

JAN 19 2024

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 source of
8 payment, unless the matter is for the collection of delinquent
9 assessments against an owner's unit, for which that owner should
10 be individually responsible. The legislature further finds that
11 the absence of clearly defined legal fee responsibilities has
12 resulted in inequitable fee payments by owners.

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



1 Accordingly, the purpose of this Act is to:

2 (1) Require that the fees for attorneys retained by an
3 association be paid from an association's funds or
4 reserves, unless the fees incurred were for the
5 purpose of collecting delinquent assessments against
6 an individual unit owner;

7 (2) Limit the condominium association from assessing,
8 demanding, or seeking reimbursement for its total and
9 final legal fees to twenty-five per cent of the
10 original debt amount sought;

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

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

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



1 "§514B- Attorneys' fees; association funds or reserves.

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

7 (1) The association prevailed in the matter and assesses,
8 demands, or seeks reimbursement of the costs of
9 attorneys' fees against all the units in accordance
10 with the allocations under section 514B-41; or

11 (2) The attorneys' fees incurred were for the purpose of
12 collecting delinquent assessments against an
13 individual unit owner pursuant to section 514B-157.

14 (b) The association shall not assess, demand, or seek
15 reimbursement for its total and final legal fees in excess of
16 twenty-five per cent of the original debt amount sought by the
17 association.

18 (c) Attorneys retained by the association shall only
19 communicate with the board; provided that attorneys retained by
20 the association may communicate with unit owners for purposes of
21 requests and responses for essential requirements of each



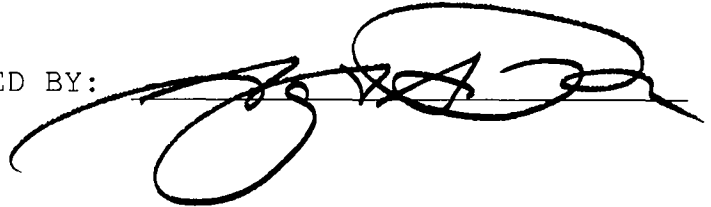
1 matter; provided further that attorneys retained by the
2 association shall not bill or demand payment of attorneys' fees
3 directly from any unit owner."

4 SECTION 3. New statutory material is underscored.

5 SECTION 4. 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. The signature is highly cursive and difficult to decipher, but appears to contain the letters 'J', 'A', and 'C'.

Report Title:

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

Description:

Requires that the fees for attorneys retained by a condominium association be paid from an association's funds or reserves, unless the fees incurred result from attempts to collect delinquent assessments against an individual unit owner. Limits the total and final legal fees to 25 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.

