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# 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 under existing law,  
2 unit owners, tenants, and other persons who use condominium  
3 property are subject to the declarations and bylaws adopted by  
4 their condominium's association and must strictly comply with  
5 the covenants, conditions, and restrictions set forth in the  
6 condominium's declaration, bylaws, and house rules. The  
7 legislature further finds that while condominium associations  
8 must have adequate remedies to enforce compliance, individuals  
9 subject to an enforcement action must also receive due process.

10       Therefore, the purpose of this Act is to clarify the  
11 process for unit owners and tenants to dispute assessments  
12 levied by condominium associations and ensure that there is due  
13 process when fines are imposed on individuals subject to  
14 condominium association enforcement actions.

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:



1        "§514B-        Fines; imposition; appeals; collection.    (a)

2    An association may levy reasonable fines against a unit owner or  
3    tenant of a unit owner for a violation of the declaration,  
4    bylaws, house rules, or regulations adopted by the association.

5    A unit owner or tenant shall be entitled to appeal the  
6    imposition of a fine levied pursuant to this section. The board  
7    shall adopt a resolution that establishes an appeals process  
8    that includes notice and an opportunity for the unit owner or  
9    tenant to be heard and dispute the fine. The requirements of  
10   this section shall control over fine-related provisions in an  
11   association's declaration, bylaws, house rules, or regulations.

12        (b) Prior to the imposition of a fine, the association  
13   shall provide notice to the unit owner or tenant, as applicable.  
14   The notice shall include:

15        (1) For each act or omission that constitutes a violation  
16        and is subject to the fine:

17        (A) A reference to the applicable provision or  
18        provisions of the declaration, bylaws, house  
19        rules, or regulations that serves as the basis  
20        for the fine; and

21        (B) A general description of the violation; and



1       (2) A copy of the appeals process adopted pursuant to  
2       subsection (a).

3       (c) A unit owner or tenant may request a hearing before  
4       the board within thirty days of receipt of the notice under  
5       subsection (b).

6       (d) A unit owner or tenant aggrieved by the decision of  
7       the board may file an appeal in the small claims division of the  
8       district court of the judicial circuit in which the condominium  
9       is located within thirty days of receipt of notice of the  
10       decision from the board regarding the fine.

11       (e) A fine imposed for a violation of the declaration,  
12       bylaws, house rules, or regulations adopted by the association  
13       shall be enforceable and collectible if:

14       (1) The time to initiate an appeal has expired and no  
15       appeal has been initiated;

16       (2) The fine has been upheld by the board following a  
17       timely appeal and a small claims court case has not  
18       been initiated in accordance with subsection (d); or

19       (3) The fine has not been denied by a small claims court  
20       within ninety days of the timely initiation of an  
21       appeal pursuant to subsection (d).



1        (f) An association shall not charge a unit owner or tenant  
2        any attorneys' fees incurred by the association related to a  
3        fine imposed for a violation of the declaration, bylaws, house  
4        rules, or regulations adopted by the association unless the fine  
5        is enforceable and collectible under subsection (e).

6        (g) Nothing in this section shall be deemed to limit the  
7        remedies of the association otherwise available under this  
8        chapter."

9        SECTION 3. Section 514B-104, Hawaii Revised Statutes, is  
10       amended by amending subsections (a) and (b) to read as follows:

11       "(a) Except as provided in section 514B-105, and subject  
12       to the provisions of the declaration and bylaws, the  
13       association, even if unincorporated, may:

14       (1) Adopt and amend the declaration, bylaws, and rules and  
15       regulations;

16       (2) Adopt and amend budgets for revenues, expenditures,  
17       and reserves and collect assessments for common  
18       expenses from unit owners, subject to section  
19       514B-148;

20       (3) Hire and discharge managing agents and other  
21       independent contractors, agents, and employees;



1 (4) Institute, defend, or intervene in litigation or  
2 administrative proceedings in its own name on behalf  
3 of itself or two or more unit owners on matters  
4 affecting the condominium. For the purposes of  
5 actions under chapter 480, associations shall be  
6 deemed to be "consumers";

7 (5) Make contracts and incur liabilities;

