

SB 2442

Measure Title: RELATING TO COLLECTION REMEDIES FOR ASSOCIATIONS.

Report Title: Condominiums and Planned Community Associations; Liens for Unpaid Assessments; Collection and Foreclosure Remedies

Description: Establishes an alternate power of sale process for condominium and planned community associations. Revises provisions on condominium liens for unpaid assessments and establishes similar provisions for planned community associations. Specifies the jurisdiction of the circuit courts over actions to foreclose association liens.

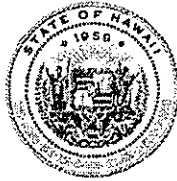
Companion:

Package: None

Current Referral: CPN, JDL

Introducer(s): BAKER

<u>Sort by Date</u>		Status Text
1/20/2012	S	Introduced.
1/23/2012	S	Passed First Reading.
1/23/2012	S	Referred to CPN/JDL, WAM.
1/27/2012	S	Re-Referred to CPN, JDL.
1/27/2012	S	The committee(s) on CPN has scheduled a public hearing on 02-01-12 9:00AM in conference room 229.



NEIL AMBERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR

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**PRESENTATION OF THE
OFFICE OF CONSUMER PROTECTION**

TO THE SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

**THE TWENTY-SIXTH LEGISLATURE
REGULAR SESSION OF 2012**

**Wednesday, February 1, 2012
9:00 a.m.**

**TESTIMONY ON SENATE BILL NO. 2442, RELATING TO COLLECTION REMEDIES
FOR ASSOCIATIONS.**

**THE HONORABLE ROSALYN H. BAKER, CHAIR,
AND MEMBERS OF THE COMMITTEE:**

The Department of Commerce and Consumer Affairs ("DCCA"), Office of Consumer Protection ("OCP") appreciates the opportunity to appear today and testify concerning S.B. No. 2442. My name is Bruce B. Kim and I am the Executive Director of OCP. OCP opposes S.B. No. 2442 in its present form.

In 2010, the Legislature created the Mortgage Foreclosure Task Force ("Task Force") pursuant to Act 162. The Task Force met over the course of the past two years and submitted separate reports to the Legislature. The reports covered many of the issues surrounding the foreclosure crisis affecting the State and proposed legislation

addressing this complex subject. The first report led to the adoption of Act 48 which sought to reform the foreclosure process and enact significant consumer protections especially in the area of nonjudicial foreclosures. This year the Task Force through its various working groups devoted a significant amount of time and effort attempting to strengthen Act 48. Ultimately, the Task Force's working groups came up with a number of recommendations intended to provide clarity and certainty to both lenders and borrowers in the foreclosure process. It is OCP's sincere hope that the measures submitted by the Task Force this year will lead to further implementation of Act 48, particularly utilization of the DCCA's alternate dispute resolution program created back in October under Act 48.

The 2011 Task Force created a working group to address the issue of foreclosures by condominium associations ("condominium work group"). The group consisted of several attorneys representing condominium associations and individual unit owners, a lender representative, a representative from OCP and the Real Estate Commission and a representative of an association management company. After months of work on various proposals, the condominium work group submitted legislative recommendations affording associations the right to conduct nonjudicial foreclose in line with the provisions of Act 48. The group's recommendations were eventually adopted by the Task Force and are included in the proposed bill attached to the Task Force's Report ("Report").

The condominium work group's proposal included the following significant provisions:

1. Affording Chap. 421J, Planned Community Associations the same lien and collection options set forth HRS §§ 514A-90 and 514B-146, including the unit owner's right to file in small claims court or require the association to mediate and then arbitrate to resolve any disputes concerning the amount or validity of the association's claim if the unit owner first pays the disputed amount in full to the association and providing that the unit owner is entitled to a refund of any amounts paid to the association that are not owed. See §§ 421J-A(a) and (d), Report at 19 and 21 respectively;
2. Providing in the new § 421J-A(a) and amended §§ 514A-90 and 514B-146, that recorded liens will automatically terminate within two (2) years of the date of recordation. Report at 19.
3. Providing in the new § 421J-A(a) and amended §§ 514A-90 and 514B-146, that "... no lien may be imposed ... against any unit for any assessments arising solely from fines, penalties, or late fees." Report at 19.
4. Providing in the new § 421J-A(c) that "... that nothing in this section shall limit the rights of a unit owner to the protection of all fair debt collection procedures mandated under federal and state law." Report at 21.
5. Provides in § 667-B(a)(6) and (9), that the association's Notice of Default and Intention to Foreclose shall include notice that the unit owner has 60-days after

