
A BILL FOR AN ACT

RELATING TO ROAD REPAIR AND 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 abuts
16 subdivision roads to contribute to the necessary maintenance of
17 those subdivision roads. More recently, in *Kaanapali Hillside*



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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 contributions from lot owners of some subdivisions with
8 no court-approved corporation, association, or entity has caused
9 substandard and deeply rutted roads that delay emergency
10 vehicles responding to emergency situations. For example, there
11 was an allegation regarding the Dana Ireland murder case in
12 Hawaii county that the delayed response by an ambulance was a
13 major factor in Ireland's death. Further, there have been
14 numerous instances in which structures were destroyed but could
15 have been saved had a fire truck been able to arrive in time.

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



1 required to maintain and repair the infrastructure of the
2 housing subdivisions.

3 The purpose of this Act is to require:

4 (1) Lot owners in a subdivision to pay for the repair and
5 maintenance of subdivisions roads where the applicable
6 deed does not specify a requirement or are otherwise
7 subject to chapter 421J, Hawaii Revised Statutes, and
8 to require the counties to provide support for
9 applicable assessments; and

10 (2) The counties to provide oversight of housing
11 subdivisions where no oversight authority has been
12 determined.

13 SECTION 2. The Hawaii Revised Statutes is amended by
14 adding a new chapter to be appropriately designated and to read
15 as follows:

16 "CHAPTER

17 HOUSING SUBDIVISIONS

18 § -1 Definitions. For purposes of this chapter:

19 "Housing subdivisions" or "subdivision" means land that has
20 been divided into two or more lots for the construction of
21 housing under the applicable county code, including the



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1 designation of easements for the purpose of sale, lease, rental,
2 or transfer of title and is not a planned community.

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

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

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

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



1 (c) If a majority of the lot owners within a subdivision
2 have authorized an association, corporation, or other entity to
3 assess and collect fees for the repair and maintenance of the
4 subdivision roads, the lot owners may elect by a majority vote
5 to instead have the county in which the subdivision is located
6 assess and collect fees from the lot owners and expend those
7 funds to repair and maintain the subdivision roads.

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

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

15 (f) A court-approved entity, even though not approved by a
16 majority of the lot owners within a subdivision, may continue to
17 collect and assess fees for a subdivision and be otherwise,
18 responsible for the maintenance, repair, and operation of the
19 subdivision roads.

20 § -3 County duties regarding housing subdivisions; road
21 maintenance and repair. (a) Each county shall provide:



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- 1 (1) Training to volunteer association boards on their
- 2 responsibilities, including conducting effective
- 3 meetings pursuant to established rules of order;
- 4 (2) Auditing services on the assessments and use of funds
- 5 for the repair and maintenance of subdivision roads;
- 6 and
- 7 (3) Arbitration and mediation services to resolve disputes
- 8 between a lot owner and the entity responsible for the
- 9 assessment and collection of fees for the repair and
- 10 maintenance of subdivision roads.

- 11 (b) A county may assess the individuals or entities
- 12 assisted a reasonable fee for services provided pursuant to
- 13 subsection (a).

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

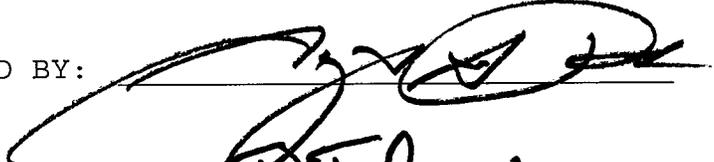


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1 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY:



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JAN 24 2018



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Report Title:

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

Description:

Requires abutting 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) assist in drafting a recorded instrument regarding the maintenance and operations of roads following the designation of a responsible entity.

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

