



GOV. MSG. NO. 620

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

April 20, 2009

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fifth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on April 20, 2009, the following bill was signed into law:

SB298 SD1

A BILL FOR AN ACT
RELATING TO CONDOMINIUMS.
ACT 010 (09)

Sincerely,



LINDA LINGLE

Approved by the Governor

on APR 20 2009

THE SENATE
TWENTY-FIFTH LEGISLATURE, 2009
STATE OF HAWAII

ACT 010
S.B. NO. 298
S.D. 1

A BILL FOR AN ACT

RELATING TO CONDOMINIUMS.

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

1 SECTION 1. Act 39, Session Laws of Hawaii 2000, took
2 effect in April 2000 and authorized condominium associations to
3 collect up to six months of maintenance fees or \$1,800,
4 whichever was less, in connection with the foreclosure of a
5 condominium apartment. Prior to Act 39, associations frequently
6 received nothing from the sale of an apartment in foreclosure
7 because all of the proceeds from the foreclosure auction would
8 go to the holder of the first mortgage. The purpose of Act 39
9 was to allow condominium associations some recovery from the
10 foreclosure of the condominium apartment, even if the holder of
11 the first mortgage was not paid in full. The provision
12 recognized that, since the association maintained and insured
13 the condominium apartment and the project in which it was
14 located, the association should recover something from the
15 foreclosure of the apartment.

16 The "cap" or limit of \$1,800 on the association's recovery
17 was based on information that the average monthly maintenance



1 fee in 2000 was \$300 per month. However, nine years later, the
2 average monthly maintenance fee is now well over \$400 per month.
3 Therefore, retaining the \$300 amount unfairly limits the
4 association's recovery in a foreclosure.

5 The purpose of this Act is to increase the cap on an
6 association's recovery to six months of maintenance fees or
7 \$3,600, whichever is less. In this way, associations will
8 continue to receive a fair share of the proceeds from the
9 foreclosure auction of a condominium apartment, to compensate
10 the association for its role in maintaining the value of the
11 condominium apartment, before, during, and after the
12 foreclosure.

13 SECTION 2. Section 514A-90, Hawaii Revised Statutes, is
14 amended by amending subsection (h) to read:

15 "(h) The amount of the special assessment assessed under
16 subsection (g) shall not exceed the total amount of unpaid
17 regular monthly common assessments that were assessed during the
18 six months immediately preceding the completion of the judicial
19 or nonjudicial power of sale foreclosure. In no event shall the
20 amount of the special assessment exceed the sum of [~~\$1,800.~~]
21 \$3,600."



1 SECTION 3. Section 514B-146, Hawaii Revised Statutes, is
2 amended by amending subsection (h) to read as follows:

3 "(h) The amount of the special assessment assessed under
4 subsection (g) shall not exceed the total amount of unpaid
5 regular monthly common assessments that were assessed during the
6 six months immediately preceding the completion of the judicial
7 or nonjudicial power of sale foreclosure. In no event shall the
8 amount of the special assessment exceed the sum of [~~\$1,800.~~]
9 \$3,600."

10 SECTION 4. This Act does not affect rights and duties that
11 matured, penalties that were incurred, and proceedings that were
12 begun, before its effective date.

13 SECTION 5. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 6. This Act shall take effect upon its approval.

APPROVED this 20 day of APR, 2009


GOVERNOR OF THE STATE OF HAWAII