



DISABILITY AND COMMUNICATION ACCESS BOARD

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February 25, 2009

TESTIMONY TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

House Bill 876, House Draft 1 – Relating to Public Procurement

The Disability and Communication Access Board (DCAB) is a statewide board with seventeen (17) members appointed by the Governor, thirteen (13) of whom are persons with disabilities or family members. The Board's mission is to advocate and promote full inclusion, independence, equal access, and quality of life for persons with disabilities in society. This testimony represents a position voted upon by the Legislative Committee of the Board.

This bill would provide a structure and boundaries for the Condominium Associations in obtaining necessary information to assist them with valid situations where a person is apparently unable to live independently in a condominium. This bill proposes to expand the current provisions for people who are elderly to people who have disabilities. We offer the following recommendations:

1. The definition of person with a disability should reflect the Fair Housing Act: "A physical or mental impairment which substantially limits one or more major life activities; a record of such an impairment, or being regarded as having such an impairment."
2. Any functional assessment required by the Association should be at the expense of the Association.

Thank you for the opportunity to testify.

Respectfully submitted,

CHARLES W. FLEMING
Chairperson

FRANCINE WAI
Executive Director



HAWAII BANKERS ASSOCIATION

1000 BISHOP ST., SUITE 301B • HONOLULU, HAWAII 96813-4203
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February 24, 2009

The Honorable Robert Herkes, Chair
Committee on Consumer Protection & Commerce
State House of Representatives

Requesting action on HB 876, HD 1 be deferred (Relating to
Condominiums)

Dear Representative Herkes and Committee Members:

I am Roy Amemiya, speaking on behalf of the Hawaii Bankers Association and requesting that you either defer action on this bill or modify it by deleting Part 1 pertaining to the senior lien position for condominium associations over the mortgage lenders.

This bill has two separate and unrelated topics – the issue of raising the amount of the senior lien from \$1,800 to an unspecified amount for condominium associations in Part 1 and the issue of expanding limitations on association liability in Part 2. HBA is interested in Part 1 and does not take a position on Part 2.

The current amount of \$1,800 was enacted in the 2000 Legislative Session. While our organization realizes that association costs, and consequently maintenance fees have probably risen over the intervening years, we seek legislation that is acceptable to both lenders and the condo associations. Accordingly, we have met with representatives of the condominium groups and tentatively agreed on a proposal. As of this writing, we are still awaiting confirmation that the compromise is accepted.

We asked that the bill be deferred until the aforementioned compromise has been finalized.

Thank you for the opportunity to testify.

HAWAII FINANCIAL SERVICES ASSOCIATION

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February 25, 2009

Rep. Robert N. Herkes, Chair
and members of the House Committee on Consumer Protection & Commerce
Hawaii State Capitol
Honolulu, Hawaii 96813

Re: **House Bill 876 (Condominiums)**
Hearing Date/Time: Wednesday, February 25, 2009, 2:00 P.M.

I am the attorney for the **Hawaii Financial Services Association** ("HFSA"). The HFSA is the trade association for Hawaii's financial services loan companies which are regulated by the Hawaii Commissioner of Financial Institutions under the Code of Financial Institutions (Chapter 412, Article 9 of the Hawaii Revised Statutes).

The HFSA wants to **comment** on this Bill.

The purpose of this Bill is to raise the maximum amount of the special assessment for delinquent monthly common assessments that can be charged against a person who purchases a condominium unit. It expands limitations on association liability for elderly unit owners aging in place to include disabled persons.

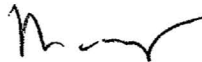
We take no position on the part of this Bill that relates to elderly unit and/or disabled owners.

However, we cannot support the other part of this Bill which would increase the maximum amount of the special assessment. Currently the special assessment is the lesser of \$1,800 or the amount of 6 months of unpaid condominium common assessments (e.g. maintenance fees). This Bill would increase the amount from \$1,800 to an amount to be determined. The law regarding these special assessments was first enacted in 2000 as Act 39. This special assessments provision is in Hawaii Revised Statutes Sec. 514A-90 and 514B-146. This provision requires a third party buyer to pay a portion of the delinquent common assessments (e.g. maintenance fees) even if there is no lien recorded in the State Bureau of Conveyances.

These special assessments could affect the price that a buyer pays for the foreclosed property and the amount that a foreclosing lender will net from the sale. We understand that condominium associations need to get paid when there are delinquent maintenance fees. But lenders also need to get paid the amount owed on the mortgage loans especially if the value of the property is less than the mortgage balance.

We recommend that the parties meet to resolve their differences just as they did in 2000.

Thank you for considering our comments.



MARVIN S.C. DANG

Attorney for Hawaii Financial Services Association

(MSCD/hfsa)



HAWAII INDEPENDENT CONDOMINIUM & COOPERATIVE OWNERS
1600 ALA MOANA BLVD. - APT. 3100 - HONOLULU - HAWAII 96815

February 25, 2009

Rep. Robert N. Herkes, Chair
Committee on Consumer Protection
and Commerce

Testimony on HB 876, HD1 Relating to Condominiums

Dear Representative Herkes:

Thank you for this opportunity to testify on behalf of the Hawaii Independent Condominium and Co-op Owners (HICCO).

HB 876, HD1 will help all condominium owners in Hawaii. Currently, Condominium Associations are only able to recover a maximum of **\$1,800** from the foreclosure of owner units by their banks. Since foreclosures sometimes take a year or longer to complete, and during that time associations are not able to collect maintenance fees for those units, **condominium associations lose thousands of dollars in spite of the fact that these condominium associations play no role in approving the loans entered into between the banks and the individual owners.**

The members of our organization request that you insert the figure, \$3,600 as the new amount that condominium associations will be able to recover from the foreclosure of association units by their banks.

We respectfully request that your committee approve HB 876, HD1 as amended in our request.

Sincerely,

Richard Port

Richard Port, Chair
Legislative Committee

wakai1-Karen

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 24, 2009 2:12 PM
To: CPCtestimony
Cc: tedwalkey@hmcmtg.com
Subject: Testimony for HB876 on 2/25/2009 2:00:00 PM

Testimony for CPC 2/25/2009 2:00:00 PM HB876

Conference room: 325
Testifier position: support
Testifier will be present: No
Submitted by: Ted Walkey
Organization: Individual
Address:
Phone:
E-mail: _____
Submitted on: 2/24/2009

Comments:
Common interest communities must be reimbursed for the expense of maintaining the amenities during the process of foreclosure and resale.