service to cure the default or 30-days to submit a payment plan under § 667-B(c).

Report at 31-32.

6. Providing in the new § 667-B(c) for the unit owner's right to cure or enter into a reasonable payment plan. Defines "reasonable payment plan" to be additional monthly payments sufficient to cure the default and that a payment plan of twelve (12) months shall be deemed reasonable. Report at 33-34. This provision amends and replaces HRS § 667-21.6 which was adopted as part of Act 48. Also provides that the Board shall have the discretion to agree to a payment plan in excess of twelve (12) months. *Id.*

7. Provides that the notice of default and intention to foreclose shall also include contact information for approved housing counselors and approved budget and credit counselors. § 667-B(d), Report at 34.

8. Provides for personal service of the notice of default and intention to foreclose in accordance with the Hawaii rules of civil procedure and under HRS §§ 634-35 and 634-36. § 667-B(e), Report at 34. The personal service requirement is consistent with the personal service provisions of HRS § 667-22(e) under Act 48.

9. Includes a section on prohibited conduct which bars the association from engaging in certain enumerated practices during nonjudicial foreclosure of its lien:

a. Holding a public sale on a date, at a time, or at a place other than that described in the public notice of sale;

b. Specifying a fictitious place in the public notice of the sale;

c. Conducting a postponed sale on a date other than the date described in the new public notice of sale; or

d. Completing or attempting to complete nonjudicial foreclosure proceedings against a unit owner in violation of section 667-B(c), *i.e.* during the period of the 60-day right to cure or while a payment plan is in place and the unit owner is current.

§ 667-O, Report at 47.

These prohibited conduct provisions are consistent with HRS § 667-56 of Act 48.

While S.B. No. 2442 in many ways mimics the Task Force's proposal regarding the right of nonjudicial foreclosures for associations, including Chap. 421J planned community associations, it differs significantly by failing to incorporate any of the reasonable protections afforded individual unit owners under the Task Force's proposal.

1. Fails to incorporate the Task Force's recommendations providing that recorded association liens will automatically expire within two (2) years after the date of recordation and providing that no liens can attach if they arise solely from fines, penalties or late fees.

Both provisions are reasonable protections for unit owners against abuse. It should be noted that a significant majority of states mandate that association liens expire as a matter of law after a fixed period of time. Other states, including Arizona, California, Delaware, Nevada, New Jersey, Florida and Texas, prohibit associations from filing a lien or from foreclosing against a unit owner based solely on late fees,

penalties or fines to prevent someone from losing their home because of an insubstantial outstanding penalty or fine.

Accordingly the Task Force's recommendations in this regard are entirely reasonable.

2. Eliminates requirement for personal service contrary to HRS § 667-22(e) under Act 48 and the Task Force's recommendations. See Report at 34.

3. Gives unit owner only 35 days to cure a default versus the 60 days afforded under the Task Force's recommendation and the existing 60-day right to cure period mandated by HRS § 667-21.6. See S.B. 2442, Sec. 2, § 667-D(a)(5) at 5.

4. Gives unit owner only nine (9) months to pay off delinquent assessments versus the twelve (12) months afforded under the Task Force's recommendation. Sec. 2, § 667-D(a)(9) at 6. Conflicts with the Task Force's recommendation by failing to provide the association with any discretion extend the payment plan beyond the specified nine months in the event financial or other circumstances prevent the unit owner from paying off the delinquent amount in nine (9) monthly installments. See Report at 34.

