

JAN 20 2023

A BILL FOR AN ACT

RELATING TO COMMON INTEREST COMMUNITIES.

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

1 SECTION 1. Section 421J-10, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:
3 "(a) All costs and expenses, including reasonable
4 attorneys' fees, incurred by or on behalf of the association
5 for:
6 (1) Collecting any delinquent assessments against any unit
7 or the owner of any unit;
8 (2) Foreclosing any lien on any unit; or
9 (3) Enforcing any provision of the association documents
10 or this chapter;
11 against a member, occupant, tenant, employee of a member, or any
12 other person who in any manner may use the property, shall be
13 promptly paid on demand to the association by ~~such~~ the person
14 or persons; provided that if the association is not the
15 prevailing party, all costs and expenses, including reasonable
16 attorneys' fees, incurred by any ~~such~~ person or persons as a
17 result of the action of the association, shall be promptly paid



1 on demand to the person by the association[-]; provided further
2 that the association or board of directors shall not expend
3 association funds to enforce against de minimis infractions of
4 association bylaws, rules, or regulations. The reasonableness
5 of any [~~attorney's~~] attorneys' fees paid by a person or by an
6 association as a result of an action pursuant to paragraph (2)
7 shall be determined by the court.

8 For purposes of this subsection, a "de minimis infraction"
9 means a technical violation of a bylaw, rule, or regulation of
10 the association that results in not more than three complaints
11 from separate units in the association within a calendar year,
12 or does not result in a fine of more than \$500 per violation
13 pursuant to the bylaws, rules, or regulations of the
14 association."

15 SECTION 2. Section 514B-104, Hawaii Revised Statutes, is
16 amended by amending subsection (b) to read as follows:

17 "(b) If a tenant of a unit owner violates the declaration,
18 bylaws, or rules and regulations of the association, in addition
19 to exercising any of its powers against the unit owner, the
20 association may:



- 1 (1) Exercise directly against the tenant the powers
2 described in subsection (a)(11);
- 3 (2) After giving notice to the tenant and the unit owner
4 and an opportunity to be heard, levy reasonable fines
5 against the tenant for the violation, provided that a
6 unit owner shall be responsible for the conduct of the
7 owner's tenant and for any fines levied against the
8 tenant or any legal fees incurred in enforcing the
9 declaration, bylaws, or rules and regulations of the
10 association against the tenant; and
- 11 (3) Enforce any other rights against the tenant for the
12 violation, which the unit owner as landlord could
13 lawfully have exercised under the lease, including
14 eviction, or which the association could lawfully have
15 exercised directly against the unit owner, or both.

16 The association or board of directors shall not expend
17 association funds to enforce against de minimis infractions of
18 association bylaws, rules, or regulations; provided that a "de
19 minimis infraction" means a technical violation of a bylaw,
20 rule, or regulation of the association that results in not more
21 than three complaints from separate units in the association



1 within a calendar year, or does not result in a fine of more
2 than \$500 per violation pursuant to the bylaws, rules, or
3 regulations of the association."

4 SECTION 3. Section 514B-157, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) All costs and expenses, including reasonable
7 attorneys' fees, incurred by or on behalf of the association
8 for:

- 9 (1) Collecting any delinquent assessments against any
10 owner's unit;
- 11 (2) Foreclosing any lien thereon; or
- 12 (3) Enforcing any provision of the declaration, bylaws,
13 house rules, [~~and~~] or this chapter, or the rules of
14 the real estate commission;
- 15 against an owner, occupant, tenant, employee of an owner, or any
16 other person who may in any manner use the property, shall be
17 promptly paid on demand to the association by [~~such~~] the person
18 or persons; provided that if the claims upon which the
19 association takes any action are not substantiated, all costs
20 and expenses, including reasonable attorneys' fees, incurred by
21 any [~~such~~] person or persons as a result of the action of the



1 association, shall be promptly paid on demand to [~~such~~] the
2 person or persons by the association[-]; provided further that
3 the association or board of directors shall not expend
4 association funds to enforce against de minimis infractions of
5 association bylaws, rules, or regulations.

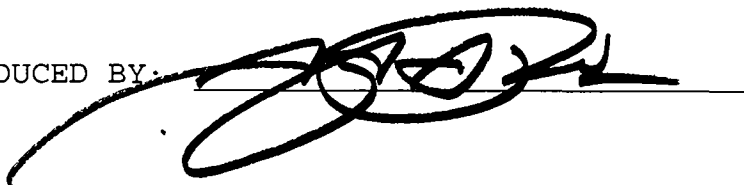
6 For purposes of this subsection, "de minimis infraction"
7 means a technical violation of a bylaw, rule, or regulation of
8 the association that results in not more than three complaints
9 from separate units in the association within a calendar year,
10 or does not result in a fine of more than \$500 per violation
11 pursuant to the bylaws, rules, or regulations of the
12 association."

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

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

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INTRODUCED BY:

A large, stylized handwritten signature in black ink, written over a horizontal line.

S.B. NO. 402

Report Title:

Common Interest Communities; Planned Community Associations;
Condominiums; Association Funds; De Minimis Infractions

Description:

Prohibits planned community associations, condominium associations, or their boards of directors from expending association funds to enforce against de minimis violations of association bylaws, rules, or regulations that result in not more than three complaints from separate units in the association within a calendar year or result in a fine of not more than \$500 per violation pursuant to the bylaws, rules, or regulations of the association.

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

