

JAN 26 2022

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

7 (2) The counties to provide oversight of housing
 8 subdivisions where no oversight authority has been
 9 established.

10 SECTION 2. The Hawaii Revised Statutes is amended by
 11 adding a new chapter to be appropriately designated and to read
 12 as follows:

13 "CHAPTER

14 HOUSING SUBDIVISIONS

15 § -1 Definitions. For purposes of this chapter:

16 "Housing subdivisions" or "subdivision" means land that has
 17 been divided into two or more lots for the construction of
 18 housing under the applicable county code, including the
 19 designation of easements for the purpose of sale, lease, rental,
 20 or transfer of title and is not a planned community.



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 court-appointed entity to assess and collect fees for the
13 repair and maintenance of the subdivision roads.

14 (b) If no court-appointed or deed-designated entity is
15 authorized to assess and collect fees for the repair and
16 maintenance of the subdivision roads, the county in which the
17 subdivision is located shall assess and collect fees from the
18 lot owners and expend those funds to repair and maintain the
19 subdivision roads.

20 (c) Each county responsible for the assessment and
21 collection of fees for the repair and maintenance of subdivision



1 roads may designate each applicable subdivision as a special
2 improvement district pursuant to section 46-80.5 or a community
3 facilities district pursuant to section 46-80.1.

4 (d) This chapter shall be subject to the county's
5 authority or power within section 46-80.5 or 46-80.1.

6 § -3 County duties regarding housing subdivisions; road
7 maintenance and repair. (a) Each county shall provide:

8 (1) Training to volunteer association boards on their
9 responsibilities, including conducting effective
10 meetings pursuant to established rules of order;

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

13 and

14 (3) Arbitration and mediation services to resolve disputes
15 between a lot owner and the entity responsible for the
16 assessment and collection of fees for the repair and
17 maintenance of subdivision roads.

18 (b) A county may assess the assisted individuals or
19 entities a reasonable fee for services provided pursuant to
20 subsection (a)."

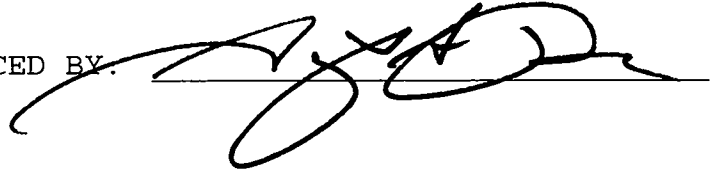
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1 SECTION 3. This Act shall take effect upon its approval.

2

INTRODUCED BY:

A handwritten signature in black ink, written over a horizontal line. The signature is stylized and appears to be the name of the person who introduced the bill.

S.B. NO. 3324

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 counties to assess and collect fees for repair and maintenance of subdivision roads if no court-appointed or deed-designated entity is appointed. Requires counties to provide: (1) training to associations on their responsibilities; (2) services for certain subdivision assessments; and (3) arbitration and mediation services to resolve disputes between a lot owner and the entity responsible for assessment.

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

