tenant. This subsection does not apply to any unit in a conversion building if that unit will be restricted exclusively to non-residential use or the boundaries of the converted unit do not substantially conform to the dimensions of the residential unit before conversion.	
(c) If a seller, in violation of subsection (b), conveys a unit to a purchaser for value who has no knowledge of the violation, the recordation of the deed conveying the	(c) If a seller, in violation of subsection (b), conveys a unit to a purchaser for value who has no knowledge of the violation, recordation of the deed conveying the unit	

Comparison of UCIOA, UCA, and HRS (includes 2001 amendments)

Uniform Common Interest Ownership Act (1994)	Uniform Condominium Act (1980)	Hawaii HRS Chapter 514A
unit or, in a cooperative, the conveyance of the unit, extinguishes any right a tenant may have under subsection (b) to purchase that unit if the deed states that the seller has complied with subsection (b), but the conveyance does not affect the right of a tenant to recover damages from the seller for a violation of subsection (b).	extinguishes any right a tenant may have under subsection (b) to purchase that unit if the deed states that the seller has complied with subsection (b), but does not affect the right of a tenant to recover damages from the seller for a violation of subsection (b).	
(d) If a notice of conversion specifies a date by which a unit or proposed unit must be vacated and otherwise complies with the provisions of [insert appropriate state summary process statute], the notice also constitutes a notice to vacate specified by that statute.	(d) If a notice of conversion specifies a date by which a unit or proposed unit must be vacated, and otherwise complies with the provisions of (insert appropriate state summary process statute), the notice also constitutes a notice to vacate specified by that statute.	
(e) Nothing in this section permits termination of a lease by a declarant in violation of its terms.	(e) Nothing in this section permits termination of a lease by a declarant in violation of its terms.	
SECTION 4-113. EXPRESS WARRANTIES OF QUALITY.	§ 4-113. [Express Warranties of Quality]	
(a) Express warranties made by any seller to a purchaser of a unit, if relied upon by the purchaser, are created as follows:	(a) Express warranties made by any seller to a purchaser of a unit, if relied upon by the purchaser, are created as follows:	§514A-70 Warranty against structural and appliance defects; notice of expiration required. The developer of a condominium property regime subject to this chapter shall give notice by certified mail at the appropriate time to all members of the association of apartment owners and all members of the board of directors that the normal one-year warranty period will expire in ninety days. The notice shall set forth specific methods which apartment owners may pursue in seeking remedies for defects, if any, prior to expiration.
(1) any affirmation of fact or promise which relates to the unit, its use, or rights appurtenant thereto, area improvements to the common interest community that would directly benefit the unit, or the right to use or have the benefit of facilities not located in the common interest community, creates an express warranty that the unit and related rights and uses will conform to the affirmation or promise;	(1) any affirmation of fact or promise which relates to the unit, its use, or rights appurtenant thereto, area improvements to the condominium that would directly benefit the unit, or the right to use or have the benefit of facilities not located in the condominium, creates an express warranty that the unit and related rights and uses will conform to the affirmation or promise;	
(2) any model or description of the physical characteristics of the common interest community, including plans and specifications of or for improvements, creates an express warranty that the common interest community will conform to the model or description;	(2) any model or description of the physical characteristics of the condominium, including plans and specifications of or for improvements, creates an express warranty that the condominium will conform to the model or description;	
(3) any description of the quantity or extent of the real estate comprising the common interest community, including plats or surveys, creates an express warranty that the common interest community will conform to the description, subject to customary tolerances; and	(3) any description of the quantity or extent of the real estate comprising the condominium, including plats or surveys, creates an express warranty that the condominium will conform to the description, subject to customary tolerances; and	
(4) a provision that a purchaser may put a unit only to	(4) a provision that a buyer may put a unit only to a	

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a specified use is an express warranty that the specified use is lawful.	specified use is an express warranty that the specified use is lawful.	
(b) Neither formal words, such as “warranty” or “guarantee,” nor a specific intention to make a warranty, are necessary to create an express warranty of quality, but a statement purporting to be merely an opinion or commendation of the real estate or its value does not create a warranty.	(b) Neither formal words, such as “warranty” or “guarantee”, nor a specific intention to make a warranty, are necessary to create an express warranty of quality, but a statement purporting to be merely an opinion or commendation of the real estate or its value does not create a warranty.	
(c) Any conveyance of a unit transfers to the purchaser all express warranties of quality made by previous sellers.	(c) Any conveyance of a unit transfers to the purchaser all express warranties of quality made by previous sellers.	
SECTION 4-114. IMPLIED WARRANTIES OF QUALITY.	§ 4-114. [Implied Warranties of Quality]	
(a) A declarant and any dealer warrants that a unit will be in at least as good condition at the earlier of the time of the conveyance or delivery of possession as it was at the time of contracting, reasonable wear and tear excepted.	(a) A declarant and any person in the business of selling real estate for his own account warrants that a unit will be in at least as good condition at the earlier of the time of the conveyance or delivery of possession as it was at the time of contracting, reasonable wear and tear excepted.	
(b) A declarant and any dealer impliedly warrants that a unit and the common elements in the common interest community are suitable for the ordinary uses of real estate of its type and that any improvements made or contracted for by him, or made by any person before the creation of the common interest community, will be:	(b) A declarant and any person in the business of selling real estate for his own account impliedly warrants that a unit and the common elements in the condominium are suitable for the ordinary uses of real estate of its type and that any improvements made or contracted for by him, or made by any person before the creation of the condominium, will be:	
(1) free from defective materials; and	(1) free from defective materials; and	
(2) constructed in accordance with applicable law, according to sound engineering and construction standards, and in a workmanlike manner.	(2) constructed in accordance with applicable law, according to sound engineering and construction standards, and in a workmanlike manner.	
(c) In addition, a declarant and any dealer warrants to a purchaser of a unit that may be used for residential use that an existing use, continuation of which is contemplated by the parties, does not violate applicable law at the earlier of the time of conveyance or delivery of possession.	(c) In addition, a declarant and any person in the business of selling real estate for his own account warrants to a purchaser of a unit that may be used for residential use that an existing use, continuation of which is contemplated by the parties, does not violate applicable law at the earlier of the time of conveyance or delivery of possession.	
(d) Warranties imposed by this section may be excluded or modified as specified in Section 4-115.	(d) Warranties imposed by this section may be excluded or modified as specified in Section 4-115.	
(e) For purposes of this section, improvements made or contracted for by an affiliate of a declarant (Section 1-103(1)) are made or contracted for by the declarant.	(e) For purposes of this section, improvements made or contracted for by an affiliate of a declarant (Section 1-103(1)) are made or contracted for by the declarant.	
(f) Any conveyance of a unit transfers to the purchaser all of the declarant’s implied warranties of quality.	(f) Any conveyance of a unit transfers to the purchaser all of the declarant’s implied warranties of quality.	
SECTION 4-115. EXCLUSION OR MODIFICATION OF	§ 4-115. [Exclusion or Modification of Implied	

Comparison of UCIOA, UCA, and HRS (includes 2001 amendments)

Uniform Common Interest Ownership Act (1994)	Uniform Condominium Act (1980)	Hawaii HRS Chapter 514A
IMPLIED WARRANTIES OF QUALITY.	Warranties of Quality]	
(a) Except as limited by subsection (b) with respect to a purchaser of a unit that may be used for residential use, implied warranties of quality:	(a) Except as limited by subsection (b) with respect to a purchaser of a unit that may be used for residential use, implied warranties of quality:	
(1) may be excluded or modified by agreement of the parties; and	(1) may be excluded or modified by agreement of the parties; and	
(2) are excluded by expression of disclaimer, such as "as is," "with all faults," or other language that in common understanding calls the purchaser's attention to the exclusion of warranties.	(2) are excluded by expression of disclaimer, such as "as is," "with all faults," or other language which in common understanding calls the buyer's attention to the exclusion of warranties.	
(b) With respect to a purchaser of a unit that may be occupied for residential use, no general disclaimer of implied warranties of quality is effective, but a declarant and any dealer may disclaim liability in an instrument signed by the purchaser for a specified defect or specified failure to comply with applicable law, if the defect or failure entered into and became a part of the basis of the bargain.	(b) With respect to a purchaser of a unit that may be occupied for residential use, no general disclaimer of implied warranties of quality is effective, but a declarant and any person in the business of selling real estate for his own account may disclaim liability in an instrument signed by the purchaser for a specified defect or specified failure to comply with applicable law, if the defect or failure entered into and became a part of the basis of the bargain.	
SECTION 4-116. STATUTE OF LIMITATIONS FOR WARRANTIES.	§ 4-116. [Statute of Limitations for Warranties]	
(a) Unless a period of limitation is tolled under Section 3-111 or affected by subsection (d), a judicial proceeding for breach of any obligation arising under Section 4-113 or 4-114 must be commenced within six years after the [claim for relief][cause of action] accrues, but the parties may agree to reduce the period of limitation to not less than two years. With respect to a unit that may be occupied for residential use, an agreement to reduce the period of limitation must be evidenced by a separate instrument executed by the purchaser.	(a) A judicial proceeding for breach of any obligation arising under Section 4-113 or 4-114 must be commenced within 6 years after the [claim for relief] [cause of action] accrues, but the parties may agree to reduce the period of limitation to not less than 2 years. With respect to a unit that may be occupied for residential use, an agreement to reduce the period of limitation must be evidenced by a separate instrument executed by the purchaser.	
(b) Subject to subsection (c), a [claim for relief] [cause of action] for breach of warranty of quality, regardless of the purchaser's lack of knowledge of the breach, accrues:	(b) Subject to subsection (c), a [claim for relief] [cause of action] for breach of warranty of quality, regardless of the purchaser's lack of knowledge of the breach, accrues:	
(1) as to a unit, at the time the purchaser to whom the warranty is first made enters into possession if a possessory interest was conveyed or at the time of acceptance of the instrument of conveyance if a nonpossessory interest was conveyed; and	(1) as to a unit, at the time the purchaser to whom the warranty is first made enters into possession if a possessory interest was conveyed or at the time of acceptance of the instrument of conveyance if a nonpossessory interest was conveyed; and	
(2) as to each common element, at the time the common element is completed or, if later, as to (i) a common element that is added to the common interest community by exercise of development rights, at the time the first unit which was added to the condominium	(2) as to each common element, at the time the common element is completed or: if later, (i) as to a common element that may be added to the condominium or portion thereof, at the time the first unit therein is conveyed to a bona fide purchaser, or (ii) as to	

