
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 there are nearly two
2 hundred thousand condominium units in the State, the owners of
3 which directly bear the financial consequences of governance
4 decisions, including special assessments, maintenance fee
5 increases, deferred maintenance, and reserve underfunding.
6 Despite this, condominium unit owners are not consistently
7 included in advisory groups, task forces, or policy discussions
8 convened by the real estate commission or the department of
9 commerce and consumer affairs.

10 Accordingly, the purpose of this Act is to:

- 11 (1) Expand the uses of the condominium education trust
12 fund to include the financing of education resources
13 for condominium unit owners in condominium governance;
14 and
15 (2) Require that condominium unit owners' interests are
16 recognized and represented in programs, groups, task



1 forces, activities, and other undertakings funded by
2 the condominium education trust fund.

3 SECTION 2. Section 514B-71, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§514B-71 Condominium education trust fund.** (a) The
6 commission shall establish a condominium education trust fund
7 that the commission shall use for educational purposes.

8 Educational purposes shall include financing or promoting:

9 (1) Education and research in the field of condominium
10 management, condominium project registration, and real
11 estate, for the benefit of the public and those
12 required to be registered under this chapter;

13 (2) The improvement and more efficient administration of
14 associations;

15 (3) Expeditious and inexpensive procedures for resolving
16 association disputes;

17 (4) Support for mediation of condominium related disputes;
18 [and]

19 (5) Support for voluntary binding arbitration between
20 parties in condominium related disputes, pursuant to
21 section 514B-162.5[~~-~~]; and



1 (6) Education resources for unit owners in condominium
2 governance, including programs designed to improve
3 owner understanding of association operations, reserve
4 requirements, financial obligations, and governance
5 rights.

6 (b) The commission shall use all moneys in the condominium
7 education trust fund for purposes consistent with subsection

8 (a). Any law to the contrary notwithstanding, the commission
9 may make a finding that a fee adjustment is appropriate and
10 adjust the fees paid by associations to regulate the fund
11 balance to an appropriate level to maintain a reasonable
12 relation between the fees generated and the cost of services
13 rendered by the condominium education trust fund. For the
14 purposes of finding that a fee adjustment is appropriate in
15 order to maintain a reasonable relation between the fees
16 generated and the cost of services rendered by the fund, the
17 commission's review shall include the following:

18 (1) Frequency and timing of anticipated revenue to the
19 fund;



- 1 (2) Identification of a reserve amount based on
- 2 unanticipated revenue reductions and historical
- 3 expenditures;
- 4 (3) Anticipated expenses paid, including recovery payouts
- 5 during a biennial budget cycle;
- 6 (4) Unanticipated natural disasters or catastrophic
- 7 weather events that may increase fund payments; and
- 8 (5) Any statutory adjustments to fund payout amounts.

9 The balance of the fund shall not exceed a sum determined by the
 10 commission. The sum shall be determined by the commission
 11 biennially.

12 (c) The commission shall adopt rules to ensure that the
 13 rights of unit owners are recognized and safeguarded in all
 14 educational programs, consultations, advisory groups, task
 15 forces, and policy development activities funded in whole or in
 16 part by the condominium education trust fund."

17 SECTION 3. Section 514B-72, Hawaii Revised Statutes, is
 18 amended to read as follows:

19 "**§514B-72 Condominium education trust fund; payments by**
 20 **associations and developers.** (a) Each project or association



1 with more than five units shall pay to the department of
2 commerce and consumer affairs:

3 (1) A condominium education trust fund fee within one year
4 after the recordation of the purchase of the first
5 unit or within thirty days of the association's first
6 meeting, and thereafter, on or before June 30 of every
7 odd-numbered year, as prescribed by rules adopted
8 pursuant to chapter 91; and

9 (2) Beginning with the July 1, 2015, biennium
10 registration, an additional annual condominium
11 education trust fund fee in an amount equal to the
12 product of \$1.50 times the number of condominium units
13 included in the registered project or association to
14 be dedicated to supporting mediation or voluntary
15 binding arbitration of condominium related disputes.
16 The additional condominium education trust fund fee
17 shall total \$3 per unit until the commission adopts
18 rules pursuant to chapter 91. On June 30 of every
19 odd-numbered year, any unexpended additional amounts
20 paid into the condominium education trust fund and
21 initially dedicated to supporting mediation or



1 voluntary binding arbitration of condominium related
2 disputes, as required by this paragraph, shall be used
3 for educational purposes as provided in section
4 514B-71(a)(1), (2), [~~and~~] (3) [~~+~~], and (6).

5 (b) Each developer shall pay to the department of commerce
6 and consumer affairs the condominium education trust fund fee
7 for each unit in the project, as prescribed by rules adopted by
8 the director of commerce and consumer affairs pursuant to
9 chapter 91. The project shall not be registered and no
10 effective date for a developer's public report shall be issued
11 until the payment has been made.

12 (c) Payments of any fees required under this section shall
13 be due on or before the registration due date and shall be
14 nonrefundable. Failure to pay the required fee by the due date
15 shall result in a penalty assessment of ten per cent of the
16 amount due and the association shall not have standing to bring
17 any action to collect or to foreclose any lien for common
18 expenses or other assessments in any court of this State until
19 the amount due, including any penalty, is paid. Failure of an
20 association to pay a fee required under this section shall not
21 impair the validity of any claim of the association for common



1 expenses or other assessments, or prevent the association from
2 defending any action in any court of this State.

3 (d) The department of commerce and consumer affairs shall
4 allocate the fees collected under this section to the
5 condominium education trust fund established pursuant to section
6 514B-71. The fees collected pursuant to this section shall be
7 administratively and fiscally managed together as one
8 condominium education trust fund established by section 514B-71.

9 (e) The commission shall ensure that the interests of unit
10 owners are represented in any advisory committee, stakeholder
11 group, or task force convened for the purpose of condominium law
12 review, policy development, education program design,
13 rulemaking, dispute resolution evaluation, or any project funded
14 in whole or in part by the condominium education trust fund."

15 SECTION 4. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 5. This Act shall take effect on July 1, 3000.



Report Title:

Real Estate Commission; Condominiums; Unit Owners; Governance;
Education; Condominium Education Trust Fund

Description:

Expands the uses of the Condominium Education Trust Fund to include educational resources for condominium unit owners in condominium governance. Requires the Real Estate Commission to ensure the interests of condominium unit owners are represented in certain activities funded by the Condominium Education Trust Fund. Effective 7/1/3000. (HD1)

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