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# A BILL FOR AN ACT

RELATING TO CONDOMINIUMS.

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

1           SECTION 1. The legislature finds that the changes made by  
2 Act 195, Session Laws of Hawaii 2018, were designed to provide  
3 greater clarity and certainty in the application of common  
4 expense payments by condominium unit owners. Specifically, the  
5 Act clarified that condominium associations must apply common  
6 expense payments to common expenses owed first, or to fines or  
7 fees if indicated by the payee.

8           However, the Act did not address situations that require  
9 the application of funds beyond common expenses. This has  
10 resulted in confusion by association boards of directors in  
11 allocating the priority of payments paid in excess of common  
12 expenses owed.

13           Therefore, the purpose of this Act is to:

14           (1) Authorize condominium boards of directors to create a  
15           written application of payment policy for excess  
16           amounts received; and



1 (2) Specify that the excess amounts shall be applied to  
2 fines, legal fees, late fees, and interest last.

3 SECTION 2. Section 514B-105, Hawaii Revised Statutes, is  
4 amended by amending subsection (c) to read as follows:

5 "(c) No association shall deduct and apply portions of  
6 common expense payments received from a unit owner to unpaid  
7 late fees, legal fees, fines, and interest (other than amounts  
8 remitted by a unit in payment of late fees, legal fees, fines,  
9 and interest) [~~-~~]; provided that if a unit owner is not  
10 delinquent as to common expense assessments or the payment made  
11 is more than the amounts owed under this subsection, then the  
12 funds received may be applied to the unit owner's account based  
13 on a written application of payment policy by the board of  
14 directors. In all cases, fines, legal fees, late fees, and  
15 interest shall be the last priority. Common expense assessments  
16 include but are not limited to:

17 (1) Maintenance and reserve contributions assessed to all  
18 owners based on each owner's percentage of common  
19 interest;

20 (2) Special assessments to all owners;



- 1        (3) Bulk cable or wireless internet services assessed to
- 2            all owners;
- 3        (4) Metered utilities assessed to owners;
- 4        (5) Ground lease rent; and
- 5        (6) Master association dues collected by a sub-
- 6            association."

7        SECTION 3. Statutory material to be repealed is bracketed  
8 and stricken. New statutory material is underscored.

9        SECTION 4. This Act shall take effect on July 1, 2050.



**Report Title:**

Condominium Associations; Common Expense Payments

**Description:**

Authorizes condominium boards of directors to establish application schedules for excess amounts received. Specifies that the excess amounts shall be applied to fines, legal fees, late fees, and interest last. (HB61 HD1)

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

