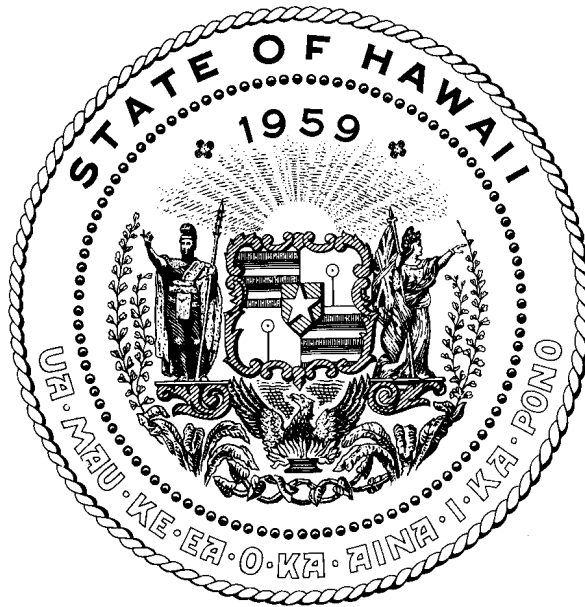


**PROGRESS REPORT TO THE LEGISLATURE**  
**RECODIFICATION OF CHAPTER 514A, HAWAII REVISED STATUTES**  
**(CONDOMINIUM PROPERTY REGIMES)**  
**IN RESPONSE TO ACT 213, SECTION 4 (SLH 2000)**  
**DECEMBER 27, 2001**



**Submitted by:**

**HAWAII REAL ESTATE COMMISSION**  
**PROFESSIONAL AND VOCATIONAL LICENSING DIVISION**  
**DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

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## **I. Introduction**

In 1961, Hawaii became the first state to pass a law enabling the creation of condominiums. [See, Act 180, Session Laws of Hawaii (SLH) 1961; codified as Chapter 170A, Revised Laws of Hawaii (RLH). In 1968, RLH Chapter 170A was redesignated Chapter 514, Hawaii Revised Statutes (HRS) (Act 16, SLH 1968). In 1977, HRS Chapter 514 was re-enacted as a restatement without substantive change and redesignated HRS Chapter 514A (Act 98, SLH 1977).]

The 1961 “Horizontal Property Regime” law consisted of 33 sections covering a little more than 3 pages in the Revised Laws of Hawaii. Since that time, the law has been amended constantly. Entering the 2001 legislative session, Hawaii’s “Condominium Property Regime” law consisted of 116 sections taking up over 96 pages in the Hawaii Revised Statutes. As noted by the 2000 Legislature, “[t]he present law is the result of numerous amendments enacted over the years made in piecemeal fashion and with little regard to the law as a whole.” (See, Act 213, SLH 2000.)

The 2000 Legislature recognized that “[Hawaii’s] condominium property regimes law is unorganized, inconsistent, and obsolete in some areas, and micromanages condominium associations . . . [t]he law is also overly regulatory, hinders development, and ignores technological changes and the present day development process.” (Act 213, SLH 2000) Consequently, the Legislature directed the Real Estate Commission of the State of Hawaii (Commission) to conduct a review of Hawaii’s condominium property regimes law, and to submit draft legislation to the 2003 Legislature that will “update, clarify, organize, deregulate, and provide for consistency and ease of use of the condominium property regimes law.” (Act 213, SLH 2000)

[Note: The recodification workplan and timetable is attached as Appendix A. It is also available on the Commission’s website – <http://www.state.hi.us/hirec/> – along with our base working document (a comparison of the 1994 Uniform Common Interest Ownership Act (UCIOA), 1980 Uniform Condominium Act (UCA), and HRS Chapter 514A), and other recodification materials. Recodification status is reflected in the “Comments” section of the workplan.]

## II. Background

### A. Brief History of the Condominium

Someone once said that “history is argument without end.” That is certainly true of the debate over the origin of condominiums. Some commentators have traced the first existence of condominiums to the ancient Hebrews in the Fifth Century B.C. Others have attributed the concept to the ancient Romans. Still others believe that Roman law was antithetical to condominium development and that the first proto-condominiums appeared in the Germanic states during the late Middle Ages. Suffice to say that the condominium property concept has a long, possibly ancient, history.

While their first existence in fact is widely disputed, condominiums were first afforded statutory recognition by the Code of Napoleon in 1804. The first sophisticated statute to authorize condominiums in the United States or its territories was the Puerto Rico Horizontal Property Act (so named because it contemplated a property regime of horizontally, as opposed to vertically, divided properties) in 1958. The United States Congress recognized condominiums in 1961 when it amended the National Housing Act to provide for federal insurance on condominium mortgages whenever state law recognized condominium ownership. With Hawaii leading the way, every state in the union had a statute authorizing the condominium form of ownership by 1968.

### B. Basic Concepts

Preliminarily, it is useful to understand exactly what a “condominium property regimes law” is – and what it isn’t. A condominium property regimes law is a land *ownership* law, a *consumer protection* law, and a community *governance* law. It is not a land *use* law (i.e., it does not govern what structures may be built on real property; separate state and county land use laws control – or should control – land use matters).

