



## BYLAWS OF THE WEST HAWAII ASSOCIATION OF REALTORS®

### Article I - Name

**Section 1. Name.** The name of this organization shall be the West Hawaii Association of REALTORS® hereinafter referred to as the “association”. The Board of Directors of the West Hawaii Association of REALTORS® shall be referred to as the Board of Directors [hereinafter BOD].

**Section 2. REALTORS®.** Inclusion and retention of the Registered Collective Membership Mark REALTORS® in the name of the Association shall be governed by the *Constitution and Bylaws* of the NATIONAL ASSOCIATION OF REALTORS® as from time to time amended.

### Article II - Objectives

The objectives of the association are:

**Section 1.** To unite those engaged in the recognized branches of the real estate profession for the purpose of exerting a beneficial influence upon the profession and related interests.

**Section 2.** To promote and maintain high standards of conduct in the real estate profession as expressed in the Code of Ethics of the NATIONAL ASSOCIATION OF REALTORS®.

**Section 3.** To provide a unified medium for real estate owners and those engaged in the real estate profession whereby their interests may be safeguarded and advanced.

**Section 4.** To further the interests of home and other real property ownership.

**Section 5.** To unite those engaged in the real estate profession in this community with the HAWAII REALTORS® and the NATIONAL ASSOCIATION OF REALTORS® thereby furthering their own objectives throughout the state and nation, and obtaining the benefits and privileges of membership therein.

**Section 6.** To designate, for the benefit of the public, those individuals authorized to use the terms REALTOR®, REALTOR-ASSOCIATE® and REALTORS® as licensed, prescribed, and controlled by the NATIONAL ASSOCIATION OF REALTORS®.

### Article III - Jurisdiction

**Section 1.** The territorial jurisdiction of the Association as a Member of the NATIONAL ASSOCIATION OF REALTORS® is: the western half of the Island of Hawaii as designated by the Real Estate Commission of the State of Hawaii, specifically, "such that the island be divided by a line running from Kukuihaele South to a point at Ka Lae at South Cape on that island."

**Section 2.** Territorial jurisdiction is defined to mean:

- (a) The right and duty to control the use of the terms REALTOR® and REALTORS® subject to the conditions set forth in these Bylaws and those of the NATIONAL ASSOCIATION OF REALTORS®, in return for which the association agrees to protect and safeguard the property rights of the National Association in the terms.

## Article IV - Membership

**Section 1.** There shall be seven classes of Members as follows:

**(a) REALTOR® Members.** REALTOR® Members, whether primary or secondary, shall be:

(1) Individuals who as sole proprietors, partners, or corporate officers, or branch office managers, are engaged actively in the real estate profession, including buying, selling, exchanging, renting or leasing, managing, appraising for others for compensation, counseling, building, developing or subdividing real estate, and who maintain or are associated with an established real estate office in the State of Hawaii. All persons who are partners in a partnership, or all officers in a corporation who are actively engaged in the real estate profession within the state shall qualify for REALTOR® Membership only, and each is required to hold REALTOR® Membership in a Board of REALTORS® within the state whether licensed as brokers or salespersons unless otherwise qualified for Institute Affiliate Membership as described In Section I(c) of Article IV.

In the case of a real estate firm, partnership, or corporation, whose business activity is substantially all commercial, only those principals actively engaged in the real estate business in connection with the same office, or any other offices within the jurisdiction of the association in which one of the firm's principals holds REALTOR membership, shall be required to hold REALTOR membership unless otherwise qualified for Institute Affiliate Membership as described in Section 1 (b) of Article IV. (Amended 1/01)

**NOTE:** REALTOR® members may obtain membership in a "secondary" association in another state.

(2) Individuals who are engaged in the real estate profession other than as sole proprietors, partners, corporate officers, or branch office managers and are associated with a REALTOR® Member and meet the qualifications set out in Article V.

(3) Primary and secondary REALTOR® Members. An individual is a primary member if the Board pays state and National dues based on such member. An individual is a secondary member if state and National dues are remitted through another association. One of the principals in a real estate firm must be a Designated REALTOR® member of the association in order for licensees affiliated with the firm to select the Association as their "primary" association.

(4) Designated REALTOR® Members. Each firm shall designate in writing one REALTOR® Member who shall be responsible for all duties and obligations of Membership including the obligation to mediate pursuant to Article 17 of the Code of Ethics and the payment of association dues as established in Article X of the Bylaws. The "Designated REALTOR®" and must be a sole proprietor, partner, corporate officer, or branch office manager acting on behalf of the firm's principal(s) and must meet all other qualifications for REALTOR® Membership established in Article V, Section 2, of the Bylaws.

(5) Corporate officers (who may be licensed or unlicensed) of a real estate brokerage franchise organization with at least one hundred fifty (150) franchisees located within the United States, its insular possessions and the commonwealth of Puerto Rico, elected to membership pursuant to the provisions in the NAR Constitution and Bylaws. Such individuals shall enjoy the right, privileges and obligations of REALTOR® membership (including compliance with the Code of Ethics) except: obligations related to association mandated education, meeting attendance, or indoctrination classes or other similar requirements; the right to use the term REALTOR® in connection with their franchise organization's name; and the right to hold elective office in the local association, state association and National Association.

**(b) Institute Affiliate Members.** Institute Affiliate Members shall be individuals who hold a professional designation award by an Institute, Society, or Council affiliated with the NATIONAL ASSOCIATION OF REALTORS® that addresses a specialty area other than residential brokerage or individuals who otherwise hold a class of membership in such Institute, Society or Council that confers the right to hold office. Any such individual, if otherwise eligible, may elect to hold REALTOR® membership, subject to payment of applicable dues for such membership.

**(c) Affiliate Members.** Affiliate Members shall be real estate owners and other individuals or firms who, while not engaged in the real estate profession as defined in paragraphs (a), (b) or (c) of this Section, have interests requiring information concerning real estate, and are in sympathy with the objectives of the association.

Affiliate Membership shall also be granted to individuals licensed or certified to engage in real estate practice who, if otherwise eligible, do not elect to hold REALTOR® membership in the association, provided the applicant is engaged exclusively in a specialty of the real estate business other than brokerage of real property.

- (d) Public Service Members.** Public Service Members shall be individuals who are interested in the real estate profession as employees of or affiliated with educational, public utility, governmental or other similar organizations, but are not engaged in the real estate profession on their own account or in association with an established real estate business.
- (e) Honorary Members.** Honorary Members shall be individuals not engaged in the real estate profession who have performed notable service for the real estate profession, for the association, or for the public.
- (f) Student Members.** Student Members shall be individuals who are seeking an undergraduate or graduate degree with a specialization or major in real estate at institutions of higher learning, and who have completed at least two years of college and at least one college level course in real estate, but are not engaged in the real estate profession on their own account or not associated with an established real estate office.

## **Article V – Qualification and Election**

### **Section 1. Application.**

(a) An application for membership shall be made in such manner and form as may be prescribed by the BOD and made available to anyone requesting it. The application form shall contain among the statements to be signed by the applicant (1) that applicant agrees as a condition to membership to thoroughly familiarize himself with the Code of Ethics of the NATIONAL ASSOCIATION OF REALTORS®, the Constitutions, Bylaws, and Rules and Regulations of the Association, State and National Associations, and if elected a Member, will abide by the Constitutions and Bylaws and the Rules and Regulations of the association, State and National Associations, and if a REALTOR®, or Secondary Member, will abide by the Code of Ethics of the NATIONAL ASSOCIATION OF REALTORS® including the obligation to mediate arbitrable controversies arising out of real estate transactions as specified by Article 17 of the Code of Ethics, and as further specified in the Code of Ethics and Arbitration Manual of the NATIONAL ASSOCIATION OF REALTORS®, as from time to time amended, and (2) that applicant consents that the association, through its Membership Committee or otherwise, may invite and receive information and comment about applicant from any member or other persons, and that applicant agrees that any information and comment furnished to the association by any person in response to the invitation shall be conclusively deemed to be privileged and not form the basis of any action for slander, libel, or defamation of character. The applicant shall, with the form of application, have access to a copy of the Bylaws, Constitution, Rules and Regulations, and Code of Ethics referred to above.

