

[Go to Previous Versions of this Section](#) ▾

2024 Hawaii Revised Statutes

Title 28. Property

514B. Condominiums

514B-10 Remedies to be liberally administered.

Universal Citation:

HI Rev Stat § 514B-10 (2024) ○

[◀ Previous](#)[Next ▶](#)

§514B-10 Remedies to be liberally administered. (a) The remedies provided by this chapter 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. Punitive damages may not be awarded, however, except as specifically provided in this chapter or by other rule of law.

(b) Any deed, declaration, bylaw, or condominium map shall be liberally construed to facilitate the operation of the condominium property regime.

(c) Any right or obligation declared by this chapter is enforceable by judicial proceeding. [L 2004, c 164, pt of §2; am L 2005, c 93, §7; am L 2006, c 273, §4]

[◀ Previous](#)[Next ▶](#)

Disclaimer: These codes may not be the most recent version. Hawaii may have more current or accurate information. We make no warranties or guarantees about the accuracy, completeness, or adequacy of the information contained on this site or the information linked to on the state site. Please check official sources.

This site is protected by reCAPTCHA and the Google Privacy Policy and Terms of Service apply.

JUSTIA

[Go to Previous Versions of this Section](#) ▾

2024 Hawaii Revised Statutes

Title 28. Property

514B. Condominiums

514B-65 Investigative powers.

Universal Citation:

HI Rev Stat § 514B-65 (2024) [?](#)

[◀ Previous](#)[Next ▶](#)

§514B-65 Investigative powers. If the commission has reason to believe that any person is violating or has violated this part, part V, section 514B-103, 514B-132, 514B-134, 514B-149, sections 514B-152 to 514B-154, section 514B-154.5, 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 all relevant parties. For 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 in accordance with chapter 467 and the rules of the commission, and shall make the records accessible to the commission upon reasonable notice and demand. [L 2005, c 93, pt of §3; am L 2014, c 188, §4]

[◀ Previous](#)[Next ▶](#)

Disclaimer: These codes may not be the most recent version. Hawaii may have more current or accurate information. We make no warranties or guarantees about the accuracy, completeness, or adequacy of the information contained on this site or the information linked to on the state site. Please check official sources.

This site is protected by reCAPTCHA and the Google Privacy Policy and Terms of Service apply.

[Go to Previous Versions of this Section](#) ▾

2024 Hawaii Revised Statutes

Title 28. Property

514B. Condominiums

514B-66 Cease and desist orders.

Universal Citation:

HI Rev Stat § 514B-66 (2024) ○

[◀ Previous](#)[Next ▶](#)

§514B-66 Cease and desist orders. In addition to its authority under sections 514B-67 and 514B-68, whenever the commission has reason to believe that any person is violating or has violated this part, part V, section 514B-103, 514B-132, 514B-134, 514B-149, sections 514B-152 to 514B-154, section 514B-154.5, or the rules of the commission adopted pursuant thereto, it may 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 rules charged in the complaint. If the commission finds 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. [L 2005, c 93, pt of §3; am L 2014, c 188, §5]

[◀ Previous](#)[Next ▶](#)

Disclaimer: These codes may not be the most recent version. Hawaii may have more current or accurate information. We make no warranties or guarantees about the accuracy, completeness, or adequacy of the information contained on this site or the information linked to on the state site. Please check official sources.

Go to Previous Versions of this Section ▾

2024 Hawaii Revised Statutes
Title 28. Property
514B. Condominiums
514B-68 Power to enjoin.

Universal Citation:
HI Rev Stat § 514B-68 (2024) ○

◀ Previous Next ▶

§514B-68 Power to enjoin. Whenever the commission believes from satisfactory evidence that any person has violated this part, part V, section 514B-103, 514B-132, 514B-134, 514B-149, sections 514B-152 to 514B-154, section 514B-154.5, or the rules of the commission adopted pursuant thereto, it may conduct an investigation of the matter and bring an action against the person in any court of competent jurisdiction on behalf of the State to enjoin the person from continuing the violation or doing any acts in furtherance thereof. [L 2005, c 93, pt of §3; am L 2014, c 188, §6]

◀ Previous Next ▶

Disclaimer: These codes may not be the most recent version. Hawaii may have more current or accurate information. We make no warranties or guarantees about the accuracy, completeness, or adequacy of the information contained on this site or the information linked to on the state site. Please check official sources.

This site is protected by reCAPTCHA and the Google Privacy Policy and Terms of Service apply.

Go to Previous Versions of this Section ▾

2024 Hawaii Revised Statutes
Title 28. Property
514B. Condominiums
514B-69 Penalties.

Universal Citation:
HI Rev Stat § 514B-69 (2024) ○

◀ Previous Next ▶

§514B-69 Penalties. (a) Any person who violates or fails to comply with this part, part V, section 514B-103, 514B-132, 514B-134, 514B-149, sections 514B-152 to 514B-154, or section 514B-154.5, shall be 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 to comply with any rule, order, decision, demand, or requirement of the commission under this part, part V, section 514B-103, 514B-132, 514B-134, 514B-149, sections 514B-152 to 514B-154, or section 514B-154.5, shall be punished by a fine not exceeding \$10,000.

(b) In addition to any other actions authorized by law, any person who violates or fails to comply with this part, part V, section 514B-103, 514B-132, 514B-134, 514B-149, sections 514B-152 to 514B-154, section 514B-154.5, 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. [L 2005, c 93, pt of §3; am L 2014, c 188, §7]

◀ Previous Next ▶

Disclaimer: These codes may not be the most recent version. Hawaii may have more current or accurate information. We make no warranties or guarantees about the accuracy, completeness, or adequacy of the information contained on this site or the information linked to on the state site. Please check official sources.

This site is protected by reCAPTCHA and the Google Privacy Policy and Terms of Service apply.

JUSTIA

[Go to Previous Versions of this Section](#) ▼

2024 Hawaii Revised Statutes

Title 28. Property

514B. Condominiums

514B-149 Association fiscal matters; handling and disbursement of funds.