8 (6) Regulate the use, maintenance, repair, replacement,  
9 and modification of common elements;

10 (7) Cause additional improvements to be made as a part of  
11 the common elements;

12 (8) Acquire, hold, encumber, and convey in its own name  
13 any right, title, or interest to real or personal  
14 property; provided that:

15 (A) Designation of additional areas to be common  
16 elements or subject to common expenses after the  
17 initial filing of the declaration or bylaws shall  
18 require the approval of at least sixty-seven per  
19 cent of the unit owners;

20 (B) If the developer discloses to the initial buyer  
21 in writing that additional areas will be



1 designated as common elements whether pursuant to  
2 an incremental or phased project or otherwise,  
3 the requirements of this paragraph shall not  
4 apply as to those additional areas; and

5 (C) The requirements of this paragraph shall not  
6 apply to the purchase of a unit for a resident  
7 manager, which may be purchased with the approval  
8 of the board;

9 (9) Subject to section 514B-38, grant easements, leases,  
10 licenses, and concessions through or over the common  
11 elements and permit encroachments on the common  
12 elements;

13 (10) Impose and receive any payments, fees, or charges for  
14 the use, rental, or operation of the common elements,  
15 other than limited common elements described in  
16 section 514B-35(2) and (4), and for services provided  
17 to unit owners;

18 (11) Impose charges and penalties, including late fees and  
19 interest[~~r~~] for late payment of assessments, and levy  
20 reasonable fines for violations of the declaration,  
21 bylaws, rules, and regulations of the association,



1           ~~[either] in accordance with [the bylaws or, if the~~  
2           ~~bylaws are silent, pursuant to a resolution adopted by~~  
3           ~~the board that establishes a fining procedure that~~  
4           ~~states the basis for the fine and allows an appeal to~~  
5           ~~the board of the fine with notice and an opportunity~~  
6           ~~to be heard and providing that if the fine is paid,~~  
7           ~~the unit owner shall have the right to initiate a~~  
8           ~~dispute resolution process as provided by sections~~  
9           ~~514B-161, 514B-162, or by filing a request for an~~  
10           ~~administrative hearing under a pilot program~~  
11           ~~administered by the department of commerce and~~  
12           ~~consumer affairs;]~~ section 514B-     ;

13           (12) Impose reasonable charges for the preparation and  
14           recording of amendments to the declaration,  
15           documents requested for resale of units, or statements  
16           of unpaid assessments;

17           (13) Provide for cumulative voting through a provision in  
18           the bylaws;

19           (14) Provide for the indemnification of its officers,  
20           board, committee members, and agents, and maintain  
21           directors' and officers' liability insurance;



1 (15) Assign its right to future income, including the right  
2 to receive common expense assessments, but only to the  
3 extent section 514B-105(e) expressly so provides;

4 (16) Exercise any other powers conferred by the declaration  
5 or bylaws;

6 (17) Exercise all other powers that may be exercised in  
7 this State by legal entities of the same type as the  
8 association, except to the extent inconsistent with  
9 this chapter;

10 (18) Exercise any other powers necessary and proper for the  
11 governance and operation of the association; and

12 (19) By regulation, subject to sections 514B-146, 514B-161,  
13 and 514B-162, require that disputes between the board  
14 and unit owners or between two or more unit owners  
15 regarding the condominium be submitted to nonbinding  
16 alternative dispute resolution in the manner described  
17 in the regulation as a prerequisite to commencement of  
18 a judicial proceeding.

19 (b) If a tenant of a unit owner violates the declaration,  
20 bylaws, ~~[or]~~ rules ~~[and]~~, or regulations of the association, in





1 addition to exercising any of its powers against the unit owner,  
2 the association may:

3 (1) Exercise directly against the tenant the powers  
4 described in subsection (a) (11);

5 (2) After giving notice to the tenant and the unit owner  
6 and an opportunity to be heard, levy reasonable fines  
7 against the tenant for the violation[~~7~~] in accordance  
8 with section 514B- ; provided that a unit owner  
9 shall be responsible for the conduct of the owner's  
10 tenant and for any fines levied against the tenant or  
11 any legal fees incurred in enforcing the declaration,  
12 bylaws, [~~or~~] rules [~~and~~], or regulations of the  
13 association against the tenant; and

14 (3) Enforce any other rights against the tenant for the  
15 violation which the unit owner as landlord could  
16 lawfully have exercised under the lease, including  
17 eviction, or which the association could lawfully have  
18 exercised directly against the unit owner, or both."