### **Section 2. Qualification.**

(a) An applicant for REALTOR® Membership who is a sole proprietor, partner, or corporate officer, or branch office manager of a real estate firm shall supply evidence satisfactory to the Membership Committee that he is actively engaged in the real estate profession, and maintains a current, valid real estate broker's or salesperson's license or is licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property, has a place of business within the state unless a secondary member, has no record of recent or pending bankruptcy\*\*, has no record of official sanctions involving unprofessional conduct\*, agrees to complete a course of instruction covering the Bylaws and Rules and Regulations of the Association, the Bylaws of the State Association, and the Constitution and Bylaws and Code of Ethics of the NATIONAL ASSOCIATION OF REALTORS®, and shall pass such reasonable and nondiscriminatory written examination thereon as may be required by the Committee, and shall agree that if elected to membership, he will abide by such Constitution, Bylaws, Rules and Regulations, and Code of Ethics.\*\*

\* NO RECORD OF OFFICIAL SANCTIONS INVOLVING UNPROFESSIONAL CONDUCT is intended to mean that the Association may only consider judgments within the past three (3) years of violations of (1) civil rights laws; (2) real estate license laws; (3) or other laws prohibiting unprofessional conduct against the applicant rendered by the courts or other lawful authorities.

\*\* NO RECENT OR PENDING BANKRUPTCY is intended to mean that the applicant or any real estate firm in which the applicant is a sole proprietor, general partner, corporate officer, or branch office manager is not

involved in any pending bankruptcy or insolvency proceedings or, has not been adjudged bankrupt in the past three (3) years. If a bankruptcy proceeding as described above exists, membership may not be rejected unless the Association establishes that its interests and those of its members and the public could not be adequately protected by requiring that the bankrupt applicant pay cash in advance for Association and MLS fees for up to one (1) year from the date that membership is approved or from the date that the applicant is discharged from bankruptcy (whichever is later). In the event that an existing member initiates bankruptcy proceedings, the member may be placed on a "cash basis" from the date that bankruptcy is initiated until one (1) year from the date that the member has been discharged from bankruptcy.

(b) Individuals who are actively engaged in the real estate profession other than as sole proprietors, partners, corporate officers, or branch office managers in order to qualify for REALTOR® Membership, shall at the time of application, be associated either as an employee or as an independent contractor with a Designated REALTOR® Member of the Association or a Designated REALTOR® Member of another Association (if a secondary member) and must maintain a current, valid real estate broker's or salesman's license or be licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property, shall complete a course of instruction covering the Bylaws and Rules and Regulations of the Association, the Bylaws of the State Association, and the Constitution and Bylaws and Code of Ethics of the NATIONAL ASSOCIATION OF REALTORS® and shall pass such reasonable and nondiscriminatory written examinations thereon as may be required by the committee and shall agree in writing that if elected to membership he will abide by the Code of Ethics of the NATIONAL ASSOCIATION OF REALTORS®, and by the Constitution, Bylaws, and Rules and Regulations of the local Association, State Association, and the National Association. (10/97)

(c) The Association considers the following in determining an applicant's qualifications:

1. All final findings of Code of Ethics violations and violations of other membership duties in any other association within the past three (3) years
2. Pending ethics complaints (or hearings)
3. Unsatisfied discipline pending
4. Pending arbitration requests (or hearings)
5. Unpaid arbitration awards or unpaid financial obligations to any other association or association MLS
6. Any misuse of the term REALTOR in name of the applicant's firm. (Amended 6/06)

"Provisional" membership may be granted in instances where ethics complaints or arbitration requests (or hearings) are pending in other associations or where the applicant for membership has unsatisfied discipline pending in another association (provided all other qualifications for membership have been satisfied). Associations may reconsider the membership status of such individuals when all pending ethics and arbitration matters (and related discipline) have been resolved or if such matters are not resolved within six (6) months from the date that provisional membership is approved. Provisional members shall be considered REALTORS® and shall be subject to all of the same privileges and obligations of REALTOR® membership.

If a member resigns from another association with an ethics complaint or arbitration request pending, the association may condition membership on the applicant's certification that he/she will submit to the pending ethics or arbitration proceeding (in accordance with the established procedures of the association to which the applicant has made application) and will abide by the decision of the hearing panel.

### **Section 3. Election.**

The procedure for election to membership shall be as follows:

(a) The staff shall determine whether the applicant is applying for the appropriate class of membership. It shall then give written notice to the Board of Directors for approval at the subsequent BOD meeting. If one or more of the BOD Members object to the approval of the application, basing such objection on lack of qualification as set forth in these Bylaws, the staff shall invite any objecting Member to appear before the BOD and substantiate his objections. Objections which are not substantiated shall be to tally disregarded. The staff/BOD may not find objections substantiated without (1) informing the applicant in advance, in writing, of the objections and identifying the objecting Member, and (2) giving the applicant a full opportunity to appear before the Board of Directors and establish his qualifications.

(b) The Board of Directors shall review the qualifications of the applicant and then vote on the applicant's eligibility for membership. If the applicant receives a majority vote of the Board of Directors, he shall be declared elected to membership.

(c) If the Board of Directors determines that the application should be rejected, it shall record its reasons with the Secretary. If the Board of Directors believes that denial of membership to the applicant may become the basis of litigation and a claim of damage by the applicant, it may specify that denial shall become effective upon entry in a suit by the Association for a declaratory judgment by a court of competent jurisdiction of a final judgment declaring that the rejection violates no rights of the applicant.

#### **Section 4. Status Changes.**

(a) A REALTOR®, who changes the conditions under which he holds membership, shall be required to provide written notification to the Association within 30 days. A REALTOR® (non-principal) who becomes a principal in the firm with which he has been licensed or, alternatively, becomes a principal in a new firm which will be comprised of REALTOR® principals may be required to satisfy any previously unsatisfied membership requirements applicable to REALTOR® (principal) Members but shall, during the period of transition from one status of membership to another, be subject to all of the privileges and obligations of a REALTOR® (principal). If the REALTOR® (non-principal) does not satisfy the requirements established in these Bylaws for the category of membership to which they have transferred within 30 days of the date they advised the Association of their change in status, their new membership application will terminate automatically unless otherwise so directed by the Board of Directors.

NOTE: The Board of Directors, at its discretion, may waive any qualification which the applicant has already fulfilled in accordance with the Association's Bylaws.

(b) Any application fee related to a change in membership status shall be reduced by an amount equal to any application fee previously paid by the applicant.

(c) Dues shall be prorated from the first day of the month in which the member is notified of election by the Board of Directors and shall be based on the new membership status for the remainder of the year.

#### **Section 5- New Member Code of Ethics Orientation.**

Applicants for REALTOR® membership and provisional REALTOR® members (where applicable) shall complete an orientation program on the Code of Ethics of not less than two hours and thirty minutes of instructional time. This requirement does not apply to applicants for REALTOR® membership or provisional members who have completed comparable orientation in another association, provided that REALTOR® membership has been continuous, or that any break in membership is for one year or less.