Universal Citation:

HI Rev Stat § 514B-149 (2024) [?](#)

[◀ Previous](#)[Next ▶](#)

§514B-149 Association fiscal matters; handling and disbursement of funds. (a) The funds in the general operating account of the association **shall not be commingled** with funds of other activities such as **lease rent collections**, rental, time share, and assisted living facility 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 leasing of common elements that is conducted on behalf of the association or the collection of ground lease rents from individual unit owners of a project and the payment of such ground lease rents to the ground lessor if:

(1) The collection is allowed by the provisions of the declaration, bylaws, master deed, master lease, or individual unit leases of the project;

(2) A management contract requires the managing agent to collect ground lease rents from the individual unit owners and pay the ground lease rents to the ground lessor;

(3) **The system of lease rent collection has been approved at a meeting of the association by a vote of a majority of the unit owners;** and

(4) The managing agent or association does not pay ground lease rent to the ground lessor in excess of actual ground lease rent collected from individual unit owners.

(c)(1) All funds collected by an association, or by a managing agent for any association, shall be:

(A) Deposited in a financial institution, including a federal or community credit union, located in the State, pursuant to a resolution adopted by the board, and whose deposits are insured by an agency of the United States government;

(B) Held by a corporation authorized to do business under article 8 of chapter 412;

(C) Held by the United States Treasury;

(D) 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, that 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; or

(E) Placed through a federally insured financial institution located in the State for investment in certificates of deposit issued through the Certificate of Deposit Account Registry Service in federally insured financial institutions located in the United States.

(2) All funds collected by an association, or by a managing agent for any association, shall be invested only in:

(A) Deposits, investment certificates, savings accounts, and certificates of deposit;

(B) 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 unit owners at an annual or special meeting of the association or by written consent of a majority of the unit owners;

(C) Mutual funds comprised solely of investments in the obligations of the United States government, the State of Hawaii, or their respective agencies; government money market funds; or shares or units of another mutual fund satisfying the requirements of this subparagraph; 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 unit owners at an annual or special meeting of the association or by written consent of a majority of the unit owners; or

(D) Certificates of deposit issued through the Certificate of Deposit Account Registry Service in an amount at least equal in their market value, but not to exceed their par value, to the amount of the deposit with the depository;

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. 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.

(d) A managing agent or board shall not, by oral instructions over the telephone, transfer association funds 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 shall be guilty of a class C felony. [L 2004, c 164, pt of §2; am L 2005, c 93, § 5, 7; am L 2006, c 38, §25; am L 2008, c 76, §2; am L 2014, c 189, §7; am L 2019, c 27, §2]

[< Previous](#)

[Next >](#)

Disclaimer: These codes may not be the most recent version. Hawaii may have more current or accurate information. We make no warranties or guarantees about the accuracy, completeness, or adequacy of the information contained on this site or the information linked to on the state site. Please check official sources.

This site is protected by reCAPTCHA and the Google Privacy Policy and Terms of Service apply.

§514B-151 Association fiscal matters; lease rent renegotiation. (a)

Notwithstanding any provision in the declaration or bylaws, any lease or sublease of the real estate or of a unit, or of an undivided interest in the real estate to a unit owner, whenever any lease or sublease of the real estate, a unit, or an undivided interest in the real estate to a unit owner provides for the periodic renegotiation of lease rent thereunder, the association shall represent the unit owners in all negotiations and proceedings, including but not limited to appraisal or arbitration, for the determination of lease rent; provided that the association's representation in the renegotiation of lease rent shall be on behalf of at least two lessees. All costs and expenses incurred in such representation shall be a common expense of the association.

(b) Notwithstanding subsection (a), if some, but not all of the unit owners have already purchased the leased fee interest appurtenant to their units as of the earlier of any date specified in the lease or sublease for the commencement of lease rent renegotiation or nine months prior to the commencement of the term for which lease rent is to be renegotiated, all costs and expenses of the renegotiation shall be assessed to the remaining lessees whose lease rent is to be renegotiated in the same proportion that the common interest appurtenant to each lessee's unit bears to the common interest appurtenant to all remaining lessees' units whose lease rent is to be renegotiated. The unpaid amount of this assessment shall constitute a lien upon the lessee's unit, which may be collected in accordance with section 514B-146 in the same manner as an unpaid common expense.

(c) In any project where the association is a lessor or sublessor, the association shall fulfill its obligations under this section by appointing independent counsel to represent the lessees in the negotiations and proceedings related to the rent renegotiation. The lessees' counsel shall act on behalf of the lessees in accordance with the vote or written consent of a majority of the lessees casting ballots or submitting written consents as determined by the ratio that the common interest appurtenant to each lessee's unit bears to the total common interest appurtenant to the units of participating lessees. Nothing in this subsection shall be interpreted to preclude the lessees from making a decision (by the vote or written consent of a majority of the lessees as described above) to retain other counsel or additional professional advisors as may be reasonably necessary or appropriate to complete the negotiations and proceedings. In the event of a deadlock among the lessees or other inability to proceed with the rent renegotiation on behalf of the lessees, the lessees' counsel may apply to the circuit court of the judicial circuit in which the condominium is located for instructions. The association shall not instruct or direct the lessees' counsel or other professional advisors. All costs and expenses incurred under this subsection shall be assessed by the association to the lessees as provided in subsection (a) or (b), as may be applicable.

(d) As used in this section, "lessees" or "remaining lessees" means all unit owners who have not purchased the leased fee interest appurtenant to their units as of the earlier of any date specified in the lease or sublease for the commencement of lease rent negotiation or nine months prior to the commencement of the term for which lease rent is to be renegotiated. The board's allocation of expenses under this section shall be final and binding in the absence of a determination that the board abused its discretion. [L 2004, c 164, pt of §2; am L 2005, c 93, §7; am L 2006, c 273, §28]

[Go to Previous Versions of this Section](#) ▾

2024 Hawaii Revised Statutes

Title 28. Property

514B. Condominiums

514B-152 Association records; generally.

