

HB 876

HAWAII COUNCIL OF ASSOCIATIONS  
OF APARTMENT OWNERS

P.O. Box 726  
Aiea, Hawaii 96701  
Telephone (808) 566-2122

March 16, 2009

Sen. Suzanne Chun Oakland, Chair  
Sen. Les Ihara, Jr., Vice-Chair  
Senate Committee on Human Services

Sen. Rosalyn Baker, Chair  
Sen. David Ige, Vice-Chair  
Senate Committee on Commerce & Consumer Affairs

RE: Amended Testimony in Support of HB 876 HD1 RE Condominiums  
Hearing: Tuesday, March 17, 2009, 1:15 p.m. Conf. Rm. #016

Chairs Chun Oakland and Baker, Vice-Chairs Ihara and Ige and Members of the Joint Committee:

I am Jane Sugimura, President of the Hawaii Council of Associations of Apartment Owners (HCAAO).

HCAAO strongly supports both parts of this bill and urges that you pass it out by inserting \$3,600.00 into the blank in Part I. \$3,600 was the amount was agreed upon in discussions between condominium stakeholder organizations and mortgage bankers.

We also request that the following amendments be made to Part II:

1. At page 3 of HB 876 HD1, beginning at line 17, change the language to read as follows: “. . . may request a functional assessment regarding the condition of an elderly or disabled unit owner or resident as well as recommendations [~~for the services, including appropriate assistance~~] from mental health or medical practitioners [~~or the~~], governmental agencies responsible for adult protective services and from non-profit service providers such as Catholic Charities or Child and Family Services and for-profit service entities, which the elderly or disabled unit owner or

resident may require to maintain a level of independence that enables the owner or resident to avoid harm to self or to others, and to avoid disruption to the condominium community. . .”

2. At page 4 of HB 876 HD1, lines 5 - 7, change the language to read as follows: “. . . recommend available services, including but not limited to assistance from state or county agencies and non-profit and for-profit service entities, to an elderly or disabled unit owner or resident which may enable the elderly or disabled unit owner . . .”

Based on the foregoing, we respectfully ask that you pass out Part I unamended and that you amend Part II as requested in this testimony.

Thank you for the opportunity to testify.

Jane Sugimura  
President



# HAWAII BANKERS ASSOCIATION

1000 BISHOP ST., SUITE 301B • HONOLULU, HAWAII 96813-4203  
PHONE: (808) 524-5161 • FAX: (808) 521-4120

March 12, 2009

The Honorable Suzanne Chun Oakland, Chair  
State Senate Committee on Human Resources

The Honorable Rosalyn H. Baker, Chair  
State Senate Committee on Commerce and Consumer Protection

HB 876, HD 1 (Relating to Condominiums)  
HBA removing previous objection to bill

Dear Senator Chun Oakland, Senator Baker and Committee Members:

I am Roy Amemiya, speaking on behalf of the Hawaii Bankers Association (HBA). HBA initially opposed this measure but has subsequently met with condominium association proponents of increasing the super lien amount. Based on our meeting and subsequent agreement in concept, we remove our objection to this bill based on \$3600 being inserted as the maximum amount.

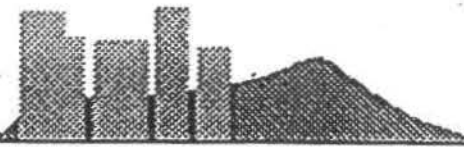
For the record, there is a related bill that has crossed over from the House that HBA strongly objects – HB 876 is preferred to that one.

Thank you for the opportunity to testify.

Aloha,

Roy K. Amemiya, Jr.

# H.I.C.C.O.



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

March 17, 2009

Sen. Suzanne Chun Oakland, Chair  
Sen. Les Ihara, Jr., Vice-Chair  
Committee on Human Services

Sen. Rosalyn H. Baker, Chair  
Sen. David Y. Ige, Vice-Chair  
Committee on Commerce and  
Consumer Protection

### **Testimony on HB 876 HD 1 Relating to Condominiums**

Dear Senators:

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

**HB 876 HD 1 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.**

Representatives of several organizations that deal with condominium matters met with representatives of the Hawaii Bankers Association and reached agreement to recommend to your committee that the maximum be revised from the current \$1,800 to the proposed \$3,600

We respectfully request that your committee include change in the maximum amount to \$3,600 and approve this revision to HB 876 HD 1 and make this bill effective upon the Governor's signature.