5. Eliminates the Task Force's recommendations that the association's Notice of Default and Intention to Foreclose shall provide the unit owner with "... contact information for approved housing counselors and approved budget and credit counselors." See Report at 34.

6. Eliminates the prohibited conduct provisions under the Task Force's recommendations. See Report at 47.

7. Mandates under Sec. 2, § 667-O, that "[t]his part shall be liberally construed to facilitate the power of sale remedy; . . ." There is absolutely no corresponding language anywhere in Act 48 and it raises a substantial policy question of whether any right to foreclosure against an individual unit owner should be "liberally construed" in favor of the foreclosing association given the kind of abuses Act 48 sought to prevent.

In addition, the bill contains the following inconsistencies with existing provisions of HRS § 514B-146, Act 48 and the Task Force's recommendations:

1. Eliminates existing obligation to disclose to unit owner under § 514B-146(c) that a unit owner may request a written statement clearly indicating: that 1) a unit owner has no right to withhold assessments for any reason; 2) a unit owner has a right to demand mediation or arbitration to resolve disputes about the amount or validity of an association's assessment provided the unit owner immediately pays the assessment in full and keeps assessments current; and 3) by making full payment of the disputed assessment does not prevent the owner from contesting the assessment or receiving a refund of amounts not owed. See Sec. 3 § 421J- (l) at 26-27 and Sec. 4 § 514B-146(l) at 39.

2. § 667-P states that "[i]nsofar as the provisions of this part are inconsistent with other provisions of this chapter or with chapters 421J and 514B, this part shall

control with respect to the nonjudicial foreclosure power of sale remedy available to associations.” S.B. No. 2422, Sec. 3, § 667-P at 26. This provision raises many questions. For instance, does this mean that the Task Force’s recommended definitions section applicable to the entire Chap. 667 are not applicable to association foreclosures?

3. Sec. 3, § 421J-(j) states that a “delinquent owner-occupant’s access to the common elements” may be terminated. *See also* Sec. 4, § 514B-146(j) at 38. The Task Force’s recommendations do not define a “delinquent owner-occupant”. Is a unit owner who timely cures a delinquency or is making payments under a payment plan a “delinquent owner-occupant”?

The condominium work group members attempted to balance the need of associations to pursue nonjudicial foreclosure in the interest of its owners while at the same time affording affected unit owners reasonable protections and rights consistent with Act 48 and existing association law. Based on the foregoing, OCP submits that the Task Force’s recommendations relevant to nonjudicial foreclosure by associations adequately address association concerns and recognizes their right to nonjudicial foreclosure within the provisions of Act 48 while continuing to provide important and reasonable protections to individual unit owners. Accordingly, OCP supports the Task Force’s recommendations and opposes S.B. No. 2442.

Thank you for this opportunity to testify on S.B. 2442. I will be happy to answer any questions that the Committee members may have.



NEIL ABERCROMBIE
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TO THE
SENATE COMMITTEE ON
COMMERCE AND CONSUMER PROTECTION

TWENTY-SIXTH STATE LEGISLATURE
REGULAR SESSION OF 2012

Wednesday, February 1, 2012
9:00 a.m.

TESTIMONY ON S.B 2442
RELATING TO COLLECTION REMEDIES FOR ASSOCIATIONS

TO THE HONORABLE ROSALYN H. BAKER, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Iris Ikeda Catalani, Commissioner of Financial Institutions ("Commissioner"). I appreciate the opportunity to provide comments on behalf of the Division of Financial Institutions of the Department of Commerce and Consumer Affairs ("DFI") regarding Senate Bill 2442.

This measure provides remedies to condominium and planned community associations when homeowners are delinquent in paying assessments to their respective associations. The provisions of this bill provide that a homeowner whose account has an unpaid balance for at least sixty days shall be considered

to be in default. This measure allows associations to foreclose by power of sale after giving owners notice of default.