Universal Citation:

HI Rev Stat § 514B-152 (2024) ○

[◀ Previous](#)[Next ▶](#)

§514B-152 Association records; generally. The association shall keep financial and other records sufficiently detailed to enable the association to comply with requests for information and disclosures related to resale of units. Except as otherwise provided by law, all financial and other records shall be made available pursuant to section 514B-154.5 for examination by any unit owner and the owner's authorized agents.

Association records shall be stored on the island on which the association's project is located; provided that if original records, including but not limited to invoices, are required to be sent off-island, copies of the records shall be maintained on the island on which the association's project is located. [L 2004, c 164, pt of §2; am L 2005, c 93, §7; am L 2014, c 188, §8]

[◀ Previous](#)[Next ▶](#)

Disclaimer: These codes may not be the most recent version. Hawaii may have more current or accurate information. We make no warranties or guarantees about the accuracy, completeness, or adequacy of the information contained on this site or the information linked to on the state site. Please check official sources.

This site is protected by reCAPTCHA and the Google Privacy Policy and Terms of Service apply.

[Go to Previous Versions of this Section](#) ▾

2024 Hawaii Revised Statutes

Title 28. Property

514B. Condominiums

514B-153 Association records; records to be maintained.

Universal Citation:

HI Rev Stat § 514B-153 (2024) ○

[◀ Previous](#)[Next ▶](#)

§514B-153 Association records; records to be maintained. (a) An accurate copy of the declaration, bylaws, house rules, if any, 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.

(b) The managing agent or board 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 shall also keep monthly statements indicating the total current delinquent dollar amount of any unpaid assessments for common expenses.

(c) Subject to section 514B-152, 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.

(d) The developer or affiliate of the developer, board, and managing agent 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.

(e) The managing agent, resident manager, or board shall keep an accurate and current list of members of the association 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, 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 managing agent or resident manager or the board a duly executed and acknowledged affidavit stating that the list:

(1) Will be used by the 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 the owner or furnished to anyone else for any other purpose.

A board may prohibit commercial solicitations.

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

(f) The managing agent or resident manager shall not use or distribute any membership list, including for commercial or political purposes, without the prior written consent of the board.

(g) All membership lists are the property of the association and any membership lists contained in the managing agent's or resident manager's records are subject to subsections (e) and (f), and this subsection. A managing agent, resident manager, or board may not use the information contained in the lists to create any separate list for the purpose of evading this section.

(h) Subsections (f) and (g) shall not apply to any time share plan regulated under chapter 514E. [L 2004, c 164, pt of §2; am L 2005, c 93, §7; am L 2007, c 243, §2; am L 2011, c 98, §1]

[< Previous](#)

[Next >](#)

Disclaimer: These codes may not be the most recent version. Hawaii may have more current or accurate information. We make no warranties or guarantees about the accuracy, completeness, or adequacy of the information contained on this site or the information linked to on the state site. Please check official sources.

This site is protected by reCAPTCHA and the Google Privacy Policy and Terms of Service apply.

[Go to Previous Versions of this Section](#) ▾

2024 Hawaii Revised Statutes

Title 28. Property

514B. Condominiums

514B-154 Association records; availability; disposal; prohibitions.

Universal Citation:

HI Rev Stat § 514B-154 (2024) ○

[◀ Previous](#)[Next ▶](#)

§514B-154 Association records; availability; disposal; prohibitions. (a) The association's most current financial statement shall be provided to any interested unit owner at no cost or on twenty-four-hour loan, at a convenient location designated by the board. The meeting minutes of the board of directors, once approved, for the current and prior year shall either:

(1) Be available for examination by apartment owners at no cost or on twenty-four-hour loan at a convenient location at the project, to be determined by the board of directors; or

(2) Be transmitted to any apartment owner making a request for the minutes, by the board of directors, the managing agent, or the association's representative, within fifteen days of receipt of the request; provided that the minutes shall be transmitted by mail, electronic mail transmission, or facsimile, by the means indicated by the owner, if the owner indicated a preference at the time of the request; and provided further that the owner shall pay a reasonable fee for administrative costs associated with handling the request.

Costs incurred by apartment owners pursuant to this subsection shall be subject to section 514B-105(d).

(b) Financial statements, general ledgers, the accounts receivable ledger, accounts payable ledgers, check ledgers, insurance policies, contracts, and invoices of the association for the duration those records are kept by the association and delinquencies of ninety days or more shall be available for examination by unit owners at convenient hours at a place designated by the board; provided that:

(1) 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, its

members, or both; and

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

Copies of these items shall be provided to any owner upon the owner's request; provided that the owner pays a reasonable fee for duplication, postage, stationery, and other administrative costs associated with handling the request.

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

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

(2) 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

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

The documents may be destroyed ninety days after the association meeting; provided that in the event of a contested election, the documents shall be retained until the contested election is resolved. 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 pays a reasonable fee for duplicating, postage, stationery, and other administrative costs associated with handling the request.

(d) The managing agent shall provide copies of association records maintained pursuant to this section and sections 514B-152 and 514B-153 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. If 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, to whom this function is delegated.

(e) Prior to the organization of the association, any unit owner shall be entitled to inspect as well as receive a copy of the management contract from the entity that manages the operation of the property.

(f) 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.

(g) An association may comply with this part by making information available to unit owners, at the option of each unit owner and at no cost to the unit owner for downloading the information, through an internet site.

(h) A managing agent retained by one or more associations may dispose of the records of any association which are more than five years old, except for tax records, which shall be kept for seven years, without liability if the managing agent first provides the board of the association affected with written notice of the managing agent's intent to dispose of the records if not retrieved by the board within sixty days, which notice shall include an itemized list of the records proposed to be disposed.

(i) 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.

(j) Any fee charged to a member to obtain copies of association records under this section shall be reasonable; provided that a reasonable fee shall include administrative and duplicating costs and shall not exceed \$1 per page, or portion thereof, except the fee for pages exceeding eight and one-half inches by fourteen inches may exceed \$1 per page. [L 2004, c 164, pt of §2; am L 2005, c 89, §2, c 90, §2 and c 93, §7; am L 2006, c 273, §29; am L 2007, c 241, §2; am L 2019, c 7, §1]

[◀ Previous](#)

[Next ▶](#)

Disclaimer: These codes may not be the most recent version. Hawaii may have more current or accurate information. We make no warranties or guarantees about the accuracy, completeness, or adequacy of the information contained on this site or the information linked to on the state site. Please check official sources.