Failure to satisfy this requirement within 60 days of the date of application (or, alternatively, the date that provisional membership was granted), will result in denial of the membership application or termination of provisional membership.

Note: Orientation programs must meet the learning objectives and minimum criteria established from time to time by the NATIONAL ASSOCIATION OF REALTORS®. (Adopted 1/01)

#### **Section 6 - Continuing Member Code of Ethics Training.**

Effective January 1, 2017, through December 31, 2018, and for successive two-year periods hereafter, each REALTOR® member of the association shall be required to complete biennial ethics training of not less than two hours and thirty minutes of instructional time. This requirement will be satisfied upon presentation of documentation that the member has completed a course of instruction conducted by this or another association, the State Association of REALTORS®, the NATIONAL ASSOCIATION OF REALTORS®, or any other recognized educational institution or provider which meets the learning objectives and minimum criteria established by the NATIONAL ASSOCIATION OF REALTORS® from time to time. REALTOR® members who have completed training as a requirement of membership in another association and REALTOR® members who have completed the New Member Code of Ethics Orientation during any two-year cycle shall not be required to complete additional ethics training until a new two-year cycle commences.

Failure to satisfy this requirement shall be considered a violation of a membership duty for which REALTOR® membership shall be suspended until such time as the training is completed. (Adopted

1/01). Failure to meet the requirement will result in suspension of membership for the first two months (January and February) of the year following the end of any two (2) year cycle or until the requirement is met, whichever occurs sooner. On March 1 of that year, the membership of a member who is still suspended as of the date will be automatically terminated.

## **ARTICLE VI- PRIVILEGES AND OBLIGATIONS**

**Section 1.** The privileges and obligations of Members, in addition to those otherwise provided in these Bylaws, shall be specified in this Article.

**Section 2.** Any Member of the Association may be reprimanded, fined, placed on probation, suspended, or expelled by the Board of Directors for a violation of these Bylaws and Association Rules and Regulations not inconsistent with these Bylaws, after a hearing as provided in the Code of Ethics and Arbitration Manual of the Association. Although Members other than REALTORS®, are not subject to the Code of Ethics nor its enforcement by the Association, such Members are encouraged to abide by the principles established in the Code of Ethics of the NATIONAL ASSOCIATION OF REALTORS® (NAR) and conduct their business and professional practices accordingly. Further, Members other than REALTORS® may, upon recommendation of the Membership Committee, or upon recommendation by a hearing panel of the Professional Standards Committee, be subject to discipline as described above, for any conduct, which in the opinion of the Board of Directors, applied on a nondiscriminatory basis, reflects adversely on the terms REALTOR® or REALTORS® and the real estate industry, or for conduct that is inconsistent with or adverse to the objectives and purposes of the local Association, the State Association, and the NAR.

**Section 3.** Any REALTOR® member of the Association may be disciplined by the Board of Directors for violations of the Code of Ethics or other duties of membership, after a hearing as described in the Code of Ethics and Arbitration Manual of the Association, provided that the discipline imposed is consistent with the discipline authorized by the Professional Standards Committee of the NATIONAL ASSOCIATION OF REALTORS® as set forth in the Code of Ethics and Arbitration Manual of the National Association.

**Section 4.** Resignations of Members shall become effective when received in writing by the Board of Directors, provided, however, that if any Member submitting the resignation is indebted to the Association for dues, fees, fines, or other assessments of the Association or any of its services, departments, divisions, or subsidiaries, the Association may condition the right of the resigning Member to reapply for membership upon payment in full of all such monies owed.

**Section 5.** If a Member resigns from the Association or otherwise causes membership to terminate with an ethics complaint pending, the complaint shall be processed until the decision of the association with respect to disposition of the complaint is final by this association (if respondent does not hold membership in any other association) or by any other association in which the respondent continues to hold membership. If an ethics respondent resigns or otherwise causes membership in all Boards to terminate before an ethics complaint is filed alleging unethical conduct occurred while the respondent was a REALTOR®, the complaint, once filed, shall be processed until the decision of the association with respect to disposition of the complaint is final. In any instance where an ethics hearing is held subsequent to an ethic respondent's resignation or membership termination, any discipline ratified by the Board of Directors shall be held in abeyance until the respondent rejoins an association of REALTORS®.

(a) If a member resigns or otherwise causes membership to terminate, the duty to submit to arbitration (or to mediation if required by the association) continues in effect even after membership lapses or is terminated, provided that the dispute arose while the former member was a REALTOR®.

**Section 6.** REALTOR® Members. REALTOR® Members, whether primary or secondary, in good standing whose financial obligations to the Association are paid in full shall be entitled to vote and to hold elective office in the Association; may use the terms REALTOR® and REALTORS®, which use shall be subject to the provisions of Article VIII; and have the primary responsibility to safeguard and promote the standards, interests, and welfare of the Association and the real estate profession.

(a) If a REALTOR® Member is a sole proprietor in a firm, a partner in a partnership or an officer in a corporation, and is suspended or expelled, the firm, partnership or corporation shall not use the terms REALTOR® or REALTORS® in connection with its business during the period of suspension, or until readmission to REALTOR® membership, or

unless connection with the firm, partnership or corporation is severed, or management control is relinquished, whichever may apply. The membership of all other principals, partners, or corporate officers shall suspend or terminate during the period of suspension of the disciplined Member, or until readmission of the disciplined Member or unless connection of the disciplined Member with the firm, partnership, or corporation is severed, or unless the REALTOR® who is suspended or expelled removes himself from any form or degree of management control of the firm for the term of the suspension or until readmission to membership, whichever may apply.

Removal of an individual from any form or degree of management control must be certified to the Association by the Member who is being suspended or expelled and by the individual who is assuming management control, and the signatures of such certification must be notarized. In the event the suspended or expelled Member is so certified to have relinquished all form or degree of management control of the firm, the membership of other partners, corporate officers, or other individuals affiliated with the firm shall not be affected, and the firm, partnership or corporation may continue to use the terms REALTOR® and REALTORS® in connection with its business during the period of suspension or until the former Member is admitted to membership in the Association. The foregoing is not intended to preclude a suspended or expelled Member from functioning as an employee or independent contractor, providing no management control is exercised. Further, the membership of REALTORS® other than principals who are employed or affiliated as independent contractors with the disciplined Member shall suspend or terminate during the period of suspension of the disciplined Member or until readmission of the disciplined Member, or unless connection of the disciplined Member with the firm, partnership, or corporation is severed, or management control is relinquished, or unless the REALTOR® Member (non-principal) elects to sever his connection with the REALTOR® and affiliate with another REALTOR® Member in good standing in the Association, whichever may apply.

If a REALTOR® Member other than a sole proprietor in a firm, partner in a partnership, or an officer of a corporation is suspended or expelled, the use of the terms REALTOR® or REALTORS® by the firm, partnership or corporation shall not be affected.

(b) In any action taken against a REALTOR® Member for suspension or expulsion under Section 6(a) hereof, notice of such action shall be given to all REALTORS® employed by or affiliated as independent contractors with such REALTOR® Member and shall be advised that the provisions in Article VI, Section 6(a) and 7(d) shall apply.

**Section 7.** Institute Affiliate Members. Institute Affiliate Members shall have rights and privileges and be subject to obligations prescribed by the Board of Directors consistent with the Constitution and Bylaws of the NATIONAL ASSOCIATION OF REALTORS®. Institute Affiliate Members may not hold the office of President or President-Elect, use the terms REALTOR®, REALTORS® and may not participate in the Association's Multiple Listing Service (MLS). (9/97)

**Section 8.** Affiliate Members. Affiliate Members shall have rights and privileges and be subject to obligations prescribed by the Board of Directors.

