

# HRS Chapter 514A Recodification Plan

## I. Purpose of Recodification

Pursuant to Act 213, Session Laws of Hawaii (SLH) 2000, the purpose of recodifying Hawaii Revised Statutes (HRS) Chapter 514A is to “update, clarify, organize, deregulate, and provide for consistency and ease of use of the condominium property regimes law.”

## II. Act 213, SLH 2000 – Basic Requirements

### A. Review laws and uniform acts for guidance in the recodification process.

1. Examine condominium and common interest community laws of other jurisdictions.
2. Examine the Uniform Common Interest Ownership Act, the Uniform Condominium Act, the Uniform Planned Community Act, and other uniform laws that may be helpful in pursuing recodification.  
[Note: Members of state and national organizations will be consulted about their practical experience with the uniform common interest community laws.]
3. Examine other related laws and issues, such as those related to mandatory seller disclosures, zoning, use of agricultural lands for condominiums, and subdivision of land.

### B. Solicit input from organizations and individuals affected by Hawaii’s condominium property regimes (CPR) law.

1. Consult with public and private organizations and individuals whose duties and interests are affected by the CPR law (i.e., stakeholders), including the Department of Commerce and Consumer Affairs, and other state, county, and private agencies and individuals.
2. Conduct a public hearing for the purpose of receiving comments and input on the CPR law and related laws and issues.  
[Note: The Real Estate Commission may conduct a series of public hearings, rather than the single public hearing required by Act 213, to better solicit input from stakeholders – particularly those on the Neighbor Islands.]

## III. Additional Guidelines

- A. Balance the desire to modernize Hawaii’s CPR law with the need to protect the public and to allow the condominium community to govern itself.
- B. Understand the historical perspective regarding the development of Hawaii’s CPR law, and use that perspective to help fashion the new law.
- C. Engage the participation of stakeholders early in the recodification process.

IV. Practical/Operational Considerations

A. Staffing

1. Act 213, SLH 2000, authorized the establishment of one full-time temporary condominium specialist position to conduct the CPR law recodification. The position was not filled until December 19, 2000.

B. Timeframe

1. Act 213, SLH 2000, requires the Real Estate Commission to submit a final report on the CPR law review and draft legislation to the Legislature at least 20 days before the convening of the 2003 regular session.
2. Legislation to be submitted as part of the Administration package should be submitted to the Governor's office by October 1, 2002 (twenty-two months from January 2, 2001).

Goals/Actions to be Taken	Target Dates	Comments
<b>Goal I:</b> Research Laws of Other Jurisdictions, Uniform Acts, and Commentary to gain an Understanding of Relevant Issues and Approaches to CPR Regulation		
A. Examine condominium and common interest community laws of other jurisdictions; compare with HRS Chapter 514A.	1/2/01 – 3/1/01; ongoing	See Attachment #1, "Relevant Laws"
B. Examine the Uniform Common Interest Ownership Act (UCIOA), Uniform Condominium Act (UCA), Uniform Planned Community Act (UCPCA); compare with HRS Chapter 514A.  1. Examine other jurisdictions' practical experience with the uniform common interest community laws.	1/2/01 – 3/1/01  ongoing	Websites: <a href="http://www.law.upenn.edu/bll/ulc/fnact99/1990s/ucioa94.htm">http://www.law.upenn.edu/bll/ulc/fnact99/1990s/ucioa94.htm</a> <a href="http://www.law.upenn.edu/bll/ulc/fnact99/1980s/uca80.htm">http://www.law.upenn.edu/bll/ulc/fnact99/1980s/uca80.htm</a> <a href="http://www.law.upenn.edu/bll/ulc/fnact99/1980s/upca80.htm">http://www.law.upenn.edu/bll/ulc/fnact99/1980s/upca80.htm</a>  <i>Section by section comparison of UCIOA, UCA, and HRS Chpt. 514A completed. (✓ 3/8/01; Word document)</i>  Consult with representatives from state and national organizations having practical experience with the uniform common interest community laws.  <i>Attended Community Associations Institute 50<sup>th</sup> National Conference (5/3-5/5/01) and Community Leadership Forum (10/18-10/20/01).</i>

