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# A BILL FOR AN ACT

RELATING TO CONDOMINIUMS.

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

1           SECTION 1. Section 514B-105, Hawaii Revised Statutes, is  
2 amended by amending subsection (e) to read as follows:  
3           "(e) Subject to any approval requirements and spending  
4 limits contained in the declaration or bylaws, the association  
5 may authorize the board to borrow money for the repair,  
6 replacement, maintenance, operation, or administration of the  
7 common elements and personal property of the project, or the  
8 making of any additions, alterations, and improvements thereto;  
9 provided that written notice of the purpose and use of the funds  
10 is first sent to all unit owners and owners representing fifty  
11 per cent of the common interest vote or give written consent to  
12 the borrowing. Notwithstanding the foregoing, the board shall  
13 be authorized to borrow money solely to pay extraordinary  
14 expenses in an emergency situation described in section 514B-148  
15 if an architect or engineer licensed in the state provides a  
16 written opinion that a substantial risk to persons or property  
17 exists or will imminently exist if the emergency situation is



1 not addressed. The board shall promptly disclose to owners the  
2 amount and purpose of the money obtained pursuant to this  
3 authority. In connection with the borrowing, the board may  
4 grant to the lender the right to assess and collect monthly or  
5 special assessments from the unit owners and to enforce the  
6 payment of the assessments or other sums by statutory lien and  
7 foreclosure proceedings. The cost of the borrowing, including,  
8 without limitation, all principal, interest, commitment fees,  
9 and other expenses payable with respect to the borrowing or the  
10 enforcement of the obligations under the borrowing, shall be a  
11 common expense of the project. For purposes of this section,  
12 the financing of insurance premiums by the association within  
13 the policy period shall not be deemed a loan and no lease shall  
14 be deemed a loan if it provides that at the end of the lease the  
15 association may purchase the leased equipment for its fair  
16 market value.

17 SECTION 2. Section 514B-148, Hawaii Revised Statutes, is  
18 amended as follows:

19 1. By amending subsection (a) to read:

20 "(a) The budget required under section 514B-144(a) shall  
21 include a summary with at least the following[+] details:



- 1           (1) The estimated revenues and operating expenses of the  
2           association;
- 3           (2) ~~[Information]~~ Disclosure as to whether the budget has  
4           been prepared on a cash or accrual basis;
- 5           (3) The total replacement reserves fund of the association  
6           as of the date of the budget;
- 7           (4) The estimated replacement reserves contributions that  
8           the association will require to maintain the property  
9           based on a reserve study performed by or on behalf of  
10          the association; provided that the reserve study, if  
11          not prepared by an independent reserve study preparer  
12          shall be reviewed by an independent reserve study  
13          preparer [~~;~~ ~~provided further that the reserve study~~  
14          ~~shall be reviewed or updated at least~~] not less than  
15          every three years;
- 16          (5) A general explanation of how the estimated replacement  
17          reserves are computed [~~;~~] and detailing:
  - 18                (A) The identity, qualifications, and potential  
19                conflicts of interest of the person or entity  
20                performing the reserve study, update, or any  
21                review thereof;



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- 1           (B) Disclosure of any component of association
- 2           property omitted not from the reserve study and
- 3           the basis for the omission;
- 4           (C) Planned increases in the estimated replacement
- 5           reserve contributions over the thirty-year plan;
- 6           and
- 7           (D) Whether the actual estimated replacement reserves
- 8           contributions for the prior year as defined in
- 9           the study was less than provided for in the
- 10           reserve study, and, if so, by how much, and
- 11           explaining the impact of the lesser contribution
- 12           of future estimated replacement reserve
- 13           contributions;
- 14       (6) The amount the association must collect for the fiscal
- 15       year to fund the estimated replacement reserves [7]
- 16       contributions; and
- 17       (7) Information as to whether the amount the association
- 18       must collect for the fiscal year to fund the estimated
- 19       replacement reserves contributions was calculated:
- 20       using a per cent funded or cash flow plan. The method
- 21       or plan shall not circumvent the estimated replacement



1 reserves contributions amount determined by the  
2 reserve study pursuant to paragraph (4) "

3 2. By amending subsection (h) to read:

4 "(h) As used in this section:

5 "Capital expenditure" means an expense that results from  
6 the purchase or replacement of an asset whose life is greater  
7 than one year, or the addition of an asset that extends the life  
8 of an existing asset for a period greater than one year.

9 "Cash flow plan" means a minimum thirty-year projection of  
10 an association's future income and expense requirements to fund  
11 fully its replacement reserves requirements each year during  
12 that thirty-year period, except in an emergency; provided that  
13 it does not include a projection of special assessments or loans  
14 during that thirty-year period, except [~~in~~] due to an emergency.

15 "Emergency situation" means a situation involving any  
16 extraordinary expenses:

- 17 (1) Required by an order of a court;
- 18 (2) Necessary to repair or maintain any part of the  
19 property for which the association is responsible  
20 where a threat to personal safety on the property is  
21 discovered;



- 1           (3) Necessary to repair any part of the property for which  
2           the association is responsible that could not have  
3           been reasonably foreseen by the board in preparing and  
4           distributing the annual operating budget;
- 5           (4) Necessary to respond to any legal or administrative  
6           proceeding brought against the association that could  
7           not have been reasonably foreseen by the board in  
8           preparing and distributing the annual operating  
9           budget; or
- 10          (5) Necessary for the association to obtain adequate  
11          insurance for the property that the association must  
12          insure.

13          "Major maintenance" means an expenditure for maintenance or  
14          repair that will result in extending the life of an asset for a  
15          period greater than one year.

16          "Replacement reserves" means funds for the upkeep, repair,  
17          or replacement of those parts of the property, including but not  
18          limited to roofs, walls, decks, paving, and equipment, that the  
19          association is obligated to maintain."

20          SECTION 3. Statutory material to be repealed is bracketed  
21          and stricken. New statutory material is underscored.



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1 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: Blaine Rasmussen

JAN 25 2023



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**Report Title:**

Condominiums; Replacement Reserves; Contributions; Requirements;  
Emergency Situations

**Description:**

Authorizes boards to borrow money for extraordinary expenses in the condominium event of an emergency situation and promptly disclose to owners the amount and purpose. Requires certain information to be included in budget summaries regarding estimated replacement reserves contributions.

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