A condominium property regimes law is essentially an *enabling* law, allowing people to:

- Own real estate under the condominium form of property ownership (i.e., a form of real property ownership where each individual member holds title to a specific unit

and an undivided interest as a “tenant-in-common” with other unit owners in common elements such as the exterior of buildings, structural components, grounds, amenities, and internal roads and infrastructure);

- Protect purchasers through adequate disclosures; and
- Manage the ongoing affairs of the condominium community.

The ability to build, sell, buy, borrow/lend money, insure title, insure property, and more are all part of real property ownership and, therefore, part of condominium law.

The 1961 Hawaii State Legislature expressly recognized that the condominium property regime law was “an enabling vehicle” that primarily “(a) sets forth the legal basis for a condominium, and (b) spells out the means of recordation.” [See, Standing Committee Report 622, House Bill No. 1142 (1961).] [Note: In 1968, the Hawaii Supreme Court commented that, although the original condominium property regime law was viewed as an enabling act, condominiums might have been cognizable under common law. *See, State Savings & Loan Association v. Kauaian Development Company, Inc., et al.*, 50 Haw. 540, 547 (1968).]

The Legislature was also concerned about protecting Hawaii’s consumers, noting that:

The citizens of Honolulu have suffered during the past one or two years several unfortunate experiences in cooperative apartment buying. When several millions of dollars were lost through loose handling of funds representing down-payments on individual apartment units, it became clear that controls had to be developed in order (a) to protect the buying public, and (b) through a bolstering of public confidence, to create for the developer a better reception for his product.

[Standing Committee Report 622, House Bill No. 1142 (1961).]

To that end, the 1961 Legislature added a part providing for the regulation of condominium projects by the Hawaii Real Estate License Commission (including the registration of projects by developers and requiring the issuance of public reports before offering any condominium units for sale).

Finally, the 1961 Legislature provided for the internal administration of condominium projects. The 1961 condominium management provisions were minimized, however, because the Legislature believed that: 1) many details would more properly be included in by-laws to be passed by the council of co-owners; and 2) some details may have been contrary to F.H.A. regulations or to policies of lending institutions, making it impossible for prospective unit-purchasers to secure financing. [See, Standing Committee Report 622, House Bill No. 1142 (1961).]

Hawaii's "Horizontal Property Regimes" law of the early 1960s was typical of most "first generation" condominium laws. In the decades that followed, however, "[a]s the condominium form of ownership became widespread, . . . many states realized that these early statutes were inadequate to deal with the growing condominium industry. . . . In particular, many states perceived a need for additional consumer protection, as well as a need for more flexibility in the creation and use of condominiums." (Prefatory Note, Uniform Condominium Act, 1980.)

### **III. Recodification of Chapter 514A, Hawaii Revised Statutes**

#### **A. Basic Approach to the Recodification of Hawaii's Condominium Law**

The 1980 Uniform Condominium Act (UCA), with appropriate changes incorporated from the 1994 Uniform Common Interest Ownership Act (UCIOA), serves as the basis for our recodified condominium law. Where appropriate, the Commission is also incorporating provisions of HRS Chapter 514A, other jurisdictions' laws, and the Restatement of the Law, Third, Property (Servitudes).

[Note: Every provision of HRS Chapter 514A is being analyzed for possible inclusion within the structure of the UCA.]

#### **B. Scope of Recodification**

The Commission considered expanding the scope of the recodification to include other Hawaii common interest ownership communities under a UCIOA-like law. [This would have included HRS Chapters 421H (Limited Equity Housing Cooperatives), 421I

(Cooperative Housing Corporations), and 421J (Planned Community Associations).] We quickly decided, however, that recodification of HRS Chapter 514A (Condominium Property Regimes) alone makes the most practical sense at this time.

Condominium issues, in general, are substantially different from those of single-family detached units in planned communities. The unit owner mindsets, problems, and solutions are quite different for each type of common interest ownership community.

A Florida court once observed that:

[I]nherent in the condominium concept is the principle that to promote the health, happiness, and peace of mind of the majority of the unit owners . . . each unit owner must give up a certain degree of freedom of choice which he might otherwise enjoy in separate, privately owned property.

Hidden Harbour Estates, Inc. v. Norman, 309 So.2d 180, 181-182 (Fla. Dist. Ct. App. 1975).

Single-family detached unit homeowners in planned communities generally have different expectations than condominium owners regarding the degree of freedom they must give up when they buy their respective units. This is one of the factors that make it exceedingly difficult to reconcile the varying interests of unit owners in different forms of common interest ownership communities. [See, e.g., the California Law Revision Commission's (CLRC) efforts to recodify California's common interest development law – the Davis-Stirling Act. You can access the CLRC Study H-850 online at: <ftp://clrc.ca.gov/pub/Study-H-RealProperty/H850-CommonInterestDevel/>.]

Although condominiums can take many physical forms – from high-rise developments to townhouses to single-family detached units – the common perception that a condominium is a tall building consisting of many individual units within a common structure (“horizontal property regime”) makes it easier for average people to understand the interdependence of unit owners in condominiums (as opposed to single-family detached homeowners in planned communities).

In any case, using UCA/UCIOA as a basis for our recodification of HRS Chapter 514A will make it easier to incorporate provisions for cooperatives and planned communities in the future, should the Legislature so desire. But, for now, we will limit our efforts to recodifying Hawaii's condominium property regimes law.

