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# A BILL FOR AN ACT

RELATING TO PLANNED COMMUNITY ASSOCIATIONS.

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

1           SECTION 1. The legislature finds that excessive assessment  
2 increases, which go far beyond what was reasonably contemplated  
3 in an association's annual budget, can negatively impact members  
4 of a planned community association, particularly if such an  
5 assessment increase is the result of a board's decision that is  
6 not in line with the wishes of a majority of association  
7 members.

8           The legislature further finds that state law does contain  
9 certain protections against excessive assessment increases for  
10 Hawaii condominium owners. However, current Hawaii law does not  
11 contain similar protections for property owners who reside in  
12 planned community associations.

13           The purpose of this Act is to limit the ability of the  
14 board of directors of a planned community association to impose  
15 excessive regular assessments or special assessments, except in  
16 emergency situations, without the approval of a majority of



1 members present at an association meeting or by the written  
2 consent of the majority of members without a meeting.

3 SECTION 2. Section 421J-9, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "~~§421J-9~~ Notification of assessment increases~~[-]~~;  
6 assessment limitation; emergency situations. (a) The board of  
7 directors shall notify members in writing of any increase in  
8 regular assessments at least thirty days prior to the increase.

9 (b) Except in emergency situations, the board of directors  
10 shall not impose a regular assessment that is more than twenty  
11 per cent above the inflation adjusted assessments averaged over  
12 the prior five-year period plus the prior year's inflation rate,  
13 without the approval of a majority of members present at a duly  
14 convened regular annual meeting or special meeting of the  
15 association or by the written consent of the majority of members  
16 without a meeting. This subsection shall not apply to a regular  
17 assessment of less than \$100 per month.

18 (c) Except in emergency situations, the board of directors  
19 shall not impose a special assessment for any fiscal year for  
20 capital expenditures or major maintenance, which in the  
21 aggregate exceeds five per cent of the budgeted gross expenses



1 of the association for the current fiscal year, without the  
2 approval of a majority of members present at a duly convened  
3 regular annual meeting or special meeting of the association or  
4 by the written consent of the majority of members without a  
5 meeting.

6 (d) In emergency situations, prior to imposing or  
7 collecting an assessment under this section, the board shall  
8 adopt a resolution containing written findings as to the  
9 necessity of the extraordinary expense involved and why the  
10 expense was not or could not have been reasonably foreseen in  
11 the budgeting process, and the resolution shall be distributed  
12 to the members with the notice of assessment.

13 (e) As used in this section:

14 "Budgeted gross expenses" means all expenses in the budget  
15 adopted pursuant to the association documents, including  
16 operational expenses and reserve contributions.

17 "Capital expenditure" means an expense that results from  
18 the purchase or replacement of an asset whose life is greater  
19 than one year, or the addition of an asset that extends the life  
20 of an existing asset for a period greater than one year.

21 "Emergency situation" means any extraordinary expenses:



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

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



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

3           SECTION 4. This Act shall take effect on July 1, 2099.



**Report Title:**

Planned Community Associations; Assessments

**Description:**

Limits the ability of the board of directors of a planned community association to impose excessive regular assessments or special assessments, except in emergency situations, without the approval of a majority of members present at an association meeting or by the written consent of the majority of members without a meeting. (HB236 HD1)

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

