

Honolulu, Hawaii

APR 09 2009

RE: H.B. No. 876
H.D. 1
S.D. 2

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fifth State Legislature
Regular Session of 2009
State of Hawaii

Madam:

Your Committee on Judiciary and Government Operations, to which was referred H.B. No. 876, H.D. 1, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO CONDOMINIUMS,"

begs leave to report as follows:

The purpose of this measure is to:

- (1) Increase the amount of unpaid common assessments that an association of apartment owners may collect against the subsequent owner of a foreclosed property;
- (2) Clarify the legal responsibility of a unit owners' association in a condominium to elderly or disabled unit owners or residents, having a physical or mental handicap or disabling condition, who may require services and assistance to maintain independent living in the unit in which the unit owner or resident resides; and
- (3) Allow the board of a unit owners' association in a condominium, pursuant to a report, observation, or complaint relating to an elderly or disabled unit owner or resident living independently with a physical or mental handicap or disabling condition, to request a functional assessment regarding the condition of the elderly or disabled unit owner or resident and recommendations for services from mental health or



medical practitioners, governmental agencies responsible for adult protective services, or non-profit service entities. The person receiving the functional assessment is deemed to be the client of the person or entity conducting the functional assessment.

Your Committee finds that mortgage foreclosures impact condominium associations when the owner of a foreclosed property fails to pay association maintenance fees. The association continues to be responsible for maintaining the common areas and providing the common benefits such as water, electricity, and maintenance staff of the property, regardless of whether the association receives all of the fees due.

Your Committee further finds that associations and their members should be supported in their good faith efforts to assist fellow residents who have difficulty living independently. Current law protects associations from liability for good faith efforts to assist elderly residents who may be in need of assessment or social services in order to maintain independent living and avoid harm to self or others. This measure allows associations to also offer assistance to disabled residents.

Your Committee has amended this measure on the recommendation of the Disability and Communication Access Board by replacing the phrase "physical or mental handicap or disabling condition" with the phrase "physical or mental disability."

Your Committee has also changed the effective date to July 1, 2075 to continue the discussions on this matter.

As affirmed by the record of votes of the members of your Committee on Judiciary and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 876, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 876, H.D. 1, S.D. 2.



Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Government Operations,



BRIAN T. TANIGUCHI, Chair



