## A BILL FOR AN ACT

RELATING TO CONDOMINIUM RESERVE REQUIREMENTS.

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

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1	SECTION 1. Section 514B-148, Hawaii Revised Statutes, is
2	amended as follows:
3	1. By amending its title and subsections (a) through (d)
4	to read:
5	"§514B-148 Association fiscal matters; budgets and
6	replacement reserves. (a) The budget required under section
7	514B-144(a) shall include a summary with at least the
8	following[+] details:
9	(1) The estimated revenues and operating expenses of the
10	association;
11	(2) [Information] Disclosure as to whether the budget has
12	been prepared on a cash or accrual basis;
13	(3) The estimated costs of fire safety equipment or
14	installations that meet the requirements of a life

15 safety evaluation required by the applicable county

16 for any building located in a county with a population

17 greater than five hundred thousand; provided that the



1		reserve study may forecast a loan or special
2		assessment to fund life safety components or
3		installation;
4	[ <del>-(3)</del> ]	(4) The balance of the total replacement reserves
5		<u>fund</u> of the association as of the date of the budget;
6	[ <del>-(4)</del> ]	(5) The estimated replacement reserves contributions
7		that the association will require to maintain the
8		property based on a reserve study performed by <u>or on</u>
9		behalf of the association; provided that the reserve
10		study, if not prepared by an independent reserve study
11		preparer, shall be reviewed by an independent reserve
12		study preparer[ <del>; provided further that the reserve</del>
13		study shall be reviewed or updated at least] not less
14		than every three years; provided further that a
15		managing agent with industry reserve study
16		designations shall not be considered as having a
17		conflict of interest for purposes of this paragraph;
18	[ <del>(5)</del> ]	(6) A general explanation of how the estimated
19		replacement reserves <u>contributions</u> are computed[+] <u>and</u>
20		detailing:

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1		(A)	The identity, qualifications, and potential
2			conflicts of interest of the person or entity
3			performing the reserve study, update, or any
4			review thereof;
5		<u>(B)</u>	Disclosure of any component of association
6			property omitted from the reserve study and the
7			basis for the omission;
8		<u>(C)</u>	Planned increases in the estimated replacement
9			reserve contributions over the thirty-year plan;
10			and
11		(D)	Whether the actual estimated replacement reserves
12			contributions for the prior year as defined in
13			the study was less than provided for in the
14			reserve study, and, if so, by how much, and
15			explaining the impact of the lesser contribution
16			of future estimated replacement reserves
17			contributions;
18	[ <del>(6)</del> ]	(7)	The amount the association must collect for the
19		fisca	al year to fund the estimated replacement
20		rese	rves[+] contributions; and

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 $\left[\frac{(7)}{2}\right]$  (8) Information as to whether the amount the 1 2 association must collect for the fiscal year to fund 3 the estimated replacement reserves contributions was 4 calculated using a per cent funded or cash flow plan. 5 The method or plan shall not circumvent the estimated 6 replacement reserves contributions amount determined by the reserve study pursuant to paragraph  $\left[\frac{4}{\cdot}\right]$  (5). 7 8 (b) The association shall assess the unit owners to either 9 fund a minimum of fifty per cent of the estimated replacement 10 reserves contributions or fund one hundred per cent of the 11 estimated replacement reserves contributions when using a cash 12 flow plan; provided that a new association need not collect 13 estimated replacement reserves contributions until the fiscal 14 year which begins after the association's first annual meeting. 15 For each fiscal year, the association shall collect the amount 16 assessed to fund the estimated replacement reserves 17 contributions for that fiscal year reserves, as determined by 18 the association's plan. 19 (C) The association shall compute the estimated

20 replacement reserves <u>contributions</u> by a formula that is based on
21 the estimated life and the estimated capital expenditure or

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major maintenance required for each part of the property. 1 The estimated replacement reserves contributions shall include: 2 Adjustments for revenues which will be received and 3 (1) expenditures which will be made before the beginning 4 of the fiscal year to which the budget relates; and 5 Separate, designated reserves for each part of the 6 (2) 7 property for which capital expenditures or major maintenance will exceed \$10,000. Parts of the 8 9 property for which capital expenditures or major maintenance will not exceed \$10,000 may be aggregated 10 11 in a single designated reserve. 12 No association or unit owner, director, officer, (d) 13 managing agent, or employee of an association who makes a good 14 faith effort to calculate the estimated replacement reserves

15 <u>contributions</u> for an association shall be liable if the estimate 16 subsequently proves incorrect."

17 2. By amending subsection (f) to read:

(f) The requirements of this section shall override any
requirements in an association's declaration, bylaws, or any
other association documents relating to preparation of budgets,
calculation of replacement reserve requirements, assessment and

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1	funding of replacement reserves, and expenditures from			
2	replacement reserves with the exception of:			
3	(1) Any requirements in an association's declaration,			
4	bylaws, or any other association documents which			
5	require the association to collect more than fifty per			
6	cent of replacement reserve requirements; or			
7	(2) Any provisions relating to upgrading the common			
8	elements, such as additions, improvements, and			
9	alterations to the common elements."			
10	3. By amending section (h) to read:			
11	"(h) As used in this section:			
12	"Capital expenditure" means an expense that results from			
13	the purchase or replacement of an asset whose life is greater			
14	than one year, or the addition of an asset that extends the life			
15	of an existing asset for a period greater than one year.			
16	"Cash flow plan" means a minimum thirty-year projection of			
17	an association's future income and expense requirements to fund			
18	fully its replacement reserves requirements each year during			
19	that thirty-year period, except in an emergency; provided that			
20	it does not include a projection of special assessments or loans			
21	during that thirty-year period, except in an emergency.			

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1	"Eme	"Emergency situation" means any extraordinary expenses:		
2	(1)	Required by an order of a court;		
3	(2)	Necessary to repair or maintain any part of the		
4		property for which the association is responsible		
5		where a threat to personal safety on the property is		
6		discovered;		
7	(3)	Necessary to repair any part of the property for which		
8		the association is responsible that could not have		
9		been reasonably foreseen by the board in preparing and		
10		distributing the annual operating budget;		
11	(4)	Necessary to respond to any legal or administrative		
12		proceeding brought against the association that could		
13		not have been reasonably foreseen by the board in		
14		preparing and distributing the annual operating		
15		budget; or		
16	(5)	Necessary for the association to obtain adequate		
17		insurance for the property that the association must		
18		insure.		
19	"Ind	ependent reserve study preparer" means any		
20	organizat	ion, company, or individual with a reserve study		
21	certification from an industry organization.			

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

Replacement reserves" means funds for the upkeep, repair,
or replacement of those parts of the property, including but not
limited to roofs, walls, decks, paving, and equipment, that the
association is obligated to maintain."

8 SECTION 2. Statutory material to be repealed is bracketed9 and stricken. New statutory material is underscored.

10 SECTION 3. This Act shall take effect on July 1, 2050.



#### Report Title:

Condominium; Fire Safety Equipment; Fire Safety Installation; Replacement Reserves Contributions Study

#### Description:

Authorizes a condominium association to provide a summary of the required information in its budget. Authorizes a condominium association's reserve study to forecast a loan or special assessment to fund life safety equipment or installations. Authorizes a condominium association to use a third party to conduct a reserves study on behalf of the condominium. Clarifies the information to be included in the description of how the estimated replacement reserves contributions are computed. Effective 7/1/2050. (SD1)

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