Goals/Actions to be Taken	Target Dates	Comments
C. Examine other related laws (including case law) and issues, such as those related to mandatory seller disclosures, zoning, use of agricultural lands for condominiums, and subdivision of land.	1/2/01 – 3/1/01; ongoing	See Attachment #1, “Relevant Laws”
D. Research the policy basis for HRS 514A and its amendments.	1/2/01 – 3/1/01; ongoing	See Attachment #1, “Relevant Laws”
E. Examine Attorney General’s opinions relating to various sections of HRS Chapter 514A.	1/2/01 – 3/1/01	<p><i>Hard copy of AG opinions (8/8/77-present) in REC files reviewed. (✓ 2/20-2/21/01)</i></p> <p><i>Eventually, we should scan and post AG opinions as part of our virtual bookshelf. Currently, only formal AG opinions are posted on the AG’s website (1992-2000, <a href="http://www.state.hi.us/ag/optable/table.htm">http://www.state.hi.us/ag/optable/table.htm</a>) and the Hawaii State Bar Association’s website (1987-1992, <a href="http://hsba.org/Hawaii/Admin/Ag/agindex.htm">http://hsba.org/Hawaii/Admin/Ag/agindex.htm</a>). None of these formal opinions specifically relate to HRS Chapter 514A.</i></p>
F. Research treatises, articles, commentary, and other such materials to gain insight into alternative approaches to CPR regulation.	1/2/01 – 3/1/01; ongoing	See Attachment #2, “Resource List”
<b>Goal II: Determine and Prioritize Areas of Focus</b> Answer the question: What do we want to see in the recodified Hawaii CPR law?		
A. Review relevant literature.	12/19/00 – 6/1/01; ongoing	See Attachment #2, “Resource List”
B. Determine initial areas of focus; prioritize.	12/19/00 – 3/1/01	<p>The 1995 Real Estate Commission’s report to the Legislature on “A Plan to Recodify Chapter 514A, Hawaii Revised Statutes, Condominium Property Regime” identified (as a “partial listing”) the following areas for research/statutory amendments:</p> <ol style="list-style-type: none"> <li>1. Registration Issues: Definition of “apartment;” definition of “developer;” contents of Declaration; circumstances requiring registration of a condominium project; exemptions from registration; circumstances requiring the issuance of public reports; disclosures on resales of apartments; agricultural condominiums and the respective county codes; performance bond.</li> </ol>

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		<p>2. Management Issues: Association mailouts and notices of meetings (i.e., in removal of directors, board elections, proxy solicitations); retroactivity of certain statute provisions (i.e., bylaw requirements); bylaw amendments; managing agents competencies real estate brokers license requirement; directors' duties; directors' liability; voting in conflict of interests situations; budgeting and reserves (board's power to assess); election and removal of directors; renting common elements; proxy forms and solicitation; Robert's Rules of Order – Uniform Application; officers' requirements; owner's access to association records not specifically enumerated in the statute; financial controls and handling of association funds.</p>
<p>C. Work with DCCA management and staff, Real Estate Commission members, and other stakeholders to refine areas of focus and priorities.</p> <ul style="list-style-type: none"> <li>• Meet regularly with DCCA Real Estate Branch Supervising Executive Officer and/or Senior Condominium Specialist.</li> <li>• Meet regularly with Real Estate Commission Condominium Review Committee (CRC) Chair.</li> <li>• Meet with deputy attorney generals (past and present) regarding their experience with HRS Chapter 514A.</li> </ul>	<p>12/19/00 – 6/1/01</p> <p>12/19/00 – 6/30/03</p> <p>12/19/00 – 6/30/03</p> <p>12/19/00 – 6/1/01; ongoing</p>	<p>Make initial determinations, then adjust as necessary throughout the recodification process.</p> <p>Daily meetings for first six months. Meet approximately three times a week after that.</p> <p>Bi-weekly meetings with CRC Chair.</p> <p>Possible additional goals: Examine interplay of Hawaii's CPR law with new technologies (e.g., Internet sales of timeshares); improve on-line capabilities in the condominium arena.</p> <p>Spoke informally with past and present deputy attorney generals. Will intensify discussions once first draft is done.</p>
<p><b>Goal III: Get input from organizations and individuals affected by the CPR law (i.e., stakeholders)</b></p>		
<p>A. Compile list of organizations and individuals to be contacted regarding recodification of HRS Chapter 514A.</p>	<p>1/2/01; ongoing updates</p>	<p>The 1995 Real Estate Commission's report to the Legislature on "A Plan to Recodify Chapter 514A, Hawaii Revised Statutes, Condominium Property Regime" identified (as a "partial listing") the following "interested stakeholders who should be consulted on the recodification":</p>