### **C. Public Policy Considerations**

#### **1. Prevalence of condominium ownership in Hawaii**

25% of Hawaii's housing units are held in condominium ownership. For decades, Hawaii has had the highest percentage of condominium housing units in the United States of America. [*See, Community Associations Factbook, by Clifford J. Treese (1999), at page 18.*] This alone makes the recodification project extremely important for the citizens of Hawaii.

#### **2. Importance to more efficient use of Hawaii's limited land resources**

As a very flexible form of real estate ownership, condominiums (especially traditional ones going up rather than out), have helped policymakers to discourage sprawl while still providing home ownership opportunities for many in our urban areas. Consistent with State and local government land use policies, the condominium form of ownership is a valuable tool in helping to develop higher density/lower per-unit cost homeownership opportunities (i.e., creating more affordable housing). Of course, condominiums encompass the entire spectrum of homeownership opportunities – from affordable to luxury units. All of this is important for an island state with limited land area.

#### **3. Importance to Hawaii's housing stock and growth policies (e.g., private provision of "public" facilities and services)**

The rapid growth of common interest ownership communities (condominiums, cooperatives, and planned communities) since 1960 goes hand in hand with government policy for much of the past 30-40 years dictating that new development "pay its own way." Condominiums and other common interest ownership communities (with their regimes of privately enforceable use



restrictions and financial obligations paying for formerly “public facilities” such as roads, trash collection, and recreational areas) have become a critical part of our land use fabric. Indeed, virtually all new development in Hawaii consists of common interest ownership communities.

#### **4. Need for laws (and the courts) to support the fair and efficient functioning of condominium communities**

Given the importance of condominiums to the quality of life of Hawaii’s people, laws must support the fair and efficient functioning of our condominium communities (and other common interest ownership communities).

However, there is a troubling line of recent Hawaii Supreme Court cases dealing with restrictive covenants/equitable servitudes. [*See, Hiner v. Hoffman*, 90 Haw. 188, 977 P.2d 878 (1999); *Fong v. Hashimoto*, 92 Haw. 568, 994 P.2d 500 (2000).]

In *Hiner*, defendants-appellants (“Hoffmans”) constructed a three story house on a lot which was (along with 118 other lots) subject to a restrictive covenant prohibiting any dwelling “which exceeds two stories in height.” The Hoffmans had actual knowledge of the restrictive covenant. After warning the Hoffmans of their violation of the restrictive covenant, neighboring homeowners and the community association sued to have the Hoffmans remove the third story of their house.

At the trial court level, the Hoffmans argued that their house consisted of “two stories and a basement.” The trial court rejected the Hoffmans’ argument and ordered them to remove the third (top) story of their house.

On appeal, the Hoffmans changed their argument and claimed that the term “two stories in height” was ambiguous. In a 3-2 decision, the Hawaii Supreme Court ruled that the term “two stories in height” was ambiguous since it did not provide any dimensions for the term “story” and was therefore unenforceable in light of the restrictive covenant’s undisputed purpose (to protect views by restricting the

height of homes within the neighborhood). The majority on the Court stated that it was following a “long-standing policy favoring the unrestricted use of property” when construing “instruments containing restrictions and prohibitions as to the use of property.” Finally, the majority noted that “such ‘free and unrestricted use of property’ is favored only to the extent of applicable State land use and County zoning regulations.”

In so doing, the majority ignored the massive growth of servitude regimes over the past forty years and the corresponding importance of ensuring the fair and efficient functioning of such communities (whether they be condominiums or, as in this case, planned communities). As noted by the dissent in Hiner, “where one hundred or more homeowners in the Pacific Palisades community have limited their own property rights in reliance that their neighbors will duly reciprocate, . . . it [is] manifestly unjust to sanction the Hoffmans’ willful non-compliance based on the ‘policy favoring the unrestricted use of property.’” The dissent concluded with the observation that “the majority opinion over-emphasizes the rights of the Hoffmans without due regard to the rights of their neighbors.”

Eight and a half months after deciding Hiner, the Hawaii Supreme Court in Fong invalidated as ambiguous a restrictive covenant limiting certain houses to “one-story in height.” (The Court also found that there was no common scheme to support an equitable servitude and that the restrictive covenant was unenforceable since it was improperly created.)

The archaic body of servitudes law from which the Hawaii Supreme Court fashioned its decisions in Hiner and Fong evolved from rules developed to govern relatively small groupings of property owners (compared to today’s condominium and planned development communities) in contexts largely unrelated to modern common interest ownership communities. [Note: The *Restatement of the Law, Third, Property (Servitudes)* defines “servitude” as “a legal device that creates a right or an obligation that runs with land or an interest in land.” This covers

“easements, profits, and covenants that run with the land,” and encompasses both “restrictive covenants” and “equitable servitudes.”]

Contrast the Hawaii Supreme Court’s current approach regarding servitudes in common interest ownership communities with that of the *Restatement of the Law, Third, Property (Servitudes)*. As stated in the *Restatement’s* introductory note to Chapter 6 – Common-Interest-Communities:

The primary assumption underlying Chapter 6 is that common-interest communities provide a socially valuable means of providing housing opportunities in the United States. The law should facilitate the operation of common-interest communities at the same time as it protects their long-term attractiveness by protecting the legitimate expectations of their members.

