

JAN 24 2024

A BILL FOR AN ACT

RELATING TO CONDOMINIUMS.

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

1 SECTION 1. The legislature finds that while condominium
2 self-governance can be successful in the State, there have been
3 cases of abuse of power and other acts of retribution or
4 retaliation by certain associations, boards, managing agents,
5 resident managers, and unit owners. The legislature finds that
6 these acts of retribution and retaliation--which often include
7 harassment and unwarranted and improper fines, assessments,
8 legal costs, and foreclosures--frequently result in emotional
9 and financial harm to victims, and therefore additional
10 protections are necessary to help prevent and mitigate these
11 wrongful acts.

12 Accordingly, the purpose of this Act is to:

13 (1) Prohibit retaliatory actions against a unit owner,
14 board member, managing agent, resident manager, or
15 association employee who takes lawful action in an
16 effort to address, prevent, or stop a violation of the
17 condominium law, the governing documents of the



1 association, or any law, ordinance, rule, regulation,
2 or code that impacts the association;

3 (2) Allow a unit owner, board member, managing agent,
4 resident manager, or association employee to bring a
5 civil action for retaliation in the district court or
6 circuit court, whichever is appropriate, to allege a
7 violation;

8 (3) Provide a claimant that brings a civil action for
9 retaliation in the circuit court with the right to a
10 jury trial; and

11 (4) Prohibit an association from using association funds
12 or reserves in a manner that would be considered
13 retaliation in any lawsuit against a unit owner.

14 SECTION 2. Section 514B-191, Hawaii Revised Statutes, is
15 amended to read as follows:

16 " ~~[§514B-191]~~ **Retaliation prohibited.** (a) An
17 association, board, managing agent, resident manager, unit
18 owner, or any person acting on behalf of an association or a
19 unit owner shall not retaliate against a unit owner, board
20 member, managing agent, resident manager, or association
21 employee who, through a lawful action done in an effort to



1 address, prevent, or stop a violation of this chapter [e]; the
2 governing documents of the association[+]; or any law,
3 ordinance, rule, regulation, or code that impacts the
4 association:

5 (1) Complains or otherwise reports an alleged violation;

6 (2) Causes a complaint or report of an alleged violation
7 to be filed with the association, the commission, or
8 other appropriate entity;

9 (3) Participates in or cooperates with an investigation of
10 a complaint or report filed with the association, the
11 commission, or other appropriate entity;

12 (4) Otherwise acts in furtherance of a complaint, report,
13 or investigation concerning an alleged violation; or

14 (5) Exercises or attempts to exercise any right under this
15 chapter [e]; the governing documents of the
16 association[+] or any law, ordinance, rule, or code
17 that impacts the association.

18 (b) A unit owner, board member, managing agent, resident
19 manager, or association employee may bring a civil action in the
20 district court or circuit court, whichever is appropriate,
21 alleging a violation of this section. The court may issue an



1 injunction or award damages, court costs, attorneys' fees, or
2 any other relief the court deems appropriate. A claimant that
3 brings a civil action in the circuit court shall have the right
4 to a jury trial.

5 (c) An association shall not use association funds or
6 reserves to retaliate against a unit owner or in a manner that
7 would violate subsection (a) in any lawsuit against a unit
8 owner.

9 ~~[(e)]~~ (d) As used in this section:

10 "Governing documents" means an association's declaration,
11 bylaws, or house rules; or any other document that sets forth
12 the rights and responsibilities of the association, its board,
13 its managing agent, or the unit owners.

14 "Retaliate" means to take any action that is not made in
15 good faith and is unsupported by the association's governing
16 documents or applicable law and that is intended to, or has the
17 effect of, being prejudicial in the exercise or enjoyment of any
18 person's substantial rights under this chapter or the
19 association's governing documents."

20 SECTION 3. Statutory material to be repealed is bracketed
21 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. 3204

Report Title:

Condominiums; Retaliation; Prohibition

Description:

Prohibits retaliatory actions against a unit owner, board member, managing agent, resident manager, or association employee who takes lawful action in an effort to address, prevent, or stop a violation of the condominium law, the governing documents of the association, or any law, ordinance, rule, regulation, or code that impacts the association. Allows a unit owner, board member, managing agent, resident manager, or association employee to bring a civil action for retaliation in the district court or circuit court, whichever is appropriate, to allege a violation. Provides a claimant that brings a civil action for retaliation in the circuit court with the right to a jury trial. Prohibits an association from using association funds or reserves in a manner that would be considered retaliation in any lawsuit against a unit owner.

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

