

---

---

# A BILL FOR AN ACT

RELATING TO CONDOMINIUM RESERVE REQUIREMENTS.

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

1 SECTION 1. Section 514B-148, Hawaii Revised Statutes, is  
2 amended as follows:

3 1. By amending its title and subsections (a) through (d)  
4 to read:

5 "**§514B-148 Association fiscal matters; budgets and**  
6 **replacement reserves.** (a) The budget required under section  
7 514B-144(a) shall include a summary with at least the  
8 following[+] details:

- 9 (1) The estimated revenues and operating expenses of the  
10 association;
- 11 (2) [~~Information~~] Disclosure as to whether the budget has  
12 been prepared on a cash or accrual basis;
- 13 (3) The estimated costs of fire safety equipment or  
14 installations that meet the requirements of a life  
15 safety evaluation required by the applicable county  
16 for any building located in a county with a population  
17 greater than five hundred thousand; provided that the



1           reserve study may forecast a loan or special  
2           assessment to fund life safety components or  
3           installation;  
4       ~~[(3)]~~ (4)   The balance of the total replacement reserves  
5           fund of the association as of the date of the budget;  
6       ~~[(4)]~~ (5)   The estimated replacement reserves assessments  
7           that the association will require to maintain the  
8           property based on a reserve study performed by or on  
9           behalf of the association; provided that the reserve  
10          study, if not prepared by an independent reserve study  
11          preparer, shall be reviewed by an independent reserve  
12          study preparer~~;~~ ~~provided further that the reserve~~  
13          ~~study shall be reviewed or updated at least~~ no less  
14          than every three years; provided further that a  
15          managing agent with industry reserve study  
16          designations shall not be considered as having a  
17          conflict of interest for purposes of this paragraph;  
18       ~~[(5)]~~ (6)   A general explanation of how the estimated  
19          replacement reserves assessments are computed~~;~~ and  
20          detailing:



- 1           (A) The identity, qualifications, and potential  
2           conflicts of interest of the person or entity  
3           performing the reserve study, update, or any  
4           review thereof;
- 5           (B) Disclosure of any component of association  
6           property omitted from the reserve study and the  
7           basis for the omission;
- 8           (C) Planned increases in the estimated replacement  
9           reserve assessments over the thirty-year plan;  
10           and
- 11           (D) Whether the actual estimated replacement reserves  
12           assessments for the prior year as defined in the  
13           study was less than the assessments provided for  
14           in the reserve study, and, if so, by how much,  
15           and explaining the impact of the lesser  
16           assessments on future estimated replacement  
17           reserves assessments;
- 18        [+6+] (7) The amount the association must collect for the  
19            fiscal year to fund the estimated replacement  
20            reserves[+] assessments; and



1       ~~[(7)]~~ (8) Information as to whether the amount the  
2           association must collect for the fiscal year to fund  
3           the estimated replacement reserves assessments was  
4           calculated using a per cent funded or cash flow plan.  
5           The method or plan shall not circumvent the estimated  
6           replacement reserves assessments amount determined by  
7           the reserve study pursuant to paragraph ~~[(4)]~~ (5).

8           (b) The association shall assess the unit owners to either  
9           fund a minimum of fifty per cent of the estimated replacement  
10          reserves assessments or fund one hundred per cent of the  
11          estimated replacement reserves assessments when using a cash  
12          flow plan; provided that a new association need not collect  
13          estimated replacement reserves assessments until the fiscal year  
14          ~~[which]~~ that begins after the association's first annual  
15          meeting. For each fiscal year, the association shall collect  
16          the amount assessed to fund the estimated replacement reserves  
17          assessments for that fiscal year ~~[reserves]~~, as determined by  
18          the association's plan.