To guide the courts in resolving disputes over servitudes in condominiums (and, at least by analogy, other common interest ownership communities), we should incorporate the *Restatement’s* position on servitudes in our recodification of Hawaii’s condominium law.

An earlier incarnation of the Hawaii Supreme Court said it well. In *State Savings & Loan Association v. Kauaian Development Company, Inc., et al.*, *supra* at 552 and 555, the Court stated that:

The [Horizontal Property Regimes Act] has profound social and economic overtones, not only in Hawaii but also in every densely populated area of the United States. Our construction of such legislation must be imaginative and progressive rather than restrictive.

. . . .

This court will not follow a common law rule relating to property where to do so would constitute a quixotic effort to conform social and economic realities to the rigid concepts of property law which developed when jousting was a favorite pastime.

## **5. Need to conform to underlying land use laws**

There appears to be quite a bit of confusion over the fact that condominium property is a land *ownership*, as opposed to a land *use*, concept. In response to

our request for comments from the community, various parties have asked that Hawaii's condominium property regime law be used to ensure compliance with land *use* laws (e.g., HRS Chapter 205 and county zoning, subdivision, and building ordinances). The suggestions of two of these parties – the State Department of Business, Economic Development & Tourism (DBEDT) and the County of Hawaii – are described below.

Hawaii's counties (particularly the Neighbor Island counties) have long complained that developers were using HRS Chapter 514A to circumvent underlying county land use laws. However, the counties have always had the power to regulate the *uses* of land pursuant to their police powers (i.e., their powers to protect the public health and safety – the legal basis for zoning laws) under HRS Chapter 46. [*See*, HRS §§46-1.5(13) and 46-4.] HRS §514A-1.6, passed by the Legislature in 2000, simply made this explicit in the condominium property regime law.

[Note: We have incorporated HRS §514A-1.6 in the first draft of our recodified condominium law as §1-106(c). While it is somewhat duplicative of Recodification Draft #1, §1-106(b), HRS §514A-1.6 contains specific references to requirements for condominium conversion projects which should probably be included in our recodification. We have also added language requiring that condominium property regime projects conform to HRS Chapter 205 (State Land Use Law).]

**a. DBEDT's Suggestions**

DBEDT has suggested that: 1) the statutory language of HRS §514A-1.6 be retained; 2) HRS §514A-1.6 be amended to add language requiring conformance of condominium property regimes with HRS Chapter 205; 3) the statutory language of HRS §514A-45 be retained; 4) counties be afforded the opportunity to review condominium property regime site or parcel plans/maps prior to recordation so that any questions as to conformance with county codes can be examined prior to recordation and

the establishment of ownership interests in the units created under a condominium property regime; and 5) we carefully examine how to effectively manage condominium property regimes on agricultural lands, and how State or county laws or codes should be amended to best address the issue. (*See*, September 20, 2001 letter from DBEDT – Office of Planning to Gordon M. Arakaki.)

**b. County of Hawaii’s Suggestions**

The County of Hawaii has suggested that Hawaii’s condominium law be amended to: 1) require county certification of compliance with applicable codes for all condominium projects before final public reports may be issued (not just condominium conversions, as is currently the case under HRS §514A-40); 2) require minimum value for condominium apartments (to prevent “toolshed” apartments); 3) explicitly require that condominium property regimes follow county subdivision codes; and 4) ensure that county planning departments are allowed to comment on notice of intention for all condominium projects, at an early stage. (*See*, May 29, 2001 letter from County of Hawaii Planning Department to Mitchell A. Imanaka and Gordon M. Arakaki.)

**c. Analysis**

DBEDT-OP, the County of Hawaii, and others have raised legitimate concerns over the current interplay between HRS Chapter 514A and state and county land use laws. The question remains how to properly address the problem. In crafting a provision to prevent abuse of the condominium property regimes law as it relates to underlying land use laws, we should take the following factors into consideration:

- Purpose of Condominium Property Regime Law. As previously noted, a condominium property regimes law is a land *ownership* law, a *consumer protection* law, and a community *governance* law. It is not a

land *use* law (i.e., it does not govern what structures may be built on real property; separate state and county land use laws control – or should control – land use matters). (*See*, “Basic Concepts” discussion above.) As a consumer protection law, the primary purpose of Hawaii’s current condominium property regimes law is to make sure that buyers know what they are buying. Theoretically, if a sophisticated buyer wants to take a chance on being able to get government approval to build a structure that is not allowed under State or county land use laws at the time of purchase, that should be the buyer’s choice. The key is to give the buyer a chance to make an informed decision.

- Purpose of the Real Estate Commission. The Real Estate Commission is a consumer protection body established under HRS Chapter 467 (Real Estate Brokers and Salespersons) to regulate real estate licensees. The purpose of HRS Chapter 467 (and the Commission) is to protect the general public in its real estate transactions. Pursuant to HRS §467-3, the Real Estate Commission consists of nine members, at least four of whom must be licensed real estate brokers.
- Need for Appropriate and Consistent Lines of Authority. We need to make sure that the appropriate governmental entities enforce the appropriate laws. County land use agencies – i.e., planning and permitting departments – have the responsibility for ensuring that all proposed development projects comply with county land use laws. County councils have the authority to pass laws giving county land use agencies the tools to ensure that any proposed condominium development complies with county land use laws.
- Timing. Under Hawaii’s current law, condominiums are created upon proper filing with Bureau of Conveyances or Land Court. The Real

Estate Commission's involvement begins when condominium units are offered for sale.