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Uniform Common Interest Ownership Act (1994)	Uniform Condominium Act (1980)	Hawaii HRS Chapter 514A
by the same exercise of development rights is conveyed to a bona fide purchaser, or (ii) a common element within any other portion of the common interest community, at the time the first unit is conveyed to a bona fide purchaser.	a common element within any other portion of the condominium, at the time the first unit in the condominium is conveyed to a bona fide purchaser.	
(c) If a warranty of quality explicitly extends to future performance or duration of any improvement or component of the common interest community, the [claim for relief] [cause of action] accrues at the time the breach is discovered or at the end of the period for which the warranty explicitly extends, whichever is earlier.	(c) If a warranty of quality explicitly extends to future performance or duration of any improvement or component of the condominium, the [claim for relief] [cause of action] accrues at the time the breach is discovered or at the end of the period for which the warranty explicitly extends, whichever is earlier.	
(d) During the period of declarant control, the association may authorize an independent committee of the executive board to evaluate and enforce by any lawful means warranty claims involving the common elements, and to compromise those claims. Only members of the executive board elected by unit owners other than the declarant and other persons appointed by those independent members may serve on the committee, and the committee's decision must be free of any control by the declarant or any member of the executive board or officer appointed by the declarant. All costs reasonably incurred by the committee, including attorney's fees, are common expenses, and must be added to the budget annually adopted by the association under Section 3-115. If the committee is so created, the period of limitation for claims for these warranties begins to run from the date of the first meeting of the committee, regardless of when the period of declarant control terminates.		
SECTION 4-117. EFFECT OF VIOLATIONS ON RIGHTS OF ACTION; ATTORNEY'S FEES.	§ 4-117. [Effect of Violations on Rights of Action; Attorney's Fees]	
(a) If a declarant or any other person subject to this [Act] fails to comply with any of its provisions or any provision of the declaration or bylaws, any person or class of persons adversely affected by the failure to comply has a claim for appropriate relief. Punitive damages may be awarded for a willful failure to comply with this [Act]. The court, in an appropriate case, may award court costs and reasonable attorney's fees.	If a declarant or any other person subject to this Act fails to comply with any provision hereof or any provision of the declaration or bylaws, any person or class of persons adversely affected by the failure to comply has a claim for appropriate relief. Punitive damages may be awarded for a willful failure to comply with this Act. The court, in an appropriate case, may award reasonable attorney's fees.	
(b) Parties to a dispute arising under this [Act], the declaration, or the bylaws may agree to resolve the dispute by any form of binding or nonbinding alternative dispute resolution, but:		
(1) a declarant may agree with the association to do so only after the period of declarant control passes unless		

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Uniform Common Interest Ownership Act (1994)	Uniform Condominium Act (1980)	Hawaii HRS Chapter 514A
the agreement is made with an independent committee of the executive board elected pursuant to Section 4-116(d); and		
(2) an agreement to submit to any form of binding alternative dispute resolution must be in a writing signed by the parties.		
SECTION 4-118. LABELING OF PROMOTIONAL MATERIAL. No promotional material may be displayed or delivered to prospective purchasers which describes or portrays an improvement that is not in existence unless the description or portrayal of the improvement in the promotional material is conspicuously labeled or identified either as "MUST BE BUILT" or as "NEED NOT BE BUILT."	§ 4-118. [Labeling of Promotional Material] If any improvement contemplated in a condominium is labeled "NEED NOT BE BUILT" on a plat or plan, or is to be located within a portion of the condominium with respect to which the declarant has reserved a development right, no promotional material may be displayed or delivered to prospective purchasers which describes or portrays that improvement unless the description or portrayal of the improvement in the promotional material is conspicuously labeled or identified as "NEED NOT BE BUILT."	
SECTION 4-119. DECLARANT'S OBLIGATION TO COMPLETE AND RESTORE.	§ 4-119. [Declarant's Obligation to Complete and Restore]	
(a) Except for improvements labeled "NEED NOT BE BUILT," the declarant shall complete all improvements depicted on any site plan or other graphic representation, including any plats or plans prepared pursuant to Section 2-109, whether or not that site plan or other graphic representation is contained in the public offering statement or in any promotional material distributed by or for the declarant.	(a) The declarant shall complete all improvements labeled "MUST BE BUILT" on plats or plans prepared pursuant to Section 2-109.	
(b) The declarant is subject to liability for the prompt repair and restoration, to a condition compatible with the remainder of the common interest community, of any portion of the common interest community affected by the exercise of rights reserved pursuant to or created by Section 2-110, 2-111, 2-112, 2-113, 2-115, or 2-116.	(b) The declarant is subject to liability for the prompt repair and restoration, to a condition compatible with the remainder of the condominium, of any portion of the condominium affected by the exercise of rights reserved pursuant to or created by Sections 2-110, 2-111, 2-112, 2-113, 2-115, and 2-116.	
SECTION 4-120. SUBSTANTIAL COMPLETION OF UNITS. In the case of a sale of a unit in which delivery of a public offering statement is required, a contract of sale may be executed, but no interest in that unit may be conveyed, until the declaration is recorded and the unit is substantially completed, as evidenced by a recorded certificate of substantial completion executed by an independent [registered] architect, surveyor, or engineer, or by issuance of a certificate of occupancy authorized by law.	§ 4-120. [Substantial Completion of Units] In the case of a sale of a unit where delivery of a public offering statement is required, a contract of sale may be executed, but no interest in that unit may be conveyed, [except pursuant to Section 5-103(b)], until the declaration is recorded and the unit is substantially completed, as evidenced by a recorded certificate of substantial completion executed by an independent [registered] architect, surveyor or engineer, or by issuance of a certificate of occupancy authorized by law.	
[ARTICLE] 5. ADMINISTRATION AND REGISTRATION OF COMMON INTEREST	ARTICLE 5. ADMINISTRATION AND REGISTRATION OF CONDOMINIUMS [OPTIONAL]	PART III. REGISTRATION AND ADMINISTRATION

Comparison of UCIOA, UCA, and HRS (includes 2001 amendments)

Uniform Common Interest Ownership Act (1994)	Uniform Condominium Act (1980)	Hawaii HRS Chapter 514A
COMMUNITIES [OPTIONAL]		
SECTION 5-101. ADMINISTRATIVE AGENCY. As used in this [Act], "agency" means [insert appropriate administrative agency], which is an agency within the meaning of [insert appropriate reference to state administrative procedure act]. [Insert any related provisions on creation, selection, and remuneration of personnel, budget, annual reports, fees, and other administrative provisions appropriate to the particular State.]	§ 5-101. [Administrative Agency] As used in this Act, "agency" means (insert appropriate administrative agency), which is an agency within the meaning of (insert appropriate reference to state administrative procedure act). (Insert any related provisions on creation, selection, and remuneration of personnel, budget, annual reports, fees, and other administrative provisions appropriate to the particular state).	[See, §514A-3 above, which in pertinent part reads: "'Commission' means the real estate commission of the state department of commerce and consumer affairs."] [See also, §514A-7 above, relating to "Condominium Specialist; appointment; duties."]
		[See also, §514A-38 below, which in pertinent part reads: "The director of commerce and consumer affairs may contract with private consultants for the review of documents and information submitted to the commission pursuant to this chapter. The cost of such review by private consultants shall be borne by the developer."]
		§514A-44 Deposit of fees. All fees collected under this chapter shall, unless otherwise provided in this chapter, be deposited by the director of commerce and consumer affairs to the credit of the compliance resolution fund established pursuant to section 26-9(o).
		[See also, Part VIII below, relating to "Condominium Management Education Fund."]
SECTION 5-102. REGISTRATION REQUIRED. A declarant may not offer or dispose of a unit intended for residential use unless the common interest community and the unit are registered with the agency, but a common interest community consisting of no more than 12 units and which is not subject to development rights is exempt from the requirements of this section and Section 5-103(a).	§ 5-102. [Registration Required] A declarant may not offer or dispose of a unit intended for residential use unless the condominium and the unit are registered with the agency, but a condominium consisting of no more than 12 units and which is not subject to development rights is exempt from the requirements of this section and Section 5-103(a).	§514A-31 Notification of intention. (a) Prior to the time when apartments in a condominium project are to be offered for sale in this State, the developer shall register the project with the commission by notifying the commission in writing of the developer's intention to sell such apartments. No offer of sale or sale shall be made until the project has been registered with the commission and the commission has issued an effective date for the project's preliminary, contingent final, or final public report. (b) Prior to the time when a developer offers or proposes to offer for sale a time share plan located in a condominium project where apartments are being offered or proposed to be offered for sale for the first time to the public, the developer shall register the project with the commission and obtain an effective date for the developer's public report; provided that the developer shall not be required to deliver to a prospective purchaser or purchaser a true copy of the developer's public report or disclosure abstract, as required by this chapter, when a time share plan is duly registered under chapter 514E, and for which a disclosure statement under chapter 514E is effective and required to be

