

2020 LEGISLATIVE UPDATE

Bills That Did Not Pass

- HB1635:** Prohibits a planned community association from prohibiting a member from constructing an accessory dwelling unit that is not owned or occupied by that member.
- HB1789:** Authorizes the creation of after-the-fact homeowners associations to collect contributions or association dues for the maintenance of common areas.
- HB1839:** Allows association members to make written demand to planned community associations to make repairs to common property; allows association members to make repairs under certain conditions and deduct costs for repairs from the association assessments under certain conditions; outlines limitations for repairing private roads.
- HB2161/SB3043:** Clarifies that all condos may amend their declarations by a vote of or written consent of owners representing at least 67% of the common interest, unless amended by the unit owners to require a higher percentage; clarifies the definition of "tenant" as it relates to those qualified to serve as a member of the board in the event the unit is owned by corporation, partnership or a limited liability company; limited defamation actions against an association, board of directors, director, officer, attorney or other association representative; clarifies provisions concerning the installation of solar energy devices on common or limited common elements.
- HB2164/SB2419:** Makes violations of condo voting requirements for elections subject to the enforcement powers of the Real Estate Commission.
- HB2165/SB2418:** Requires managing agents of condos to confirm the eligibility of candidates for board elections and the authority of proxy assignments.
- HB2195:** Provides that any unit in a development that consists of not more than 2 units and occupied for 1 year by the developer, its successor or assign as the principal place of residence shall be considered sold for purposes of satisfying the developer's annual report requirement.
- HB2562:** Specifies the manner in which a board member of a 421J or a 514B association may resign; limits a 421J board's ability to fill a vacancy; clarifies the right to vote in 421J matter; requires any proposal to remove a board member of a 412J association by noticed and the proposal to remove included on the meeting notice, upon 14 days request by an association member.
- HB2563:** Exempts 421J associations from certain requirements regarding cumulative voting for and the removal of directors under the Hawaii Nonprofit Corp. Act (i.e. co-ops).

- HB2711:** Authorizes the creation of community associations that are not subject to HRS421J; authorizes the creation of entities to collect contributions of homeowners' dues or be responsible for the maintenance of common areas such as private roads or parks if the common -interest community subdivisions were created without those entities.
- SB2007:** Requires a property manager of a cooperative housing project, a condominium or a planned community association to be certified in property management by a nationally recognized body.
- SB2200:** Requires licensed health care providers to make written findings whether a patient or client has a disability and whether the need for an assistance animal is related to the disability.
- SB2817:** Requires high-rise condos to provide at least one waste cooking oil receptacle in an easily accessible location on property to allow residents to deposit grease and waste cooking oil.

BILLS THAT PASSED

- SB2421:** Repeals the sunset provisions of Act 195, permanently codifying the amendments to Sections 514B-105, 514B-146, 514B-146 and 667-94. This means that the "priority of payments policy" that allowed associations to apply monthly maintenance fee payments first to late charges, fines and legal fees is no longer in effect; clarifies procedures for how payment plans affect ongoing non-judicial foreclosures; clarifies that the pay-first and dispute-later provisions in 514B apply only to common expense assessments and not to late charges, interest, fine, penalties and legal fees; clarifies that owner who disputes an assessment can ask for a written statement of the amounts claimed to be owed and may demand mediation prior to paying contested charges other than common expense payments.
- SB2425:** Repeals the sunset provisions of Act 196, permanently codifying the amendments to Sections 514B-71(a), 514B-71(a), 514B-161. The changes expands the parties who can take advantage of mediation to include board members and managing agents; expands the remedy for mediation and allows voluntary binding arbitration to be subsidized by the condo-education fund.
- Sb2871/HB2315:** Allows the Real Estate Commission to adjust, reduce, suspend. Or cease collection of education fund fees when fund levels are adequate to carry out the statutory mandated for which the fund was created.