As we continue our efforts to recodify Hawaii's condominium law, we have tried to keep the condominium law (and the Real Estate Commission) true to its purpose while making it clear that HRS Chapter 205 and county land use laws control land use matters.

The overall approach taken by UCA/UCIOA (upon which Recodification Draft #1 is based) appears to solve the problem. The Acts appear to contemplate that all condominium projects go through appropriate land use processes before recordation and sale unless, based on specific criteria, the Commission determines that a declaration may be recorded and units registered. UCA/UCIOA §2-101(b) prohibits the recordation (hence, creation) of a condominium declaration unless:

1) “[A]ll structural components and mechanical systems of all buildings containing or comprising any units thereby created are substantially completed in accordance with the plans, as evidenced by a recorded certificate of completion executed by an independent (registered) engineer, surveyor, or architect;” or

2) “[T]he agency has approved the declaration or amendment in the manner prescribed in Section 5-103(b).”

UCA/UCIOA §5-103 allows a developer to record a condominium declaration for the purpose of creating a condominium in which the units are not substantially completed *if* the agency (i.e., the Real Estate Commission) determines, “on the basis of the material submitted by the declarant and any other information available to the agency, that there is a *reasonable basis to expect that the units to be conveyed will be completed by the declarant following conveyance.*” [Emphasis added; *see*, UCA/UCIOA §5-103(c)] To help the Commission determine whether there is a “reasonable basis to expect that the units to be conveyed will be

completed . . . following conveyance,” UCA/UCIOA §5-103(b) requires the developer to submit the following:

(1) a verified statement showing all costs involved in completing the buildings containing those units;

(2) a verified estimate of the time of completion of construction of the buildings containing those units;

(3) satisfactory evidence of sufficient funds to cover all costs to complete the buildings containing those units;

(4) a copy of the executed construction contract and any other contracts for the completion of the buildings containing those units;

(5) a 100 percent payment and performance bond covering the entire cost of construction of the buildings containing those units;

(6) plans for the units conforming to the requirements of Section 2-109(c);

(7) if purchasers’ funds are to be utilized for the construction of the condominium, an executed copy of the escrow agreement with an escrow company or financial institution authorized to do business within the state which provides that:

(i) disbursements of purchasers’ funds may be made from time to time to pay for construction of the condominium, architectural, engineering finance, and legal fees, and other costs for the completion of the condominium in proportion to the value of the work completed by the contractor as certified by an independent (registered) architect or engineer, or bills submitted and approved by the lender of construction funds or the escrow agent;

(ii) disbursement of the balance of purchasers’ funds remaining after completion of the condominium shall be made only when the escrow agent or lender receives satisfactory evidence that the period for filing mechanic’s and materialman’s liens has expired, or that the right to claim those liens has expired, or that the right to claim those liens has been waived, or that adequate provision has been made for satisfaction of any claimed mechanic’s or materialman’s lien; and

(iii) any other restriction relative to the retention and disbursement of purchasers’ funds required by the agency; and

(8) any other materials or information the agency may require by its rules.



[Note: These requirements are similar to those of HRS §514A-40 (Final Reports).]

Therefore, it does not appear to be necessary or appropriate in the recodified Hawaii condominium law to have blanket requirements that: 1) make the recordation of all condominium property regime declarations (and other applicable documents) contingent upon county certification of compliance with county land use laws, or 2) make the sale of any condominium units (currently allowed upon the Commission's issuance of an effective date for a project's preliminary, contingent final, or final public report) contingent upon county certification of compliance with county land use laws.

Finally, consistent with the principle that physically identical developments should be treated equally, the counties can simply draft land use ordinances governing the development of condominiums. The ordinances should hold condominium developments to the same standards as physically identical developments under different forms of ownership. In other words, the ordinances should require that condominium developments follow the same physical requirements (density, bulk, height, setbacks, water, sewerage, etc.) as physically identical developments under existing land use requirements (e.g., zoning, subdivision, building code, and cluster development laws). If a particular development proposal is inconsistent with state and county land use laws under forms of real estate ownership other than condominium ownership, the condominium property regimes law does not and will not somehow allow the project to be built.

Land *use* laws should control land *use* matters. The condominium property regimes law should continue to encompass and control land *ownership*, *consumer protection*, and condominium *community governance* matters. And just as it would be inappropriate for the Real

Estate Commission to control land *use* matters, it would be inappropriate for land use agencies to control condominium property regime matters.

#### **D. Public Outreach**

The Commission has attempted to make the recodification process as accessible and transparent as possible for everyone affected by Hawaii's condominium property regimes law. We want to make sure that everyone can understand what we are doing and why at every step in the process.

To that end, we have posted our recodification work plan and timetable, list of relevant laws, resource list, base working document (a comparison of the UCIOA, UCA, and HRS Chapter 514A), and other related documents on our website ([www.state.hi.us/hirec](http://www.state.hi.us/hirec)).