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		delivered to the purchaser or prospective purchaser. [See also, §514A-1.5 above, which in pertinent part reads: ". . . any condominium project or association of apartment owners created prior to May 29, 1963, pursuant to Act 180, Session Laws of Hawaii 1961, having seven or more apartments shall register with the commission and comply with the requirements pursuant to sections 514A-95.1 and 514A-132, except for the fidelity bond requirement."]
SECTION 5-103. APPLICATION FOR REGISTRATION; APPROVAL OF UNCOMPLETED UNITS.	§ 5-103. [Application for Registration; Approval of Uncompleted Units]	
(a) An application for registration must contain the information and be accompanied by any reasonable fees required by the agency's [rules] [regulations]. A declarant promptly shall file amendments to report any actual or expected material change in any document or information contained in the application.	(a) An application for registration must contain the information and be accompanied by any reasonable fees required by the agency's [rules] [regulations.] A declarant promptly shall file amendments to report any factual or expected material change in any document or information contained in his application.	§514A-32 Questionnaire and filing fee. The notice of intention shall be accompanied by: (1) A nonrefundable fee as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91; (2) A copy of a questionnaire properly filled in; and (3) Such documents and information concerning the project as may be specified by the commission. The questionnaire shall be in such form and content as prescribed by the commission.
		[See also, §514A-41 "Supplementary public report" below, after UCIOA and UCI's Section 5-109 "Annual Report and Amendments."]
		§514A-36 Public reports and registration fees. (a) Concurrently with its filing with the commission of the notification of intention pursuant to sections 514A-31 and 514A-32, the developer shall prepare and submit to the commission a public report disclosing all material facts pertaining to the project. The public report shall be in such form and content as prescribed by the commission. Such public report may not be used for the purpose of selling any apartments in the project unless and until the commission issues an effective date for the public report. The commission's issuance of an effective date for a public report shall not be construed to constitute the commission's approval or disapproval of the project, or the commission's representation that all material facts concerning the project have been fully or adequately disclosed, or the commission's judgment of the value or merits of the project. No effective date for a final public report shall be issued until execution and recordation of the deed or master lease, the declaration, the bylaws, and floor plans, as provided by sections 514A-12, 514A-20, and 514A-81.

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Uniform Common Interest Ownership Act (1994)	Uniform Condominium Act (1980)	Hawaii HRS Chapter 514A
		(b) The commission may determine when a public report will supersede the public reports previously issued for the project.
		(c) The developer shall be assessed nonrefundable fees as provided in the rules adopted by the director of commerce and consumer affairs pursuant to chapter 91, for each effective date requested for a public report, including extensions, if any.
		§514A-37 Preliminary public reports. The commission may issue an effective date for a preliminary public report upon the commission's receipt of a notice of intention the filing of which is complete except for some particular requirement, or requirements, which is, or are, at the time not fulfilled, but which may reasonably be expected to be completed. Preliminary public reports shall not be used for any sale under a contract for the sale of an apartment in a condominium project, unless the developer of the project has filed with the commission those documents and that information required to be submitted with the notification of intention referred to in sections 514A-31 and 514A-32, including a specimen copy of the proposed contract of sale and an executed copy of an escrow agreement with a third party depository for retention and disposition of purchasers' funds in accordance with section 514A-65. The developer shall prepare the preliminary public report so as to ensure that the report adequately discloses all material facts which a prospective purchaser should consider in purchasing an apartment in the project, and shall ensure that adequate protection for purchasers' funds has been provided.
		§514A-39 REPEALED.
		[§514A-39.5] Contingent final public report. (a) Prior to the issuance of an effective date for a final public report, the developer may request that the commission issue an effective date for a contingent final public report. The contingent final public report shall be in the form and content as prescribed by the commission.
		(b) No effective date shall be issued by the commission for a developer's contingent final public report unless there is submitted to the commission:
		(1) Nonrefundable fees as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91;
		(2) The proposed developer's contingent final public report;

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Uniform Common Interest Ownership Act (1994)	Uniform Condominium Act (1980)	Hawaii HRS Chapter 514A
		(3) All documents, information, and other requirements under section 514A-37 if the commission has not issued an effective date for a preliminary public report;
		(4) An executed and recorded option agreement, agreement of sale, deed, or master lease for the property;
		(5) The executed and recorded declaration, bylaws, and floor plans as filed with the county officer having jurisdiction over the issuance of permits for the construction of buildings, as provided by sections 514A-12, 514A-20, and 514A-81;
		(6) A verified statement showing all costs involved in completing the project, including land payments or lease payments, real property taxes, construction costs, architect, engineering, and attorneys' fees, financing costs, provisions for contingency, etc., which must be paid on or before the completion of construction of the project;
		(7) A verified estimate of the time of completion of construction of the total project;
		(8) An executed copy of the escrow agreement which complies with the requirements of section 514A-64.5 and, if purchaser's funds are to be used for construction, the requirements of sections 514A-40(a)(6) and 514A-67;
		(9) A parking plan to include designated residence parking stalls and guest parking, if any, exclusive of assignment to individual apartments, if parking stalls are to be considered limited common elements; and
		(10) A letter of interest in financing construction of the project from a lender authorized to do business in the State.
		(c) No effective date shall be issued by the commission for a contingent final public report for a project that includes one or more existing structures being converted to condominium status unless there is filed with the commission all items required under subsection (b) and:
		(1) A verified statement signed by an appropriate county official that the project is in compliance with all zoning and building ordinances and codes applicable to the project, and specifying, if applicable: (A) Any variances which have been granted to achieve compliance; and (B) Whether the project contains any legal nonconforming uses or structures as a result of the

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Uniform Common Interest Ownership Act (1994)	Uniform Condominium Act (1980)	Hawaii HRS Chapter 514A
		adoption or amendment of any ordinances or codes;
		(2) A statement by the declarant, based upon a report prepared by an independent Hawaii registered architect or engineer, describing the present condition of all structural components and mechanical and electrical installations material to the use and enjoyment of the project; and
		(3) A statement by the declarant of the expected useful life of each item reported on in paragraph (2) or a statement that no representations are made in that regard; provided that this paragraph and paragraph (2) apply only to apartments that may be occupied for residential use and have been in existence for five years or more.
		(d) A contingent final public report shall expire nine months after the effective date of the report and, notwithstanding anything to the contrary in section 514A-43, may not be extended or renewed.
		(e) A contingent final public report is subject to sections 514A-41 and 514A-63.
(b) If a declarant files with the agency a declaration or proposed declaration, or an amendment or proposed amendment to a declaration, creating units that he proposes to convey before they are substantially completed in the manner required by Section 4-120 and, in a condominium, by Section 2-101(b), the declarant shall also file with the agency:	(b) If a declarant files with the agency a declaration or proposed declaration, or an amendment or proposed amendment to a declaration, creating units which he proposes to convey before they are substantially completed in the manner required by Sections 2-101(b) and 4-120, the declarant shall also file with the agency:	§514A-40 Final reports. (a) No effective date shall be issued by the commission for a final public report prior to completion of construction of the project, unless there is filed with the commission:
(1) a verified statement showing all costs involved in completing the buildings containing those units;	(1) a verified statement showing all costs involved in completing the buildings containing those units;	(1) A statement showing all costs involved in completing the project, including land payments or lease payments, real property taxes, construction costs, architect, engineering, and attorneys' fees, financing costs, provisions for contingency, etc., which must be paid on or before the completion of construction of the project;
(2) a verified estimate of the time of completion of construction of the buildings containing those units;	(2) a verified estimate of the time of completion of construction of the buildings containing those units;	(2) An estimate of the time of completion of construction of the total project;
(3) satisfactory evidence of sufficient funds to cover all costs to complete the buildings containing those units;	(3) satisfactory evidence of sufficient funds to cover all costs to complete the buildings containing those units;	(3) Satisfactory evidence of sufficient funds to cover the total project cost from purchasers' funds, equity funds, interim or permanent loan commitments, or other sources;
(4) a copy of the executed construction contract and any other contracts for the completion of the buildings containing those units;	(4) a copy of the executed construction contract and any other contracts for the completion of the buildings containing those units;	(4) A copy of the executed construction contract;
(5) a 100 percent payment and performance bond covering the entire cost of construction of the buildings	(5) a 100 percent payment and performance bond covering the entire cost of construction of the buildings	(5) Satisfactory evidence of a performance bond issued by a surety licensed in the State of not less than

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Uniform Common Interest Ownership Act (1994)	Uniform Condominium Act (1980)	Hawaii HRS Chapter 514A
containing those units;	containing those units;	one hundred per cent of the cost of construction, or such other substantially equivalent or similar instrument or security approved by the commission;
(6) plans for the units which, in the case of a condominium or planned community, shall conform to the requirements of Section 2-109(c);	(6) plans for the units conforming to the requirements of Section 2-109(c);	
	[Note: Section 2-109 "Plats and Plans" subsection (c) states that: "A plat may also show the intended location and dimensions of any contemplated improvement to be constructed anywhere within the condominium. Any contemplated improvement shown must be labeled either "MUST BE BUILT" or "NEED NOT BE BUILT".]	
(7) if purchasers' funds are to be utilized for the construction of the common interest community, an executed copy of the escrow agreement with an escrow company or financial institution authorized to do business within the State which provides that: (i) disbursements of purchasers' funds may be made from time to time to pay for construction of the common interest community, architectural, engineering, finance, and legal fees, and other costs for the completion of the common interest community in proportion to the value of the work completed by the contractor as certified by an independent [registered] architect or engineer, on bills submitted and approved by the lender of construction funds or the escrow agent; (ii) disbursement of the balance of purchasers' funds remaining after completion of the common interest community must be made only when the escrow agent or lender receives satisfactory evidence that (A) the period for filing mechanic's and materialman's liens has expired, (B) the right to claim those liens has been waived, or (C) adequate provision has been made for satisfaction of any claimed mechanic's or materialman's lien; and (iii) any other restriction relative to the retention and disbursement of purchasers' funds required by the agency; and	(7) if purchasers' funds are to be utilized for the construction of the condominium, an executed copy of the escrow agreement with an escrow company or financial institution authorized to do business within the state which provides that: (i) disbursements of purchasers' funds may be made from time to time to pay for construction of the condominium, architectural, engineering finance, and legal fees, and other costs for the completion of the condominium in proportion to the value of the work completed by the contractor as certified by an independent (registered) architect or engineer, or bills submitted and approved by the lender of construction funds or the escrow agent; (ii) disbursement of the balance of purchasers' funds remaining after completion of the condominium shall be made only when the escrow agent or lender receives satisfactory evidence that the period for filing mechanic's and materialman's liens has expired, or that the right to claim those liens has expired, or that the right to claim those liens has been waived, or that adequate provision has been made for satisfaction of any claimed mechanic's or materialman's lien; and (iii) any other restriction relative to the retention and disbursement of purchasers' funds required by the agency; and	(6) If purchasers' funds are to be used for construction, an executed copy of the escrow agreement for the trust fund required under section 514A-67 for financing construction, which expressly shall provide for: (A) No disbursements by the escrow agent for payment of construction costs unless bills are submitted with the request for disbursements that have been approved or certified for payment by the project lender or an otherwise qualified financially disinterested person; and (B) No disbursements from the balance of the trust fund after payment of construction costs pursuant to paragraph (A) until construction of the project has been completed and the escrow agent receives satisfactory evidence that all mechanics' and materialmen's liens have been cleared, unless sufficient funds are set aside for any bona fide dispute;
		(7) A parking plan to include designated residence parking stalls and guest parking, if any, exclusive of assignment to individual apartments, if parking stalls are to be considered limited common elements;
		(8) A copy of the disclosure statement required by section 514A-62(f)(3) if an effective date for a contingent final public report has been issued by the commission and the report has not expired; and

