

ACT 200

S.B. NO. 3324

A Bill for an Act Relating to Infrastructure Maintenance in Housing Subdivisions.

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

SECTION 1. The legislature finds that some housing subdivisions in the State have been approved without a requirement that the lot owners fund the repair and maintenance of the private roads and other infrastructure within the subdivision. Unlike condominium property regimes, many housing subdivisions are not subject to a statutory framework or an oversight agency to oversee the creation, monitoring, training, and auditing of the various volunteer associations responsible for the subdivision infrastructure. Accordingly, the judicial system has created a patchwork system through judgments in various lawsuits that does not provide adequate oversight.

The legislature further finds that in the case of *Paradise Hui Hanalike v. Hawaiian Paradise Park Corp.*, 66 Haw. 362, 662 P.2d 211 (1983), the Hawaii supreme court found that lot owners whose lots abut on subdivision roads have a legal duty to contribute to the necessary maintenance of those subdivision roads even though their deeds are silent on the matter. More recently, in *Kaanapali Hillside Homeowners' Ass'n ex rel. Bd of Directors v. Doran*, 112 Hawaii 356, 145 P.3d 899 (Ct. App. 2006), property owners questioned an association's authority to impose an assessment because that authority was not recorded against the property owners' lot.

The legislature additionally finds that there is currently no oversight agency for some associations whose assessment collections are more than \$1,000,000 per year. The inability to collect assessments from lot owners of some subdivisions with no court-approved corporation, association, or entity results in substandard and deeply rutted roads that can delay emergency vehicles that respond

to emergency situations, including crime scenes. Furthermore, numerous structures have been destroyed because a fire truck was not able to arrive in time.

Accordingly, the purpose of this Act is to establish a working group to examine and address the problem of infrastructure repair and maintenance in planned housing subdivisions that do not have compulsory homeowner associations.

SECTION 2. (a) There is established a working group to examine and address housing subdivision infrastructure repair and maintenance for planned housing subdivisions that do not have compulsory homeowner associations in counties with populations greater than one hundred seventy thousand but less than three hundred thousand.

(b) The working group shall comprise the following:

- (1) One member of the house of representatives who represents an affected district in the affected county;
- (2) One member of the senate who represents an affected district in the affected county;
- (3) One member of the office of the mayor of an affected county, or designee;
- (4) One member from the Hawaii Council of Community Associations;
- (5) One member from the Hawaii Chapter of the Community Associations Institute;
- (6) One community stakeholder from an affected district to be designated by the senate member on the working group; and
- (7) One community stakeholder from an affected district to be designated by the member of the house of representatives on the working group.

(c) The working group shall examine and address the following:

- (1) The development of one or two homeowner associations;
- (2) The procedures for establishment of a homeowner association to maintain and repair the subdivision infrastructure, such as roads, street lighting, and other appurtenances, used by the subdivision residents; and including the payment and collection of assessments;
- (3) The role of each county in paragraph (2);
- (4) Amendments to chapter 421J, Hawaii Revised Statutes, if any, to address planned housing subdivision infrastructure repair and maintenance for subdivisions that do not have compulsory homeowner associations; and
- (5) Any other issues that may arise, pursuant to the discretion of the working group.

(d) The working group shall submit a report of its findings and recommendations, including any proposed legislation, to the legislature no later than twenty days prior to the convening of the regular session of 2024.

(e) The members of the working group shall serve without compensation but shall be reimbursed for expenses, including travel expenses, necessary for the performance of their duties; provided that working group meetings may be held remotely; provided further that staff to support the working group shall be provided by the legislative members.

(f) The working group shall be dissolved on June 30, 2024.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$100,000 or so much thereof as may be necessary for fiscal year 2022-2023 for the purposes of the working group established by this Act.

The sum appropriated shall be expended by the county or counties specified in section 2(a) of this Act.

SECTION 4. This Act shall take effect upon its approval; provided that section 3 of this Act shall take effect on July 1, 2022.

(Approved June 27, 2022.)