

JAN 21 2022

A BILL FOR AN ACT

RELATING TO CONDOMINIUM ASSOCIATIONS.

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

1 SECTION 1. The legislature finds that when boards of
2 directors of condominium associations seek legal assistance to
3 protect the collective interests of their associations, it is
4 the board, not the individual unit owners, who are the clients
5 of the attorneys. Accordingly, compensation for the legal
6 services and costs should be paid in full entirely with the
7 associations' funds and reserves, as the exclusive sources of
8 payment.

9 The legislature further finds that these fees should be
10 limited in proportion to the costs of the matter being resolved.
11 The costs of an association are shared by all its unit owners.
12 As such, excessive fees have a negative impact on all unit
13 owners in an association.

14 The purpose of this Act is to:

- 15 (1) Require that the fees for attorneys retained by an
16 association be paid from an association's funds or
17 reserves;



(2) Limit the total and final legal fees to twenty-five per cent of the original debt amount;

(3) Require attorneys retained by a condominium association to confine their communications to the condominium board, except when the attorneys must request and require materials and responses directly from owners for each matter; and

(4) Prohibit attorneys retained by a condominium association from billing unit owners directly.

SECTION 2. Chapter 514B, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§514B- Attorneys' fees. (a) Notwithstanding section 514B-144(d), all costs for attorneys' fees incurred by or on behalf of the association shall be paid from association funds or reserves. The association shall not assess, demand, or seek reimbursement of the costs for attorneys' fees against a unit owner unless:

(1) The association assesses, demands, or seeks reimbursement of the costs of attorneys' fees against



1 all the units in accordance with the allocations under
2 section 514B-41; and

3 (2) The association prevailed in the matter.

4 (b) Total and final legal fees for each matter shall not
5 exceed twenty-five per cent of the original debt amount the
6 board seeks to recover.

7 (c) Attorneys retained by the association shall only
8 communicate with the board; provided that attorneys retained by
9 the association may communicate with unit owners for purposes of
10 requests and responses for essential requirements of each
11 matter; provided further that attorneys retained by the
12 association shall not bill or demand payment of attorneys' fees
13 from any unit owner."

14 SECTION 3. Section 514B-157, Hawaii Revised Statutes, is
15 amended by amending its title and subsection (a) to read as
16 follows:

17 " ~~[§]514B-157 [§] [Attorneys' fees, delinquent~~
18 ~~assessments,~~ Costs and expenses of enforcement. (a) All costs
19 and expenses, not including reasonable attorneys' fees, incurred
20 by or on behalf of the association for:

(1) Collecting any delinquent assessments against any owner's unit;

(2) Foreclosing any lien thereon; or

(3) Enforcing any provision of the declaration, bylaws, house rules, and this chapter, or the rules of the real estate commission;

against an owner, occupant, tenant, employee of an owner, or any other person who may in any manner use the property, shall be promptly paid on demand to the association by such person or persons; provided that if the claims upon which the association takes any action are not substantiated, all costs and expenses, not including reasonable attorneys' fees, incurred by any such person or persons as a result of the action of the association, shall be promptly paid on demand to such person or persons by the association."

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

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

INTRODUCED BY: 



S.B. NO. 2730

Report Title:

Condominium Associations; Association Funds or Reserves;
Attorneys' Fees; Communications

Description:

Requires that the fees for attorneys retained by a condominium association be paid from an association's funds or reserves. Limits the total and final legal fees to twenty-five per cent of the original debt amount. Requires attorneys retained by a condominium association to confine their communications to the condominium board, except when the attorneys must request and require materials and responses directly from owners for each matter. Prohibits attorneys retained by a condominium association from billing unit owners directly.

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

