

**ACT 192**

H.B. NO. 61

A Bill for an Act Relating to Condominiums.

*Be It Enacted by the Legislature of the State of Hawaii:*

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

However, the Act did not address situations that require the application of funds beyond common expenses. This has resulted in confusion by associa-

tion boards of directors in allocating the priority of payments paid in excess of common expenses owed.

Therefore, the purpose of this Act is to clarify the allocation of payments made by or on behalf of a condominium unit owner and which are paid in excess of any common expenses owed.

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

~~“(c) [No association shall deduct and apply portions of common expense payments received from a unit owner to unpaid late fees, legal fees, fines, and interest (other than amounts remitted by a unit in payment of late fees, legal fees, fines, and interest).] Any payments made by or on behalf of a unit owner shall first be applied to outstanding common expenses that are assessed to all unit owners in proportion to the common interest appurtenant to their respective units. Only after said outstanding common expenses have been paid in full may the payments be applied to other charges owed to the association, including assessed charges to the unit such as ground lease rent, utility sub-metering, storage lockers, parking stalls, boat slips, insurance deductibles, and cable. After these charges are paid, other charges, including unpaid late fees, legal fees, fines, and interest, may be assessed in accordance with an application of payment policy adopted by the board; provided that if a unit owner has designated that any payment is for a specific charge that is not a common expense as described in this subsection, the payment may be applied in accordance with the unit owner’s designation even if common expenses remain outstanding.”~~

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 Statutory material to be repealed is bracketed and stricken.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

SECTION 4. This Act shall take effect on July 1, 2019.

(Approved July 2, 2019.)