
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 recognize that
11 condominium unit owners directly bear the financial consequences
12 of governance decisions, including assessments, maintenance
13 fees, and reserve funding in statute, and to require that
14 condominium unit owners interests are protected in
15 decision-making processes that affect their homes and financial
16 stability, and authorize the condominium education trust fund to
17 be used to support condominium unit owner education.



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

3 **"§514B-71 Condominium education trust fund.** (a) The
4 commission shall establish a condominium education trust fund
5 that the commission shall use for educational purposes.

6 Educational purposes shall include financing or promoting:

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

11 (2) The improvement and more efficient administration of
12 associations;

13 (3) Expeditious and inexpensive procedures for resolving
14 association disputes;

15 (4) Support for mediation of condominium related disputes;
16 [and]

17 (5) Support for voluntary binding arbitration between
18 parties in condominium related disputes, pursuant to
19 section 514B-162.5[~~7~~]; and

20 (6) Education resources for condominium unit owners in
21 condominium governance, including programs designed to



1 improve owner understanding of association operations,
2 reserve requirements, financial obligations, and
3 governance rights.

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

- 16 (1) Frequency and timing of anticipated revenue to the
17 fund;
- 18 (2) Identification of a reserve amount based on
19 unanticipated revenue reductions and historical
20 expenditures;



- 1 (3) Anticipated expenses paid, including recovery payouts
- 2 during a biennial budget cycle;
- 3 (4) Unanticipated natural disasters or catastrophic
- 4 weather events that may increase fund payments; and
- 5 (5) Any statutory adjustments to fund payout amounts.

6 The balance of the fund shall not exceed a sum determined by the
 7 commission. The sum shall be determined by the commission
 8 biennially.

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

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

16 "**§514B-72 Condominium education trust fund; payments by**
 17 **associations and developers.** (a) Each project or association
 18 with more than five units shall pay to the department of
 19 commerce and consumer affairs:

- 20 (1) A condominium education trust fund fee within one year
- 21 after the recordation of the purchase of the first



1 unit or within thirty days of the association's first
2 meeting, and thereafter, on or before June 30 of every
3 odd-numbered year, as prescribed by rules adopted
4 pursuant to chapter 91; and

5 (2) Beginning with the July 1, 2015, biennium
6 registration, an additional annual condominium
7 education trust fund fee in an amount equal to the
8 product of \$1.50 times the number of condominium units
9 included in the registered project or association to
10 be dedicated to supporting mediation or voluntary
11 binding arbitration of condominium related disputes.
12 The additional condominium education trust fund fee
13 shall total \$3 per unit until the commission adopts
14 rules pursuant to chapter 91. On June 30 of every
15 odd-numbered year, any unexpended additional amounts
16 paid into the condominium education trust fund and
17 initially dedicated to supporting mediation or
18 voluntary binding arbitration of condominium related
19 disputes, as required by this paragraph, shall be used
20 for educational purposes as provided in section
21 514B-71(a) (1), (2), and (3).



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

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

20 (d) The department of commerce and consumer affairs shall
21 allocate the fees collected under this section to the



1 condominium education trust fund established pursuant to section
2 514B-71. The fees collected pursuant to this section shall be
3 administratively and fiscally managed together as one
4 condominium education trust fund established by section 514B-71.

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

12 (f) The real estate commission shall adopt rules
13 protecting the rights of condominium unit owners for purposes of
14 condominium governance. The criteria shall include condominium
15 unit owners whose interests shall be considered in commission
16 programs and activities funded in whole or in part by the
17 condominium education trust fund."

18 SECTION 4. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

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



Report Title:

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

Description:

Requires the Condominium Education Trust Fund to be used for educational resources for condominium unit owners in condominium governance, including programs designed to improve owner understanding of association operations, reserve requirements, financial obligations, and governance rights. 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 and to adopt rules protecting the rights of condominium unit owners for purposes of condominium governance. 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.

