
A BILL FOR AN ACT

RELATING TO CONDOMINIUMS.

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

1 SECTION 1. Section 514B-157, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§514B-157 Attorneys' fees, delinquent assessments, and**
4 **expenses of enforcement.** (a) ~~[All]~~ Except as provided in
5 subsection (c), all costs and expenses, including reasonable
6 attorneys' fees, incurred by or on behalf of the association
7 for:

- 8 (1) Collecting any delinquent assessments, including
9 commercial property assessed financing assessments
10 imposed pursuant to section 196-64.5, against any
11 owner's unit;
- 12 (2) Foreclosing any lien thereon; or
- 13 (3) Enforcing any provision of the declaration, bylaws,
14 house rules, and this chapter, or the rules of the
15 real estate commission;
- 16 against ~~[an]~~ a unit owner, occupant, tenant, employee of ~~[an]~~ a
17 unit owner, or any other person who may in any manner use the



1 property, shall be promptly paid on demand to the association by
2 the person or persons; provided that if the claims upon which
3 the association takes any action are not substantiated, all
4 costs and expenses, including reasonable attorneys' fees,
5 incurred by any applicable person or persons as a result of the
6 action of the association, shall be promptly paid on demand to
7 the person or persons by the association.

8 (b) If any claim by ~~[an]~~ a unit owner is substantiated in
9 any action against an association, any of its officers or
10 directors, or its board to enforce any provision of the
11 declaration, bylaws, house rules, or this chapter, then all
12 reasonable and necessary expenses, costs, and attorneys' fees
13 incurred by ~~[an]~~ a unit owner shall be awarded to ~~[such]~~ the
14 unit owner; provided that no ~~[such award]~~ expenses, costs, or
15 fees shall be ~~[made]~~ awarded in any derivative action unless:

16 (1) The unit owner first shall have demanded and allowed
17 reasonable time for the board to pursue ~~[such]~~
18 enforcement; or

19 (2) The unit owner demonstrates to the satisfaction of the
20 court that a demand for enforcement made to the board
21 would have been fruitless.



1 If any claim by ~~an~~ a unit owner is not substantiated in
2 any court action against an association, any of its officers or
3 directors, or its board to enforce any provision of the
4 declaration, bylaws, house rules, or this chapter, then all
5 reasonable and necessary expenses, costs, and attorneys' fees
6 incurred by an association shall be awarded to the association,
7 unless before filing the action in court the unit owner has
8 first submitted the claim to mediation, or to arbitration under
9 subpart D, and made a good faith effort to resolve the dispute
10 under any of those procedures.

11 (c) No attorneys' fees shall be charged by an association
12 against any unit owner or tenant with respect to a fine unless
13 the fine is deemed collectable. A fine shall be deemed
14 collectable if:

- 15 (1) The time to initiate an appeal pursuant to the
16 association's governing documents has expired and an
17 appeal has not been initiated;
18 (2) The fine has been upheld following a timely appeal and
19 a small claims court action has not been timely
20 initiated; or



1 (3) A small claims court has not invalidated the fine
2 within ninety days after timely initiation of a small
3 claims court action."

4 SECTION 2. Section 514B-163, Hawaii Revised Statutes, is
5 amended by amending subsection (d) to read as follows:

6 "(d) In any trial de novo demanded under this section, if
7 the party demanding a trial de novo does not [~~prevail at trial,~~
8 improve its position on the arbitration award by thirty per cent
9 or more, the party demanding the trial de novo shall be charged
10 with all reasonable costs, expenses, and attorneys' fees of the
11 trial. When there is more than one party on one or both sides
12 of an action, or more than one issue in dispute, the court shall
13 allocate its award of costs, expenses, and attorneys' fees among
14 the prevailing parties and tax such fees against those
15 nonprevailing parties who demanded a trial de novo in accordance
16 with the principles of equity."

17 SECTION 3. This Act does not affect rights and duties that
18 matured, penalties that were incurred, and proceedings that were
19 begun before its effective date.

20 SECTION 4. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 5. This Act shall take effect on July 1, 2050.

S.B. NO. 2037
S.D. 1

Report Title:

Condominiums; Arbitration; Fines; Attorneys' Fees; Trial de Novo

Description:

Prohibits condominium associations from charging unit owners attorneys' fees on fines unless deemed collectable. Allows a court to assess charges against a party requesting trial de novo if the requesting party fails to better its position by thirty per cent or more. Effective 7/1/2050. (SD1)

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