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		(9) A declaration subject to the penalties set forth in section 514A-49(b) that the project is in compliance with all county zoning and building ordinances and codes, and all other county permitting requirements applicable to the project, pursuant to section 514A-1.6.
(8) any other materials or information the agency may require by its [rules] [regulations].	(8) any other materials or information the agency may require by its [rules] [regulations].	
(c) The agency may not register the units described in the declaration or the amendment unless the agency determines, on the basis of the material submitted by the declarant and any other information available to the agency, that there is a reasonable basis to expect that the units to be conveyed will be completed by the declarant following conveyance.	The agency may not register the units described in the declaration or the amendment unless the agency determines, on the basis of the material submitted by declarant and any other information available to the agency, that there is a reasonable basis to expect that the units to be conveyed will be completed by the declarant following conveyance.	
		(b) No effective date shall be issued by the commission for a final public report for a project that includes one or more existing structures being converted to condominium status unless there is filed with the commission all items required under subsection (a) and:
		(1) A statement signed by an appropriate county official that the project is in compliance with all zoning and building ordinances and codes applicable to the project, and specifying, if applicable: (A) Any variances which have been granted to achieve such compliance; and (B) Whether the project contains any legal nonconforming uses or structures as a result of the adoption or amendment of any ordinances or codes;
		(2) A statement by the declarant, based upon a report prepared by an independent Hawaii registered architect or engineer, describing the present condition of all structural components and mechanical and electrical installations material to the use and enjoyment of the project; and
		(3) A statement by the declarant of the expected useful life of each item reported on in paragraph (2) or a statement that no representations are made in that regard; provided that this paragraph and paragraph (2) apply only to apartments that may be occupied for residential use and have been in existence for five years or more.
		(c) No effective date shall be issued by the commission for a final public report until the developer has paid into the condominium management education fund a nonrefundable fee of \$5 for each apartment in the project. Fees required by this subsection shall be subject

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		to adjustment as prescribed by rules adopted by the director of commerce and consumer affairs pursuant to chapter 91. Payments required under this subsection shall be due after June 13, 1989.
SECTION 5-104. RECEIPT OF APPLICATION; ORDER OF REGISTRATION.	§ 5-104. [Receipt of Application; Order or Registration]	
(a) The agency shall acknowledge receipt of an application for registration within [five] business days after receiving it. Within [60] days after receiving the application, the agency shall determine whether:	(a) The agency shall acknowledge receipt of an application for registration within [5] business days after receiving it. Within [60] days after receiving the application, the agency shall determine whether:	
(1) the application and the proposed public offering statement satisfy the requirements of this [Act] and the agency's [rules] [regulations];	(1) the application and the proposed public offering statement satisfy the requirements of this Act and the agency's rules;	
(2) the declaration and bylaws comply with this [Act]; and	(2) the declaration and bylaws comply with this Act; and	
(3) it is likely that the improvements the declarant has undertaken to make can be completed as represented.	(3) it is likely that the improvements the declarant has undertaken to make can be completed as represented.	
		§514A-33 Inspection. After appropriate notification has been made or additional information has been received pursuant to sections 514A-31, 514A-32, 514A-39.5, 514A-40, or 514A-41, an inspection of the condominium project may be made by the commission.
		§514A-34 Inspection expenses. When an inspection is to be made of projects, the developer shall be required to pay an amount estimated by the commission to be necessary to cover the actual expenses of the inspection, not to exceed \$500 a day for each day consumed in the examination of the project plus reasonable first-class transportation expenses.
		§514A-35 Waiver of inspection. The commission may waive an inspection when in its opinion, a preliminary, contingent final, final, or supplementary public report can be substantially drafted and issued from the contents of the questionnaire and other or subsequent inquiries.
(b) If the agency makes a favorable determination, it shall issue promptly an order registering the common interest community. Otherwise, unless the declarant has consented in writing to a delay, the agency shall issue promptly an order rejecting registration.	(b) If the agency makes a favorable determination, it shall issue promptly an order registering the condominium. Otherwise, unless the declarant has consented in writing to a delay, the agency shall issue promptly an order rejecting registration.	
		§514A-38 Request for effective date or hearing by developer. The director of commerce and consumer affairs may contract with private consultants for the review of documents and information submitted to the commission pursuant to this chapter. The cost of such review by private consultants shall be borne by the

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		developer. If an effective date for a public report is not issued within a reasonable time after compliance with registration requirements, or if the developer is materially grieved by the form or content of the public report, the developer may, in writing, request and shall be given a hearing by the commission within a reasonable time after receipt of request.
		§514A-43 Automatic expiration of public reports; exceptions. (a) Except as provided in section 514A-39.5, a public report shall expire thirteen months after the effective date of the report. The commission, upon submission of a written request for an extension by the developer at least thirty calendar days prior to the expiration date, together with such supporting information as may be required by the commission, a review of the registration, and after payment of a nonrefundable fee as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91, may issue an order extending the effective date of the preliminary, final, or supplemental public report.
		(b) The commission may issue an order that the final public report for a two-apartment condominium project shall have no expiration date, provided that the developer submits to the commission:
		(1) A written request for such an order not later than thirty calendar days prior to the next expiration date of the final public report;
		(2) Satisfactory evidence that one or both apartments are either retained by the developer, or conveyed to an irrevocable trust to benefit a spouse or family member of the developer. A family member is anyone related by blood, descent, or adoption; and
		(3) Payment of a nonrefundable fee as provided by rules adopted by the department of commerce and consumer affairs pursuant to chapter 91.
		The final report shall be subject to the supplemental public report requirements as provided in section 514A-41(a).
		The developer receiving an order under this subsection shall provide written notification to the commission within thirty calendar days of any subsequent sale and conveyance of either apartment to any person.
		§514A-42 True copies of public report; no misleading information. The public reports given by the developer to prospective purchasers shall be an

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		exact reproduction of the public report for which the commission has issued an effective date. All documents (including the public report) prepared by or for the developer and submitted to the commission in connection with the developer's registration of the project, and all information contained in such documents, shall be true, complete and accurate in all respects, and shall not contain any misleading information, or omit any information which would render the information or documents submitted to the commission misleading in any material respect.
SECTION 5-105. CEASE AND DESIST ORDERS. If the agency determines, after notice and hearing, that any person has disseminated or caused to be disseminated orally or in writing any false or misleading promotional materials in connection with a common interest community or that any person has otherwise violated any provision of this [Act] or the agency's [rules] [regulations] or orders, the agency may issue an order to cease and desist from that conduct, to comply with the provisions of this [Act] and the agency's [rules] [regulations] and orders, or to take affirmative action to correct conditions resulting from that conduct or failure to comply.	§ 5-105. [Cease and Desist Orders] If the agency determines, after notice and hearing, that any person has disseminated or caused to be disseminated orally or in writing any false or misleading promotional materials in connection with a condominium, or that any person has otherwise violated any provision of this Act or the agency's [rules] [regulations] or orders, the agency may issue an order to cease and desist from that conduct, to comply with the provisions of this Act and the agency's [rules] [regulations] and orders, or to take affirmative action to correct conditions resulting from that conduct or failure to comply.	§514A-47 Cease and desist orders. In addition to its authority under section 514A-48, whenever the commission has reason to believe that any person is violating or has violated section 514A-2, 514A-31 to 514A-49, 514A-61 to 514A-63, 514A-65, 514A-67, 514A-68, 514A-70, 514A-83.5, 514A-84, 514A-85, 514A-95, 514A-95.1, 514A-97, 514A-98, 514A-132, or 514A-134, or the rules of the commission adopted pursuant thereto, it shall issue and serve upon the person a complaint stating its charges in that respect and containing a notice of a hearing at a stated place and upon a day at least thirty days after the service of the complaint. The person served has the right to appear at the place and time specified and show cause why an order should not be entered by the commission requiring the person to cease and desist from the violation of the law or the rules of the commission charged in the complaint. If upon the hearing the commission is of the opinion that this chapter or the rules of the commission have been or are being violated, it shall make a report in writing stating its findings as to the facts and shall issue and cause to be served on the person an order requiring the person to cease and desist from the violations. The person, within thirty days after service upon the person of the report or order, may obtain a review thereof in the appropriate circuit court.
		§514A-48 Power to enjoin. Whenever the commission believes from satisfactory evidence that any person has violated section 514A-2, 514A-31 to 514A-49, 514A-61 to 514A-63, 514A-65, 514A-67, 514A-68, 514A-70, 514A-83.5, 514A-84, 514A-85, 514A-95, 514A-95.1, 514A-97, 514A-98, 514A-132, or 514A-134, or the rules of the commission adopted pursuant thereto, it may conduct an investigation on the matter and bring an action in the name of the people of the State in any court

