

## ACT 132

H.B. NO. 666

A Bill for an Act Relating to Condominium Association Budgets and Reserves.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 514A, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§514A- Associations of apartment owners; budgets and reserves. (a)**

The board of directors of each association of apartment owners shall prepare and adopt an annual operating budget and distribute it to the apartment owners. At a minimum, the budget shall include the following:

- (1) The estimated revenues and operating expenses of the association;
- (2) Information as to whether the budget has been prepared on a cash or accrual basis;
- (3) The total cash reserves of the association as of the date of the budget;
- (4) The estimated cash reserves the association will require to maintain the property;
- (5) A general explanation of how the estimated cash reserves are computed; and
- (6) The amount the association must collect for the fiscal year to fund the estimated cash reserves.

(b) The association shall assess the apartment owners to fund the estimated cash reserves; provided that a new association created after the effective date of this Act need not collect estimated cash reserves until the fiscal year which begins after the association's first annual meeting. For each fiscal year the association shall collect the full amount required to fund the estimated cash reserves for that fiscal year except:

- (1) The commission shall adopt rules to permit an existing association to fund its estimated cash reserves in increments during the first five years after the effective date of this Act; and
- (2) The commission shall adopt rules to permit an association to fund in increments, over two years, estimated cash reserves which have been substantially depleted by an emergency.

(c) The association shall compute the estimated cash reserves by a formula which is based on the estimated life and the estimated replacement cost or major maintenance expense of each part of the property. The estimated cash reserves shall include:

- (1) Adjustments for revenues which will be received and expenditures which will be made before the beginning of the fiscal year to which the budget relates; and
- (2) Separate, designated reserves for each part of the property for which capital expenditures or major maintenance will exceed \$10,000. Parts of the property for which capital expenditures or major maintenance will not exceed \$10,000 may be aggregated in a single designated reserve.

(d) No association or apartment owner, director, officer, managing agent, or employee of an association who makes a good faith effort to calculate the estimated cash reserves for an association shall be liable if the estimate subsequently proves incorrect.

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(e) The commission may request a copy of the annual operating budget of the association of apartment owners as part of the association's registration with the commission under section 514A-95.1.

(f) A board may not exceed its adopted annual operating budget by more than twenty per cent in a fiscal year except in emergency situations. Prior to the imposition or collection of an assessment under this paragraph, the board shall pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process, and the resolution shall be distributed to the members with the notice of assessment.

(g) The commission may adopt rules to implement this section.

(h) As used in this section:

“Capital expenditure” means an expense which results from the purchase or replacement of an asset whose life is greater than one year, or the addition of an asset which extends the life of an existing asset for a period greater than one year.

“Emergency situation” means any of the following:

- (1) An extraordinary expense required by an order of a court;
- (2) An extraordinary expense necessary to repair or maintain any part of the property for which the association is responsible where a threat to personal safety on the property is discovered; or
- (3) An extraordinary expense necessary to repair any part of the property for which the association is responsible that could not have been reasonably foreseen by the board in preparing and distributing the annual operating budget.

“Major maintenance” means an expenditure for maintenance or repair which will result in extending the life of an asset for a period greater than one year.

“Cash reserves” means funds for the upkeep, repair, or replacement of those parts of the property including, but not limited to roofs, walls, decks, paving, and equipment, which the association is obligated to maintain.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect on January 1, 1993.

(Approved May 22, 1991.)

### Note

1. Edited pursuant to HRS §23G-16.5.