This site is protected by reCAPTCHA and the Google Privacy Policy and Terms of Service apply.

2024 Hawaii Revised Statutes

Title 28. Property

514B. Condominiums

514B-154.5 Association documents to be provided.

§514B-154.5 Association documents to be provided. (a) Notwithstanding any other provision in the declaration, bylaws, or house rules, if any, the following documents, records, and information, whether maintained, kept, or required to be provided pursuant to this section or section 514B-152, 514B-153, or 514B-154, shall be made available to any unit owner and the owner's authorized agents by the managing agent, resident manager, board through a board member, or the association's representative:

- (1) All financial and other records sufficiently detailed in order to comply with requests for information and disclosures related to the resale of units;
- (2) An accurate copy of the declaration, bylaws, house rules, if any, master lease, if any, a sample original conveyance document, and all public reports and any amendments thereto;
- (3) 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 and monthly statements indicating the total current delinquent dollar amount of any unpaid assessments for common expenses;
- (4) All records and the vouchers authorizing the payments and statements kept and maintained at the address of the project, or elsewhere within the State as determined by the board, subject to section 514B-152;
- (5) All signed and executed agreements for managing the operation of the property, expressing the agreement of all parties, including but not limited to financial and accounting obligations, services provided, and any compensation arrangements, including any subsequent amendments;
- (6) An accurate and current list of members of the condominium association and the members' current addresses and the names and addresses of the vendees under an agreement of sale, if any. A copy of the list shall be available, at cost, to any unit owner or owner's authorized agent who furnishes to the managing agent, resident manager, or the board a duly executed and acknowledged affidavit stating that the list:
 - (A) Shall be used by the unit owner or owner's authorized agent personally and only for the purpose of soliciting votes or proxies or for providing information to other unit owners with respect to association matters; and
 - (B) Shall not be used by the unit owner or owner's authorized agent or furnished to anyone else for any other purpose;

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

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

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

(A) Available for examination by unit owners or owners' authorized agents at no cost or on twenty-four-hour loan at a convenient location at the project, to be determined by the board; or

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

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

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

(10) Financial statements, general ledgers, the accounts receivable ledger, accounts payable ledgers, check ledgers, insurance policies, contracts, and invoices of the association for the duration those records are kept by the association, and any documents regarding delinquencies of ninety days or more shall be available for examination by unit owners or owners' authorized agents at convenient hours at a place designated by the board; provided that:

(A) The board may require unit owners or owners' authorized agents 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, its members, or both; and

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

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

(12) Copies of an association's documents, records, and information, whether maintained, kept, or required to be provided pursuant to this section or section 514B-152, 514B-153, or 514B-154;

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

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

(15) A copy of any contract, written job description, and compensation between the association and any person or entity retained by the association to manage the operation of the property on-site, including but

not limited to the general manager, operations manager, resident manager, or site manager; provided that personal information may be redacted from the contract copy, including but not limited to the manager's date of birth, age, signature, social security number, residence address, telephone number, non-business electronic mail address, driver's license number, Hawaii identification card number, bank account number, credit or debit card number, access code or password that would permit access to the manager's financial accounts, or any other information that may be withheld under state or federal law.

(b) Subject to section 514B-105(d), copies of the items in subsection (a) shall be provided to any unit owner or owner's authorized agent upon the owner's or owner's authorized agent's request; provided that the owner or owner's authorized agent pays a reasonable fee for duplication, postage, stationery, and other administrative costs associated with handling the request.

(c) Notwithstanding any provision in the declaration, bylaws, or house rules providing for another period of time, all documents, records, and information listed under subsection (a), whether maintained, kept, or required to be provided pursuant to this section or section 514B-152, 514B-153, or 514B-154, shall be provided no later than thirty days after receipt of a unit owner's or owner's authorized agent's written request, unless a lesser time is provided pursuant to this section or section 514B-152, 514B-153, or 514B-154, and except as provided in subsection (a)(14).

(d) Any documents, records, and information, whether maintained, kept, or required to be provided pursuant to this section or section 514B-152, 514B-153, or 514B-154, may be made available electronically to the unit owner or owner's authorized agent if the owner or owner's authorized agent requests such in writing.

(e) An association may comply with this section or section 514B-152, 514B-153, or 514B-154 by making the required documents, records, and information available to unit owners or owners' authorized agents for download through an internet site, at the option of each unit owner or owner's authorized agent and at no cost to the unit owner or owner's authorized agent.

(f) Any fee charged to a unit owner or owner's authorized agent to obtain copies of the association's documents, records, and information, whether maintained, kept, or required to be provided pursuant to this section or section 514B-152, 514B-153, or 514B-154, shall be reasonable; provided that a reasonable fee shall include administrative and duplicating costs and shall not exceed \$1 per page, or portion thereof, except that the fee for pages exceeding eight and one-half inches by fourteen inches may exceed \$1 per page.

(g) This section shall apply to all condominiums organized under this chapter or any predecessor thereto.

(h) Nothing in this section shall be construed to create any new requirements for the release of documents, records, or information. [L 2014, c 188, §2; am L 2017, c 71, §1 and c 181, §30]

[< Previous](#)

[Next >](#)

Disclaimer: These codes may not be the most recent version. Hawaii may have more current or accurate information. We make no warranties or guarantees about the accuracy, completeness, or adequacy of the information contained on this site or the information linked to on the state site. Please check official sources.

[Go to Previous Versions of this Section](#) ▾

2024 Hawaii Revised Statutes

Title 28. Property

514B. Condominiums

514B-161 Mediation.

