
A BILL FOR AN ACT

RELATING TO INFRASTRUCTURE MAINTENANCE IN HOUSING SUBDIVISIONS.

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

1 SECTION 1. The legislature finds that some housing
2 subdivisions in the State have been approved without a
3 requirement that the lot owners fund the repair and maintenance
4 of the private roads and other infrastructure within the
5 subdivision. Unlike condominium property regimes, many housing
6 subdivisions are not subject to a statutory framework or an
7 oversight agency to oversee the creation, monitoring, training,
8 and auditing of the various volunteer associations responsible
9 for the subdivision infrastructure. Accordingly, the judicial
10 system has created a patchwork system through judgments in
11 various lawsuits that does not provide adequate oversight.

12 The legislature further finds that in the case of *Paradise*
13 *Hui Hanalike v. Hawaiian Paradise Park Corp.*, 66 Haw. 362, 662
14 P.2d 211 (1983), the Hawaii supreme court found that there
15 exists a legal duty for property owners whose property abut
16 subdivision roads to contribute to the necessary maintenance of
17 those subdivision roads. More recently, in *Kaanapali Hillside*



1 *Homeowners' Ass'n v. Doran*, 112 Hawai'i 356, 145 P.3d 899 (App.
2 2006), property owners questioned an association's authority to
3 collect an assessment because that authority was not recorded
4 against the property owners' lot. Currently, there is no
5 oversight agency for some associations whose assessment
6 collections are more than \$1 million per year. The inability to
7 collect assessments from lot owners of some subdivisions with no
8 court-approved corporation, association, or entity result in
9 substandard and deeply rutted roads that can delay emergency
10 vehicles that respond to emergency situations including crime
11 scenes. Further, numerous structures have been destroyed
12 because a fire truck was not able to arrive in time.

13 The legislature believes that, because the counties approve
14 housing subdivisions and collect real property taxes from the
15 owners in those subdivisions, it is appropriate that counties
16 establish rules and procedures for, conduct audits of, and act
17 as an oversight agency of the housing subdivisions or be
18 required to maintain and repair the infrastructure of the
19 housing subdivisions.

20 The purpose of this Act is to require:



1 "Maintenance" shall include the costs to management,
2 maintenance, and repair of roads and other infrastructure, and
3 insurance costs and fees for the management and collection of
4 assessments.

5 "Planned community" shall have the same meaning as in
6 section 421J-2.

7 **§ -2 Road repair and maintenance.** (a) A lot owner in a
8 subdivision that is not a planned community shall pay
9 assessments, as provided by this chapter, necessary for the
10 repair and maintenance of the subdivision roads. The
11 assessments shall be determined by an association, corporation,
12 or other entity to assess and collect fees for the repair and
13 maintenance of the subdivision roads.

14 (b) If a majority of the lot owners within a subdivision
15 have not authorized an association, corporation, or other entity
16 to assess and collect fees for the repair and maintenance of the
17 subdivision roads, the county in which the subdivision is
18 located shall assess and collect fees from the lot owners and
19 expend those funds to repair and maintain the subdivision roads.

20 (c) If a majority of the lot owners within a subdivision
21 has authorized an association, corporation, or other entity to



1 assess and collect fees for the repair and maintenance of the
2 subdivision roads, the lot owners may elect by a majority vote
3 to have the county in which the subdivision is located assess
4 and collect fees from the lot owners and expend those funds to
5 repair and maintain the subdivision roads.

6 (d) Each county responsible for the assessment and
7 collection of fees for the repair and maintenance of subdivision
8 roads may designate each applicable subdivision as a special
9 improvement district pursuant to section 46-80.5 or a community
10 facilities district pursuant to section 46-80.1.

11 (e) This chapter shall be subject to the county's
12 authority or power within section 46-80.5 or 46-80.1.

13 (f) A court-approved entity, without the approval of a
14 majority of the lot owners within a subdivision, may collect and
15 assess fees for a subdivision and maintain, repair, and operate
16 the subdivision roads.

17 **§ -3 County duties regarding housing subdivisions; road**
18 **maintenance and repair.** (a) Each county shall provide:

19 (1) Training to volunteer association boards on their
20 responsibilities, including conducting effective
21 meetings pursuant to established rules of order;



H.B. NO. 288

1 (2) Auditing services on the assessments and use of funds
2 for the repair and maintenance of subdivision roads;
3 and

4 (3) Arbitration and mediation services to resolve disputes
5 between a lot owner and the entity responsible for the
6 assessment and collection of fees for the repair and
7 maintenance of subdivision roads.

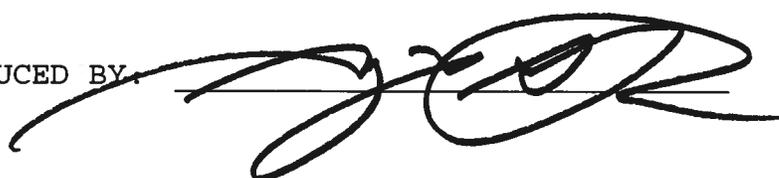
8 (b) A county may assess the assisted individuals or
9 entities a reasonable fee for services provided pursuant to
10 subsection (a).

11 (c) Once a corporation, association, or entity is
12 designated by either the county or a majority of the lot owners
13 for the maintenance and operational responsibilities of common
14 areas and subdivision roads, the county shall assist the
15 corporation, association, or entity to draft a recorded
16 instrument as that term is used in the definition of
17 "declaration" in section 421J-2."

18 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY: _____



JAN 18 2019



H.B. NO. 288

Report Title:

Housing Subdivisions; Road Repair and Maintenance; Assessments;
County Duties

Description:

Requires lot owners to pay for the repair and maintenance of subdivision roads where the applicable deed does not specify that requirement. Authorizes court-appointed entities to collect and assess fees. Requires counties to provide: (1) training to associations on their responsibilities; (2) services for certain subdivision assessments; and (3) assistance in drafting a recorded instrument regarding the maintenance and operations of roads following the designation of a responsible entity.

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