
A BILL FOR AN ACT

RELATING TO CONDOMINIUM.

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

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

12 Accordingly, the purpose of this Act is to emphasize the
13 importance of compliance with the requirements enacted by Acts
14 62 and 199 by:

- 15 (1) Specifying that the budget summary must contain all
16 required information without referring the reader to
17 other portions of the budget;



(2) Explicitly stating that the defense of good faith compliance is unavailable to any condominium association whose board adopts a budget that omits the required budget summary; and

(3) Providing that an association has the burden of proving compliance.

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

1. By amending subsection (a) to read:

"(a) The budget required under section 514B-144(a) shall include a summary with at least the following details:

(1) The estimated revenues and operating expenses of the association;

(2) Disclosure as to whether the budget has been prepared on a cash or accrual basis;

(3) The estimated costs of fire safety equipment or installations that meet the requirements of a life safety evaluation required by the applicable county for any building located in a county with a population greater than five hundred thousand; provided that the reserve study may forecast a loan or special



1 assessment to fund life safety components or
2 installation;

3 (4) The balance of the total replacement reserves fund of
4 the association as of the date of the budget;

5 (5) The estimated replacement reserves assessments that
6 the association will require to maintain the property
7 based on a reserve study performed by or on behalf of
8 the association; provided that the reserve study, if
9 not prepared by an independent reserve study preparer,
10 shall be reviewed by an independent reserve study
11 preparer not less than every three years; provided
12 further that a managing agent with industry reserve
13 study designations shall not be considered as having a
14 conflict of interest for purposes of this paragraph;

15 (6) A general explanation of how the estimated replacement
16 reserves assessments are computed and detailing:

17 (A) The identity, qualifications, and potential
18 conflicts of interest of the person or entity
19 performing the reserve study, update, or any
20 review thereof;



- 1 (B) Disclosure of any component of association
2 property omitted from the reserve study and the
3 basis for the omission;
- 4 (C) Planned increases in the estimated replacement
5 reserve assessments over the thirty-year plan;
6 and
- 7 (D) Whether the actual estimated replacement reserves
8 assessments for the prior year as defined in the
9 study was less than the assessments provided for
10 in the reserve study, and, if so, by how much,
11 and explaining the impact of the lesser
12 assessments on future estimated replacement
13 reserves assessments;
- 14 (7) The amount the association must collect for the fiscal
15 year to fund the estimated replacement reserves
16 assessments; and
- 17 (8) Information as to whether the amount the association
18 must collect for the fiscal year to fund the estimated
19 replacement reserves assessments was calculated using
20 a per cent funded or cash flow plan. The method or
21 plan shall not circumvent the estimated replacement



1 reserves assessments amount determined by the reserve
2 study pursuant to paragraph (5).

3 The budget summary shall contain all required information
4 without referring the reader to other portions of the budget."

5 2. By amending subsection (d) to read:

6 "(d) No association or [~~unit owner, director, officer,~~
7 ~~managing agent, or employee of an association~~] entity that, and
8 no person who, makes a good faith effort to calculate the
9 estimated replacement reserves assessments [~~for an association~~]
10 required by this section shall be liable [~~if~~] in the event that
11 the estimate subsequently proves incorrect. The defense of good
12 faith shall be unavailable to an association whenever its board
13 adopts a budget that omits the summary required by subsection
14 (a)."

15 3. By amending subsection (g) to read:

16 "(g) [~~Subject to the procedures of section 514B-157 and~~
17 ~~any rules adopted by the commission, any unit owner whose~~
18 ~~association board fails to comply with this section may enforce~~
19 ~~compliance by the board. In any proceeding to enforce~~
20 ~~compliance, a board that has not prepared an annual operating~~
21 ~~budget and reserve study shall have the burden of proving it has~~



1 ~~complied with this section.]~~ Any unit owner shall have standing
2 to bring an action alleging a violation of this section against
3 an association that the unit owner is a member of, and may seek
4 an injunction to enforce compliance with this section by the
5 association's board. The association shall have the burden of
6 proving substantial compliance with this section in any such
7 action."

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

10 SECTION 4. This Act shall take effect on July 1, 3000.



Report Title:

Condominium Associations; Budget Summaries; Replacement
Reserves; Compliance; Enforcement

Description:

Requires budget summaries to contain all required information without referring the reader to other portions of the budget. States that the defense of good faith compliance is unavailable to any association whose board adopts a budget that omits the required budget summary. Clarifies the ability to enforce compliance with budget summary and replacement reserves requirements and provides that an association has the burden of proving compliance. Effective 7/1/3000. (HD1)

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