
A BILL FOR AN ACT

RELATING TO CONDOMINIUM RESERVES.

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

1 SECTION 1. The legislature finds that existing law
2 requires condominium owners to be entitled to disclosure of
3 information about the replacement reserves maintained by an
4 association in which they own a unit. Recent efforts to
5 increase transparency and accuracy include Act 62, Session Laws
6 of Hawaii 2022, which provides for periodic review of a reserve
7 study by an independent reserve study preparer and lengthens the
8 study period to thirty years, and Act 199, Session Laws of
9 Hawaii 2023, which requires that a detailed budget summary be
10 prepared to better inform owners of the financial condition of
11 an association.

12 Despite these efforts to emphasize the importance of
13 compliance with the disclosure requirements relating to
14 association fiscal matters, further amendments are needed to
15 explicitly state that the defense of good faith compliance shall
16 be unavailable to any association whose board adopts a budget
17 that omits the mandated budget summary. Moreover,



1 clarifications are needed concerning unit owners' standing to
2 enforce compliance and that an association has the burden of
3 proving compliance when violations are alleged.

4 Accordingly, the purpose of this Act is to:

- 5 (1) Exclude the good faith defense for an association
- 6 whose board adopts a budget that omits a detailed
- 7 budget summary required by section 514B-148(a), Hawaii
- 8 Revised Statutes; and
- 9 (2) Clarify a unit owner's standing and the association's
- 10 burden of proving compliance.

11 SECTION 2. Section 514B-148, Hawaii Revised Statutes, is
12 amended as follows:

13 1. By amending subsection (d) to read:

14 "(d) No association or unit owner, director, officer,
15 managing agent, or employee of an association who makes a good
16 faith effort to calculate the estimated replacement reserves
17 assessments for an association shall be liable if the estimate
18 subsequently proves incorrect[-]; provided that this subsection
19 shall not apply to an association if its board adopts a budget
20 that omits the summary required by subsection (a)."

21 2. By amending subsection (g) to read:



1 "(g) ~~[Subject to the procedures of section 514B-157 and~~
2 ~~any rules adopted by the commission, any]~~ Any unit owner whose
3 association board fails to comply with this section ~~[may]~~ shall
4 have standing to bring an action to enforce compliance by the
5 board. In any ~~[proceeding]~~ action to enforce compliance, a
6 board ~~[that has not prepared an annual operating budget and~~
7 ~~reserve study]~~ shall have the burden of proving it has complied
8 with this section."

9 SECTION 3. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 4. This Act shall take effect on July 1, 2050.



Report Title:

Condominiums; Budget Summaries; Associations; Boards;
Compliance; Standing; Good Faith Defense; Burden of Proof

Description:

Excludes the good faith defense for associations whose boards adopt a budget that omits a detailed budget summary as required by section 514B-148, HRS. Clarifies a unit owner's standing and the association's burden of proving compliance. Effective 7/1/2050. (SD1)

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