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# A BILL FOR AN ACT

RELATING TO CONDOMINIUM ASSOCIATIONS.

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

1           SECTION 1. The legislature finds that when boards of  
2 directors of condominium associations seek legal assistance to  
3 protect the collective interests of their associations, it is  
4 the board, not the individual unit owners, who are the clients  
5 of the attorneys. Accordingly, compensation for the legal  
6 services and costs should be paid in full entirely with the  
7 associations' funds and reserves, as the exclusive sources of  
8 payment.

9           The legislature further finds that these fees should be  
10 limited in proportion to the costs of the matter being resolved.  
11 The costs of an association are shared by all its unit owners.  
12 As such, excessive fees have a negative impact on all unit  
13 owners in an association.

14           The purpose of this Act is to:

15           (1) Require that the fees for attorneys retained by an  
16           association be paid from an association's funds or  
17           reserves;



1 (2) Require approval of the majority of unit owners before  
 2 an association may seek reimbursement of legal fees in  
 3 excess of twenty-five per cent of the original debt  
 4 amount; provided that, for the collection of debt  
 5 totaling less than \$2,000, the legal fees sought to be  
 6 recovered from a unit owner shall not exceed twenty-  
 7 five per cent of the claimed debt;

8 (3) Require attorneys retained by a condominium  
 9 association to confine their communications to the  
 10 condominium board, except when the attorneys must  
 11 request and require materials and responses directly  
 12 from owners for each matter; and

13 (4) Prohibit attorneys retained by a condominium  
 14 association from billing unit owners directly.

15 SECTION 2. Chapter 514B, Hawaii Revised Statutes, is  
 16 amended by adding a new section to be appropriately designated  
 17 and to read as follows:

18 "§514B- Attorneys' fees. (a) Notwithstanding section  
 19 514B-144(d), all costs for attorneys' fees incurred by or on  
 20 behalf of the association shall be paid from association funds  
 21 or reserves. The association shall not assess, demand, or seek



1 reimbursement of the costs for attorneys' fees against a unit  
2 owner unless:

3 (1) The association assesses, demands, or seeks  
4 reimbursement of the costs of attorneys' fees against  
5 all the units in accordance with the allocations under  
6 section 514B-41; and

7 (2) The association prevailed in the matter.

8 (b) The association shall not assess, demand, or seek  
9 reimbursement for its total and final legal fees in any matter  
10 in excess of twenty-five per cent of the original debt amount  
11 sought by the association unless approved by the majority of  
12 unit owners at a regular meeting of the association; provided  
13 that, for the collection of debt totaling less than \$2,000, the  
14 total and final legal fees the board seeks to recover from a  
15 unit owner for the matter shall not exceed twenty-five percent  
16 of the claimed debt.

17 (c) Attorneys retained by the association shall only  
18 communicate with the board; provided that attorneys retained by  
19 the association may communicate with unit owners for purposes of  
20 requests and responses for essential requirements of each  
21 matter; provided further that attorneys retained by the



1 association shall not bill or demand payment of attorneys' fees  
2 from any unit owner."

3 SECTION 3. Section 514B-157, Hawaii Revised Statutes, is  
4 amended by amending its title and subsection (a) to read as  
5 follows:

6 "[+] §514B-157 []- ~~Attorneys' fees, delinquent assessments,~~  
7 Costs and expenses of enforcement. (a) All costs and expenses,  
8 not including reasonable attorneys' fees, incurred by or on  
9 behalf of the association for:

10 (1) Collecting any delinquent assessments against any  
11 owner's unit;

12 (2) Foreclosing any lien thereon; or

13 (3) Enforcing any provision of the declaration, bylaws,  
14 house rules, and this chapter, or the rules of the  
15 real estate commission;

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



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

4 SECTION 4. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6 SECTION 5. This Act shall take effect on July 1, 2050.



**Report Title:**

Condominium Associations; Association Funds or Reserves;  
Attorneys' Fees; Communications

**Description:**

Requires that the fees for attorneys retained by a condominium association be paid from an association's funds or reserves. Limits the total and final legal fees to twenty-five per cent of the original debt amount unless approved by a majority of unit owners at a regular meeting. Limits the total and final legal fees for debts less than \$2,000 to twenty-five per cent. Requires attorneys retained by a condominium association to confine their communications to the condominium board, except when the attorneys must request and require materials and responses directly from owners for each matter. Prohibits attorneys retained by a condominium association from billing unit owners directly. Effective July 1, 2050. (SD1)

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