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Uniform Common Interest Ownership Act (1994)	Uniform Condominium Act (1980)	Hawaii HRS Chapter 514A
		of competent jurisdiction against the person to enjoin the person from continuing the violation or engaging therein or doing any act or acts in furtherance thereof.
		§514A-49 Penalties. (a) Any person who violates or fails to comply with section 514A-2, 514A-31 to 514A-49, 514A-61 to 514A-63, 514A-65, 514A-67, 514A-68, 514A-70, 514A-83.5, 514A-84, 514A-85, 514A-95, 514A-95.1, 514A-97, 514A-98, 514A-102 to 514A-106, 514A-132, or 514A-134, is guilty of a misdemeanor and shall be punished by a fine not exceeding \$10,000 or by imprisonment for a term not exceeding one year, or both. Any person who violates or fails, omits, or neglects to obey, observe, or comply with any rule, order, decision, demand, or requirement of the commission under section 514A-2, 514A-31 to 514A-49, 514A-61 to 514A-63, 514A-65, 514A-67, 514A-68, 514A-70, 514A-83.5, 514A-84, 514A-85, 514A-95, 514A-95.1, 514A-97, 514A-98, 514A-102 to 514A-106, 514A-132, or 514A-134 shall be punished by a fine not exceeding \$10,000.
		(b) Any person who violates any provision of this chapter or the rules of the commission adopted pursuant thereto shall also be subject to a civil penalty not exceeding \$10,000 for any violation. Each violation shall constitute a separate offense.
SECTION 5-106. REVOCATION OF REGISTRATION.	§ 5-106. [Revocation of Registration]	
(a) The agency, after notice and hearing, may issue an order revoking the registration of a common interest community upon determination that a declarant or any officer or principal of a declarant has:	(a) The agency, after notice and hearing, may issue an order revoking the registration of a condominium upon determination that a declarant or any officer or principal of a declarant has:	
(1) failed to comply with a cease and desist order issued by the agency affecting that common interest community;	(1) failed to comply with a cease and desist order issued by the agency affecting that condominium;	
(2) concealed, diverted, or disposed of any funds or assets of any person in a manner impairing rights of purchasers of units in that common interest community;	(2) concealed, diverted, or disposed of any funds or assets of any person in a manner impairing rights of purchasers of units in that condominium;	
(3) failed to perform any stipulation or agreement made to induce the agency to issue an order relating to that common interest community;	(3) failed to perform any stipulation or agreement made to induce the agency to issue an order relating to that condominium;	
(4) misrepresented or failed to disclose a material fact in the application for registration; or	(4) misrepresented or failed to disclose a material fact in the application for registration; or	[See also, §514A-98 above, relating to "False Statement."]
(5) failed to meet any of the conditions described in Sections 5-103 and 5-104 necessary to qualify for registration.	(5) failed to meet any of the conditions described in Sections 5-103 and 5-104 necessary to qualify for registration.	
(b) A declarant may not convey, cause to be conveyed, or contract for the conveyance of any interest in a unit	(b) A declarant shall not convey, cause to be conveyed, or contract for the conveyance of any interest in a unit	

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while an order revoking the registration of the common interest community is in effect, without the consent of the agency.	while an order revoking the registration of the condominium is in effect, without the consent of the agency.	
(c) In appropriate cases the agency, in its discretion, may issue a cease and desist order in lieu of an order of revocation.	(c) In appropriate cases the agency, in its discretion, may issue a cease and desist order in lieu of an order of revocation.	
		§514A-50 Limitation of action. No civil or criminal actions shall be brought by the State pursuant to this chapter more than two years after the discovery of the facts upon which such actions are based or ten years after completion of the sales transaction involved, whichever has first occurred.
SECTION 5-107. GENERAL POWERS AND DUTIES OF AGENCY.	§ 5-107. [General Powers and Duties of Agency]	
(a) The agency may adopt, amend, and repeal [rules] [regulations] and issue orders consistent with and in furtherance of the objectives of this [Act], but the agency may not intervene in the internal activities of an association except to the extent necessary to prevent or cure violations of this [Act]. The agency may prescribe forms and procedures for submitting information to the agency.	(a) The agency may adopt, amend, and repeal [rules] [regulations] and issue orders consistent with and in furtherance of the objectives of this Act, but the agency may not intervene in the internal activities of an association except to the extent necessary to prevent or cure violations of this Act. The agency may prescribe forms and procedures for submitting information to the agency.	[See, §514A-99 above, which reads: "The commission shall adopt, amend, or repeal such rules as it may deem proper to fully effectuate this chapter."]
		§514A-45 Supplemental regulations governing a condominium property regime. Whenever they deem it proper, the commission, the county councils of the various counties or the city council of the city and county of Honolulu may adopt supplemental rules and regulations governing a condominium property regime established under this chapter in order to implement this program; provided that any of the supplemental rules and regulations adopted shall not conflict with this chapter or with any of the rules and regulations adopted by the commission to implement this chapter.
(b) If it appears that any person has engaged, is engaging, or is about to engage in any act or practice in violation of this [Act] or any of the agency's rules or orders, the agency without prior administrative proceedings may maintain an action in the [appropriate court] to enjoin that act or practice or for other appropriate relief. The agency is not required to post a bond or prove that no adequate remedy at law exists.	(b) If it appears that any person has engaged, is engaging, or is about to engage in any act or practice in violation of this Act or any of the agency's rules or orders, the agency without prior administrative proceedings may bring suit in the [appropriate court] to enjoin that act or practice or for other appropriate relief. The agency is not required to post a bond or prove that no adequate remedy at law exists.	
(c) The agency may intervene in any action involving the powers or responsibilities of a declarant in connection with any common interest community for which an application for registration is on file.	(c) The agency may intervene in any action or suit involving the powers or responsibilities of a declarant in connection with any condominium for which an application for registration is on file.	
(d) The agency may accept grants in aid from any	(d) The agency may accept grants in aid from any	

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governmental source and may contract with agencies charged with similar functions in this or other jurisdictions, in furtherance of the objectives of this [Act].	governmental source and may contract with agencies charged with similar functions in this or other jurisdictions, in furtherance of the objectives of this Act.	
(e) The agency may cooperate with agencies performing similar functions in this and other jurisdictions to develop uniform filing procedures and forms, uniform disclosure standards, and uniform administrative practices, and may develop information that may be useful in the discharge of the agency's duties.	(e) The agency may cooperate with agencies performing similar functions in this and other jurisdictions to develop uniform filing procedures and forms, uniform disclosure standards, and uniform administrative practices, and may develop information that may be useful in the discharge of the agency's duties.	
(f) In issuing any cease and desist order or order rejecting or revoking registration of a common interest community, the agency shall state the basis for the adverse determination and the underlying facts.	(f) In issuing any cease and desist order or order rejecting or revoking registration of a condominium, the agency shall state the basis for the adverse determination and the underlying facts.	
(g) The agency, in its sound discretion, may require bonding, escrow of portions of sales proceeds, or other safeguards it may prescribe by its [rules] [regulations] to guarantee completion of all improvements which a declarant is obligated to complete pursuant to Section 4-119 (Declarant's Obligation to Complete and Restore).	(g) The agency, in its sound discretion, may require bonding, escrow of portions of sales proceeds, or other safeguards it may prescribe by its [rules] [regulations] to guarantee completion of all improvements labeled "MUST BE BUILT" pursuant to Section 4-119 (Declarant's Obligation to Complete and Restore).	
SECTION 5-108. INVESTIGATIVE POWERS OF AGENCY.	§ 5-108. [Investigative Powers of Agency]	§514A-46 Investigatory powers.
(a) The agency may initiate public or private investigations within or outside this State to determine whether any representation in any document or information filed with the agency is false or misleading or whether any person has engaged, is engaging, or is about to engage in any unlawful act or practice.	(a) The agency may initiate public or private investigations within or outside this State to determine whether any representation in any document or information filed with the agency is false or misleading or whether any person has engaged, is engaging, or is about to engage in any unlawful act or practice.	If the commission has reason to believe that any person is violating or has violated section 514A-2, 514A-31 to 514A-49, 514A-61 to 514A-63, 514A-65, 514A-67, 514A-68, 514A-70, 514A-83.5, 514A-84, 514A-85, 514A-95, 514A-95.1, 514A-97, 514A-98, 514A-132, or 514A-134, or the rules of the commission adopted pursuant thereto, the commission may conduct an investigation of the matter and examine the books, accounts, contracts, records, and files of the association of apartment owners, the board of directors, the managing agent, the real estate broker, the real estate salesperson, the purchaser, or the developer. For the purposes of this examination, the developer and the real estate broker shall keep and maintain records of all sales transactions and of the funds received by the developer and the real estate broker pursuant thereto, and shall make the records accessible to the commission upon reasonable notice and demand.
(b) In the course of any investigation or hearing, the agency may subpoena witnesses and documents, administer oaths and affirmations, and adduce evidence. If a person fails to comply with a subpoena or to answer questions propounded during the investigation or hearing, the agency may apply to the [appropriate court] for a contempt order or injunctive or other appropriate	(b) In the course of any investigation or hearing, the agency may subpoena witnesses and documents, administer oaths and affirmations, and adduce evidence. If a person fails to comply with a subpoena or to answer questions propounded during the investigation or hearing, the agency may apply to the [appropriate court] for a contempt order or injunctive or other appropriate	