Universal Citation:

HI Rev Stat § 514B-161 (2024) ○

[◀ Previous](#)[Next ▶](#)

§514B-161 Mediation. *[Repeal and reenactment on June 30, 2023. L 2018, c 196, §9.]* (a) The mediation of a dispute between a unit owner and the board, unit owner and the managing agent, board members and the board, or directors and managing agents and the board shall be mandatory upon written request to the other party when:

- (1) The dispute involves the interpretation or enforcement of the association's declaration, bylaws, or house rules;
- (2) The dispute falls outside the scope of subsection (b);
- (3) The parties have not already mediated the same or a substantially similar dispute; and
- (4) An action or an arbitration concerning the dispute has not been commenced.

(b) The mediation of a dispute between a unit owner and the board, unit owner and the managing agent, board members and the board, or directors and managing agents and the board shall not be mandatory when the dispute involves:

- (1) Threatened property damage or the health or safety of unit owners or any other person;
- (2) Assessments;
- (3) Personal injury claims; or
- (4) Matters that would affect the availability of any coverage pursuant to an insurance policy obtained by or on behalf of an association.

(c) If evaluative mediation is requested in writing by one of the parties pursuant to subsection (a), the other party cannot choose to do facilitative mediation instead, and any attempt to do so shall be treated as a rejection to mediate.

(d) A unit owner or an association may apply to the circuit court in the judicial circuit where the condominium is located for an order compelling mediation only when:

- (1) Mediation of the dispute is mandatory pursuant to subsection (a);
- (2) A written request for mediation has been delivered to and received by the other party; and
- (3) The parties have not agreed to a mediator and a mediation date within forty-five days after a party receives a written request for mediation.

(e) Any application made to the circuit court pursuant to subsection (d) 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 \$1,500.

(f) Each party to a mediation shall bear the attorneys' fees, costs, and other expenses of preparing for and participating in mediation incurred by the party, unless otherwise specified in:

- (1) A written agreement providing otherwise that is signed by the parties;
- (2) An order of a court in connection with the final disposition of a claim that was submitted to mediation;
- (3) An award of an arbitrator in connection with the final disposition of a claim that was submitted to mediation; or
- (4) An order of the circuit court in connection with compelled mediation in accordance with subsection (e).

(g) Any individual mediation supported with funds from the condominium education trust fund pursuant to section 514B-71:

- (1) Shall include a fee of \$375 to be paid by each party to the mediator;
- (2) Shall receive no more from the fund than is appropriate under the circumstances, and in no event more than \$3,000 total;
- (3) May include issues and parties in addition to those identified in subsection (a); provided that a unit owner or a developer and board are parties to the mediation at all times and the unit owner or developer and the board mutually consent in writing to the addition of the issues and parties; and
- (4) May include an evaluation by the mediator of any claims presented during the mediation.

(h) A court or an arbitrator with jurisdiction may consider a timely request to stay any action or proceeding concerning a dispute that would be subject to mediation pursuant to subsection (a) in the absence of the action or proceeding, and refer the matter to mediation; provided that:

(1) The court or arbitrator determines that the request is made in good faith and a stay would not be prejudicial to any party; and

(2) No stay shall exceed a period of ninety days. [L 2004, c 164, pt of §2; am L 2005, c 93, §7; am L 2007, c 244, §7; am L 2008, c 205, § 2, 5; am L 2009, c 9, §2; am L 2012, c 34, §14; am L 2018, c 196, § 5, 9; am L 2020, c 57, §2]

Note

Repeal and reenactment of section on June 30, 2023, by L 2018, c 196, §9, as shown in the main volume, deleted by L 2020, c 57, §2.

Case Notes

Where circuit court failed to address condominium owner's argument that condominium association should be estopped pursuant to this section from seeking fees and costs for refusing to respond to condominium owner's request to mediate the issues in the case, the circuit court, on remand, shall determine whether subsection (a) applies in this case; if the statute applies, the circuit court should determine whether the condominium association refused to participate in mediation, and if so, the circuit court should consider, on the record, such refusal in determining whether to award attorneys' fees and costs. 134 H. 251, 339 P.3d 1052 (2014).

[< Previous](#)

[Next >](#)

Disclaimer: These codes may not be the most recent version. Hawaii may have more current or accurate information. We make no warranties or guarantees about the accuracy, completeness, or adequacy of the information contained on this site or the information linked to on the state site. Please check official sources.

This site is protected by reCAPTCHA and the Google Privacy Policy and Terms of Service apply.

[Go to Previous Versions of this Section](#) ▾

2024 Hawaii Revised Statutes

Title 28. Property

514B. Condominiums

514B-162 Arbitration.

Universal Citation:

HI Rev Stat § 514B-162 (2024) ○

[◀ Previous](#)[Next ▶](#)

§514B-162 Arbitration. (a) At the request of any party, any dispute concerning or involving one or more unit owners and an association, its board, managing agent, or one or more other unit owners relating to the interpretation, application, or enforcement of this chapter 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 of chapter 658A; provided that the rules of the arbitration service conducting the arbitration shall be used until the commission adopts its rules; provided further that where any arbitration rule conflicts with chapter 658A, chapter 658A shall prevail; and 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 a unit owner, a director, or managing agent, such person

in those capacities, shall be subject to the provisions of subsection (a);

(4) Actions seeking equitable relief involving threatened property damage or the health or safety of unit owners or any other person;

(5) Actions to collect assessments which are liens or subject to foreclosure; provided that a unit owner who pays the full amount of an assessment and fulfills the requirements of section 514B-146 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, a board, or one or more directors, officers, agents, employees, or other persons, if insurance coverage under a policy or policies procured by the association or its board would be unavailable because action by arbitration was pursued; or

(8) Any other cases which are determined, as provided in subsection (c), to be unsuitable for disposition by arbitration.

(c) 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 and involves other matters not covered by or related to this chapter;

(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 this section; and

(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.

(d) In the event of a dispute as to whether a claim shall be excluded from mandatory arbitration under subsection (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.

(e) 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.

(f) 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 subsection (h), or the award is successfully appealed under subsection (h). 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.

(g) 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.