While the Division acknowledges that associations operate on funds collected by homeowner assessments, it believes there may be unintended consequences when associations are given the unfettered right to proceed against these homeowners by foreclosing by power of sale. Other states have authorized associations to foreclose for nonpayment of assessments. However, for example, the state of Washington precludes foreclosure for delinquent assessment payments if the mortgage on the unit is recorded before the date on which the assessment sought to be enforced became delinquent. The Revised Code of Washington 64.34.364, lien for assessments states:

- (1) The association has a lien on a unit for any unpaid assessments levied against a unit from the time the assessment is due.
- (2) A lien under this section shall be prior to all other liens and encumbrances on a unit **except:** (a) Liens and encumbrances recorded before the recording of the declaration: (b) a mortgage on the unit recorded before the date on which the assessment sought to be enforced became delinquent...

By allowing foreclosure for assessment delinquencies would allow the association's lien priority over, for example, the bank's mortgage. Generally, the bank mortgage is recorded before the assessment delinquency. This may challenge the lien priority law. Priority is established when an instrument is

recorded. Generally, the earliest recorded instrument has priority over those recorded after it.

The Division also foresees another unintended and potentially harmful consequence to passing this measure. It will create a chilling effect on banks' willingness to finance condominiums or homes in planned communities. If banks do not finance condominium loans it will negatively impact an already troubled real estate market. Condominiums and units in planned communities constitute a substantial portion of the overall real estate market. If banks become reluctant and unwilling to make loans for condominium and planned community purchases, prospective homeowners will be denied shelter, condos and dwellings in planned communities will remain vacant, or perhaps even lose their value, and the overall economy will suffer.

Further, if a homeowner is delinquent on assessments, but current on mortgage payments, foreclosure does not extinguish the lender's rights. Arguably, the homeowner should not be deprived of his residence if mortgage payments are current. In circumstances such as these, foreclosure does not appear to be the proper remedy. Condominium and planned communities should utilize other remedies such as breach of contract to recover unpaid assessments. Giving these entities unfettered discretion to foreclose could have disastrous effects and create more problems than solutions.

For these reasons, the Division provides comments on Senate Bill No. 2442. Thank you for the opportunity to testify. I would be pleased to respond to any questions you may have.

HAWAII CHAPTER



community
ASSOCIATIONS INSTITUTE

P.O. Box 976
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January 30, 2012

Honorable Rosalyn H. Baker
Honorable Brian T. Taniguchi
Commerce and Consumer Protection
415 South Beretania Street
Honolulu, Hawaii 96813

Re: SB 2442

Dear Chair Baker, Vice-Chair Taniguchi and Committee Members:

I chair the CAI Legislative Action Committee. CAI supports SB 2442.

SB 2442 provides for an alternative non-judicial power of sale remedy for use by condominiums and planned community associations. These non-profit associations are completely unlike for-profit mortgage lenders.

An appropriate balance of consumer interests in the association setting should include due process for consumers who default on their obligation to pay common expense assessments and, at the same time, protection for other consumers from the additional unwarranted burden of paying more than their fair share of common expenses. SB 2442 provides for a robust notice process, fair opportunity for a defaulting owner to remedy a default and an appropriate alternative non-judicial power of sale remedy.

SB 2442 prevents associations from even commencing the proposed power of sale process until after an account is delinquent for at least sixty days. Management companies routinely send reminder notices to owners during that period. A notice of default satisfying the Fair Debt Collection Practices Act would then be sent by association counsel. Many owners pay in response to such a communication, so there is no need to increase stress to consumers by coupling notice of default to a notice of intention to foreclose.

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Honorable Brian T. Taniguchi
January 30, 2012
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The consumer would have thirty-five days after the notice of default to bring the account current or to make mutually acceptable payment arrangements. That is, a notice of intention to foreclose could not even be considered until an account is at least ninety-five days delinquent.

Assuming that an owner remains in default at that point, a notice of intention to foreclose could be sent. The notice would include a clear statement of the amount of the indebtedness and a ledger supporting the association's claim. The owner would have thirty-five more days to either pay or to commence performance of a payment plan.

