
A BILL FOR AN ACT

RELATING TO CONDOMINIUMS.

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

1 SECTION 1. The legislature finds there is a need for
2 viable, available, and affordable assisted living facilities for
3 the State's aging population. The legislature further finds
4 that the operation and expenses of making these facilities
5 affordable have increased over time.

6 The purpose of this Act is to allocate the expenses related
7 to the operation of an assisted living facility in a condominium
8 project as limited common expenses to be assessed only when a
9 unit owner elects to contract for these services.

10 SECTION 2. Section 514A-3, Hawaii Revised Statutes, is
11 amended by amending the definition of "common expense" to read as
12 follows:

13 "Common expense" means and includes:

- 14 (1) Expenses of operation of the property; and
15 (2) All sums designated common expenses by or pursuant to
16 this chapter, the declaration or the bylaws[-], except
17 as provided in section 514A-15."



1 SECTION 3. Section 514A-15, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) The common profits of the property shall be
4 distributed among, and the common expenses shall be charged to,
5 the apartment owners, including the developer, in proportion to
6 the common interest appurtenant to their respective apartments;
7 provided that in a mixed-use project containing apartments for
8 both residential and commercial use, such charges and
9 distributions may be apportioned in a fair and equitable manner
10 as set forth in the declaration; provided further that all
11 limited common elements costs and expenses, including but not
12 limited to, maintenance, repair, replacement, additions and
13 improvements shall be charged to the owner of the apartment to
14 which the limited common element is appurtenant in an equitable
15 manner as set forth in the declaration[-]; provided further that
16 assessments for health care services or services relating to
17 personal care that may be offered or provided to unit owners at
18 a condominium licensed as an assisted living facility, shall be
19 made against only the units occupied by persons who utilize such
20 health care services and services relating to personal care, and
21 shall not be included as part of the common expenses of the
22 condominium.



1 For purposes of this subsection, "personal care" means the
2 following categories of activities:

3 (1) Activities of daily living, such as ambulation,
4 mobility, transfer and lifting, positioning and
5 turning, bowel and bladder care, toileting, bathing,
6 dressing, grooming, feeding, exercise, and range of
7 motion; and

8 (2) Instrumental activities of daily living which are
9 directly related to the well-being of the resident,
10 such as meal preparation; bed, kitchen, and bathroom
11 cleanliness; housekeeping; laundry; essential errands;
12 transportation; medication assistance; and maintenance
13 of health records."

14 SECTION 4. Section 514B-3, Hawaii Revised Statutes, is
15 amended by amending the definition of "common expenses" to read
16 as follows:

17 "'Common expenses" means expenditures made by, or financial
18 liabilities of, the association for operation of the property,
19 and shall include any allocations to reserves[-], but shall
20 exclude those expenses provided in section 514B-144."

21 SECTION 5. Section 514B-142, Hawaii Revised Statutes, is
22 amended by amending subsection (g) to read as follows:



1 "(g) This section shall not be applicable to any
2 condominium that seeks to become licensed as an assisted living
3 facility pursuant to title 11, chapter 90, Hawaii Administrative
4 Rules, as amended. In the event a condominium is licensed as an
5 assisted living facility, any health care services or services
6 relating to personal care that may be offered or provided to
7 unit owners at the condominium, shall be assessed to only those
8 unit owners who utilize such health care services or services
9 relating to personal care, and shall not be included as part of
10 the common expenses of the condominium.

11 For purposes of this subsection, "personal care" means the
12 following categories of activities:

- 13 (1) Activities of daily living, such as ambulation,
14 mobility, transfer and lifting, positioning and
15 turning, bowel and bladder care, toileting, bathing,
16 dressing, grooming, feeding, exercise, and range of
17 motion; and
- 18 (2) Instrumental activities of daily living which are
19 directly related to the well-being of the resident,
20 such as meal preparation; bed, kitchen, and bathroom
21 cleanliness; housekeeping; laundry; essential errands;



1 transportation; medication assistance; and maintenance
2 of health records."