(h) Any party to an arbitration under this section may apply to vacate, modify, or correct the arbitration award for the grounds set out in chapter 658A. All reasonable costs, expenses, and attorneys' fees on appeal shall be charged to the nonprevailing party. [L 2004, c 164, pt of §2; am L 2005, c 93, §7]

[< Previous](#)

[Next >](#)

Disclaimer: These codes may not be the most recent version. Hawaii may have more current or accurate information. We make no warranties or guarantees about the accuracy, completeness, or adequacy of the information contained on this site or the information linked to on the state site. Please check official sources.

This site is protected by reCAPTCHA and the Google Privacy Policy and Terms of Service apply.

[Go to Previous Versions of this Section](#) ▾

2024 Hawaii Revised Statutes

Title 28. Property

514B. Condominiums

514B-162.5 Voluntary binding arbitration.

Universal Citation:

HI Rev Stat § 514B-162.5 (2024) ☐

[◀ Previous](#)
[Next ▶](#)

§514B-162.5 Voluntary binding arbitration. *[Section effective January 2, 2019, and repealed June 30, 2023. L 2018, c 196, §9.]* (a) Any parties permitted to mediate condominium related disputes pursuant to section 514B-161 may agree to enter into voluntary binding arbitration, which may be supported with funds from the condominium education trust fund pursuant to section 514B-71; provided that voluntary binding arbitration under this section may be supported with funds from the condominium education trust fund only after the parties have first attempted evaluative mediation.

(b) Any voluntary binding arbitration entered into pursuant to this section and supported with funds from the condominium education trust fund:

(1) Shall include a fee of \$175 to be paid by each party to the arbitrator;

(2) Shall receive no more from the fund than is appropriate under the circumstances, and in no event more than \$6,000 total; and

(3) May include issues and parties in addition to those identified in subsection (a); provided that a unit owner or a developer and board are parties to the arbitration at all times and the unit owner or developer and the board mutually consent in writing to the addition of the issues and parties. [L 2018, c 196, § 2, 9; am L 2020, c 57, §2]

Note

Repeal of section on June 30, 2023, by L 2018, c 196, §9, as shown in the main volume, deleted by L 2020, c 57, §2.

Disclaimer: These codes may not be the most recent version. Hawaii may have more current or accurate information. We make no warranties or guarantees about the accuracy, completeness, or adequacy of the information contained on this site or the information linked to on the state site. Please check official sources.

This site is protected by reCAPTCHA and the Google Privacy Policy and Terms of Service apply.

[Go to Previous Versions of this Section](#) ▾

2024 Hawaii Revised Statutes

Title 28. Property

514B. Condominiums

514B-163 Trial de novo and appeal

Universal Citation:

HI Rev Stat § 514B-163 (2024) ○

[◀ Previous](#)[Next ▶](#)

§514B-163 Trial de novo and appeal. (a) The submission of any dispute to an arbitration under section 514B-162 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 and the trial de novo shall be filed in circuit court within thirty days of the written demand. Failure to meet these deadlines shall preclude a party from demanding a trial de novo.

(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 this section, 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. [L 2004, c 164, pt of §2; am L 2005, c 93, §7]

[◀ Previous](#)[Next ▶](#)

Disclaimer: These codes may not be the most recent version. Hawaii may have more current or accurate information. We make no warranties or guarantees about the accuracy, completeness, or adequacy of the information contained on this site or the information linked to on the state site. Please check official sources.

This site is protected by reCAPTCHA and the Google Privacy Policy and Terms of Service apply.

[Go to Previous Versions of this Section](#) ▾

2024 Hawaii Revised Statutes

Title 28. Property

514B. Condominiums

514B-191 Retaliation prohibited.

Universal Citation:

HI Rev Stat § 514B-191 (2024) ○

[◀ Previous](#)

Revision Note

Part designation added by revisor pursuant to §23G-15.

§514B-191 Retaliation prohibited. (a) An association, board, managing agent, resident manager, unit owner, or any person acting on behalf of an association or a unit owner shall not retaliate against a unit owner, board member, managing agent, resident manager, or association employee who, through a lawful action done in an effort to address, prevent, or stop a violation of this chapter or governing documents of the association:

- (1) Complains or otherwise reports an alleged violation;
- (2) Causes a complaint or report of an alleged violation to be filed with the association, the commission, or other appropriate entity;
- (3) Participates in or cooperates with an investigation of a complaint or report filed with the association, the commission, or other appropriate entity;
- (4) Otherwise acts in furtherance of a complaint, report, or investigation concerning an alleged violation; or
- (5) Exercises or attempts to exercise any right under this chapter or the governing documents of the association.

(b) A unit owner, board member, managing agent, resident manager, or association employee may bring a civil action in district court alleging a violation of this section. The court may issue an injunction or award damages, court costs, attorneys' fees, or any other relief the court deems appropriate.

(c) As used in this section:

"Governing documents" means an association's declaration, bylaws, or house rules; or any other document that sets forth the rights and responsibilities of the association, its board, its managing agent, or the unit owners.

"Retaliate" means to take any action that is not made in good faith and is unsupported by the association's governing documents or applicable law and that is intended to, or has the effect of, being prejudicial in the exercise or enjoyment of any person's substantial rights under this chapter or the association's governing documents. [L 2017, c 190, §1]

[**◀ Previous**](#)

Disclaimer: These codes may not be the most recent version. Hawaii may have more current or accurate information. We make no warranties or guarantees about the accuracy, completeness, or adequacy of the information contained on this site or the information linked to on the state site. Please check official sources.

This site is protected by reCAPTCHA and the Google Privacy Policy and Terms of Service apply.

[Go to Previous Versions of this Section](#) ▾


2024 Hawaii Revised Statutes

Title 28. Property

514C. Lease to Fee Conversions for Condominiums and Cooperative Housing Corporations

514C-2 Right of first refusal.