The notice would inform the consumer of the opportunity to commence a payment plan simply by asking for one and delivering ten percent of the delinquent amount to the association. Commencement of a payment plan would result in a stay of the intended power of sale foreclosure. Performance of the payment plan would continue the stay in effect until the delinquency is cured and the basis for foreclosure disappears.

The notice would be clear, concrete and would include the statement, among other things, that: "the owner should consult an attorney licensed in the State for an explanation of the owner's legal rights and possible defenses to the foreclosure." Extraneous and possibly confusing verbiage would be omitted.

Three separate attempts to personally deliver the notice would be required. Each attempt would have to be on a different day. Moreover, the notice would be mailed by both first class mail and by certified mail, return receipt requested, to the address of the unit and to the mailing address that the owner has provided to the association, if different. The notice would also be posted conspicuously on the unit if three separate attempts to personally deliver the notice, on different days, are unavailing.

If the owner fails to pay or to commence a payment plan after thirty-five days (which would be at least 130 days after the delinquency began), then the association could begin the actual power of sale process. An owner who is over four months in arrears, has received multiple notices of the delinquency and has failed to even exercise a generous payment plan option is one who presents some risk of exposing other consumers to the obligation to pay more than their fair share of common expenses.

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January 30, 2012
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A public notice of public sale could be distributed no sooner than 130 days after an owner's account became delinquent. The notice would provide relevant information and be distributed to the defaulting owner, other lien creditors, tax authorities and the public. The sale could occur no sooner than twenty-eight days after the first publication of the public notice. As a practical matter, however, a longer period would often be required. A public sale would, in no event, be held sooner than 158 days after the delinquency began.

SB 2442 stands in contrast to SB 2429. SB 2429 seeks to follow a mortgage foreclosure model that is not appropriate for associations. SB 2442 is preferable and has support within the community association industry. That is, the process proposed in SB 2442 would be used.

Without limitation, SB 2442 addresses the bidding process more adequately than SB 2429 and it attends to the problem of successful bidders who do not complete the purchase. See, Section 667-J. SB 2442 provides a better conceptualization of the issues than does SB 2429 and a number of significant problems in SB 2429 are avoided in SB 2442. SB 2442 requires substantial compliance with its provisions so trivial matters do not become a focus of contention.

In addition to proposing an alternate power of sale provision for associations, SB 2442 includes changes to Hawaii Revised Statutes section 514B-146 and a new, parallel, provision to be placed in chapter 421J. The section 514B-146 changes relate to the proposed placement of a power of sale remedy for associations into chapter 667. The proposed new 421J section relates to parity for planned community associations.

Section 514B-146 must be amended to attend to contemplated changes to chapter 667. Section 514B-146 is a bit of a muddle in some ways, so SB 2442 proposes to reorganize, clarify and simplify section 514B-146. Among other things, the words "real property" are added before the word taxes in subsection (a)(1). The existing provision is commonly understood to refer to real property taxes but taxing authorities have taken the position in litigation that income tax, and other tax, liens are within the scope of subsection (a)(1).

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Section 514B-146(a) presently calls for a receiver to "collect the rental owed." SB 2442 provides that the receiver shall "preserve the equities of the parties." That is a more conventional and balanced role.

Other proposed changes are matters of simplification and clarity. Compare, for example, the existing proviso at the end of subsection 514B-146(b):

provided that the mortgagee of record or other purchaser of the unit shall not be deemed to acquire title under paragraph (1), (2), or (3), if transfer of title is delayed past the thirty-six days specified in paragraph (1), the sixty days specified in paragraph (2), or the thirty days specified in paragraph (3), when a person who appears at the hearing on the motion or a party to the foreclosure action requests reconsideration of the motion or order to confirm sale, objects to the form of the proposed order to confirm sale, appeals the decision of the court to grant the motion to confirm sale, or the debtor or mortgagor declares bankruptcy or is involuntarily placed into bankruptcy. In any such case, the mortgagee of record or other purchaser of the unit shall be deemed to acquire title upon recordation of the instrument of conveyance

with SB 2442:

provided that, with respect to judicial foreclosures, title shall be deemed to have passed, and the obligation to pay common expenses shall begin, upon recordation of the conveyance document or some earlier time determined by a court of competent jurisdiction if post-confirmation legal proceedings, or bankruptcy, delay entry of the order confirming sale.

