

HAWAII FINANCIAL SERVICES ASSOCIATION

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LATE TESTIMONY

Rep. Rida Cabanilla, Chair
and members of the House Committee on Housing
Hawaii State Capitol
Honolulu, Hawaii 96813

Re: **House Bill 2196 (Condominiums)**
Hearing Date/Time: Wednesday, January 27, 2010, 11:00 A.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 make mortgage and other loans and which are regulated by the Hawaii Commissioner of Financial Institutions.

The HFSA **opposes** this Bill.

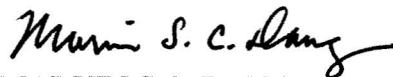
The purpose of this Bill is to require that lenders who initiate foreclosure proceedings against a condominium property or who have a foreclosure proceeding pending against a condominium property to timely pay all fees and taxes associated with the property during foreclosure proceedings. This Bill also requires that lenders begin payment of fees and taxes associated with the property within 6 months after initiation of foreclosure proceedings.

By way of background, a lien for unpaid maintenance fees is generally subordinate to the lien of recorded mortgages against a condominium unit. In 2000, this changed in Hawaii when Act 39 created a special assessment of the lesser of \$1,800 or the amount of 6 months of unpaid condominium maintenance fees. This special assessment is to be paid after a foreclosure sale is completed and it has a limited priority over the mortgage lien. Last year as a result of the 2009 legislative session, the \$1,800 special assessment was doubled to \$3,600.00 by Act 10. The special assessment provision is in Hawaii Revised Statutes Sec. 514A-90 and 514B-146.

We acknowledge that condominium associations need to get paid when there are delinquent maintenance fees. But lenders also need to get paid the amounts owed on the mortgage loans especially if the value of the property is less than the mortgage balance. Act 39 (2000) and Act 10 (2009) are fair compromises between the needs of the condominium association and the needs of the mortgage lenders.

Yet less than 1 year after Act 10 was enacted, this Bill would now unfairly shift to the lenders more of the burden of paying delinquent maintenance fees by requiring the lenders to make payments beginning 6 months after foreclosure proceedings have begun. When mortgage lenders aren't even getting paid on their loans by their borrowers, these lenders should not be forced to dip further into their own pockets to pay the condominium maintenance fees during the foreclosure process.

For the above reason, we ask that you do not pass this Bill. Thank you.



MARVIN S.C. DANG

Attorney for Hawaii Financial Services Association