19 SECTION 4. Section 514B-105, Hawaii Revised Statutes, is  
20 amended by amending subsection (c) to read as follows:



1       "(c) Any payments made by or on behalf of a unit owner  
2 shall first be applied to outstanding common expenses that are  
3 assessed to all unit owners in proportion to the common interest  
4 appurtenant to their respective units. Only after said  
5 outstanding common expenses have been paid in full may the  
6 payments be applied to other charges owed to the association,  
7 including assessed charges to the unit such as ground lease  
8 rent, utility sub-metering, storage lockers, parking stalls,  
9 boat slips, insurance deductibles, and cable. After these  
10 charges are paid, other charges, including unpaid late fees,  
11 legal fees, collectible fines, and interest, may be assessed in  
12 accordance with an application of payment policy adopted by the  
13 board; provided that if a unit owner has designated that any  
14 payment is for a specific charge that is not a common expense as  
15 described in this subsection, the payment may be applied in  
16 accordance with the unit owner's designation even if common  
17 expenses remain outstanding."

18       SECTION 5. Section 514B-146, Hawaii Revised Statutes, is  
19 amended to read as follows:

20       "**§514B-146 Association fiscal matters; lien for**  
21 **assessments[-]; dispute of assessments.** (a) All sums assessed



1 by the association but unpaid for the share of the common  
2 expenses chargeable to any unit shall constitute a lien on the  
3 unit with priority over all other liens, except:

4 (1) Liens for real property taxes and assessments lawfully  
5 imposed by governmental authority against the unit;  
6 and

7 (2) Except as provided in subsection ~~[(j)]~~ (k), all sums  
8 unpaid on any mortgage of record that was recorded  
9 prior to the recordation of a notice of a lien by the  
10 association, and costs and expenses including  
11 attorneys' fees provided in such mortgages;

12 provided that a lien recorded by an association for unpaid  
13 assessments shall expire six years from the date of recordation  
14 unless proceedings to enforce the lien are instituted prior to  
15 the expiration of the lien; provided further that the expiration  
16 of a recorded lien shall in no way affect the association's  
17 automatic lien that arises pursuant to this subsection or the  
18 declaration or bylaws. Any proceedings to enforce an  
19 association's lien for any assessment shall be instituted within  
20 six years after the assessment became due; provided that if the  
21 owner of a unit subject to a lien of the association files a



1 petition for relief under the United States Bankruptcy Code (11  
2 U.S.C. §101 et seq.), the period of time for instituting  
3 proceedings to enforce the association's lien shall be tolled  
4 until thirty days after the automatic stay of proceedings under  
5 section 362 of the United States Bankruptcy Code (11 U.S.C.  
6 §362) is lifted.

7       The lien of the association may be foreclosed by action or  
8 by nonjudicial or power of sale foreclosure, regardless of the  
9 presence or absence of power of sale language in an  
10 association's governing documents, by the managing agent or  
11 board, acting on behalf of the association and in the name of  
12 the association; provided that no association may exercise the  
13 nonjudicial or power of sale remedies provided in chapter 667 to  
14 foreclose a lien against any unit that arises solely from fines,  
15 penalties, legal fees, or late fees, and the foreclosure of any  
16 such lien shall be filed in court pursuant to part IA of chapter  
17 667.

18       In any such foreclosure, the unit owner shall be required  
19 to pay a reasonable rental for the unit, if so provided in the  
20 bylaws or the law, and the plaintiff in the foreclosure shall be  
21 entitled to the appointment of a receiver to collect the rental



1 owed by the unit owner or any tenant of the unit. If the  
2 association is the plaintiff, it may request that its managing  
3 agent be appointed as receiver to collect the rent from the  
4 tenant. The managing agent or board, acting on behalf of the  
5 association and in the name of the association, unless  
6 prohibited by the declaration, may bid on the unit at  
7 foreclosure sale, and acquire and hold, lease, mortgage, and  
8 convey the unit. Action to recover a money judgment for unpaid  
9 common expenses shall be maintainable without foreclosing or  
10 waiving the lien securing the unpaid common expenses owed.