Goals/Actions to be Taken	Target Dates	Comments
		<ol style="list-style-type: none"> <li>1. Regulators directly involved with Chapter 514A (Real Estate Commission members, Real Estate Commission staff involved with condominium governance and project registration, DCCA Director, Professional and Vocational Licensing Division Administrator and staff who may be impacted by the recodification, Regulated Industries Complaints Office).</li> <li>2. Other State and county agencies' regulators directly or indirectly involved with Chapter 514A (State and county departments including Planning and Land Utilization – now combined under Planning and Permitting, State Bureau of Conveyances, Hawaii Housing Authority – now combined under Housing and Development Corporation of Hawaii, other 49 state regulators (where applicable) involved with condominium governance and project registration.</li> <li>3. Legislators (chairs of Senate and House Consumer Protection Committees, Housing Committees, Judiciary Committees, and Finance/Ways and Means Committees).</li> <li>4. Representatives from various groups and organizations involved with condominium project registration and governance matters (Real Estate Commission's Condominium Project Review Consultants, Hawaii State Bar Association Real Property and Financial Services Section, Hawaii Chapter of the Community Association Institute, Hawaii Council of Association of Apartment Owners, Hawaii Independent Condominium and Cooperative Owners Association, Hawaii Real Estate Research and Education Center, Hawaii member of the National Conference of Commissioners on Uniform State Laws, Hawaii member of the Restatement of the Law of Property 3<sup>rd</sup>, Hawaii Association of Realtors® including its island boards, State lending institutions, mortgage companies, escrow companies, insurance companies).</li> </ol> <p>To the stakeholders listed by the Real Estate Commission in its 1995 recodification plan, we should add other representatives of state professional, industry, and trade organizations, such as the Building Industry Association, Land Use Research Foundation, Mortgage Bankers Association, Hawaii Bankers Association, Hawaii Developers Council, Condominium Council of Maui, and more.</p>

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B. Request comments of those organizations and individuals listed above regarding existing condominium law and practices and suggestions for change.	3/31/01	<p>This “request for comments” will be in addition to the input regularly solicited by the Real Estate Commission Condominium Review Committee as part of its monthly public meetings.</p> <p>✓ 4/16/01, request for comments mailed out to condominium law recodification stakeholders.</p> <p>[See also, under Goal IV.E. below, various speaking engagements.]</p> <p>Recodification of HRS Chapter 514A is (and has been for some time) a permanent agenda item for the Condominium Review Committee’s meetings. The Committee continues to accept comments on the recodification from any organizations or individuals wishing to address the Committee at its regular meetings.</p>
C. Conduct public hearings to receive comments and input on the CPR law and related laws and issue.	Between 1/1/02 and 9/1/02	In addition to the single public hearing required by Act 213, SLH 2000, the Real Estate Commission should consider conducting public hearings on each of the Neighbor Islands. This may be done in conjunction with regularly scheduled Commission meetings.
<b>Goal IV: Keep stakeholders informed of progress on the recodification of Hawaii’s CPR law</b>		
A. Use the Real Estate Commission’s website as the primary means of keeping stakeholders informed of progress on recodification of HRS Chapter 514A.	1/2/01 – 6/30/03	Website: <a href="http://www.state.hi.us/hirec/">http://www.state.hi.us/hirec/</a>
B. Develop printed material for those who do not have access to the Internet.	1/2/01 – 6/30/03	Address the “digital divide” issue.
C. Use the <i>Hawaii Condominium Bulletin</i> as another vehicle for keeping stakeholders informed of progress on the recodification of HRS Chapter 514A.	1/2/01 – 6/30/03	<p><i>February 2001 issue at page 5</i></p> <p><i>June 2001 issue at page 5</i></p> <p><i>September 2001 issue at pages 1 and 7</i></p>
D. Develop articles and opinion/editorial pieces for local newspapers when appropriate.	1/2/01 – 6/30/03	<p><i>“Rewriting Hawaii’s Condominium Property Act,” Ka Nu Hou – The Newsletter of the Real Property &amp; Financial Services Section of the Hawaii State Bar Association, March 2001 at pages 1-2</i></p> <p><i>“Industry makes move to redefine 1960s condo law,” Pacific Business News, June 8, 2001 at page 40</i></p>

