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## A BILL FOR AN ACT

RELATING TO ATTORNEYS' FEES.

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

1 SECTION 1. Section 514B-157, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "[+]§514B-157[+] **Attorneys' fees, delinquent assessments,**  
4 **and expenses of enforcement.** (a) All costs and expenses,  
5 including reasonable attorneys' fees, incurred by or on behalf  
6 of the association for:

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

9 (2) Foreclosing any lien thereon; or

10 (3) Enforcing any provision of the declaration, bylaws,  
11 house rules, and this chapter, or the rules of the  
12 real estate commission;

13 against an owner, occupant, tenant, employee of an owner, or any  
14 other person who may in any manner use the property, shall be  
15 promptly paid on demand to the association by such person or  
16 persons; provided that if the claims upon which the association  
17 takes any action are not substantiated, all costs and expenses,  
18 including reasonable attorneys' fees, incurred by any such



1 person or persons as a result of the action of the association,  
2 shall be promptly paid on demand to such person or persons by  
3 the association.

4 (b) If any claim by an owner is substantiated in any  
5 action against an association, any of its officers or directors,  
6 or its board to enforce any provision of the declaration,  
7 bylaws, house rules, or this chapter, then all reasonable and  
8 necessary expenses, costs, and attorneys' fees incurred by an  
9 owner shall be awarded to such owner; provided that no such  
10 award shall be made in any derivative action unless:

11 (1) The owner first shall have demanded and allowed  
12 reasonable time for the board to pursue such  
13 enforcement; or

14 (2) The owner demonstrates to the satisfaction of the  
15 court that a demand for enforcement made to the board  
16 would have been fruitless.

17 If any claim by an owner is not substantiated in any court  
18 action against an association, any of its officers or directors,  
19 or its board to enforce any provision of the declaration,  
20 bylaws, house rules, or this chapter, then all reasonable and  
21 necessary expenses, costs, and attorneys' fees incurred by an  
22 association shall be awarded to the association, unless before



1 filing the action in court the owner has first submitted the  
2 claim to mediation, or to arbitration under subpart D, and made  
3 a good faith effort to resolve the dispute under any of those  
4 procedures.

5 (c) Anyone contracted by the association to collect  
6 delinquent assessments against any owner's unit shall not share  
7 in any portion of any penalties or late charges collected.

8 (d) For purposes of this section, the court may award  
9 reasonable attorneys' fees as follows:

10 (1) Twenty-five per cent on the first \$1,000 owed or  
11 fraction thereof;

12 (2) Twenty per cent on the second \$1,000 owed or fraction  
13 thereof;

14 (3) Fifteen per cent on the third \$1,000 owed or fraction  
15 thereof;

16 (4) Ten per cent on the fourth \$1,000 owed or fraction  
17 thereof;

18 (5) Five per cent on the fifth \$1,000 owed or fraction  
19 thereof; and

20 (6) Two and one-half per cent on any amount owed in excess  
21 of \$5,000.



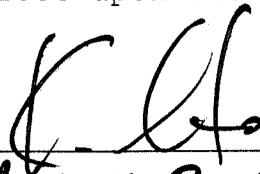
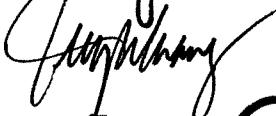
1 The above fees shall be assessed on the amount of judgment,  
2 exclusive of costs and any other attorneys' fees."

3 SECTION 2. This Act does not affect rights and duties that  
4 matured, penalties that were incurred, and proceedings that were  
5 begun, before its effective date.

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

8 SECTION 4. This Act shall take effect upon its approval.  
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INTRODUCED BY:

  
Linda T. R. Cabanilla  
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JAN 24 2007



**Report Title:**

Attorneys' Fees Cap; Condominium Property Regimes

**Description:**

Establishes a graduated schedule of reasonable attorneys' fees for cases pertaining to an association's collection of delinquent assessments, foreclosure of liens, and enforcement of the Condominium Property Act and related rules and regulations.

