
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, except in matters involving the collection of
9 delinquent assessments for common expenses, as these are the
10 responsibility of the unit owner. The legislature further finds
11 that the absence of clearly defined legal fee responsibilities
12 has resulted in inequitable fee payments by unit owners.

13 The legislature also finds that fees for legal services
14 paid by an association should be limited in proportion to the
15 costs of the matter being resolved. The costs of an association
16 are shared by all its unit owners. As such, excessive fees have
17 a negative impact on all unit owners in an association.



1 The purpose of this Act is to:

2 (1) Require fees for attorneys retained by a condominium
3 association to be paid from the association's funds or
4 reserves, except in matters involving the collection
5 of delinquent common expense assessments from a unit
6 owner;

7 (2) Prohibit associations from assessing, demanding, or
8 seeking reimbursement from unit owners for legal fees
9 in excess of twenty-five per cent of the original
10 debt;

11 (3) Require attorneys retained by an association to
12 confine their communications to the condominium board,
13 except when requesting essential information from unit
14 owners, and refrain from billing unit owners directly;

15 (4) Require attorneys retained by an association for debt
16 collection purposes to abide by the federal Fair Debt
17 Collection Practices Act;

18 (5) Require certain information to be included in each
19 billing statement sent by the attorneys retained by an
20 association; and



1 (6) Clarify that costs and expenses incurred by or on
2 behalf of an association for foreclosing on a lien
3 must be promptly paid on demand to the association, as
4 long as thirty days have elapsed since a notice of
5 default and intention to foreclose has been served on
6 a unit owner.

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

10 "§514B- Attorney's fees; reimbursement; limitations;
11 communication requirements. (a) Notwithstanding sections 514B-
12 144(d) and 514B-157(a), all costs for attorneys' fees incurred
13 by or on behalf of the association shall be paid from
14 association funds or reserves.

15 (b) In addition to any reasonable attorneys' fees incurred
16 against a unit owner pursuant to section 514B-157(a), the
17 association may assess, demand, or seek reimbursement of the
18 costs for attorneys' fees against a unit owner if:

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



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

3 (2) The association prevailed in a matter that did not
4 pertain to the collection of delinquent common expense
5 assessments from a unit owner, and which was resolved
6 through binding arbitration or litigation that
7 occurred after the legal fees were initially paid with
8 association funds.

9 (c) The association shall not assess, demand, or seek
10 reimbursement from the unit owners for its total and final legal
11 fees in any matter in excess of twenty-five per cent of the
12 original debt amount sought by the association.

13 (d) Attorneys retained by the association shall only
14 communicate with the board; provided that attorneys retained by
15 the association may communicate with unit owners for purposes of
16 requests and responses for essential requirements of each matter
17 but shall not bill or demand payment of fees directly from any
18 unit owner.

19 (e) Attorneys retained by the association for the
20 collection of delinquent common expense assessments from unit



1 owners shall abide by all requirements of the federal Fair Debt
2 Collection Practices Act.

3 (f) Each billing statement provided to the association by
4 an attorney retained by the association shall include:

5 (1) The attorney's hourly rate;

6 (2) The date of each separate task performed by the
7 attorney and an explanation of each task performed;

8 (3) The number of hours expended on each separate task;

9 (4) The amount incurred for each task;

10 (5) The total amount due; and

11 (6) A reasonable due date for payment."

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

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

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

19 (2) Foreclosing any lien thereon; provided that thirty
20 days have elapsed since the notice of default and



1 intention to foreclose under section 667-92 has been
2 served on the unit owner; or

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

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

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

17 SECTION 5. This Act shall take effect on July 1, 2024.

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INTRODUCED BY: Alle A. Bellotti

JAN 22 2024

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Report Title:

Condominium Associations; Association Boards; Association Funds or Reserves; Attorneys' Fees; Reimbursement; Debt Collection; Communications; Foreclosure

Description:

Requires fees for attorneys retained by a condominium association to be paid from the association's funds or reserves, except in matters involving the collection of delinquent assessments. Prohibits associations from assessing, demanding, or seeking reimbursement from unit owners for legal fees that are in excess of twenty-five per cent of the original debt. Requires attorneys retained by an association to confine their communications to the board, except when requesting essential information from unit owners, and refrain from billing unit owners directly. Requires attorneys retained by an association for debt collection purposes to abide by the federal Fair Debt Collection Practices Act. Requires certain information to be included in each billing statement sent by the attorneys retained by an association. Clarifies that costs and expenses incurred by or on behalf of an association for foreclosing on a lien must be promptly paid on demand, as long as thirty days have elapsed since a notice of default and intention to foreclose has been served on a unit owner.

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

