
A BILL FOR AN ACT

RELATING TO CONDOMINIUMS.

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

1 PART I

2 SECTION 1. Section 514A-90, Hawaii Revised Statutes, is
3 amended by amending subsection (h) to read as follows:

4 "(h) The amount of the special assessment assessed under
5 subsection (g) shall not exceed the total amount of unpaid
6 regular monthly common assessments that were assessed during the
7 six months immediately preceding the completion of the judicial
8 or nonjudicial power of sale foreclosure. In no event shall the
9 amount of the special assessment exceed the sum of [~~\$1,800.~~]
10 \$3,600."

11 SECTION 2. Section 514B-146, Hawaii Revised Statutes, is
12 amended by amending subsection (h) to read as follows:

13 "(h) The amount of the special assessment assessed under
14 subsection (g) shall not exceed the total amount of unpaid
15 regular monthly common assessments that were assessed during the
16 six months immediately preceding the completion of the judicial
17 or nonjudicial power of sale foreclosure. In no event shall the



1 amount of the special assessment exceed the sum of [~~\$1,800.~~]
2 \$3,600."

3 PART II

4 SECTION 3. Section 514B-142, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "[~~+~~]**\$514B-142**[~~+~~] **Aging in place**[~~+~~] or disabled; limitation
7 **on liability.** (a) The association, its directors, unit owners,
8 or residents, and their agents and tenants, acting through the
9 board, shall not have any legal responsibility or legal
10 liability, with respect to any actions and recommendations the
11 board takes on any report, observation, or complaint made, or
12 with respect to any recommendation or referral given, which
13 relates to an elderly or disabled unit owner or resident who[~~-~~]
14 may require services and assistance to maintain independent
15 living in the unit in which the elderly or disabled unit owner
16 or resident resides, so that the elderly or disabled unit owner
17 or resident will not pose any harm or health or safety hazards
18 to self or to others, and will not otherwise be disruptive to
19 the condominium community because of [~~the following~~] problems of
20 aging and aging in place[~~+~~] or living independently with a
21 physical or mental disability or disabling condition. This
22 section shall apply to elderly or disabled unit owners or



1 residents whose actions or non-actions pose a risk to their own
2 health or safety or to the health and safety of others, cause
3 harm to the resident or others, or where physical or mental
4 abuse may be life-threatening, and who exhibit the following
5 characteristics:

6 (1) The inability to clean and maintain an independent
7 unit;

8 (2) Mental confusion;

9 (3) Abusing others;

10 (4) Inability to care for oneself; or

11 (5) Inability to arrange for home care[+]

12 ~~(6) Loneliness and neglect; or~~

13 ~~(7) Inappropriate requests of others for assistance.~~

14 ~~For purposes of this section, "elderly" means age sixty two and~~
15 ~~elder].~~

16 (b) Upon a report, observation, or complaint relating to
17 an elderly or disabled unit owner or resident aging or aging in
18 place or living independently with a physical or mental
19 disability or disabling condition, which notes a problem similar
20 in nature to the problems enumerated in subsection (a), the
21 board, in good faith, and without legal responsibility or
22 liability, may request a functional assessment regarding the



1 condition of an elderly or disabled unit owner or resident as
2 well as recommendations for ~~[the]~~ services from mental health or
3 medical practitioners, governmental agencies responsible for
4 adult protective services, or non-profit or for-profit service
5 entities which the elderly or disabled unit owner or resident
6 may require to maintain a level of independence that enables the
7 owner or resident to avoid any harm to self or to others, and to
8 avoid disruption to the condominium community~~[-]~~; provided that
9 when a functional assessment is requested by the board, the unit
10 owner or resident shall be deemed to be the client of the person
11 or entity conducting the functional assessment. The board, upon
12 request or unilaterally, and without legal responsibility or
13 liability, may recommend available services, including
14 assistance from state or county agencies and non-profit or for-
15 profit service entities, to an elderly or disabled unit owner or
16 resident which ~~[might]~~ may enable the elderly or disabled unit
17 owner or resident to maintain a level of independent living with
18 assistance, enabling in turn, the elderly or disabled unit owner
19 or resident to avoid any harm to self or others, and to avoid
20 disruption to the condominium community.

21 (c) There is no affirmative duty on the part of the
22 association, its board, the unit owners, or residents, or their



1 agents or tenants to request or require an assessment and
2 recommendations with respect to an elderly or disabled unit
3 owner or resident when the elderly or disabled unit owner or
4 resident may be experiencing the problems related to aging and
5 aging in place or living independently with a physical or mental
6 disability or disabling condition enumerated in subsection (a).
7 The association, its board, unit owners, or residents, and their
8 agents and tenants shall not be legally responsible or liable
9 for not requesting or declining to request a functional
10 assessment of, and recommendations for, an elderly or disabled
11 unit owner or resident regarding problems relating to aging and
12 aging in place[-] or living independently with a physical or
13 mental disability or disabling condition.

14 (d) If an elderly or disabled unit owner or resident
15 ignores or rejects a request for or the results from an
16 assessment and recommendations, the association, with no
17 liability for cross-claims or counterclaims, may file
18 appropriate information, pleadings, notices, or the like, with
19 appropriate state or county agencies or courts to seek an
20 appropriate resolution for the condominium community and for the
21 elderly or disabled unit owner[-] or resident.

22 (e) For the purposes of this section:



1 "Elderly" means age sixty-two and older.

2 "Disabled" means a physical or mental impairment that
3 substantially limits one or more major life activities; a record
4 of such an impairment; or being regarded as having such an
5 impairment.

6 [~~(e)~~] (f) Costs and fees for assessments, recommendations,
7 and actions contemplated in this section shall be as set forth
8 in the declaration or bylaws.

9 [~~(f)~~] (g) This section shall not be applicable to any
10 condominium that seeks to become licensed as an assisted living
11 facility pursuant to title 11, chapter 90, Hawaii Administrative
12 Rules, as amended."

13 PART III

14 SECTION 4. This Act does not affect rights and duties that
15 matured, penalties that were incurred, and proceedings that were
16 begun, before its effective date.

17 SECTION 5. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 6. This Act shall take effect on July 1, 2009.



H.B. NO. 876
H.D. 1
S.D. 2
C.D. 1

Report Title:

Condominiums; Assessments; Aging in Place

Description:

Increases the maximum amount of the special assessment for delinquent monthly common assessments that can be charged against a person who purchases a condominium unit. Expands limitations on association liability for elderly unit owners or residents aging in place to include disabled persons. (HB876 CD1)