Universal Citation:

HI Rev Stat § 514C-2 (2024) 

[◀ Previous](#)[Next ▶](#)

§514C-2 Right of first refusal. When the leased fee interest in land under a condominium project or cooperative project or any part thereof is to be sold to any party other than the association of owners or the cooperative housing corporation, the seller shall first provide the board of directors of the association of owners or the cooperative housing corporation with written notice delivered or mailed by registered or certified mail, return receipt requested, postage prepaid, to any two of the president, vice-president, or managing agent (if any), of its intent to sell that interest, together with a complete and correct copy of the purchaser's written offer, which offer shall contain the full and complete terms thereof. The association of owners or cooperative housing corporation shall have a right of first refusal to purchase that leased fee interest for the same price as is contained in the written purchase offer. [L 1988, c 298, pt of §1; am L 2008, c 28, §33]

[◀ Previous](#)[Next ▶](#)

Disclaimer: These codes may not be the most recent version. Hawaii may have more current or accurate information. We make no warranties or guarantees about the accuracy, completeness, or adequacy of the information contained on this site or the information linked to on the state site. Please check official sources.



This site is protected by reCAPTCHA and the Google Privacy Policy and Terms of Service apply.

**"CHAPTER 519
REAL PROPERTY LEASES**

Section

- 519-1 Lease renegotiations; calculation of rent; definition
- 519-2 Residential leases of real property
- 519-3 Leases of real property by a cooperative
housing corporation
- 519-4 Exemption for sustainable affordable developments

Note

Chapter heading amended by L 1975, c 185, §2(1).

Leases of commercial and industrial property (repealed June 30, 2010). L 2009, c 189.

Cross References

Mandatory arbitration for condominiums and cooperatives, see §516D-12.

Right of first refusal for purchase of leased fee interest in condominiums and cooperatives, see chapter 514C.

Civil relief for state military forces, see chapter 657D.

Case Notes

Chapter did not preempt ordinance relating to residential condominium leasehold conversion. 76 H. 46, 868 P.2d 1193.

" **[§519-1] Lease renegotiations; calculation of rent; definition.** (a) Whenever any agreement or document for the lease of private lands provides for the renegotiation of the rental amount or other recompense during the term of the lease and such renegotiated rental amount or other recompense is based, according to the terms of the lease, in whole or in part upon the fair market value of the land, or the value of the land as determined by its highest and best use, or words of similar import, such value, for the purposes of determining the amount of rental or other recompense, shall be calculated upon the use to which the land is restricted by the lease document.

(b) The term "lease", "lease agreement", or "document" as used in this section, means a conveyance leasing privately-owned land by a fee simple owner as lessor, or by a lessee as sublessor, to any person, for a term exceeding five years, in consideration of a return of rent or other recompense. [L 1969, c 267, §1]

" **§519-2 Residential leases of real property.** (a) All leases as defined by section 516-1, of residential lots, as defined by section 516-1, existing on June 2, 1975, or entered into thereafter, which provide for reopening of the contract for renegotiation of lease rent terms shall in the case of leases after June 2, 1975, provide the following, or in case of leases existing on June 2, 1975, shall be construed in conformity with the following:

- (1) Such renegotiations shall not be scheduled more frequently than once every fifteen years, provided the

first of such reopenings shall not be scheduled prior to the fifteenth year following the initial date of the lease; and

- (2) Upon renegotiation, the lease rent payable shall not exceed the amount derived by multiplying the "owner's basis" by four per cent. For purposes of this section, "owner's basis" means the current fair market value of the lot, excluding onsite improvements, valued as if the fee title were unencumbered; less the lessee's share, if any, of the current replacement cost of providing existing offsite improvements attributable to the land, which replacement cost shall include an overhead and profit not exceeding twenty per cent of the current replacement cost of the existing offsite improvements, or less the original lot development credit to the lessee, whichever is greater. For purposes of this section, "offsite improvements" means all physical improvements such as, but not limited to, roads, sewer lines, sewage treatment plants, and underground utility cables, constructed or placed in a subdivision or development off the land intended for occupancy, which improvements are to be used in common by occupants of all lands adjoining such improvements or by occupants of all lands for whose benefit the improvements have been constructed or placed; and "onsite improvements" means all physical improvements placed on a residential lot intended for occupancy which improvements are for the benefit of occupants of that lot, including but not limited to, dwelling units, garages, service buildings, stairs, walkways, driveways, walls, trees, shrubs, landscaping, and pools.

(b) In the event the parties to a lease are unable to achieve an agreement under any reopening provision, the Hawaii housing finance and development corporation or its designee shall arbitrate, and its findings shall be binding and conclusive on both parties. Arbitration proceedings under this subsection will be subject to the following requirements:

- (1) An advance deposit, which amount shall be determined by the corporation, equal to projected expenses and fees of the corporation or its designee for arbitration proceedings shall be required and shall be paid equally by lessees and lessors. All additional expenses and fees incurred by the corporation or its designee while acting as the arbitrator shall be borne equally by lessees and lessors. These additional

expenses and fees shall be subject to monthly billings or other arrangements which may be specified by contract. If more than one lessee is involved in an arbitration proceeding, all lessees shall share equally in one-half of the arbitration costs. The same division of costs shall apply if more than one lessor is involved in a proceeding.

- (2) Failure on the part of lessees to comply with the provisions set forth in this subsection, including failure to make advance deposits or payments, shall result in forfeiture of any rights or remedies under this chapter for arbitration, and the lessees' sole rights and remedies shall be as provided in the lease document.
- (3) If lessors fail to comply with the provisions of this subsection, including failure to make advance deposits or payments, then arbitration proceedings under this chapter will cease and the lease rent shall be set at the most recent fixed lease rent. Upon compliance with the provisions of this chapter, the arbitration may proceed, with the determination of the new lease rent effective only from the date of compliance by the lessor.
- (4) Except as provided in paragraphs (b) (2) and (b) (3) above, all new lease rents shall be effective as of the date of reopening.

For the purpose of this subsection, "arbitration proceedings" means the actual arbitration conducted by the corporation or its designee pursuant to a contract executed by and among the lessees, lessor, and the arbitrator detailing among other things, the following: description of properties involved, time of performance, compensation, method of payment, settlement and other procedures, and termination.

(c) Any covenant or provision of a lease in violation of this section, shall not be enforceable in any court in this State.