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relief to secure compliance.	relief to secure compliance.	
SECTION 5-109. ANNUAL REPORT AND AMENDMENTS.	§ 5-109. [Annual Report and Amendments]	
(a) A declarant, within 30 days after the anniversary date of the order of registration, annually shall file a report to bring up-to-date the material contained in the application for registration and the public offering statement. This provision does not relieve the declarant of the obligation to file amendments pursuant to subsection (b).	(a) A declarant, within 30 days after the anniversary date of the order of registration, annually shall file a report to bring up-to-date the material contained in the application for registration and the public offering statement. This provision does not relieve the declarant of the obligation to file amendments pursuant to subsection (b).	
(b) A declarant promptly shall file amendments to the public offering statement with the agency.	(b) A declarant promptly shall file amendments to the public offering statement with the agency.	
(c) If an annual report reveals that a declarant owns or controls units representing less than [25] percent of the voting power in the association and that a declarant has no power to increase the number of units in the common interest community, or to cause a merger or confederation of the common interest community with other common interest communities, the agency shall issue an order relieving the declarant of any further obligation to file annual reports. Thereafter, so long as the declarant is offering any units for sale, the agency has jurisdiction over the declarant's activities, but has no other authority to regulate the common interest community.	(c) If an annual report reveals that a declarant owns or controls units representing less than (25) percent of the voting power in the association and that a declarant has no power to increase the number of units in the condominium, or to cause a merger or confederation of the condominium with other condominiums, the agency shall issue an order relieving the declarant of any further obligation to file annual reports. Thereafter, so long as the declarant is offering any units for sale, the agency has jurisdiction over the declarant's activities, but has no other authority to regulate the condominium.	
		§514A-41 Supplementary public report. (a) If after the effective date has been issued by the commission for a public report, any circumstance occurs which would render the public report misleading as to purchasers in any material respect, the developer shall stop all offers of sale and sales and immediately submit to the commission a supplementary public report, together with such supporting information as may be required by the commission, to update the information contained in the public report, accompanied by a nonrefundable fee as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91. Offers of sale and sales shall not resume until an effective date has been issued by the commission for the supplementary public report. The developer shall provide all prospective purchasers with a true copy of the supplementary public report and all prior public reports not superseded by the supplementary public report.
		(b) The commission may determine when a supplementary public report will supersede the public reports previously issued for the project.

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		(c) Notwithstanding the provisions of this section, the rescission rights, if any, of a purchaser shall be governed exclusively by sections 514A-62 and 514A-63. This does not preclude a purchaser from exercising any rescission rights pursuant to a contract for sale or any applicable common law remedies.
		(d) Notwithstanding any other provision to the contrary, this section shall not apply to a time share project duly registered under chapter 514E, and for which a disclosure statement is effective and required to be delivered to the purchaser or prospective purchaser.
SECTION 5-110. AGENCY REGULATION OF PUBLIC OFFERING STATEMENT.	§ 5-110. [Agency Regulation of Public Offering Statement]	
(a) The agency at any time may require a declarant to alter or supplement the form or substance of a public offering statement to assure adequate and accurate disclosure to prospective purchasers.	(a) The agency at any time may require a declarant to alter or supplement the form or substance of a public offering statement to assure adequate and accurate disclosure to prospective purchasers.	
(b) The public offering statement may not be used for any promotional purpose before registration and afterwards only if it is used in its entirety. No person may advertise or represent that the agency has approved or recommended the common interest community, the disclosure statement, or any of the documents contained in the application for registration.	(b) The public offering statement may not be used for any promotional purpose before registration and afterwards only if it is used in its entirety. No person may advertise or represent that the agency has approved or recommended the condominium, the disclosure statement, or any of the documents contained in the application for registration.	
(c) In the case of a common interest community situated wholly outside this State, an application for registration or proposed public offering statement filed with the agency which has been approved by an agency in the State where the common interest community is located and substantially complies with the requirements of this [Act] may not be rejected by the agency on the grounds of non-compliance with any different or additional requirements imposed by this [Act] or by the agency's [rules] [regulations]. However, the agency may require additional documents or information in particular cases to assure adequate and accurate disclosure to prospective purchasers.	(c) In the case of a condominium situated wholly outside of this State, no application for registration or proposed public offering statement filed with the agency which has been approved by an agency in the State where the condominium is located and substantially complies with the requirements of this Act may be rejected by the agency on the grounds of non-compliance with any different or additional requirements imposed by this Act or by the agency's [rules] [regulations.] However, the agency may require additional documents or information in particular cases to assure adequate and accurate disclosure to prospective purchasers.	
		PART VI. SALES TO OWNER-OCCUPANTS
		§514A-101 Definitions. As used in this part:
		"Chronological system" means a system in which the residential apartments designated for sale to prospective owner-occupants are offered for sale to prospective owner-occupants in the chronological order in which the prospective owner-occupants deliver to the developer or

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		the designated real estate broker completed owner-occupant affidavits, executed sales contracts or reservations, and earnest money deposits.
		"Initial date of sale" means the date of the first publication of the announcement or advertisement pursuant to section 514A-102.
		"Lottery system" means a system in which no prospective owner-occupant has an unfair advantage in the determination of the order in which residential units designated for sale to prospective owner-occupants are offered for sale because the order is determined by a lottery.
		"Owner-occupant" means any individual in whose name sole or joint legal title is held in a residential apartment which, simultaneous to such ownership, serves as the individual's principal residence, as defined by the state department of taxation, for a period of not less than three hundred sixty-five consecutive days; provided that the individual retains complete possessory control of the premises of the residential apartment during this period. An individual shall not be deemed to have complete possessory control of the premises if the individual rents, leases, or assigns the premises for any period of time to any other person in whose name legal title is not held; except that an individual shall be deemed to have complete possessory control even when the individual conveys or transfers the apartment into a trust for estate planning purposes and continues in the use of the premises as the individual's principal residence during this period.
		"Residential apartment" means "apartment" as defined in section 514A-3, but excludes: (1) Any apartment intended for commercial use; (2) Any apartment designed and constructed for hotel or resort use that is located on any parcel of real property designated and governed by a county for hotel or resort use pursuant to section 46-4; and (3) Any other use pursuant to authority granted by law to a county.
		§514A-102 Announcement or advertisement; publication. At least once in each of two successive weeks, and at any time following the issuance of an effective date of the first public report for the condominium project, the developer shall cause to be published in at least one newspaper published daily in the State with a general circulation in the county in which

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		the project is to be located, and, if the project is located other than on the island of Oahu, in at least one newspaper that is published at least weekly in the county in which the project is to be located, an announcement or advertisement containing at least the following information:
		(1) The location of the project;
		(2) The minimum price of the residential apartments;
		(3) A designation as to whether the residential apartments are to be sold in fee simple or leasehold;
		(4) A statement that for a thirty-day period following the initial date of sale of the condominium project, at least fifty per cent of the residential apartments being marketed shall be offered only to prospective owner-occupants;
		(5) The name, telephone number, and address of the developer or other real estate broker designated by the developer that an interested individual may contact to secure an owner-occupant affidavit, public report, and any other information concerning the project; and
		(6) If applicable, a statement that the residential apartments will be offered to prospective purchasers through a public lottery.
		§514A-103 Designation of residential apartments. (a) The developer of any project containing residential apartments shall designate at least fifty per cent of the apartments for sale to prospective owner-occupants pursuant to section 514A-105. The designation shall be set forth either in the public report or in the announcement or advertisement required by section 514A-102, and may be set forth in both. The apartments shall constitute a proportionate representation of all the residential apartments in the project with regard to factors of square footage, number of bedrooms and bathrooms, floor level, and whether or not the apartment has a lanai.
		(b) A developer shall have the right to substitute an apartment designated for owner-occupants with an apartment that is not so designated; provided that the apartments are similar with regard to factors enumerated in subsection (a). The substitution shall not require the developer's submission of a supplementary public report.
		§514A-104 Apartment selection, requirements. (a) When the chronological system is used, the developer or

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		the developer's real estate broker, as the case may be, shall offer the residential apartments that have been designated pursuant to section 514A-103 as follows:
		(1) For thirty days from the date of the first published announcement or advertisement required under section 514A-102, the developer or developer's real estate broker shall offer the residential apartments that have been designated pursuant to section 514A-103 to prospective purchasers chronologically in the order in which they submit to the developer or the developer's real estate broker, a completed owner-occupant affidavit, an executed sales contract or reservation, and an earnest money deposit in a reasonable amount designated by the developer. The developer or the developer's real estate broker shall maintain at all times a sufficient number of sales contracts and affidavits for prospective owner-occupants to execute. Prospective purchasers who do not have the opportunity to select a residential apartment during the thirty-day period shall be placed on a back-up reservation list in the order in which they submit a completed owner-occupant affidavit and earnest money deposit in a reasonable amount designated by the developer;
		(2) If two or more prospective owner-occupants intend to reside jointly in the same residential apartment, only one residential apartment designated pursuant to section 514A-103 shall be offered to them or only one of them shall be placed on the back-up reservation list;
		(3) No developer, employee or agent of the developer, or any real estate licensee shall, either directly or through any other person, release any information or inform any prospective owner-occupant about the publication announcement or advertisement referred to in section 514A-102, including the date it is to appear and when the chronological system will be initiated, until after the announcement or advertisement is published; and
		(4) The developer shall compile and maintain a list of all prospective purchasers that submit a completed owner-occupant affidavit, an executed sales contract or reservation, and an earnest money deposit, and maintain a back-up reservation list, if any. Upon the request of the commission, the developer shall provide a copy of the list of all prospective purchasers and the back-up reservation list.
		(b) When the public lottery system is used, the developer

