

JAN 21 2022

A BILL FOR AN ACT

RELATING TO COMMON INTEREST COMMUNITIES.

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

1 SECTION 1. Section 421J-10, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) All costs and expenses, including reasonable
4 attorneys' fees, incurred by or on behalf of the association
5 for:

6 (1) Collecting any delinquent assessments against any unit
7 or the owner of any unit;

8 (2) Foreclosing any lien on any unit; or

9 (3) Enforcing any provision of the association documents
10 or this chapter;

11 against a member, occupant, tenant, employee of a member, or any
12 other person who in any manner may use the property, shall be
13 promptly paid on demand to the association by such person or
14 persons; provided that if the association is not the prevailing
15 party, all costs and expenses, including reasonable attorneys'
16 fees, incurred by any such person or persons as a result of the
17 action of the association, shall be promptly paid on demand to



1 the person by the association[-]; provided further that the
2 association or board of directors shall not expend association
3 funds to enforce against de minimis infractions of association
4 bylaws, rules, or regulations. The reasonableness of any
5 attorney's fees paid by a person or by an association as a
6 result of an action pursuant to paragraph (2) shall be
7 determined by the court.

8 For purposes of this subsection, a "de minimis infraction"
9 means a technical violation of a bylaw, rule, or regulation that
10 does not affect the health and safety of other members or
11 occupants and does not devalue the property."

12 SECTION 2. Section 514B-104, Hawaii Revised Statutes, is
13 amended by amending subsection (b) to read as follows:

14 "(b) If a tenant of a unit owner violates the declaration,
15 bylaws, or rules and regulations of the association, in addition
16 to exercising any of its powers against the unit owner, the
17 association may:

18 (1) Exercise directly against the tenant the powers
19 described in subsection (a)(11);

20 (2) After giving notice to the tenant and the unit owner
21 and an opportunity to be heard, levy reasonable fines



1 against the tenant for the violation, provided that a
2 unit owner shall be responsible for the conduct of the
3 owner's tenant and for any fines levied against the
4 tenant or any legal fees incurred in enforcing the
5 declaration, bylaws, or rules and regulations of the
6 association against the tenant; and

- 7 (3) Enforce any other rights against the tenant for the
8 violation, which the unit owner as landlord could
9 lawfully have exercised under the lease, including
10 eviction, or which the association could lawfully have
11 exercised directly against the unit owner, or both.

12 The association or board of directors shall not expend
13 association funds to enforce against de minimis infractions of
14 association bylaws, rules, or regulations; provided that a "de
15 minimis infraction" means a technical violation of a bylaw,
16 rule, or regulation that does not affect the health and safety
17 of other members or occupants and does not devalue the
18 property."

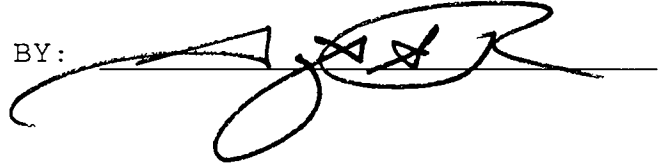
19 SECTION 3. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.



1 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:

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S.B. NO. 2876

Report Title:

Planned Community Associations; Condominiums; Association Funds

Description:

Prohibits planned community associations, condominium associations, or their boards of directors from expending association funds to enforce de minimis violations of association rules or regulations that do not pose risks to the health and safety of other members, units, or unit owners.

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