Wherever possible, we have provided hyperlinks to our source materials for easy access by any interested parties. We hope that this will help people understand how and why the recodification takes its ultimate form.

Finally, the Commission's Condominium Review Committee Chair and Recodification Attorney have briefed and solicited input from many groups on the recodification, including the Hawaii State Bar Association Real Property & Financial Services Section Board of Directors, Condominium Council of Maui, Land Use Research Foundation of Hawaii, Community Associations Institute – Hawaii Chapter, Lambda Alpha International – Aloha Chapter (an honorary land economics society), Mortgage Bankers Association of Hawaii, realtor organizations, and more. (*See*, Appendix A: HRS Chapter 514A Recodification Plan, at page 7.) We have also met with various interested individuals, and will continue to do so throughout the recodification process.

#### **IV. Conclusion**

The Commission appreciates the commitment of time, interest, and energy that many people and organizations have put into this important effort. With everyone's help and cooperation, we look forward to crafting a condominium property law that we can all live and work with for at least the next 40 years.

## **Appendix A**

# 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>

Goals/Actions to be Taken	Target Dates	Comments
		<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>



Goals/Actions to be Taken	Target Dates	Comments
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>

Goals/Actions to be Taken	Target Dates	Comments
<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>

Goals/Actions to be Taken	Target Dates	Comments
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>

## Relevant Laws

(Partial list – to be updated throughout recodification process)  
 (“Point and click” hyperlinks to websites are available on electronic versions of this document.)

### Hawaii Laws – State

Chapter 514A, Hawaii Revised Statutes – Condominium Property Regimes  
(<http://www.capitol.hawaii.gov/hrscurrent/Vol12/hrs514a/>)

Chapter 415B, Hawaii Revised Statutes – Nonprofit Corporation Act  
(<http://www.capitol.hawaii.gov/hrscurrent/Vol08/hrs415b/>)

Chapter 421I, Hawaii Revised Statutes – Cooperative Housing Corporations  
(<http://www.capitol.hawaii.gov/hrscurrent/Vol08/hrs421i/>)

Chapter 421J, Hawaii Revised Statutes – Planned Community Associations  
(<http://www.capitol.hawaii.gov/hrscurrent/Vol08/hrs421j/>)

Chapter 508D, Hawaii Revised Statutes – Mandatory Seller Disclosures in Real Estate Transactions (<http://www.capitol.hawaii.gov/hrscurrent/Vol12/hrs508d/>)

Act 180 (Session Laws of Hawaii, 1961) – (condominium enabling law, Chapter 170A, Revised Laws of Hawaii)

Act 101 (Session Laws of Hawaii, 1963) – (incorporated into Hawaii’s Horizontal Property Act provisions recommended by the Federal Housing Administration condominium model state statute and recommendations from New York legislation)

Act 16 (Session Laws of Hawaii, 1968) – (condominium law renumbered to Chapter 514)

Act 98 (Session Laws of Hawaii, 1977) – (condominium law restatement without substantive change to Chapter 514; renumbered to Chapter 514A)

Act 116 (Session Laws of Hawaii, 1979) – (amended definition of “apartment owner”)

Act 213 (Session Laws of Hawaii, 1984) – (added section regarding “managing agents”)

Act 65 (Session Laws of Hawaii, 1988) – (condominium law renamed “Condominium Property Act”)

Act 185 (Session Laws of Hawaii, 1995) – (Legislature directs Hawaii Real Estate Commission to establish a plan for recodifying condominium law to make it easier to understand and follow)

Act 303 (Session Laws of Hawaii, 1996) – (prohibiting restrictions on the use of residential property as family child care homes; exempts condominiums, coops, certain townhouses, etc.; directs Attorney General to submit report to 1997 Legislature discussing tort liability, Americans with Disabilities Act, and any constitutional concerns regarding exemptions)

Act 132 (Session Laws of Hawaii, 1997) – (establishing Hawaii’s planned community associations law)

Act 135 (Session Laws of Hawaii, 1997) – (allowing for contingent final public reports)

Act 251 (Session Laws of Hawaii, 2000) – (requiring condominiums to conform to county land use laws)

Act 105 (Session Laws of Hawaii, 2001) – (adopting new Hawaii Nonprofit Corporations Act, effective 7/1/2002)

Act 232 (Session Laws of Hawaii, 2001) – (requiring mediation of certain condominium disputes)

Act 265 (Session Laws of Hawaii, 2001) – (adopting Uniform Arbitration Act)

## Hawaii Laws – Counties

City & County of Honolulu

Revised Ordinances of the City & County of Honolulu 1990 (ROH) (Note that 1990 does not represent the frequency of update; it refers to the last time the ordinances were reorganized and reformatted.) –

(<http://www.co.honolulu.hi.us/refs/roh/index.htm>)

ROH Chapter 21 – Land Use Ordinance

([http://www.co.honolulu.hi.us/refs/roh/21\\_990.htm](http://www.co.honolulu.hi.us/refs/roh/21_990.htm))

ROH Chapter 22 – Subdivision of Land

(<http://www.co.honolulu.hi.us/refs/roh/22.htm>)

ROH Chapter 38 – Residential Condominium, Cooperative Housing and Residential Planned Development Leasehold

(<http://www.co.honolulu.hi.us/refs/roh/38.htm>)