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		or the developer's broker, as the case may be, shall offer the residential apartments that have been designated pursuant to section 514A-103 as follows:
		(1) From the date of the first published announcement or advertisement required under section 514A-102 until five calendar days after the last published announcement or advertisement, the developer or developer's real estate broker shall compile and maintain a list of all prospective owner-occupants who have submitted to the developer or the developer's real estate broker a duly executed owner-occupant affidavit. All prospective owner-occupants on this list shall be included in the public lottery described in paragraph (2). The developer and the developer's real estate broker shall maintain at all times sufficient copies of affidavits for prospective owner-occupants to execute. Upon the request of the commission, the developer shall provide a copy of the lottery list of prospective owner-occupants;
		(2) The developer or developer's real estate broker shall conduct a public lottery on the date, time, and location as set forth in the published announcement, or advertisement. Any person, including all prospective owner-occupants eligible for the lottery, shall be allowed to attend the lottery;
		(3) The public lottery shall be conducted so that no prospective owner-occupant shall have an unfair advantage, and shall, as to all owner-occupants whose affidavits were submitted to the developer or the developer's real estate broker within the time period referred to in the first sentence of subsection (b)(1) above, be conducted without regard to the order in which the affidavits were submitted. If two or more prospective owner-occupants intend to reside jointly in the same residential apartment, only one of them shall be entitled to enter the public lottery; and
		(4) After the public lottery, each prospective owner-occupant purchaser, in the order in which they are selected in the lottery, shall be given the opportunity to select one of the residential apartments that have been designated pursuant to section 514A-103, execute a sales contract, and submit an earnest money deposit in a reasonable amount designated by the developer. The developer shall maintain a list, in the order of selection, of all prospective purchasers selected in the lottery, and maintain a list of all prospective purchasers who selected one of the residential apartments designated

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		pursuant to section 514A-103. Those prospective purchasers selected in the lottery who did not have the opportunity to select one of the residential apartments designated pursuant to section 514A-103 but who submitted an earnest money deposit in a reasonable amount designated by the developer shall be placed on a back-up reservation list in the order in which they were selected in the public lottery. Upon request of the commission, copies of the aforementioned lists shall be submitted.
		§514A-104.5 Affidavit. (a) The owner-occupant affidavit required by section 514A-104 shall expire after three hundred sixty-five consecutive days have elapsed after the recordation of the instrument conveying the apartment to the affiant. The affidavit shall expire prior to this period upon acquisition of title to the property by an institutional lender or investor through mortgage foreclosure, foreclosure under power of sale, or a conveyance in lieu of foreclosure.
		(b) The affidavit shall include statements by the affiant affirming that the affiant shall notify the commission immediately upon any decision to cease being an owner-occupant.
		(c) The affidavit shall be personally executed by all the prospective owner-occupants of the residential apartment and shall not be executed by an attorney-in-fact.
		§514A-104.6 Prohibitions. (a) No person who has executed an owner-occupant affidavit shall sell or offer to sell, lease or offer to lease, rent or offer to rent, assign or offer to assign, or convey the apartment until at least three hundred sixty-five consecutive days have elapsed since the recordation of the purchase; provided that a person who continues in the use of the premises as the individual's principal residence during this period may convey or transfer the apartment into a trust for estate planning purposes. Any contract or instrument entered into in violation of this part shall be subject to the remedies provided in section 514A-69.
		(b) No developer, employee or agent of a developer, or real estate licensee shall violate or aid any other person in violating this part.
		§514A-105 Sale of residential apartments; developer requirements. (a) The developer may go to sale using either a chronological system or a lottery system at any time after issuance of an effective date for a public report

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		for which the effective date has not expired.
		(b) For a thirty-day period following the initial date of sale of apartments in a condominium project, at least fifty per cent of the apartments being sold shall be offered for sale only to prospective owner-occupants; provided that notwithstanding this part, in the case of a project that includes one or more existing structures being converted to condominium status, each residential apartment contained in the project first shall be offered for sale to any individual occupying the apartment immediately prior to the conversion and who submits an owner-occupant affidavit and an earnest money deposit in a reasonable amount designated by the developer.
		(c) Each contract for the purchase of a residential apartment by an owner-occupant may be conditioned upon the purchaser obtaining adequate financing, or a commitment for adequate financing. If the sales contract is canceled, the developer shall re-offer the residential apartment first to prospective owner-occupants on the back-up reservation list described in sections 514A-104 and 514A-105, in the order in which the names appear on the reservation list; provided that the prospective owner-occupant has not already executed a sales contract or reservation for a residential apartment in the project.
		(d) At any time, any prospective owner-occupant on the back-up reservation list may be offered any residential apartment in the project that has not been sold or set aside for sale to prospective owner-occupants.
		§514A-106 REPEALED.
		§514A-107 Enforcement. (a) Whenever the commission believes from satisfactory evidence that any person is violating or has violated any provision of this part or rules of the commission adopted pursuant thereto, it may conduct an investigation on the matter and bring an action in the name of the commission in any court of competent jurisdiction against the person to enjoin the person from continuing the violation or engaging therein or doing any act or acts in furtherance thereof.
		(b) Before the commission brings an action in any court of competent jurisdiction pursuant to subsection (a) against any person who executed an affidavit pursuant to this part, it may consider whether the following extenuating circumstances affected the person's ability to comply with the law:
		(1) Serious illness of any of the owner-occupants who

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		executed the affidavit or any other person who was to or has occupied the residential apartment;
		(2) Unforeseeable job or military transfer;
		(3) Unforeseeable change in marital status, or change in parental status; or
		(4) Any other unforeseeable occurrence subsequent to execution of the affidavit.
		Thereafter, the commission may cease any further action and order release of any net proceeds held in abeyance.
		(c) Any individual who executes an affidavit pursuant to this part and who subsequently sells or offers to sell, leases or offers to lease, rents or offers to rent, assigns or offers to assign, or otherwise transfers any interest in the residential apartment that the person obtained pursuant to this part, shall have the burden of proving his or her compliance with the requirements of this part.
		(d) Upon request, the commission may require a verification of owner-occupancy from the presumed owner-occupant. In the event that the presumed owner-occupant fails to submit verification of continuing owner-occupancy, as defined in this section, because of sale, lease, assignment, or transfer, the presumed owner-occupant may also be subject to a fine in the amount equal to the profit made from the sale, assignment or transfer.
		(e) The commission shall adopt rules, pursuant to chapter 91, to carry out the purposes of, and its responsibilities under, this part.
		§514A-107.5 Penalties. (a) Any person who executes an affidavit required by this part and violates or fails to comply with any of the provisions of this part or any rule adopted by the commission pursuant thereto shall be subject to a civil penalty of up to \$10,000 or fifty per cent of the net proceeds received or to be received by the person from the sale, lease, rental, assignment, or other transfer of the residential apartment to which the violation relates, whichever is the greater.
		(b) Any developer, employee or agent of a developer, or real estate licensee who violates or fails to comply with any of the provisions of this part or any rule adopted by the commission pursuant thereto shall be subject to a civil penalty of up to \$10,000. Each violation shall constitute a separate offense.
		[§514A-107.6] False statement. It shall be unlawful for

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		any person to make a false statement in the affidavit required by this part or for any person to file with the commission any notice, statement, or other document required under this part or any rule adopted by the commission pursuant thereto which is false or contains a material misstatement of fact. Any violation of this section shall be a misdemeanor punishable by a fine not to exceed \$2,000, or by imprisonment for a term not to exceed one year, or both.
		§514A-108 Inapplicability of part or sections. (a) This part shall not apply to a project developed pursuant to section 46-15 or 46-15.1, or chapter 53, 201G, or 206; provided that the developer of the project may elect to be subject to this part through a written notification to the commission.
		(b) This part shall not apply to condominium projects where the developer intends to convey, and does in fact convey, all of the residential apartment units in the project to a spouse or family members related by blood, descent or adoption.
		(c) This part shall not apply to condominium projects consisting of two or fewer apartments.
		(d) A developer of a project specified in subsection (a) electing to be subject to this part or a project developed pursuant to an affordable housing condition or provision by a state or county governmental agency may elect to waive specific provisions of this part that conflict with the eligibility or preference requirements imposed by the governmental agency. The developer of a project specified in subsection (a) who exercises the election shall provide detailed written notification to the commission of the specific provisions that will be waived, an explanation for each waived provision, and a statement from the affected government agency that the project is either an inapplicable project pursuant to subsection (a) or a project whereby a governmental agency has imposed eligibility or preference requirements. A copy of this notification shall be filed with the affected governmental agency.
		(e) Such filing to meet the notification requirements of subsection (a) or (d) shall not be construed to be an approval or disapproval of the project by the commission.
		[PART VII. ARBITRATION; MEDIATION]
		§514A-121 Arbitration of disputes. (a) At the request

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		of any party, any dispute concerning or involving one or more apartment owners and an association of apartment owners, its board of directors, managing agent, or one or more other apartment owners relating to the interpretation, application or enforcement of chapter 514A or the association's declaration, bylaws, or house rules adopted in accordance with its bylaws shall be submitted to arbitration. The arbitration shall be conducted, unless otherwise agreed by the parties, in accordance with the rules adopted by the commission and the provisions of chapter 658; provided that the Condominium Property Regime Rules on Arbitration of Disputes of the American Arbitration Association shall be used until the commission adopts its rules; provided further that where any arbitration rule conflicts with chapter 658, chapter 658 shall prevail; provided further that notwithstanding any rule to the contrary, the arbitrator shall conduct the proceedings in a manner which affords substantial justice to all parties. The arbitrator shall be bound by rules of substantive law and shall not be bound by rules of evidence, whether or not set out by statute, except for provisions relating to privileged communications. The arbitrator shall permit discovery as provided for in the Hawaii rules of civil procedure; provided that the arbitrator may restrict the scope of such discovery for good cause to avoid excessive delay and costs to the parties or the arbitrator may refer any matter involving discovery to the circuit court for disposition in accordance with the Hawaii rules of civil procedure then in effect.
		(b) Nothing in subsection (a) shall be interpreted to mandate the arbitration of any dispute involving:
		(1) The real estate commission;
		(2) The mortgagee of a mortgage of record;
		(3) The developer, general contractor, subcontractors, or design professionals for the project; provided that when any person exempted by this paragraph is also an apartment owner, a director, or managing agent, such person shall, in those capacities, be subject to the provisions of subsection (a);
		(4) Actions seeking equitable relief involving threatened property damage or the health or safety of apartment owners or any other person;
		(5) Actions to collect assessments which are liens or subject to foreclosure; provided that an apartment owner who pays the full amount of an assessment and fulfills

