

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:**

PART I

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

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

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

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



1 amount of the special assessment exceed the sum of  
2 [~~\$1,800.~~]\$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, handicapped, or disabled;  
8 limitation on liability. (a) The association, its directors,  
9 unit owners, and their agents and tenants, acting through the  
10 board, shall not have any legal responsibility or legal  
11 liability, with respect to any actions and recommendations the  
12 board takes on any report, observation, or complaint made, or  
13 with respect to any recommendation or referral given, which  
14 relates to an elderly, handicapped, or disabled unit owner who,  
15 may require services and assistance to maintain independent  
16 living in the unit in which the elderly, handicapped, or  
17 disabled unit owner resides so that the elderly, handicapped, or  
18 disabled unit owner will not pose any harm to self or to others,  
19 and will not be disruptive to the condominium community because  
20 of the following problems of aging and aging in place[+] or  
21 living independently with a physical or mental handicap or  
22 disabling condition:



- 1 (1) The inability to clean and maintain an independent
- 2 unit;
- 3 (2) Mental confusion;
- 4 (3) Abusing others;
- 5 (4) Inability to care for oneself;
- 6 (5) Inability to arrange for home care;
- 7 (6) Loneliness and neglect; or
- 8 (7) Inappropriate requests of others for assistance.

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

11 (b) Upon a report, observation, or complaint relating to  
12 an elderly, handicapped, or disabled unit owner aging or aging  
13 in place, or living independently with a physical or mental  
14 handicap or disabling condition which notes a problem similar in  
15 nature to the problems enumerated in subsection (a), the board,  
16 in good faith, and without legal responsibility or liability,  
17 may request a functional assessment regarding the condition of  
18 an elderly, handicapped, or disabled unit owner as well as  
19 recommendations for the services, including appropriate  
20 assistance from state or county agencies, which the elderly,  
21 handicapped, or disabled unit owner may require to maintain a  
22 level of independence that enables the owner to avoid any harm



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

11 (c) There is no affirmative duty on the part of the  
12 association, its board, the unit owners, or their agents or  
13 tenants to request or require an assessment and recommendations  
14 with respect to an elderly, handicapped, or disabled unit owner  
15 when the elderly, handicapped, or disabled unit owner may be  
16 experiencing the problems related to aging and aging in place,  
17 or living independently with a physical or mental handicap or  
18 disabling condition enumerated in subsection (a). The  
19 association, its board, unit owners, and their agents and  
20 tenants shall not be legally responsible or liable for not  
21 requesting or declining to request a functional assessment of,  
22 and recommendations for, an elderly, handicapped, or disabled



1 unit owner regarding problems relating to aging and aging in  
2 place[-], or living independently with a physical or mental  
3 handicap or disabling condition.

4 (d) If an elderly, handicapped, or disabled unit owner  
5 ignores or rejects a request for or the results from an  
6 assessment and recommendations, the association, with no  
7 liability for cross-claims or counterclaims, may file  
8 appropriate information, pleadings, notices, or the like, with  
9 appropriate state or county agencies or courts to seek an  
10 appropriate resolution for the condominium community and for the  
11 elderly, handicapped, or disabled unit owner."

12 PART III

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

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

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

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INTRODUCED BY:

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**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 handicapped and disabled persons.