Hawaii County

1983 Hawaii County Code – Revised and Republished 1995 –

(<http://www.co.hawaii.hi.us/countycode/haw-toc.html>) (website current through October 1999)

Kauai County

Kauai County Code 1987, as amended

Maui County

Maui County Code – (<http://ordlink.com/codes/maui/index.htm>) (website current through August 2000)

## Uniform Laws

Uniform Common Interest Ownership Act –

(<http://www.law.upenn.edu/bll/ulc/fnact99/1990s/ucioa94.htm>)

Uniform Condominium Act –

(<http://www.law.upenn.edu/bll/ulc/fnact99/1980s/uca80.htm>)

Uniform Planned Community Act –

(<http://www.law.upenn.edu/bll/ulc/fnact99/1980s/upca80.htm>)

## Hawaii Caselaw

*Aquarian Foundation v. AOA of Waikiki Park Heights*, 2001 Haw. LEXIS 97 (2001)

*Arbitration of the Board of Directors of the AOA of Tropicana Manor v. Jeffers*, 73 Haw. 201, 830 P.2d 503 (1992)

*Arthur v. Sorensen*, 80 Haw. 159, 907 P.2d 745 (1995)

*AOAO of the Magellan v. Sequito*, 6 Haw.App. 284, 719 P.2d 746 (1986)

*Association of Owners of Kukui Plaza v. City and County of Honolulu*, 7 Haw. App. 60, 742 P.2d 974 (1987)

*Board of Directors of the AOAO of the Discovery Bay Condominium v. United Pacific Insurance Co., et al.*, 77 Haw. 358, 884 P.2d 1134 (1994)

*Dilsaver v. AOAO of Kona Coffee Villas*, 92 Haw. 206, 990 P.2d 104 (1999)

*DiSandro v. Makahuena Corp.*, 588 F.Supp. 889 (D.Hawaii 1984)

*Fong v. Hashimoto*, 92 Haw. 637, 994 P.2d 569 (Haw. Ct. App. 1998)

*Fong v. Hashimoto*, 92 Haw. 568, 994 P.2d 500 (2000)

*Hiner v. Hoffman*, 90 Haw. 188, 977 P.2d 878 (1999)

*Kole v. Amfac, Inc.*, 69 Haw. 530, 750 P.2d 929 (1988)

*Nakamura v. Kalapaki Assocs.*, 68 Haw. 488, 718 P.2d 1092 (1986) [Note: Based on HRS §514A-66, which was repealed by Act 58 (SLH, 1984)]

*Pelosi v. Wailea Ranch Estates*, 91 Haw. 522, 985 P.2d 1089 (Haw. Ct. App. 1999)

*Penny v. AOAO of Hale Kaanapali*, 70 Haw. 469, 776 P.2d 393 (1989)

*Reefshare, Ltd., and AOAO of Kona Reef v. Nagata, et al.*, 70 Haw. 93, 762 P.2d 169 (1988)

*Sandstrom v. Larson*, 59 Haw. 491, 583 P.2d 971 (1978)

*Schmidt v. The Board of Directors of the AOAO of the Marco Polo Apartments, et al.*, 73 Haw. 526, 836 P.2d 479 (1992)

*State Savings & Loan Association, A Corporation v. Kauaian Development Company, Inc., Kauaian Land Company, Inc., et al.*, 50 Haw. 540, 445 P.2d. 109 (1968)

*State Savings & Loan Association, A Corporation v. Kauaian Development Company, Inc., Kauaian Land Company, Inc., et al.*, 62 Haw. 188, 613 P.2d 1315 (1980)

## Other Jurisdictions' Laws

### Arizona

Generally, *see* Title 33, Arizona Revised Statutes – Property  
(<http://www.azleg.state.az.us/ars/33/title33.htm>)

Title 33, Chapter 9, Arizona Revised Statutes – Condominiums

Title 33, Chapter 16, Arizona Revised Statutes – Planned Communities

### California

Generally, *search* California Codes – (<http://www.leginfo.ca.gov/calaw.html>)

(Note: The full text of all 29 California codes is available at this site. The primary statutes governing common interest developments in California are the Davis-Stirling Act (Civil Code §§1350-1376), the Nonprofit Corporation Law, and the Subdivided Lands Act. Do keyword searches to find other laws related to condominiums. In order to download the entire code, you would retrieve groupings of code sections based on the table of contents code structure.)

## Florida

Generally, *see* Title XL, The 2000 Florida Statutes – Real and Personal Property  
([http://www.leg.state.fl.us/Statutes/index.cfm?App\\_mode=Display\\_Index&Title\\_Request=XL#TitleXL](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Index&Title_Request=XL#TitleXL))

Chapter 718, The 2000 Florida Statutes – Condominium Act  
([http://www.leg.state.fl.us/Statutes/index.cfm?App\\_mode=Display\\_Statute&URL=Ch0718/titl0718.htm](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=Ch0718/titl0718.htm))

Chapter 719, The 2000 Florida Statutes – Cooperatives  
([http://www.leg.state.fl.us/Statutes/index.cfm?App\\_mode=Display\\_Statute&URL=Ch0719/titl0719.htm&StatuteYear=2000&Title=%2D%3E2000%2D%3EChapter%20719](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=Ch0719/titl0719.htm&StatuteYear=2000&Title=%2D%3E2000%2D%3EChapter%20719))