(d) For the purpose of this section renegotiation shall not include negotiation for the determination of lease rental under section 516-66 arising out of an extension under section 516-65. [L 1975, c 185, §2(2); am L 1976, c 242, §5; am L 1979, c 105, §49; am L 1984, c 191, §1; am L 1987, c 337, §16; am L 1988, c 104, §2; am L 1997, c 350, §14; am L 2005, c 196, §26(b); am L 2006, c 180, §16]

Revision Note

Section "516-1" substituted for "516-1(5)" and "516-1(11)".

Attorney General Opinions

Advance deposits cannot be used for processing arbitration applications. Att. Gen. Op. 85-19.

Hawaii Legal Reporter Citations

Declared constitutional. 78-1 HLR 78-59.

" **§519-3 Leases of real property by a cooperative housing corporation.** (a) All leases, including subleases executed by a cooperative housing corporation as lessee, and all leases, including subleases acquired by a cooperative housing corporation by assignment, whether executed prior to or after June 12, 1982, which directly or by incorporation provide for reopening of the contract for renegotiation of lease rent terms, shall provide or be construed in conformity with the following:

- (1) Such renegotiations shall not be scheduled more frequently than once every ten years; provided that the first of such reopenings shall not be scheduled prior to the fifteenth year following the initial date of the lease; and
- (2) Upon renegotiation, the lease rent payable by a cooperative housing corporation as lessee, sublessee, or assignee shall not exceed the amount derived by multiplying the "owner's basis" by the original percentage rate.

(b) In the event the parties to a lease are unable to achieve an agreement under any reopening provision, the Hawaii housing finance and development corporation or its designee shall arbitrate, and its findings shall be binding and conclusive on both parties. Arbitration proceedings under this subsection will be subject to the following requirements:

- (1) An advance deposit, which amount shall be determined by the corporation, equal to projected expenses and fees of the corporation or its designee for arbitration proceedings shall be required and shall be paid equally by lessees and lessors. All additional expenses and fees incurred by the corporation or its designee while acting as the arbitrator shall be borne equally by lessees and lessors. These additional expenses and fees shall be subject to monthly billings or other arrangements which may be specified by contract. If more than one lessee is involved in an arbitration proceeding, all lessees shall share equally in one-half of the arbitration costs. The

same division of costs shall apply if more than one lessor is involved in a proceeding.

- (2) Failure on the part of lessees to comply with the provisions of this subsection, including failure to make advance deposits or payments, shall result in forfeiture of any rights or remedies under this chapter for arbitration, and the lessees' sole rights and remedies shall be as provided in the lease document.
- (3) If lessors fail to comply with the provisions set forth in this subsection, including failure to make advance deposits or payments, then arbitration proceedings under this chapter will cease and lease rent shall be set at the most recent fixed lease rent. Upon compliance with the provisions set forth in this chapter, the arbitration may proceed, with the determination of the new lease rent effective only from the date of compliance by the lessor.
- (4) Except as set forth in paragraphs (b) (2) and (b) (3) above, all new lease rents shall be effective as of the date of reopening.

For the purpose of this subsection, "arbitration proceedings" means the actual arbitration conducted by the corporation or its designee pursuant to a contract executed by and among the lessees, lessor, and the arbitrator detailing among other things, the following: description of properties involved, time of performance, compensation, method of payment, settlement and other procedures, and termination.

(c) Any covenant or provision of a lease in violation of this section shall not be enforceable in any court in this State.

- (d) For purposes of this section:
 - (1) "Cooperative housing corporation" means a corporation:
 - (A) Having one and only one class of stock outstanding;
 - (B) Each of the stockholders of which is entitled solely by reason of the shareholder's ownership of stock in the corporation, to occupy for dwelling purposes the dwelling unit in a building, owned or leased by the corporation, and situated on land leased by the corporation;
 - (C) No stockholder of which is entitled (either conditionally or unconditionally) to receive any distribution not out of earnings and profits of the corporation except in a complete or partial liquidation of the corporation; and

- (D) Eighty per cent or more of the gross income for the taxable year in which the taxes and interest described in 26 United States Code section 216(a) are paid or incurred is derived from tenant stockholders.
- (2) "Offsite improvements" means all physical improvements such as, but not limited to, roads, sewer lines, sewage treatment plants, and underground utility cables, constructed or placed in a subdivision or development off the land intended for occupancy, which improvements are to be used in common by occupants of all lands adjoining such improvements or by occupants of all lands for whose benefit the improvements have been constructed or placed.
- (3) "Onsite improvements" means all physical improvements placed on a residential lot intended for occupancy which improvements are for the benefit of occupants of that lot, including, but not limited to, dwelling units, garages, service buildings, stairs, walkways, driveways, walls, trees, shrubs, landscaping, and pools.
- (4) "Owner's basis" means the value of the lessor's leased fee interest in the property that would apply if such interest were normally traded on an open market. The fair market value of the owner's basis shall be established to provide the lessor with just compensation for the lessor's interests in the lot and shall take into consideration every interest and equity of the lessee in establishing that market value. The value may be determined by any method which is normally used by qualified appraisers in establishing the fair market value of a lessor's leased fee interest in land.
- (5) "Original percentage rate" means the percentage derived by dividing the annual lease rent established for the first fixed rent period under the lease by the fair market value of the land as of the first day of the first fixed rent period. [L 1982, c 220, §1; am L 1983, c 166, §2; am L 1984, c 47, §1 and c 191, §2; am L 1987, c 337, §16; am L 1988, c 104, §2; am L 1997, c 350, §14; am L 2005, c 196, §26(b); am L 2006, c 180, §16]

Attorney General Opinions

Advance deposits cannot be used for processing arbitration applications. Att. Gen. Op. 85-19.

Case Notes

Section does not provide for case where lessee's agent for lease rent renegotiations is a cooperative housing corporation. 74 H. 210, 847 P.2d 652.

" **[\$519-4] Exemption for sustainable affordable developments.** Notwithstanding any other law to the contrary, no lessee under a sustainable affordable lease as defined in section 516-1 and qualified under section 516-202 may exercise the rights granted to a lessee under section 519-2. [L 2005, c 197, §4]