11 (b) Except as provided in subsection ~~[(j)]~~ (k), when the  
12 mortgagee of a mortgage of record or other purchaser of a unit  
13 obtains title to the unit as a result of foreclosure of the  
14 mortgage, the acquirer of title and the acquirer's successors  
15 and assigns shall not be liable for the share of the common  
16 expenses or assessments by the association chargeable to the  
17 unit that became due prior to the acquisition of title to the  
18 unit by the acquirer. The unpaid share of common expenses or  
19 assessments shall be deemed to be common expenses collectible  
20 from all of the unit owners, including the acquirer and the  
21 acquirer's successors and assigns. The mortgagee of record or



1 other purchaser of the unit shall be deemed to acquire title and  
2 shall be required to pay the unit's share of common expenses and  
3 assessments beginning:

4 (1) Thirty-six days after the order confirming the sale to  
5 the purchaser has been filed with the court;

6 (2) Sixty days after the hearing at which the court grants  
7 the motion to confirm the sale to the purchaser;

8 (3) Thirty days after the public sale in a nonjudicial  
9 power of sale foreclosure conducted pursuant to  
10 chapter 667; or

11 (4) Upon the recording of the instrument of conveyance;  
12 whichever occurs first; provided that the mortgagee of record or  
13 other purchaser of the unit shall not be deemed to acquire title  
14 under paragraph (1), (2), or (3), if transfer of title is  
15 delayed past the thirty-six days specified in paragraph (1), the  
16 sixty days specified in paragraph (2), or the thirty days  
17 specified in paragraph (3), when a person who appears at the  
18 hearing on the motion or a party to the foreclosure action  
19 requests reconsideration of the motion or order to confirm sale,  
20 objects to the form of the proposed order to confirm sale,  
21 appeals the decision of the court to grant the motion to confirm



1 sale, or the debtor or mortgagor declares bankruptcy or is  
2 involuntarily placed into bankruptcy. In any such case, the  
3 mortgagee of record or other purchaser of the unit shall be  
4 deemed to acquire title upon recordation of the instrument of  
5 conveyance.

6 (c) No unit owner shall withhold any common expense  
7 assessment claimed by the association for any reason, except  
8 that a unit owner may dispute the common expenses claimed by the  
9 association after the common expense assessment has been paid in  
10 full.

11 (d) A unit owner may dispute assessments, other than  
12 common expense assessments, prior to payment. A unit owner who  
13 receives a demand for payment from an association and disputes  
14 the amount of an assessment, other than a common expense  
15 assessment, may request a written statement clearly indicating:

16 (1) The amount of common expenses included in the  
17 assessment, including the due date of each amount of  
18 common expenses claimed;

19 (2) The amount of any [~~penalty or fine, late fee, lien~~  
20 ~~filing fee, and any other~~] charge included in the  
21 assessment that is not imposed on all unit owners as a



1 common expense[; and], such as a penalty or fine, late  
2 fee, or lien filing fee; and

3 (3) The amount of attorneys' fees and costs, if any,  
4 included in the assessment.

5 [~~(d)~~—A] (e) An association who receives a request from a  
6 unit owner [who disputes the information in the written  
7 statement received from the association] pursuant to subsection  
8 [~~(c)~~ may request a subsequent] (d) shall include the following  
9 in the written statement [that additionally informs the unit  
10 owner that]:

11 (1) Under Hawaii law, a unit owner has no right to  
12 withhold common expense assessments for any reason;  
13 [~~(2)~~ A unit owner has a right to demand mediation or  
14 arbitration to resolve disputes about the amount or  
15 validity of an association's common expense  
16 assessment; provided that the unit owner immediately  
17 pays the common expense assessment in full and keeps  
18 common expense assessments current;

19 ~~(3)~~ Payment in full of the common expense assessment shall  
20 not prevent the owner from contesting the common