3 SECTION 6. Section 514B-144, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§514B-144 Association fiscal matters; assessments for**
6 **common expenses.** (a) Assessments shall be made based on a
7 budget adopted and distributed or made available to unit owners
8 at least annually by the board.

9 (b) Except for assessments under subsections (c), (d),
10 [~~and~~] (e), and (f), all common expenses shall be assessed
11 against all the units in accordance with the allocations under
12 section 514B-41. Any past due common expense assessment or
13 installment thereof shall bear interest at the rate established
14 by the association, provided that the rate shall not exceed
15 eighteen per cent per year.

16 (c) Assessments to pay a judgment against the association
17 under section 514B-147(a) may be made only against the units in
18 the condominium at the time the judgment was entered, in
19 proportion to their common expense allocations under section
20 514B-41.



1 (d) If any common expense is caused by the misconduct of
2 any unit owner, the association may assess that expense
3 exclusively against such owner's unit.

4 (e) If common expense liabilities are reallocated, common
5 expense assessments and any installment thereof not yet due
6 shall be recalculated in accordance with the reallocated common
7 expense liabilities.

8 (f) Assessments for health care services or services
9 relating to personal care that may be offered or provided to
10 unit owners at a condominium licensed as an assisted living
11 facility, shall be made against only the units occupied by
12 persons who utilize such health care services or services
13 relating to personal care, and shall not be included as part of
14 the common expenses of the condominium.

15 For purposes of this subsection, "personal care" means the
16 following categories of activities:

17 (1) Activities of daily living, such as ambulation,
18 mobility, transfer and lifting, positioning and
19 turning, bowel and bladder care, toileting, bathing,
20 dressing, grooming, feeding, exercise, and range of
21 motion; and



1 (2) Instrumental activities of daily living which are
2 directly related to the well-being of the resident,
3 such as meal preparation; bed, kitchen, and bathroom
4 cleanliness; housekeeping; laundry; essential errands;
5 transportation; medication assistance; and maintenance
6 of health records.

7 [~~f~~] (g) In the case of a voluntary conveyance, the
8 grantee of a unit shall be jointly and severally liable with the
9 grantor for all unpaid assessments against the latter for the
10 grantor's share of the common expenses up to the time of the
11 grant or conveyance, without prejudice to the grantee's right to
12 recover from the grantor the amounts paid by the grantee
13 therefor. Any such grantor or grantee is, however, entitled to
14 a statement from the board, either directly or through its
15 managing agent or resident manager, setting forth the amount of
16 the unpaid assessments against the grantor, and except as to the
17 amount of subsequently dishonored checks mentioned in such
18 statement as having been received within the thirty-day period
19 immediately preceding the date of such statement, the grantee is
20 not liable for, nor is the unit conveyed subject to a lien for,
21 any unpaid assessments against the grantor in excess of the
22 amount therein set forth.



1 ~~[(g)]~~ (h) No unit owner may exempt the unit owner from
2 liability for the unit owner's contribution towards the common
3 expenses by waiver of the use or enjoyment of any of the common
4 elements or by abandonment of the unit owner's unit. Subject to
5 such terms and conditions as may be specified in the declaration
6 or bylaws, any unit owner, by conveying his or her unit and
7 common interest to the association on behalf of all other unit
8 owners, may exempt himself or herself from common expenses
9 thereafter accruing.

10 ~~[(h)]~~ (i) The board, either directly or through its
11 managing agent or resident manager, shall notify the unit owners
12 in writing of maintenance fee increases at least thirty days
13 prior to such an increase."

14 SECTION 7. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 8. This Act shall take effect on July 1, 2012, and
17 shall apply to any and all existing and future condominiums or
18 condominium projects in the State.



Report Title:

Condominiums; Common Expenses

Description:

Requires assessments for health care services or services relating to personal care that are offered or provided to unit owners at a condominium licensed as an assisted living facility to be assessed only against the units occupied by persons who utilize these services, and not included as part of the common expenses of a condominium. (Proposed SD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