**Section 9.** Public Service Members. Public Service Members shall have rights and privileges and be subject to obligations prescribed by the Board of Directors.

**Section 10.** Honorary Members. Honorary Membership shall confer only the right to attend meetings and participate in discussions.

**Section 11.** Student Members. Student Members shall have rights and privileges and be subject to obligations prescribed by the Board of Directors.

**Section 12.** Certification by REALTOR®. "Designated" REALTOR® Members of the Association shall certify to the Association during the month of January each year on a form provided by the Association, a complete listing of all individuals licensed or certified with the REALTOR®'s office(s) and shall designate a primary Association for each individual who holds membership. Designated REALTORS® shall also identify any non-member licensees in the REALTORS® office(s) and if Designated REALTOR® dues have been paid to another Association based on said non-member licensees, the Designated REALTOR® shall identify the Association to which dues have been remitted. These declarations shall be used for purposes of calculating dues under Article X, Section 2 (a) of the Bylaws. "Designated" REALTOR® Members shall also notify the Association of any additional individual(s) licensed or certified with the firm within ten (10) days of the date of affiliation or severance of any individual(s).

**Section 13.** Legal Liability Training. Within two years of the date of election to membership, and every two years thereafter, each REALTOR® Member of the Association shall be required to demonstrate that they have completed a course of instruction on anti-trust laws, agency laws, civil rights laws or the REALTOR Code of Ethics, its interpretation and meaning and/or the procedures related to its enforcement.

This requirement will be considered satisfied upon presentation of evidence that the member has completed an educational program conducted by another Member Association, State Association of REALTORS®, the NATIONAL ASSOCIATION OF REALTORS® or any of its affiliated institutes, societies or council any or other recognized educational institution which, in the opinion of the Board of Directors, is adequate for the training programs conducted by the Association.

Failure to satisfy this requirement biennially will result in membership being suspended from the date it otherwise would be renewed until such time that the member provides evidence of completion of the aforementioned educational requirement.

Note: Any education requirement must comply with Interpretation No. 37 of Article I, Section 2, Bylaws, National Association of REALTORS®.

**Section 14.** Harassment. Any member of the association may be reprimanded, placed on probation, suspended or expelled for harassment of an association or MLS employee or Association Officer or Director after an investigation in accordance with the procedures of the Association. As used in this Section, harassment means any verbal or physical conduct including threatening or obscene language, unwelcome sexual advances, stalking, actions including strikes, shoves, kicks, or other similar physical contact, or threats to do the same, or any other conduct with the purpose or effect of unreasonably interfering with an individual's work performance by creating a hostile, intimidating or offensive work environment. The decision of the appropriate disciplinary action to be taken shall be made by the investigating team comprised of the President, and President-Elect and/or Vice President and one member of the BOD selected by the highest ranking officer not named in the complaint, upon consultation with counsel for the Association.. Disciplinary action may include any sanction authorized in the association's Code of Ethics and Arbitration Manual. If the complaint names the President, President• Elect or Vice President, they may not participate in the proceedings and shall be replaced by the Immediate Past President or, alternatively, by another member of the BOD selected by the highest ranking officer not named in the complaint.

NOTE: Suggested procedures for processing complaints of harassment are available on line at <http://www.REALTOR.org>, or from the Member Policy Department. (Amended 5/08)

## **ARTICLE VII- PROFESSIONAL STANDARDS AND ARBITRATION**

**Section 1.** The responsibility of the Association and of Association Members relating to the enforcement of the Code of Ethics, the disciplining of Members, and the arbitration of disputes, and the organization and procedures incident thereto shall be governed by the Code of Ethics and Arbitration Manual of the National Association of REALTORS®, as from time to time amended, which by this reference is Incorporated into these Bylaws, provided, however, that any provision deemed inconsistent with state law shall be deleted or amended to comply with state law.

**Section 2.** It shall be the duty and responsibility of every REALTOR® Member of the Association to abide by the Constitution and Bylaws and the Rules and Regulations of the Association, the Constitution and Bylaws of the State Association, the Constitution and Bylaws of the National Association of REALTORS®, and to abide by the Code of Ethics of the National Association of REALTORS®, including the duty to mediate arbitrable controversies arising out of real estate transactions as specified by Article 17 of the Code of Ethics, as further defined and in accordance with the procedures set forth in the Code of Ethics and Arbitration Manual of this Association as from time to time amended.

**Section 3.** Cooperative Enforcement of the Code of Ethics. Each Member Association shall mediate in good faith any dispute with another Member Board or Association arising out of the National Association's Statement of Unacceptable Business Practices which dispute cannot be resolved by the affected Member Boards or Association. Such mediation shall be conducted in accordance with the mediation procedures approved by the Board of Directors of the National



Association. The failure of any Member Association to mediate in good faith shall be treated as a violation of the membership duties of that Member Board under Article I, Section 2 of these Bylaws.

#### **ARTICLE VIII - USE OF THE TERMS REALTOR® AND REALTORS®**

**Section 1.** Use of the terms REALTOR® and REALTORS® by Members shall, at all times, be subject to the provisions of the Constitution and Bylaws of the NATIONAL ASSOCIATION OF REALTORS® and to the Rules and Regulations prescribed by its Board of Directors. The Board shall have the authority to control, jointly and in full cooperation with the NATIONAL ASSOCIATION OF REALTORS®, use of the terms within its jurisdiction. Any misuse of the terms by members is a violation of a membership duty and may subject members to disciplinary action by the Board of Directors after a hearing as provided for in the association's Code of Ethics and Arbitration Manual. (Amended 06/2006)

**Section 2.** REALTOR® Members of the Association shall have the privilege of using the terms REALTOR® and REALTORS® in connection with their place of business within the state so long as they remain REALTOR® Members in good standing. No other class of Members shall have this privilege.

**Section 3.** A REALTOR® Member who is a principal of a real estate firm, partnership, or corporation may use the terms REALTOR® and REALTORS® only if all the principals of such firm, partnership, or corporation who are actively engaged in the real estate profession within the State are REALTOR® Members of the Association or Institute Affiliate members, as described in Section 1(b) of Article IV.

In the case of a REALTOR member who is a principal of a real estate firm, partnership, or corporation whose business activity is substantially all commercial, the right to use the term REALTOR or REALTORS shall be limited to office locations in which a principal, partner, corporate officer, or branch office manager of the firm, partnership, or corporation holds REALTOR membership. If a firm, partnership, or corporation operates additional places of business in which no principal, partner, corporate officer, or branch office manager holds REALTOR membership, the term REALTOR or REALTORS may not be used in any reference to those additional places of business. (Amended 1/01)

**Section 4.** REALTOR® Members of the Association shall have the right to use the term REALTOR® so long as they remain REALTOR® Member in good standing and the REALTOR® Member with whom they are associated as independent contractors or by whom they are employed is also a REALTOR® Member in good standing.

**Section 5.** Institute Affiliate Members shall not use the terms REALTOR®, REALTORS® or REALTOR-ASSOCIATE® nor the imprint of the emblem seal of the NATIONAL ASSOCIATION OF REALTORS®

#### **ARTICLE IX- STATE AND NATIONAL MEMBERSHIPS**

**Section 1.** The Association shall be a Member of the NATIONAL ASSOCIATION OF REALTORS® and the Hawaii REALTORS®. Because of the Association's Membership, each REALTOR® Member of the Member Association shall be entitled to membership in the NATIONAL ASSOCIATION OF REALTORS® and the Hawaii REALTORS® without further payment of dues. The Association shall continue as a Member of the State and National Associations, unless by a majority vote of all its REALTOR® Members, decision is made to withdraw, in which case the State and National Associations shall be notified at least one month in advance of the date designated for the termination of such membership.