~~expense assessment or receiving a refund of amounts  
not owed; and~~

~~(4) If the unit owner contests any penalty or fine, late  
fee, lien filing fee, or other charges included in the  
assessment, except common expense assessments, the  
unit owner may demand mediation as provided in  
subsection (g) prior to paying those charges.~~

~~(e) No unit owner shall withhold any common expense  
assessment claimed by the association. Nothing in this section  
shall limit the rights of an owner to the protection of all fair  
debt collection procedures mandated under federal and state law.~~

~~(f) A unit owner who pays an association the full amount  
of the common expenses claimed by the association may file in  
small claims court or require the association to mediate to  
resolve any disputes concerning the amount or validity of the  
association's common expense claim. If the unit owner and the  
association are unable to resolve the dispute through mediation,  
either party may file for arbitration under section 514B-162;  
provided that a unit owner may only file for arbitration if all  
amounts claimed by the association as common expenses are paid  
in full on or before the date of filing. If the unit owner~~



~~1 fails to keep all association common expense assessments current~~  
~~2 during the arbitration, the association may ask the arbitrator~~  
~~3 to temporarily suspend the arbitration proceedings. If the unit~~  
~~4 owner pays all association common expense assessments within~~  
~~5 thirty days of the date of suspension, the unit owner may ask~~  
~~6 the arbitrator to recommence the arbitration proceedings. If~~  
~~7 the unit owner fails to pay all association common expense~~  
~~8 assessments by the end of the thirty-day period, the association~~  
~~9 may ask the arbitrator to dismiss the arbitration proceedings.~~  
~~10 The unit owner shall be entitled to a refund of any amounts paid~~  
~~11 as common expenses to the association that are not owed.~~

~~12 (g) A unit owner who contests the amount of any attorneys'~~  
~~13 fees and costs, penalties or fines, late fees, lien filing fees,~~  
~~14 or any other charges, except common expense assessments, may~~  
~~15 make a demand in writing for mediation on the validity of those~~  
~~16 charges. The unit owner has thirty days from the date of the~~  
~~17 written statement requested pursuant to subsection (d) to file~~  
~~18 demand for mediation on the disputed charges, other than common~~  
~~19 expense assessments. If the unit owner fails to file for~~  
~~20 mediation within thirty days of the date of the written~~  
~~21 statement requested pursuant to subsection (d), the association~~



~~1 may proceed with collection of the charges. If the unit owner  
2 makes a request for mediation within thirty days, the  
3 association shall be prohibited from attempting to collect any  
4 of the disputed charges until the association has participated  
5 in the mediation. The mediation shall be completed within sixty  
6 days of the unit owner's request for mediation; provided that if  
7 the mediation is not completed within sixty days or the parties  
8 are unable to resolve the dispute by mediation, the association  
9 may proceed with collection of all amounts due from the unit  
10 owner for attorneys' fees and costs, penalties or fines, late  
11 fees, lien filing fees, or any other charge that is not imposed  
12 on all unit owners as a common expense.]~~

(2) The obligation to pay a common expense assessment may  
be disputed after the common expense assessment is  
paid in full; and

(3) A unit owner may dispute other assessments, apart from  
a common expense assessment, before making payment, as  
provided by this section and section 514B- .

(f) A unit owner may file an action in any court of  
competent jurisdiction, or may request mediation, to contest:

(1) A paid in full assessment; or



1       (2) An unpaid assessment, other than a common expense  
2       assessment, or a fine; provided that a unit owner may  
3       contest a fine as provided under section 514B- .

4       A unit owner who elects to request mediation shall do so within  
5       thirty days after receipt of the written statement provided by  
6       the association pursuant to subsection (d). A timely demand for  
7       mediation shall stay an association's efforts to collect the  
8       contested assessment for one hundred twenty days.

9       (g) If any amount paid by a unit owner is found to be  
10      unsubstantiated, the unit owner shall be entitled to a refund.

11      (h) An association may defend an assessment in court or in  
12      mediation and may proceed to collect an unpaid assessment by any  
13      legal means, except when collection efforts are stayed pursuant  
14      to subsection (f).