Chapter 720, The 2000 Florida Statutes – Homeowners' Associations  
([http://www.leg.state.fl.us/Statutes/index.cfm?App\\_mode=Display\\_Statute&URL=Ch0720/titl0720.htm&StatuteYear=2000&Title=%2D%3E2000%2D%3EChapter%20720](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=Ch0720/titl0720.htm&StatuteYear=2000&Title=%2D%3E2000%2D%3EChapter%20720))

## Illinois

Generally, *see* Chapter 765, Illinois Compiled Statutes – Property  
(<http://www.legis.state.il.us/ilcs/ch765/ch765actstoc.htm>)

Chapter 765, ILCS 605, Illinois Compiled Statutes – Condominium Property Act  
(<http://www.legis.state.il.us/ilcs/ch765/ch765act605.htm>)

## Maryland

Generally, *see* *search* Maryland Code – ([http://mlis.state.md.us/cgi-win/web\\_statutes.exe](http://mlis.state.md.us/cgi-win/web_statutes.exe))

(Note: The full text of the Maryland Code is available at this site. Do keyword searches to find laws related to condominiums.)

## Nevada

Generally, *see* Title 10, Nevada Revised Statutes – Property Rights and Transactions

Chapter 116, Nevada Revised Statutes – Common-Interest Ownership (Uniform Act)  
(<http://www.leg.state.nv.us/NRS/NRS-116.html>)

Chapter 117, Nevada Revised Statutes – Condominiums  
(<http://www.leg.state.nv.us/NRS/NRS-117.html>)

## New York

Generally, *see* Chapter 50, New York State Consolidated Laws – Real Property Law  
(<http://assembly.state.ny.us/cgi-bin/claws?law=99&art=1>)

Article 9-B, New York State Consolidated Laws – Condominium Act  
(<http://assembly.state.ny.us/cgi-bin/claws?law=99&art=12>)

## Virginia

Generally, *see* Title 55, Code of Virginia – Property and Conveyances  
(<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+TOC5500000>)

Also, *search* Code of Virginia – (<http://leg1.state.va.us/000/src.htm>) (Results of “condominium” word search: <http://leg1.state.va.us/000/1st/LS102369.HTM>)

(Note: Virginia’s condominium law served as a model law for UCIOA)  
Title 55, Chapter 4.1, Code of Virginia – Horizontal Property Act  
(<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+TOC55000000004000010000000>)

Title 55, Chapter 4.2, Code of Virginia – Condominium Act (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+TOC5500000004000020000000>)

Title 55, Chapter 26, Code of Virginia – Property Owners’ Association Act (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+TOC550000000260000000000000>)

Title 55, Chapter 27, Code of Virginia – Virginia Residential Property Disclosure Act (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+TOC550000000270000000000000>)

Title 55, Chapter 29, Code of Virginia – Common Interest Community Management Information Fund (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+TOC550000000290000000000000>)

## Washington

(Note: You will probably need to copy and paste the links to Title 64, Chapters 64.32, 64.34, and 64.38 into the address line of your web browser. The website address’ use of certain characters caused problems establishing a hyperlink in this document. It may be easier simply to click on the link to the entire Revised Code of Washington at: <http://www.leg.wa.gov/pub/rcw/> and navigate your way to Title 64, Chapters 64.32 et seq.)

Generally, *see* Title 64, Revised Code of Washington – Real Property and Conveyances (<http://www.leg.wa.gov/pub/rcw/rcw%20%2064%20%20TITLE/rcw%20%2064%20%20%20TITLE/rcw%20%2064%20%20%20TITLE.htm>)

Chapter 64.32, Revised Code of Washington – Horizontal Property Regimes Act (<http://search.leg.wa.gov/wslrcw/RCW%20%2064%20%20TITLE/RCW%20%2064%20.%2032%20%20CHAPTER/RCW%20%2064%20.%2032%20%20chapter.htm>)

Chapter 64.34, Revised Code of Washington – Condominium Act (<http://search.leg.wa.gov/wslrcw/RCW%20%2064%20%20TITLE/RCW%20%2064%20.%2034%20%20CHAPTER/RCW%20%2064%20.%2034%20%20chapter.htm>)

Chapter 64.38, Revised Code of Washington – Homeowners’ Associations (<http://search.leg.wa.gov/wslrcw/RCW%20%2064%20%20TITLE/RCW%20%2064%20.%2038%20%20CHAPTER/RCW%20%2064%20.%2038%20%20chapter.htm>)



## Resource List

(Alphabetical, by Author)

(Partial list – to be updated throughout recodification process)

(“Point and click” hyperlinks to websites are available on electronic versions of this document.)

Behrens, Peter C.; *Condominium Management in Hawaii: The Role of the Management Agreement*, Hawaii Real Estate Research and Education Center, University of Hawaii at Manoa (December 1990).

Bruce, Jon W.; “The Role Uniform Real Property Acts Have Played in the Development of American Land Law: Some General Observations,” 27 Wake Forest L. Rev. 331 (1992).

California Law Revision Commission, Study H-850.  
(<ftp://clrc.ca.gov/pub/Study-H-RealProperty/H850-CommonInterestDevel/>)

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