**Section 2.** The Association recognizes the exclusive property rights of the NATIONAL ASSOCIATION OF REALTORS® (NAR) in the terms REALTOR® and REALTORS®. The Association shall discontinue use of the terms in any form in its name upon ceasing to be a Member of the NAR, or upon a determination by the Board of Directors of the NAR that it has violated the conditions imposed upon the terms.

**Section 3.** The Association adopts the Code of Ethics of the NAR and agrees to enforce the Code among its REALTOR® Members. The Association and all its Members agree to abide by the Constitution, Bylaws, Rules and Regulations, and policies of the NAR and the Hawaii REALTORS®.

#### **ARTICLE X- DUES AND ASSESSMENTS**

**Section 1.** Application Fee. The Board of Directors may adopt an application fee for REALTOR® Membership in the Association in reasonable amount, not exceeding three times the amount of the annual dues for REALTOR®

Membership, which shall be required to accompany each application for REALTOR® Membership and which shall become the property of the Association upon final approval of the application.

**Section 2.** Dues. The annual dues of Members shall be as follows:

(a) REALTOR® Members. The annual dues of each REALTOR® Member shall be in such amount as established annually by the Board of Directors, plus an additional amount to be established annually by the Board of Directors times the number of real estate salespersons and licensed or certified appraisers who (1) are employed by or affiliated as independent contractors, or who are otherwise directly or indirectly licensed with such REALTOR® and (2) are not REALTOR® or REALTOR-ASSOCIATE® Members of any Association in the State or Institute Affiliate Members of the Association. In calculating the dues payable to the Association by a designated REALTOR® Member, non-member licensees as defined in Section 2 (a) (1) and (2) of this Article shall not be included in the computation of dues if the DR has paid dues based on said non-member licensees in another Association in the state, provided the Designated REALTOR® notifies the Association in writing of the identity of the Association to which dues have been remitted.

In the case of a REALTOR® member who is a principal of a real estate firm, partnership, or corporation whose business activity is substantially all commercial, the right to use the term REALTOR® or REALTORS® shall be limited to office locations in which a principal, partner, corporate officer, or branch office manager of the firm, partnership, or corporation holds REALTOR® membership. If a firm, partnership, or corporation operates additional places of business in which no principal, partner, corporate officer, or branch office manager holds REALTOR® membership, the term REALTOR® or REALTORS® may not be used in any reference to those additional places of business.  
(Amended 1/01)

(1) For purposes of this Section, a REALTOR Member of a Member Association shall be held to be any Member who has a place or places of business within the state and who, as principal, partner, corporate officer, or branch office manager of a real estate firm, partnership, or corporation, is actively engaged in the real estate profession as defined Article III, Section 1, of the Constitution of the National Association of REALTORS®. An individual shall be deemed to be licensed with a REALTOR® if the license of the individual is held by the REALTOR®, or by any broker who is licensed with the REALTOR®, or by any entity in which the REALTOR® has direct or indirect ownership interest which is engaged in other aspects of the real estate business provided that such licensee is not otherwise included in the computation of dues payable by the principal, partner, corporate officer of the entity.

A REALTOR® with a direct or indirect ownership interest in an entity engaged exclusively in soliciting and/or referring clients and customers to the REALTOR® for consideration on an exclusive basis shall annually file with the association on a form approved by the association a list of the licensees affiliated with that entity and shall certify that all of the licensees affiliated with the entity are solely engaged in referring clients and customers and are not engaged in listing, selling, leasing, managing, counseling or appraising real property. The individuals disclosed on such form shall not be deemed to be licensed with the REALTOR® filing the form for purposes of this Section and shall not be included in calculating the annual dues of the Designated REALTOR®.

Membership dues shall be prorated for any licensee included on a certification form submitted to the association who during the same calendar year applies for REALTOR® membership in the association. However, membership dues shall not be prorated if the licensee held REALTOR® membership during the preceding calendar year.

(a) The annual dues of REALTOR® Members other than the Designated REALTOR® shall be an amount established by the Board of Directors.

(b) REALTOR® Members. The Annual dues of each REALTOR® Member shall be in such amount as established by the Board of Directors.

(c) Institute Affiliate Members. The annual dues of each Institute Affiliate Member shall be as established in Article II of the Bylaws of the National Association of REALTORS®.

(d) Affiliate Members. The annual dues of each Affiliate Member shall be in such amount as established by the Board of Directors.

(e) Public Service Members. The annual dues of each Public Service Member shall be in such amount as established by the Board of Directors.

(f) Honorary Members. The annual dues of each Honorary Member shall be in such amount as established by the Board of Directors.

(g) Student Members. The annual dues of each Student Member shall be in such amount as established by the Board of Directors.

**Section 3.** Dues Payable. Dues for all Members shall be payable annually in advance of the first day of January. Annual dues paid after the first day of January may be assessed an additional \$100 late fee. Dues shall be computed from the first day of the quarter in which a Member is notified of election and shall be prorated for the remainder of the year.

(a) In the event a sales licensee or licensed certified appraiser who holds REALTOR® Membership is dropped for nonpayment of Association dues, and the licensee remains with the Designated REALTOR®'s firm, the dues obligation of the "designated " REALTOR® (as set forth in Article X, Section 2. a) will be increased to reflect the addition of a non-Member licensee. Dues shall be calculated from the first day of the current fiscal year and are payable within 30 days of the notice of termination.

**Section 4.** Nonpayment of Financial Obligations. If dues, fees, fines, or other assessments including amounts owed to the Association or the Association's Multiple Listing Service are not paid within one (1) month after the due date, the nonpaying Member is subject to suspension at the discretion of the Board of Directors. Two (2) months after the due date, membership of the nonpaying Member may be terminated at the discretion of the Board of Directors. Three (3) months after the due date, membership of the nonpaying Member shall automatically terminate unless within that time the amount due is paid. However, no action shall be taken to suspend or expel a Member for nonpayment of disputed amounts until the accuracy of the owed has been confirmed by the Board of Directors. A former Member who has had his membership terminated for nonpayment of dues, fees, fines, or other assessments duly levied in accordance with the provisions of these Bylaws or the provisions of other Rules and Regulations of the Association or any of its services, departments, divisions or subsidiaries may apply for reinstatement in a manner prescribed for new applicants for membership, after making payment in full of all accounts due as of the date of termination.

**Section 5.** Deposit. All monies received by the Association for any purpose shall be deposited to the credit of the Association in a financial institution or institutions selected by resolution of the Board of Directors.

**Section 6.** Expenditures. The Board of Directors shall administer the day to day finances of the Association. Capital expenditures in excess of FIVE THOUSAND AND NO/100 DOLLARS (\$5,000) may not be made unless authorized by a majority vote of the voting Members present at a meeting noticed for such purpose.

**Section 7.** Notice of Dues, Fees, Fines, Assessments, and Other Financial Obligations of Members. All dues, fees, fines, assessments, or other financial obligations to the Association or Multiple Listing Service shall be noticed to the delinquent Association Member in writing setting forth the amount owed and due date.