15      ~~[-h-]~~ (i) In conjunction with or as an alternative to  
16      foreclosure proceedings under subsection (a), where a unit is  
17      owner-occupied, the association may authorize its managing agent  
18      or board to, after sixty days' written notice to the unit owner  
19      and to the unit's first mortgagee of the nonpayment of the  
20      unit's share of the common expenses, terminate the delinquent  
21      unit's access to the common elements and cease supplying a



1 delinquent unit with any and all services normally supplied or  
2 paid for by the association. Any terminated services and  
3 privileges shall be restored upon payment of all delinquent  
4 assessments but need not be restored until payment in full is  
5 received.

6 ~~[(i)]~~ (j) Before the board or managing agent may take the  
7 actions permitted under subsection ~~[(h)]~~ (i), the board shall  
8 adopt a written policy providing for such actions and have the  
9 policy approved by a majority vote of the unit owners at an  
10 annual or special meeting of the association or by the written  
11 consent of a majority of the unit owners.

12 ~~[(j)]~~ (k) Subject to this subsection, and subsections ~~[(k)]~~  
13 ~~and~~ (l) ~~[(r)]~~ and (m), the board may specially assess the amount  
14 of the unpaid regular monthly common assessments for common  
15 expenses against a mortgagee or other purchaser who, in a  
16 judicial or nonjudicial power of sale foreclosure, purchases a  
17 delinquent unit; provided that the mortgagee or other purchaser  
18 may require the association to provide at no charge a notice of  
19 the association's intent to claim lien against the delinquent  
20 unit for the amount of the special assessment, prior to the  
21 subsequent purchaser's acquisition of title to the delinquent



1 unit. The notice shall state the amount of the special  
2 assessment, how that amount was calculated, and the legal  
3 description of the unit.

4 ~~[(k)]~~ (l) The amount of the special assessment assessed  
5 under subsection ~~[(j)]~~ (k) shall not exceed the total amount of  
6 unpaid regular monthly common assessments that were assessed  
7 during the six months immediately preceding the completion of  
8 the judicial or nonjudicial power of sale foreclosure.

9 ~~[(l)]~~ (m) For purposes of subsections ~~[(j) and]~~ (k) ~~[(r)]~~ and  
10 (l), the following definitions shall apply, unless the context  
11 requires otherwise:

12 "Completion" means:

13 (1) In a nonjudicial power of sale foreclosure, when the  
14 affidavit after public sale is recorded pursuant to  
15 section 667-33; and

16 (2) In a judicial foreclosure, when a purchaser is deemed  
17 to acquire title pursuant to subsection (b).

18 "Regular monthly common assessments" does not include:

19 (1) Any other special assessment, except for a special  
20 assessment imposed on all units as part of a budget  
21 adopted pursuant to section 514B-148;



1 (2) Late charges, fines, or penalties;

2 (3) Interest assessed by the association;

3 (4) Any lien arising out of the assessment; or

4 (5) Any fees or costs related to the collection or  
5 enforcement of the assessment, including attorneys'  
6 fees and court costs.

7 [~~(m)~~] (n) The cost of a release of any lien filed pursuant  
8 to this section shall be paid by the party requesting the  
9 release.

10 [~~(n)~~] (o) After any judicial or nonjudicial foreclosure  
11 proceeding in which the association acquires title to the unit,  
12 any excess rental income received by the association from the  
13 unit shall be paid to existing lien holders based on the  
14 priority of lien, and not on a pro rata basis, and shall be  
15 applied to the benefit of the unit owner. For purposes of this  
16 subsection, excess rental income shall be any net income  
17 received by the association after a court has issued a final  
18 judgment determining the priority of a senior mortgagee and  
19 after paying, crediting, or reimbursing the association or a  
20 third party for:



1       (1) The lien for delinquent assessments pursuant to  
2       subsections (a) and (b);  
3       (2) Any maintenance fee delinquency against the unit;  
4       (3) Attorney's fees and other collection costs related to  
5       the association's foreclosure of the unit; or  
6       (4) Any costs incurred by the association for the rental,  
7       repair, maintenance, or rehabilitation of the unit  
8       while the association is in possession of the unit  
9       including monthly association maintenance fees,  
10       management fees, real estate commissions, cleaning and  
11       repair expenses for the unit, and general excise taxes  
12       paid on rental income;  
13 provided that the lien for delinquent assessments under  
14 paragraph (1) shall be paid, credited, or reimbursed first.