Sincerely,

Richard Port, Chair  
Legislative Committee

# HAWAII FINANCIAL SERVICES ASSOCIATION

c/o Marvin S.C. Dang, Attorney-at-Law  
P.O. Box 4109  
Honolulu, Hawaii 96812-4109  
Telephone No.: (808) 521-8521  
Fax No.: (808) 521-8522

March 17, 2009

Senator Suzanne Chun Oakland, Chair  
and members of the Senate Committee on Human Services  
Senator Rosalyn H. Baker, Chair  
and members of the Senate Committee on Commerce and Consumer Protection  
Hawaii State Capitol  
Honolulu, Hawaii 96813

Re: **House Bill 876, HD 1 (Condominiums)**  
**Hearing Date/Time: Tuesday, March 17, 2009, 1:15 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.

In 2000 when this \$1,800 special assessment was first enacted, there was a sunset (expiration) date provision. After a few years, that sunset date was extended. The sunset date was later repealed so that the \$1,800 was made permanent. If your Committee is inclined to increase the special assessment cap, perhaps that increase could be temporary and subject to a sunset date, after which the increased amount would revert back to \$1,800.

Thank you for considering our comments.

  
MARVIN S.C. DANG  
Attorney for Hawaii Financial Services Association



P.O. Box 976  
Honolulu, Hawaii 96808

The Honorable Senator Suzanne Chun Oakland, Chair  
Committee on Human Services

The Honorable Rosalyn H. Baker, Chair  
Committee on Commerce and Consumer Protection

RE: MEASURE: HB876HD1  
HEARING: MARCH 17, 2009, 1:15 P.M., RM 016  
COPIES: 1

Dear Chairs Oakland and Baker and Members of the Committees:

My name is Philip L. Lahne and I am the Co-Chair of the Hawai'i Legislative Action Committee ("LAC") of the Community Associations Institute ("CAI"). CAI is a non-profit national and statewide organization whose members include condominium associations, planned community associations, residential cooperatives, homeowners, managing agents, and others involved in creating, managing, servicing, and living in common interest communities.

The companion measure to this bill, SB572, has already been considered by the Senate and passed as amended as SB572SD2. SB572SD2 addressed a number of concerns that had been expressed by testifiers concerning whether SB527 in its original form would be effective in achieving its worthy intended goals. Accordingly, the LAC respectfully suggests that HB876HD1 be amended to conform to SB572SD2. The LAC further suggests that the bill be amended to define "disabled" by reference to Chapter 515, Hawai'i Revised Statutes, rather than replicating the definition from that Chapter so that the Section 514B-142 definition will always be the same as the Chapter 515 definition. Otherwise, associations may be faced with conflicting statutory definitions when attempting to implement Section 514B-142 and scarce legislative resources will have to be expended trying to make sure the two definitions remain synchronized.

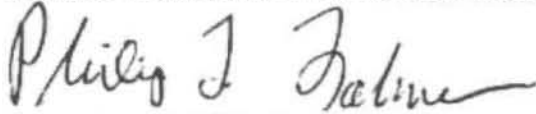
Additionally, it is easy to foresee that a handicapped or disabled person who does not believe he or she needs any "functional assessment" or any "services or assistance" to continue residing in his or her unit will accuse the association of unlawful discrimination and unequal treatment just for proposing that the owner submit to such an assessment. The LAC suggests that this bill be amended to provide that requesting that a person obtain a functional assessment or that a person may require services and assistance is not a discriminatory practice.

The Honorable Senator Suzanne Chun Oakland, Chair  
Committee on Human Services  
The Honorable Rosalyn H. Baker, Chair  
Committee on Commerce and Consumer Protection  
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Finally, we note that Section 514B-142 provides no mechanism for making a determination that a person needs a functional assessment<sup>1</sup> or for enforcing or implementing the recommendations contained in any functional assessment other than the legal remedies which associations already possess. Nevertheless enacting the proposed amendments to Section 514B-142 would be helpful and worthwhile and may encourage associations to seek help for elderly and disabled occupants who need assistance to maintain independent living in their units.

Thank you for the opportunity to submit this testimony. If you have any questions, I can be reached at 536-8177 or by email at [plahne@alf-hawaii.com](mailto:plahne@alf-hawaii.com).

COMMUNITY ASSOCIATIONS INSTITUTE  
HAWAII LEGISLATIVE ACTION COMMITTEE



PHILIP L. LAHNE, Co-Chair

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<sup>1</sup>Ordinary laypeople such as condominium board members are unlikely to be able to make a knowledgeable decision as to whether an owner should be asked to undergo a functional assessment, so the board would probably have to hire an appropriate professional to advise it in that regard, and whether such a professional could advise the board without the cooperation of the "target" is questionable.