**Section 8.** The dues of REALTOR® Members who are REALTOR® Emeriti (as recognized by the National Association), Past Presidents of the National Association or recipients of the Distinguished Service Award shall be as determined by the Board of Directors.

Note: A Member Association's dues obligation to the National Association is reduced by an amount equal to the amount which the Association is assessed for a REALTOR® Member, at all times the number of REALTOR® Emeriti (as recognized by the National Association), Past Presidents of the National Association, and recipients of the Distinguished Service Award of the National Association who are REALTOR® Members of the Association. The dues obligation of such individuals to the local Association should be reduced to reflect the reduction in the Association's dues obligation to the National Association. The Association may, at its option, choose to have no dues requirement for such individuals except as may be required to meet the Association's obligation to the State Association with respect to such individuals. Member Association should determine whether the dues payable by the Association to the State Association are reduced with respect to such individuals.

It should be noted that this does not affect a "designated" REALTOR®'s dues obligation to the Association with respect to those licensees employed by or affiliated with the "designated" REALTOR® who are not themselves Members of the local Association.

## **ARTICLE XI, OFFICERS AND DIRECTORS**

**Section 1.** Officers. The elected officers of the Association shall be: a President; a President-Elect, who shall automatically become President following the term as President-Elect, a Vice President; a Secretary, a Treasurer and Treasurer-Elect (who shall be Treasurer following the term as Treasurer-Elect). The Officers shall have all voting rights as Directors. They shall be elected for terms of one (1) year, or until their successors are elected. The Vice-President and Secretary are eligible for a second 1-year term.

**Section 2.** Duties of Officers. The duties of the officers are as follows:

(a) **President:** The President of the Board shall be the chief elected officer of the Board, and shall serve as its chief governing officer, presiding at meetings of the Association membership and those of the Board of Directors. It shall be the duty of the President to act as ex-officio member of all committees.

(b) **President-Elect:** The President-Elect shall perform the duties of the President of the Board in the event of the President of the Board's absence or disability and shall perform such other duties as may be delegated to the office by the Board of Directors. The President-Elect shall be a member of all committees but not counted in determining if a quorum is present, preside over all meetings in the absence of the President, and serve as President in the year following the term as President-Elect.

(c) **Vice President:** The Vice President shall perform the duties of the President and the President-Elect in the event of the President and President-Elect's absence or disability and shall perform such other duties as may be delegated to the office by the Board of Directors.

(d) **Secretary:** It shall be the duty of the Secretary to keep the records of the Association and to carry on all necessary correspondence with the NATIONAL ASSOCIATION OF REALTORS® and the Hawaii Association of REALTORS®.

(e) **Treasurer:** It shall be the duty of the Treasurer to oversee the financial records and to report to the Board of Directors on the financial status of the Association.

(f) **Treasurer-Elect:** The Treasurer-Elect shall perform the duties of the Treasurer in the event of the Treasurer's absence or disability and shall perform other duties as may be delegated by the Board of Directors.

**Section 3.** Board of Directors. The governing body of the Association shall be a Board of Directors composed of not less than eleven (11) and not more than thirteen (13) Directors at large (one of whom shall serve as President, one of whom shall serve as President-Elect, one of whom shall serve as Immediate Past President, Vice-President, and one of whom shall serve as Secretary, one of whom shall serve as Treasurer, and one of whom shall serve as Treasurer-Elect), The Board of Directors shall also consist of no less than six (6) elected REALTOR® Members of the Association. At least six (6) of the Directors shall be elected in the odd-numbered years, and five (5) Directors shall be elected in the even-numbered years, and each Director shall serve of a term of two (2) years. Directors may serve for a maximum of two consecutive terms. In no case shall any one (1) Corporation or Brokerage constitute more than 33% of the Officers and Board of Directors combined.

**Section 4.** Nomination and Election of Directors.

(a) Eligibility to be a Candidate for the WHAR Board of Directors.

(1) A nominee must hold an active real estate license in the State of Hawaii and shall have been an active REALTOR® member of REALTOR® Association for at least one (1) years prior to nomination.

(2) A nominee must not be the subject of any pending ethics or disciplinary proceeding of the Association, equivalent local board, or Real Estate Commission of the State of Hawaii or such equivalent in any other state and must not have been convicted of any felony.

(3) If nominee has been previously the subject of any disciplinary action of the Real Estate Commission of the State of Hawaii or such equivalent in any other state, the matter will be clarified and taken into consideration by the Nominating Committee.

(b) Nomination of Directors: Nominations to the Board of Directors shall be by the membership of the Association. By October of each year, the Association shall provide its membership with a nomination form, informing the membership of the number of open seats for Directors on the Board of Directors, the eligibility rules for nominees, the current Directors who are not up for election, and the number of Director seats that are open for nominations. The membership shall be invited to submit such nominations to the Board of Directors no later than October 31, 2017. Upon receipt of all nominations on or prior to the stated deadline for nominations, the Association shall vet all nominations to ensure compliance with the above-referenced eligibility rules and availability of all qualified nominees to serve if elected.

(4) Additional candidates may be nominated by petition signed by not less than five (5) REALTOR® Members, no more than two (2) from the same brokerage and submitted to the Secretary not less than twenty (20) days prior to the date of the annual membership meeting. The Secretary shall send, by mail or electronically, notice of such additional nominations to all Members eligible to vote before the election.

(5) Prior to the mail out, each candidate must signify, in writing, a willingness to serve, if elected. A ballot containing the names of all candidates for the Board of Directors shall be provided to each voting Member not less than fourteen (14) days prior to the date of the annual membership meeting. The method of delivery of said ballots may be in the form of electronic transmission to the extent permitted by law. Completed ballots must be returned to and received by the staff not less than forty-eight (48) hours prior to the time fixed for the annual membership meeting.

(6) Election Process. The President may appoint, with the approval of the Board of Directors, such number of REALTOR® Members as the President shall deem necessary, none of whom is a candidate, to act under the direction of the Secretary as an Election Committee. The eligibility of members of the Association to vote in the election of Directors shall be determined by the Election Committee, whose determination shall be final. The votes shall be counted by staff prior to the time fixed for the Annual Membership Meeting, and no disclosure of the results shall be made prior thereto. Successful candidates shall be elected by plurality vote.

#### **(c) Election of Officers.**

The Board of Directors shall elect the officers of the Association, except for the office of President of the Board which shall be automatically assumed by the President-Elect upon the completion of his or her term, and the Treasurer, which will be automatically assumed by the Treasurer-Elect. If either the President-Elect or Treasurer-Elect fails to assume the position of President or Treasurer in accordance with bylaws as revised herein, the President-Elect or Treasurer-Elect would effectively be resigning from the position, and a special election among the Board of Directors would be to elect a President or Treasurer. In the meantime, the party elected as the new President-Elect or Treasurer-Elect will take effect.

**Section 5. Vacancies.** Vacancies among the Officers and the Board of Directors shall be filled by a simple majority vote of the Board of Directors until the next annual election. If the office of the President is vacated before the end of the term, the President-Elect shall succeed to the office of President for the remainder of the unexpired term and shall continue as President for the subsequent term.

**Section 6.** Removal of Officers and Directors. If an Officer or Director is deemed to be incapable of fulfilling the duties for which elected, but will not resign from office voluntarily, the Officer or Director may be removed from office under the following procedure:

(a) A petition requiring the removal of an Officer or Director and signed by not less than one-third (1/3) of the voting membership or a majority of all Directors shall be filed with the President, or if the President is the subject of the petition, with the next-ranking officer, and shall specifically set forth the reasons the individual is deemed to be disqualified from further service.

