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## 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 sources of  
8 payment.

9           The legislature further finds that these fees should be  
10 limited in proportion to the costs of the matter being resolved.  
11 The costs of an association are shared by all its unit owners.  
12 As such, excessive fees have a negative impact on all unit  
13 owners in an association.

14           The purpose of this Act is to:

15           (1) Require that the fees for attorneys retained by an  
16           association be paid from an association's funds or  
17           reserves;



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- 1           (2) Limit the total and final legal fees to twenty-five  
2           per cent of the original debt amount;
- 3           (3) Require attorneys retained by a condominium  
4           association to confine their communications to the  
5           condominium board, except when the attorneys must  
6           request and require materials and responses directly  
7           from owners for each matter; and
- 8           (4) Prohibit attorneys retained by a condominium  
9           association from billing unit owners directly.

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

13           "§514B-           Attorneys' fees. (a) Notwithstanding section  
14 514B-144(d), all costs for attorneys' fees incurred by or on  
15 behalf of the association shall be paid from association funds  
16 or reserves. The association shall not assess, demand, or seek  
17 reimbursement of the costs for attorneys' fees against a unit  
18 owner unless:

- 19           (1) The association assesses, demands, or seeks  
20           reimbursement of the costs of attorneys' fees against



1           all the units in accordance with the allocations under  
2           section 514B-41; and

3           (2) The association prevailed in the matter.

4           (b) Total and final legal fees for each matter shall not  
5           exceed twenty-five per cent of the original debt amount the  
6           board seeks to recover.

7           (c) Attorneys retained by the association shall only  
8           communicate with the board; provided that attorneys retained by  
9           the association may communicate with unit owners for purposes of  
10          requests and responses for essential requirements of each  
11          matter; provided further that attorneys retained by the  
12          association shall not bill or demand payment of attorneys' fees  
13          from any unit owner."

14          SECTION 3. Section 514B-157, Hawaii Revised Statutes, is  
15          amended by amending its title and subsection (a) to read as  
16          follows:

17                "~~[+]§514B-157[+] [Attorneys' fees, delinquent~~  
18          ~~assessments,~~ **Costs and expenses of enforcement.** (a) All costs  
19          and expenses, not including reasonable attorneys' fees, incurred  
20          by or on behalf of the association for:



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1           (1) Collecting any delinquent assessments against any  
2           owner's unit;

3           (2) Foreclosing any lien thereon; or

4           (3) Enforcing any provision of the declaration, bylaws,  
5           house rules, and this chapter, or the rules of the  
6           real estate commission;

7 against an owner, occupant, tenant, employee of an owner, or any  
8 other person who may in any manner use the property, shall be  
9 promptly paid on demand to the association by such person or  
10 persons; provided that if the claims upon which the association  
11 takes any action are not substantiated, all costs and expenses,  
12 not including reasonable attorneys' fees, incurred by any such  
13 person or persons as a result of the action of the association,  
14 shall be promptly paid on demand to such person or persons by  
15 the association."

16           SECTION 4. Statutory material to be repealed is bracketed  
17 and stricken. New statutory material is underscored.

18           SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY: \_\_\_\_\_

*Reynold Ann*

JAN 21 2022



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**Report Title:**

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

**Description:**

Requires that the fees for attorneys retained by a condominium association be paid from an association's funds or reserves. Limits the total and final legal fees to twenty-five 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.*