15       (p) Nothing in this section shall limit the rights of an  
16 owner to the protection of all fair debt collection procedures  
17 mandated under federal and state law."

18       SECTION 6. Section 514B-157, Hawaii Revised Statutes, is  
19 amended by amending subsection (a) to read as follows:





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

4       (1) Collecting any delinquent assessments against any  
5 owner's unit;

6       (2) Foreclosing any lien thereon; or

7       (3) Enforcing any provision of the declaration, bylaws,  
8 house rules, and this chapter, or the rules of the  
9 real estate commission;

10 against an owner, occupant, tenant, employee of an owner, or any  
11 other person who may in any manner use the property, shall be  
12 promptly paid on demand to the association by such person or  
13 persons[+], except as otherwise provided in section 514B- ;  
14 provided that if the claims upon which the association takes any  
15 action are not substantiated, all costs and expenses, including  
16 reasonable attorneys' fees, incurred by any such person or  
17 persons as a result of the action of the association, shall be  
18 promptly paid on demand to such person or persons by the  
19 association."

20       SECTION 7. Section 633-27, Hawaii Revised Statutes, is  
21 amended by amending subsection (a) to read as follows:



1       "(a) All district courts, except as otherwise provided,  
2 shall exercise jurisdiction conferred by this chapter, and while  
3 sitting in the exercise of that jurisdiction, shall be known and  
4 referred to as the small claims division of the district court;  
5 provided that the jurisdiction of the court when sitting as a  
6 small claims division of the district court shall be confined  
7 to:

8       (1) Cases for the recovery of money only where the amount  
9       claimed does not exceed \$5,000 exclusive of interest  
10      and costs, except as provided by section 633-30;

11      (2) Cases involving disagreement between landlord and  
12      tenant about the security deposit in a residential  
13      landlord-tenant relationship; ~~and~~

14      (3) Cases for the return of leased or rented personal  
15      property worth less than \$5,000 where the amount  
16      claimed owed for that lease or rental is less than  
17      \$5,000 exclusive of interest and costs~~[+]~~; and

18      (4) Cases arising under section 514B- .

19 This chapter shall not abridge or affect the jurisdiction of the  
20 district courts under paragraphs (1) and (3) to determine cases  
21 under the ordinary procedures of the court, it being optional



1 with the plaintiff in the cases to elect the procedure of the  
2 small claims division of the district court or the ordinary  
3 procedures, as provided by rule of court. No case filed in the  
4 small claims division after December 31, 1991, shall be removed  
5 from the small claims division to be heard under the ordinary  
6 procedures of the district court unless the removal is agreed to  
7 by the plaintiff. In cases arising under [~~paragraph~~] paragraphs  
8 (2) [~~7~~] and (4), the jurisdiction of the small claims division of  
9 the district court shall be exclusive; provided that the  
10 district court, having jurisdiction over a civil action  
11 involving summary possession, shall have concurrent jurisdiction  
12 with the small claims division of the district court over any  
13 security deposit dispute between landlord and tenant in a  
14 residential landlord-tenant relationship. This subsection shall  
15 not abrogate or supersede sections 604-5, 633-30, and 633-31."

16 SECTION 8. This Act does not affect rights and duties that  
17 matured, penalties that were incurred, and proceedings that were  
18 begun before its effective date.

19 SECTION 9. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.



**1** SECTION 10. This Act shall take effect on July 1, 3000.



**Report Title:**

Condominium Associations; Fines; Assessments; Common Expense  
Assessments; Appeals

**Description:**

Clarifies the authority of condominium associations to impose fines for violations of the declaration, bylaws, house rules, or regulations adopted by the condominium association. Establishes a process for the unit owner or tenant of the unit owner to appeal the imposition of a fine. Clarifies the responsibilities of unit owners to pay common expense assessments. Clarifies the rights and process for unit owners to appeal assessments other than common expense assessments. Specifies that the Small Claims Division has exclusive jurisdiction over cases arising from condominium disputes regarding fines. Effective 7/1/3000.  
(HD1)

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