(b) Upon receipt of the petition, and not less than twenty (20) days or more than forty-five (45) days thereafter, a special meeting of the voting membership of the Association shall be held, and the sole business of the meeting shall be to consider the charge against the Officer or Director, and to render a decision on such petition.

(c) The special meeting shall be noticed to all voting Members at least ten (10) days prior to the meeting, and shall be conducted by the President unless the President's continued service in office is being considered at the meeting. In such case, the next-ranking officer will conduct the hearing by the Members. Provided a quorum is present, a three-fourths vote of Members present and voting shall be required for removal from office.

**Section 7.** Indemnification of Officers and Directors, Employees, and Agents. Indemnification of Officers, Directors, employees, and agents of the Association shall be as provided by Section 415B-6, Hawaii Revised Statutes, as from time to time amended; provided, however, that the Association acting by either its disinterested voting Members or Directors may provide additional rights of indemnification by agreement or resolution.

## ARTICLE XII- MEETINGS

**Section 1.** Annual Meetings. The annual meeting of the Association shall be held between September 1 and December 15 of each year. The Board of Directors shall designate the date, place, and hour of the meeting.

**Section 2.** Meetings of Directors. The Board of Directors shall designate a regular time and place of meetings. Absence of any Officer or Director from three consecutive regular meetings without an excuse accepted by a majority of the Board of Directors at a noticed hearing shall be construed as resignation. All meetings of the Board of Directors shall be held in open session except executive sessions of the Board of Directors.

**Section 3.** Other Meetings. Meetings of the Members may be held at other times as the President or the Board of Directors may determine, or upon the written request of at least ten (10%) percent of the Members eligible to vote. A majority vote of those present and voting may pass resolutions requiring that items be placed on the next Board of Directors meeting agenda. (8/97)

**Section 4.** Notice of Meetings. Except as provided in Article XI, Section 6, written notice shall be given to every Member entitled to participate in the meeting at least one (1) week preceding all meetings. If a special meeting is called, it shall be accompanied by a statement of purpose of the meeting.

**Section 5.** Quorum. At any meeting of the Directors, a majority of the total number of Officers and Directors then serving shall constitute a quorum. At any meeting of the Members fifteen (15) percent of the voting membership shall constitute a quorum. In all meetings, business shall be conducted by majority of a quorum.

**Section 6.** Special Meetings of the Board of Directors. Special meetings of the Board of Directors may be called at any time by the President or by one-fifth (1/5th) of the Officers and Directors, upon oral or written notice thereof, to each Officer or Director, fixing the time, place and purpose thereof, not less than two (2), nor more than ten (10) days after the date of such written or oral notice, except in emergencies in which case eight (8) hours' notice shall be required. If a special meeting is called, it shall be accompanied by a statement of the purpose of the meeting.

**Section 7.** Executive Session. The Board of Directors may, from time to time, recess into executive session to discuss PSAC or Grievance matters, and legal matters relating to potential or pending lawsuits involving the Association, personnel matters and other matters herein deemed necessary to preserve a right of privacy or the attorney-client privilege.

**Section 8.** Executive Committee Meetings. The Executive Committee shall meet at the call of the President or the Board of Directors, upon oral or written notice of the meeting of each of its members fixing the time and place thereof, which time shall not be less than three (3) days after the date of such oral or written notice. In emergencies, eight (8) hours' notice is required to hold a meeting.

**Section 9.** Action by Directors Without a Meeting. In accordance with Section 415B-16, Hawaii Revised Statutes, any action required or permitted to be taken at any meeting of the Directors or of a committee of the Directors may be taken without a meeting if a unanimous consent in writing, setting forth the action so taken, is signed by all the members or directors, as the case may be, entitled to vote on the subject matter of the meeting. Such consent shall have the force and effect of unanimous vote and may be stated as such and be filed in the minutes of the next called meeting.

**Section 10.** Proxy Votes. There shall be no proxy votes.

## ARTICLE XIII- COMMITTEES

**Section 1.** Standing Committees.

(a) The President shall appoint from among the REALTOR®, or Affiliate Members, subject to confirmation by the Board of Directors, the chairs for the standing committees (03/16) listed below. The Association Executive is liaison between the committees and the Board of Directors and shall oversee the committees to ensure the vision and direction of the Board of Directors is being carried out.

- Budget and Finance (see Art.XIII, Sec.9) Bylaws (Pres.Elect)
- Caravan
- Education
- Fundraising
- Government Affairs
- Grievance
- Member Services
- MLS
- Nominating Committee
- Personnel (Executive Committee)
- Professional Standards & Arbitration (PSAC)
- Programs
- Public Relations
- Technology
- YPN

**Section 2.** Special Committees. The President shall appoint, subject to confirmation by the Board of Directors, special committees, or task forces as deemed necessary.

**Section 3,** Organization. All committees shall be of such size and shall have duties, functions, and powers as assigned by the President or the Board of Directors except as otherwise provided in these Bylaws.

**Section 4.** President. The President shall be an ex-officio member of all standing committees and shall be notified of their meetings.

**Section 5.** Executive Committee. There shall be an Executive Committee consisting of the President, President-Elect, Vice President, Secretary, Treasurer, and the Immediate Past President. The Executive Committee may exercise the **powers per Article XII. Section 7,** herein of the Board of Directors when the Board of Directors is not in session, reporting to the Board of Directors at its next regular meeting. Meeting of the Executive Committee may be called by the President or any member of the Executive Committee **per Article XII. Section 8 herein.** The Treasurer-Elect shall be elevated to the Executive Committee to fill only the unexpired term of the Immediate Past President.

**Section 6.** President-Elect. The President-Elect shall be a member of all standing committees and shall be notified of their meetings.

**Section 7.** Appointment of Chairs and Vice Chairs. The President and President-Elect shall appoint the Chairs and Vice Chairs of each committee respectively, subject to approval by the Board of Directors, unless the Chair is specified elsewhere in these Bylaws or Rules of the Committee. One year prior experience on the committee is required to be eligible to chair. Limit two (2) years as chairperson.

**Section 8.** Attendance. Any committee member who fails to attend three (3) consecutive meetings of a committee shall be deemed to have resigned from the committee, and the vacancy shall be filled as herein provided for original appointees.

**Section 9.** Budget and Finance. There shall be a Budget and Finance Committee composed of the Treasurer, who shall serve as its chairperson, the Treasurer-Elect, President, President-Elect, and two other REALTOR®, or

Institute Affiliate Members. The Budget and Finance Committee shall supervise the funds and assets of the Association as well as review the monthly financial statement and shall recommend an annual budget for presentation to the Executive Committee and the Board of Directors. (10/97)

**Section 10.** Personnel. The Personnel Committee shall be the Members of the Executive Committee whose duty it shall be to conduct the annual evaluation of the Executive Officer. The Committee shall meet at the call of the President.

#### **ARTICLE XIV- FISCAL AND ELECTIVE YEAR**

**Section 1.** The fiscal year of the Association shall be January 1 to December 31. The elective year shall begin January 1<sup>st</sup> after installation and end December 31<sup>st</sup> of the same year.

#### **ARTICLE XV- RULES OF ORDER**

**Section 1.** Robert's Rules of Order, [newly] **latest revision** [revised], shall be recognized as the authority governing the Association meetings, its Board of Directors, and committees, in all instances wherein its provisions do not conflict with these Bylaws.

#### **ARTICLE XVI -AMENDMENTS & MISCELLANEOUS**

**Section 1.** These Bylaws may be amended by a majority vote of the Board of Directors present and qualified to vote at any meeting at which a quorum is present, provided the substance of such proposed amendment or amendments shall be plainly stated in the notice of the meeting.