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		the requirements of section 514A-90(d) shall have the right to demand arbitration of the owner's dispute, including a dispute about the amount and validity of the assessment;
		(6) Personal injury claims;
		(7) Actions for amounts in excess of \$2,500 against an association of apartment owners, a board of directors, or one or more directors, officers, agents, employees, or other persons, if insurance coverage under a policy or policies procured by the association of apartment owners or its board of directors would be unavailable because action by arbitration was pursued; or
		(8) Any other cases which are determined, as provided in section 514A-122, to be unsuitable for disposition by arbitration.
		[§514A-121.5] Mediation. If an apartment owner or the board of directors requests mediation of a dispute involving the interpretation or enforcement of the association of apartment owners' declaration, bylaws, or house rules, or involving section 514A-82(b)(1) to (13), 514A-82.1, 514A-82.15, 514A-82.3, 514A-82.5, 514A-82.6, 514A-83, 514A-83.1, 514A-83.2, 514A-83.3, 514A-83.4, 514A-83.5, 514A-84, or 514A-84.5, the other party in the dispute shall be required to participate in mediation. If an owner or the board refuses to participate in the mediation of a particular dispute, a court may take this refusal into consideration when awarding expenses, costs, and attorney's fees in accordance with section 514A-94.
		[§514A-122] Determination of unsuitability. At any time within twenty days of being served with a written demand for arbitration, any party so served may apply to the circuit court in the judicial circuit in which the condominium is located for a determination that the subject matter of the dispute is unsuitable for disposition by arbitration. In determining whether the subject matter of a dispute is unsuitable for disposition by arbitration, a court may consider:
		(1) The magnitude of the potential award, or any issue of broad public concern raised by the subject matter underlying the dispute;
		(2) Problems referred to the court where court regulated discovery is necessary;
		(3) The fact that the matter in dispute is a reasonable or necessary issue to be resolved in pending litigation

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		and involves other matters not covered by or related to chapter 514A;
		(4) The fact that the matter to be arbitrated is only part of a dispute involving other parties or issues which are not subject to arbitration under section 514A-121;
		(5) Any matters of dispute where disposition by arbitration, in the absence of complete judicial review, would not afford substantial justice to one or more of the parties.
		Any such application to the circuit court shall be made and heard in a summary manner and in accordance with procedures for the making and hearing of motions. The prevailing party shall be awarded its attorneys' fees and costs in an amount not to exceed \$200.
		[§514A-123] Determination of insurance coverage. In the event of a dispute as to whether a claim shall be excluded from mandatory arbitration under section 514A-121(b)(7), any party to an arbitration may file a complaint for declaratory relief against the involved insurer or insurers for a determination of whether insurance coverage is unavailable due to the pursuit of action by arbitration. The complaint shall be filed with the circuit court in the judicial circuit in which the condominium is located. The insurer or insurers shall file an answer to the complaint within twenty days of the date of service of the complaint and the issue shall be disposed of by the circuit court at a hearing to be held at the earliest available date; provided that the hearing shall not be held within twenty days from the date of service of the complaint upon the insurer or insurers.
		[§514A-124] Costs, expenses and legal fees. Notwithstanding any provision in this chapter to the contrary, the declaration or the bylaws, the award of any costs, expenses, and legal fees by the arbitrator shall be in the sole discretion of the arbitrator and the determination of costs, expenses and legal fees shall be binding upon all parties.
		§514A-125 Award; confirming award. <i>[Section effective until June 30, 2002. For section effective July 1, 2002, see below.]</i> The award of the arbitrator shall be in writing and acknowledged or proved in like manner as a deed for the conveyance of real estate, and shall be served by the arbitrator on each of the parties to the arbitration, personally or by registered or certified mail. At any time within one year after the award is made and served, any party to the arbitration may apply to the

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		circuit court of the judicial circuit in which the condominium is located for an order confirming the award. The court shall grant the order confirming the award, unless the award is vacated, modified, or corrected, as provided in sections 658-9 and 658-10, or a trial de novo is demanded under section 514A-127, or the award is successfully appealed under section 514A-127. The record shall be filed with the motion to confirm award as provided for in section 658-13, and notice of the motion shall be served upon each other party or their respective attorneys in the manner required for service of notice of a motion.
		§514A-125 Award; confirming award. <i>[Section effective July 1, 2002. For present provision, see above.]</i> The award of the arbitrator shall be in writing and acknowledged or proved in like manner as a deed for the conveyance of real estate, and shall be served by the arbitrator on each of the parties to the arbitration, personally or by registered or certified mail. At any time within one year after the award is made and served, any party to the arbitration may apply to the circuit court of the judicial circuit in which the condominium is located for an order confirming the award. The court shall grant the order confirming the award pursuant to section 658A-22, unless the award is vacated, modified, or corrected, as provided in sections 658A-20, 658A-23, and 658A-24, or a trial de novo is demanded under section 514A-127, or the award is successfully appealed under section 514A-127. The record shall be filed with the motion to confirm award, and notice of the motion shall be served upon each other party or their respective attorneys in the manner required for service of notice of a motion.
		[§514A-126] Findings of fact and conclusions of law. Findings of fact and conclusions of law, as requested by any party prior to the arbitration hearing, shall be promptly provided to the requesting party upon payment of the reasonable cost thereof.
		[§514A-127] Trial de novo and appeal. (a) The submission of any dispute to an arbitration under section 514A-121 shall in no way limit or abridge the right of any party to a trial de novo.
		(b) Written demand for a trial de novo by any party desiring a trial de novo shall be made upon the other parties within ten days after service of the arbitration award upon all parties.

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		(c) The award of arbitration shall not be made known to the trier of fact at a trial de novo.
		(d) In any trial de novo demanded under subsection (b), if the party demanding a trial de novo does not prevail at trial, the party demanding the trial de novo shall be charged with all reasonable costs, expenses, and attorneys' fees of the trial. When there is more than one party on one or both sides of an action, or more than one issue in dispute, the court shall allocate its award of costs, expenses and attorneys' fees among the prevailing parties and tax such fees against those nonprevailing parties who demanded a trial de novo in accordance with the principles of equity.
		(e) Any party to an arbitration under section 514A-121 may apply to vacate, modify, or correct the arbitration award for the grounds set out in chapter 658. All reasonable costs, expenses, and attorneys' fees on appeal shall be charged to the nonprevailing party.
		[PART VIII.] CONDOMINIUM MANAGEMENT EDUCATION FUND
		§514A-131 Condominium management education fund. (a) The real estate commission shall establish a condominium management education fund that the commission may use for educational purposes. Educational purposes shall include financing or promoting:
		(1) Education and research in the field of condominium management, condominium registration, and real estate for the benefit of the public and those required to be registered under this chapter;
		(2) The improvement and more efficient administration of condominium associations; and
		(3) Expedient and inexpensive procedures for resolving condominium association disputes.
		(b) The commission may use any and all moneys in the condominium management education fund for purposes consistent with subsection (a).
		§514A-132 Payments to the fund. (a) Each condominium project or association of apartment owners with six or more apartments shall pay to the department of commerce and consumer affairs the condominium management education fund fee on or before June 30 of an odd-numbered year or within thirty days of the association of apartment owners' first meeting or within

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		one year after the recordation of the purchase of the first apartment, as prescribed by rules adopted by the director of commerce and consumer affairs pursuant to chapter 91.
		(b) The department of commerce and consumer affairs shall allocate the fees collected to the condominium management education fund established pursuant to section 514A-131.
		(c) Payments of any fees required under this section shall be due on or before the registration due date and shall be nonrefundable. Failure to pay the required fee by the due date, shall result in a penalty assessment of ten per cent of the amount due and the association of apartment owners shall not have standing to bring any action to collect or to foreclose any lien for common expenses or other assessments in any court of this State until the amount due, including any penalty, is paid. Failure of an association of apartment owners to pay a fee required under this section shall not impair the validity of any claim of the association of apartment owners for common expenses or other assessments, or prevent the association of apartment owners from defending any action in any court of this State.
		§514A-133 Management of fund. (a) The sums received by the commission for deposit in the condominium management education fund shall be held by the commission in trust for carrying out the purpose of the fund.
		(b) The commission and the director of commerce and consumer affairs may use moneys in the condominium management education fund to employ necessary personnel not subject to chapters 76 and 77 for additional staff support, to provide office space, and to purchase equipment, furniture, and supplies required by the commission to carry out its responsibilities under this part.
		(c) The moneys in the condominium management education fund may be invested and reinvested together with the real estate education fund established under section 467-19 in the same manner as are the funds of the employees retirement system of the State. The interest from these investments shall be deposited to the credit of the condominium management education fund.
		(d) The commission shall annually submit to the legislature, prior to the convening of each regular session:

Comparison of UCIOA, UCA, and HRS (includes 2001 amendments)

Uniform Common Interest Ownership Act (1994)	Uniform Condominium Act (1980)	Hawaii HRS Chapter 514A
		(1) A summary of the programs funded during the prior fiscal year and the amount of money in the fund, and
		(2) A copy of the budget for the current fiscal year, including summary information on programs which were funded or are to be funded.
		[\$514A-134] False statement. It shall be unlawful for any association of apartment owners, its officers, its board of directors, or its agents to file with the commission any notice, statement, or other document required under this chapter that is false or untrue or contains any material misstatement of fact. Any violation of this section shall constitute a misdemeanor.
		[\$514A-135 Rules.] The real estate commission shall adopt rules pursuant to chapter 91 to effectuate fully the purpose of this [part].