
A BILL FOR AN ACT

RELATING TO CONDOMINIUMS.

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

1 PART I

2 SECTION 1. Section 514A-90, Hawaii Revised Statutes, is
3 amended by amending subsection (h) to read as follows:

4 "(h) The amount of the special assessment assessed under
5 subsection (g) shall not exceed the total amount of unpaid
6 regular monthly common assessments that were assessed during the
7 six months immediately preceding the completion of the judicial
8 or nonjudicial power of sale foreclosure. In no event shall the
9 amount of the special assessment exceed the sum of [~~\$1,800.~~
10 \$3,600."]

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

13 "(h) The amount of the special assessment assessed under
14 subsection (g) shall not exceed the total amount of unpaid
15 regular monthly common assessments that were assessed during the
16 six months immediately preceding the completion of the judicial
17 or nonjudicial power of sale foreclosure. In no event shall the

1 amount of the special assessment exceed the sum of [~~\$1,800.~~
2 \$3,600."]

3 PART II

4 SECTION 3. Section 514B-142, Hawaii Revised Statutes, is
5 amended by amending its title and subsections (a) to (d) to read
6 as follows:

7 "[~~§~~514B-142~~§~~] **Aging in place or disabled; limitation on**
8 **liability.** (a) The association, its directors, unit owners,
9 and their agents and tenants, acting through the board, shall
10 not have any legal responsibility or legal liability, with
11 respect to any actions and recommendations the board takes on
12 any report, observation, or complaint made, or with respect to
13 any recommendation or referral given, which relates to an
14 elderly or disabled unit [~~owner~~] resident who, may require
15 services and assistance to maintain independent living in the
16 unit in which the elderly or disabled unit [~~owner~~] resident
17 resides so that the elderly or disabled unit [~~owner~~] resident
18 will not pose any harm to self or to others, and will not be
19 disruptive to the condominium community because of [~~the~~
20 ~~following~~] problems of aging and aging in place~~ing~~ or living
21 independently with a physical or mental handicap or disabling
22 condition. This provision shall apply to residents whose

1 actions or non-actions pose a risk to their own health or safety
2 or to the health and safety of others, cause harm to the
3 resident or others, or where physical or mental abuse may be
4 life-threatening, and who exhibit the following characteristics:

5 (1) The inability to clean and maintain an independent
6 unit;

7 (2) Mental confusion;

8 (3) Abusing others;

9 (4) Inability to care for oneself; or

10 (5) Inability to arrange for home care;

11 [~~(6) Loneliness and neglect; or~~

12 ~~(7) Inappropriate requests of others for assistance.]~~

13 For purposes of this section, "elderly" means age sixty-two and
14 older.

15 (b) Upon a report, observation, or complaint relating to
16 an elderly or disabled unit [~~owner~~] resident aging or aging in
17 place, or living independently with a physical or mental
18 handicap or disabling condition which notes a problem similar in
19 nature to the problems enumerated in subsection (a), the board,
20 in good faith, and without legal responsibility or liability,
21 may request a functional assessment regarding the condition of
22 an elderly or disabled unit [~~owner~~] resident as well as

1 recommendations for the services, including appropriate
2 assistance from state or county agencies, which the elderly or
3 disabled unit [owner] resident may require to maintain a level
4 of independence that enables the [owner] resident to avoid any
5 harm to self or to others, and to avoid disruption to the
6 condominium community. The board, upon request or unilaterally,
7 and without legal responsibility or liability, may recommend
8 available services, including assistance from state or county
9 agencies, to an elderly or disabled unit [owner] resident which
10 might enable the elderly or disabled unit [owner] resident to
11 maintain a level of independent living with assistance, enabling
12 in turn, the elderly or disabled unit owner to avoid any harm to
13 self or others, and to avoid disruption to the condominium
14 community.

15 (c) There is no affirmative duty on the part of the
16 association, its board, the unit owners, or their agents or
17 tenants to request or require an assessment and recommendations
18 with respect to an elderly or disabled unit [owner] resident
19 when the elderly or disabled unit [owner] resident may be
20 experiencing the problems related to aging and aging in place,
21 or living independently with a physical or mental handicap or
22 disabling condition enumerated in subsection (a). The

1 association, its board, unit owners, and their agents and
2 tenants shall not be legally responsible or liable for not
3 requesting or declining to request a functional assessment of,
4 and recommendations for, an elderly or disabled unit [~~owner~~
5 resident regarding problems relating to aging and aging in
6 place[-], or living independently with a physical or mental
7 handicap or disabling condition.

8 (d) If an elderly or disabled unit [~~owner~~] resident
9 ignores or rejects a request for or the results from an
10 assessment and recommendations, the association, with no
11 liability for cross-claims or counterclaims, may file
12 appropriate information, pleadings, notices, or the like, with
13 appropriate state or county agencies or courts to seek an
14 appropriate resolution for the condominium community and for the
15 elderly or disabled unit [~~owner~~] resident.

16 (e) For the purposes of this section, "disabled" shall mean
17 having a physical or mental impairment which substantially
18 limits one or more major life activities, having a record of
19 such an impairment, or being regarded as having such an
20 impairment. The term does not include current illegal use of or
21 addiction to a controlled substance or alcohol or drug abuse
22 that threatens the property or safety of others."

1 PART III

2 SECTION 4. This Act does not affect rights and duties that
3 matured, penalties that were incurred, and proceedings that were
4 begun, before its effective date.

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

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

Report Title:

Condominiums; Assessments

Description:

Raises to \$3,600 the maximum amount of the special assessment for delinquent monthly common assessments that can be charged against a person who purchases a condominium unit. Expands limitations on association liability for elderly unit owners aging in place to include disabled persons. (SD1)