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<p>E. Use the Real Estate Commission Condominium Review Committee's monthly public meetings, Condominium Speakership Program, Condominium Specialists Office for the Day (on Neighbor Islands) Program, and Interactive Participation with Organizations Program as means to keep stakeholders informed of progress on the recodification of HRS Chapter 514A.</p>	<p>Ongoing programs</p>	<p><i>2/16/01 – Speak with Hawaii State Bar Association Real Property &amp; Financial Services Section Board of Directors [Note: Continue to sit in on monthly HSBA-RPFS Board meetings]</i></p> <p><i>3/28/01 – Speak at Condominium Council of Maui's Annual Meeting</i></p> <p><i>7/2/01 – Speak at Land Use Research Foundation Board Meeting</i></p> <p><i>7/13/01 – Speak at West Oahu Realty, Inc. Meeting</i></p> <p><i>7/19/01 – Speak at Community Associations Institute – Hawaii Chapter Seminar</i></p> <p><i>7/24/01 – Speak at Chun, Kerr, Dodd, Beaman &amp; Wong in-house meeting</i></p> <p><i>9/7/01 – Speak at Lambda Alpha International – Aloha Chapter (an honorary land economics society) Meeting</i></p> <p><i>9/11/01 – Speak at Waianae Realtor/Lender Educational Presentation sponsored by Title Guaranty, Waipahu Branch</i></p> <p><i>9/26/01 – Speak at Mortgage Bankers Association of Hawaii Meeting</i></p> <p><i>9/28/01 – Speak at Herbert K. Horita Realty, Inc. Meeting</i></p> <p><i>11/27/01 – Speak at Mortgage Bankers Association of Hawaii Meeting</i></p> <p><i>1/4/02 – Speak at Maui Board of Realtors Meeting</i></p> <p><i>(Also met with, and will continue to meet with, various interested individuals.)</i></p>
<p><b>Goal V: Draft Recodification Legislation for 2003 Regular Session</b></p>		
<p>A. Begin actual drafting – recodification of HRS Chapter 514A</p>	<p>7/1/01</p>	<p>We are targeting production of a series of HRS Chapter 514A recodification drafts. Each draft will be posted/circulated for comment among stakeholders until a final draft is submitted to the Governor for inclusion in the Administration's 2003 legislative package.</p>
<p>B. Circulate first draft of recodified HRS Chapter 514A.</p>	<p>1/1/02</p>	<p>Note: As initial drafts of individual sections are completed, they should be circulated among the DCCA Real Estate Branch Supervising Executive Officer, Senior Condominium Specialist, and CRC Chair for comment/revision. The draft should then be reviewed by the CRC and Real Estate Commission for approval to circulate/post as an initial "working draft."</p>

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B.1 Convene ad hoc Condominium Law Recodification Review Group	1/15/02	We plan to tap into our community's collective expertise by asking various individuals to carefully and critically review our initial draft recodification. Each person would be charged with coordinating a thorough review of the recodification by particular subject matter (e.g., condominium development and finance, protection of condominium purchasers, condominium management – governance issues, condominium management – fiscal issues, condominium regulation, interplay with state and county land use laws). The ad hoc review group will meet monthly from January through September 2002.
C. Seek Attorney General's Office review of draft HRS Chapter 514A recodification.	8/1/02	This review by the Attorney General's Office would be to flag any problems they may have with the recodification before it is submitted to the Governor for inclusion in the Administration's legislative package.
D. Submit draft legislation to Governor for inclusion in Administration's 2003 legislative package.	10/1/02	<p>The Attorney General's Office, the Department of Budget and Finance, and the Governor's executive staff will review the proposed legislation. They may suggest revisions.</p> <p><i>[Note: The Commission may choose to submit the proposed legislation independently. If so, it should be submitted twenty days before the start of the 2003 legislative session. (The 2003 regular session convenes on 1/15/03, so the recodification final report and proposed legislation should be submitted by 12/26/02.)]</i></p>