19          (c) The association shall compute the estimated  
20          replacement reserves assessments by a formula that is based on  
21          the estimated life and the estimated capital expenditure or



1 major maintenance required for each part of the property. The  
2 estimated replacement reserves assessments shall include:

3 (1) Adjustments for revenues [~~which~~] that will be received  
4 and expenditures [~~which~~] that will be made before the  
5 beginning of the fiscal year to which the budget  
6 relates; and

7 (2) Separate, designated reserves for each part of the  
8 property for which capital expenditures or major  
9 maintenance will exceed \$10,000. Parts of the  
10 property for which capital expenditures or major  
11 maintenance will not exceed \$10,000 may be aggregated  
12 in a single designated reserve.

13 (d) No association or unit owner, director, officer,  
14 managing agent, or employee of an association who makes a good  
15 faith effort to calculate the estimated replacement reserves  
16 assessments for an association shall be liable if the estimate  
17 subsequently proves incorrect."

18 2. By amending subsection (f) to read:

19 "(f) The requirements of this section shall override any  
20 requirements in an association's declaration, bylaws, or any  
21 other association documents relating to preparation of budgets,



1 calculation of replacement reserve requirements, assessment and  
2 funding of replacement reserves, and expenditures from  
3 replacement reserves with the exception of:

- 4 (1) Any requirements in an association's declaration,  
5 bylaws, or any other association documents [~~which~~  
6 that require the association to collect more than  
7 fifty per cent of replacement reserve requirements; or
- 8 (2) Any provisions relating to upgrading the common  
9 elements, such as additions, improvements, and  
10 alterations to the common elements."

11 3. By amending section (h) to read:

12 "(h) As used in this section:

13 "Capital expenditure" means an expense that results from  
14 the purchase or replacement of an asset whose life is greater  
15 than one year, or the addition of an asset that extends the life  
16 of an existing asset for a period greater than one year.

17 "Cash flow plan" means a minimum thirty-year projection of  
18 an association's future income and expense requirements to fund  
19 fully its replacement reserves requirements each year during  
20 that thirty-year period, except in an emergency; provided that



1 it does not include a projection of special assessments or loans  
2 during that thirty-year period, except in an emergency.

3 "Emergency situation" means any extraordinary expenses:

- 4 (1) Required by an order of a court;
- 5 (2) Necessary to repair or maintain any part of the  
6 property for which the association is responsible  
7 where a threat to personal safety on the property is  
8 discovered;
- 9 (3) Necessary to repair any part of the property for which  
10 the association is responsible that could not have  
11 been reasonably foreseen by the board in preparing and  
12 distributing the annual operating budget;
- 13 (4) Necessary to respond to any legal or administrative  
14 proceeding brought against the association that could  
15 not have been reasonably foreseen by the board in  
16 preparing and distributing the annual operating  
17 budget; or
- 18 (5) Necessary for the association to obtain adequate  
19 insurance for the property that the association must  
20 insure.



1       "Independent reserve study preparer" means any  
2 organization, company, or individual with a reserve study  
3 certification from an industry organization.

4       "Major maintenance" means an expenditure for maintenance or  
5 repair that will result in extending the life of an asset for a  
6 period greater than one year.

7       "Replacement reserves" means funds for the upkeep, repair,  
8 or replacement of those parts of the property, including but not  
9 limited to roofs, walls, decks, paving, and equipment, that the  
10 association is obligated to maintain."

11       SECTION 2. Statutory material to be repealed is bracketed  
12 and stricken. New statutory material is underscored.

13       SECTION 3. This Act shall take effect on July 1, 2050.





**Report Title:**

Condominiums; Budgets; Fire Safety Equipment; Fire Safety Installation; Replacement Reserves Assessments Study

**Description:**

Authorizes a condominium association to provide a summary of the required information in its budget. Authorizes a condominium association's reserve study to forecast a loan or special assessment to fund life safety equipment or installations for any building located in a county with a population greater than five hundred thousand. Authorizes a condominium association to use a third party to conduct a reserves study on behalf of the condominium. Clarifies the information to be included in the description of how the estimated replacement reserves assessments are computed. Effective 7/1/2050. (HD1)

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