**Section 2.** Notice of all meetings of the Board of Directors at which amendments are to be considered shall be [mailed or electronically transmitted] provided to every Officer and Director eligible to vote at the meeting at least one (1) week prior to the meeting Note: Members may call a meeting with reference to bylaw amendments as per Article XII, Section 3.

**Section 3.** Amendments to these Bylaws affecting the admission or qualification of REALTOR® and Institute Affiliate Members, the use of the terms REALTOR®, REALTORS® or any alteration in the territorial jurisdiction of the Association shall become effective upon their approval as authorized by the Board of Directors of the NATIONAL ASSOCIATION OF REALTORS®.

**Section 4.** Whenever the context of these Bylaws require or provides, the masculine gender shall include and mean the feminine gender, and the singular number shall include and mean the plural.

**Section 5.** Seal. The seal of the Corporation shall be in such form and shall bear the name of the Corporation and such other words, devises and inscriptions as the Board of Directors from time to time shall prescribe.

#### **ARTICLE XVII- DISSOLUTION**

**Section 1.** Upon the dissolution or winding up of affairs of this Association, the Board of Directors, after providing for the payment of all obligations, shall distribute any remaining assets to the Hawaii REALTORS® or, within its discretion, to any other non-profit tax- exempt organization.

#### **ARTICLE XVIII:- MULTIPLE LISTING SERVICE**

**Section 1.** Authority. In the event The Association provides and maintains for the use of its Members a Multiple Listing Service, it shall be subject to the Bylaws of the West Hawaii Association of REALTORS® shall be authorized and empowered to form, participate in and/or own, in connection with other Associations of REALTORS®, a separate entity for the provision of the multiple listing services to its Members. The Association's participation, and its Members' use of such multiple listing service, shall be subject to the governing documents for the entity and the Multiple Listing Service and the policies and procedures adopted pursuant thereto.



**Section 2.** Purpose. A Multiple Listing Service is a means by which authorized Participants make blanket unilateral offers of compensation to other Participants (acting as subagents, buyer agents, or in other agency or non-agency capacities defined by law); by which cooperation among participants is enhanced; by which information is accumulated and disseminated to enable authorized Participants to prepare appraisals, analyses, and other valuations of real property for bona fide clients and customers; by which Participants engaging in real estate appraisal contribute to common databases; and is a facility for the orderly correlation and dissemination of listing information so participants may better serve their clients and the public. Entitlement to compensation is determined by the cooperating broker's performance as a procuring cause of the sale (or lease).

**Section 3.** Governing Documents. The Board of Directors shall cause any Multiple Listing Service established by it pursuant to this Article to conform its Corporate Charter, Constitution, Bylaws, Rules, Regulations, and Policies, Practices, and Procedures at all times to the Constitution, Bylaws, Rules, Regulations, and Policies of the NATIONAL ASSOCIATION OF REALTORS®.

**Section 4.** Participation. Any REALTOR® of this or any other Board who is a principal, partner, corporate officer, or branch manager acting on behalf of a principal without further qualification, shall be eligible to participate in Multiple Listing upon agreeing in writing to conform to the Rules and Regulations thereof and to pay the costs incidental thereto. However, under no circumstances is any individual or firm, regardless of membership status, entitled to Multiple Listing Service "Membership" or "Participation" unless they hold a current, valid real estate broker's license and offer or accept compensation to and from other Participants or are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property. Use of information developed by or published by a Board Multiple Listing Service is strictly limited to the activities authorized under a Participant's licensure(s) or certification and unauthorized uses are prohibited. Further, none of the foregoing is intended to convey "Participation", or "Membership" or any right of access to information developed or published by a Board Multiple Listing Service where access to such information is prohibited by law. (Amended 11/08)

Mere possession of a broker's license is not sufficient to qualify for MLS participation. Rather, the requirement that an individual or firm offers or accepts cooperation and compensation means that the participant actively endeavors during the operation of its real estate business to list real property of the type listed on the MLS and/or to accept offers of cooperation and compensation made by listing brokers or agents in the MLS. "Actively" means on a continual and ongoing basis during the operation of the participant's real estate business. The "actively" requirement is not intended to preclude MLS participation by a participant or potential participant that operates a real estate business on a part-time, seasonal, or similarly time-limited basis or that has its business interrupted by periods of relative inactivity occasioned by market conditions. Similarly, the requirement is not intended to deny MLS participation to a participant or potential participant who has not achieved a minimum number of transactions despite good faith efforts. Nor is it intended to permit an MLS to deny participation based on the level of service provided by the participant or potential participant as long as the level of service satisfies state law. (Adopted 11/08)

The key is that the participant or potential participant actively endeavors to make or accept offers of cooperation and compensation with respect to properties of the type that are listed on the MLS in which participation is sought. This requirement does not permit an MLS to deny participation to a participant or potential participant that operates a "Virtual Office Website" (VOW) (including a VOW that the participant uses to refer customers to other participants) if the participant or potential participant actively endeavors to make or accept offers of cooperation and compensation. An MLS may evaluate whether a participant or potential participant actively endeavors during the operation of its real estate business to offer or accept cooperation and compensation only if the MLS has a reasonable basis to believe that the participant or potential participant is in fact not doing so. The membership requirement shall be applied in a nondiscriminatory manner to all participants and potential participants. (Adopted 11/08)

**Section 5.** Multiple Listing Service Fees and Charges. The Board of Directors shall by resolution from time-to-time determine the amounts and manner and method of collection and payment of the Multiple Listing Service fees and charges among the Association members as shall be assessed to the Association for payment to the Service. The Association shall have the authority to assess and collect, for the Association's sole use, different and additional fees and charges for service provided by the Association in connection with the services provided by the Multiple Listing Service.

**Section 6.** Access to Comparable and Statistical Information. Association Members who are actively engaged in real estate brokerage, management, appraising, land development or building, but who do not participate in the MLS, are nonetheless entitled to receive, by purchase or lease, information other than current listing information that is generated wholly or in part by the MLS including "comparable" information, "sold" information, and statistical reports. This information is provided for the exclusive use of Association Members and individuals affiliated with Association Members who are also engaged in the real estate business and may not be

transmitted, retransmitted, or provided in any manner to any unauthorized individual, office, or firm except as otherwise specified in the MLS Rules and Regulations. Association members who receive such information, either as a Association service or through the Association's MLS, are subject to the applicable provisions of the MLS Rules and Regulations whether they participate in the MLS or not.

**ARTICLE XIX- H.A.R. DIRECTORS-AT-LARGE**

**Section 1.** Directors for the Hawaii REALTORS® (HAR) shall be nominated and Approved by the association Board of Directors. The number of H.A.R. Directors-at-Large from the Association shall from time to time be determined by the Hawaii REALTORS®. Qualifications for nomination and approval as an H.A.R. Director-at-Large are as follows: Must be a REALTOR, or past officer or director of the Association or Chairperson of an HAR Committee.

**AMENDMENT HISTORY**

Adopted	June 20, 1984	
Amended	March 8, 1985; August 18, 1988 November 4, 1987 November 11, 1987 January 6, 1988 February 10, 1988 August 17, 1988 July 8, 1992 July 1, 1993	
Approved	August 10, 1993	By National Association of REALTORS®
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Amended	October 31, 1997	
Approved	July 10, 2002	By National Association of REALTORS®
Amended	August 29, 2003	
Amended	October 2004	
Amended	July 2005	
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Amended	October 25, 2006	
Amended	December 2007	
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