

JAN 23 2009

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# A BILL FOR AN ACT

RELATING TO CONDOMINIUMS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Act 39, Session Laws of Hawaii 2000, took  
2 effect in April 2000 and authorized condominium associations to  
3 collect up to six months of maintenance fees or \$1,800,  
4 whichever was less, in connection with the foreclosure of a  
5 condominium apartment. Prior to Act 39, associations frequently  
6 received nothing from the sale of an apartment in foreclosure  
7 because all of the proceeds from the foreclosure auction would  
8 go to the holder of the first mortgage. The purpose of Act 39  
9 was to allow condominium associations some recovery from the  
10 foreclosure of the condominium apartment, even if the holder of  
11 the first mortgage was not paid in full. The provision  
12 recognized that, since the association maintained and insured  
13 the condominium apartment and the project in which it was  
14 located, the association should recover something from the  
15 foreclosure of the apartment.

16           The "cap" or limit of \$1,800 on the association's recovery  
17 was based on information that the average monthly maintenance



1 fee in 2000 was \$300 per month. However, nine years later, the  
2 average monthly maintenance fee is now well over \$400 per month.  
3 Therefore, retaining the \$300 amount unfairly limits the  
4 association's recovery in a foreclosure.

5 The purpose of this Act is to increase the cap on an  
6 association's recovery to six months of maintenance fees or  
7 \$2,400, whichever is less. In this way, associations will  
8 continue to receive a fair share of the proceeds from the  
9 foreclosure auction of a condominium apartment, to compensate  
10 the association for its role in maintaining the value of the  
11 condominium apartment, before, during, and after the  
12 foreclosure.

13 SECTION 2. Section 514B-146, Hawaii Revised Statutes, is  
14 amended by amending subsection (h) to read as follows:

15 "(h) The amount of the special assessment assessed under  
16 subsection (g) shall not exceed the total amount of unpaid  
17 regular monthly common assessments that were assessed during the  
18 six months immediately preceding the completion of the judicial  
19 or nonjudicial power of sale foreclosure. In no event shall the  
20 amount of the special assessment exceed the sum of [~~\$1,800.~~]  
21 \$2,400."



1 SECTION 3. This Act does not affect rights and duties that  
2 matured, penalties that were incurred, and proceedings that were  
3 begun, before its effective date.

4 SECTION 4. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY: Rosalyn H Baker  
By Request



**Report Title:**

Condominiums; Foreclosure; Maintenance Fees

**Description:**

Increases the amount that condominium associations may recover in maintenance fees from the foreclosure of a condominium apartment from \$1,800 to \$2,400.