Similar substantively consistent but clearer language choices are found throughout Section 4 of SB 2442.

With respect to the parallel 421J provision, in Section 3 of SB 2442, planned community associations sometimes provide for priority only for first mortgages, so 421J-__ (a) (2), for example, should read: "(2) Liens given priority in the association documents."

Section 421J-_(i) (4) and (5) should be deleted and the following language should be substituted:

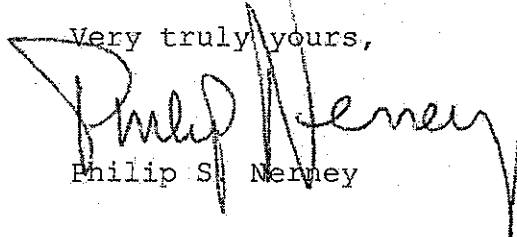
(4) When both the affidavit and conveyance document have been recorded in a non-judicial power of sale foreclosure pursuant to chapter 667.

This same language should also be used in section 514B-146(i) (4). The words "part __ of" should be deleted from that section to effect this change. This will address the potential repeal of part I from chapter 667.

Honorable Rosalyn H. Baker
Honorable Brian T. Taniguchi
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Section 5 of SB 2442 provides for amendment of section 603-21.7 to prevent potential challenges to circuit court jurisdiction over judicial foreclosure of association liens. Removal of the "in like manner" language from HRS section 514B-146(a) raises the jurisdictional concern.

Very truly yours,



Philip S. Nerney



Mililani Town Association

95-303 Kaloapau Street
Mililani Town, HI 96789
Phone (808) 623-7300

January 31, 2012

Senator Rosalyn Baker, Chair
Senator Brian Taniguchi, Vice-Chair
Committee on Commerce and Consumer Protection
State Capitol
Honolulu, HI 96813

VIA E-Mail: CPNtestimony@capitol.hawaii.gov

Re: S.B. No. 2442 /SUPPORT – Relating to Collection Remedies for Associations
Hearing: Wednesday, February 1, 2012, 9:00am Conf Room 229

Dear Chars Baker, Vice-Chair Taniguchi and Committee Members:

My name is Eric Matsumoto, Vice-President of the Mililani Town Association (MTA). I have served in MTA leadership capacities on the board for 25 of the last 32 years. MTA encompasses 16,000 plus units involving both single family residences and numerous townhouse project sub-association members.

We support this measure for the following reasons:

1. As a non-profit organization that is significantly different from the mortgage lenders, this bill offers a non-judicial process that would help AOAIs and PCAs, to more quickly resume the receipt of assessments from each homeowner as intended by statute and legal documents, respectively.
2. Assessments are collected from each homeowner based on the cost to manage and operate the association, the common areas and facilities. There is no profit intent as with mortgage lenders. When situations arise where assessments are not paid, the shortage is made up by the other homeowners who must pay not only their fair share but also for those who have not. The longer assessments are not paid, the longer the burden must be borne by the other homeowners.
3. Time imposed safeguards are provided for the consumers after failing to pay the assessment before the non-judicial process can start and another safeguard is provided in order to cure the delinquency.
4. The new section under HRS 421J would provide PCAs with like authority as AOAOs.

Based on the above, we urge this bill be passed.

Sincerely yours,

Eric M. Matsumoto
Vice-President, Board of Directors

Cc: Sen Kidani, Rep Lee, Rep Yamane

Testimony for CPN 2/1/2012 9:00:00 AM SB2442

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Laurie Zimmerman

Organization: Certif

E-mail: laurrie@certifiedhawaii.com

Submitted on: 1/31/2012

Comments:

Testimony for CPN 2/1/2012 9:00:00 AM SB2442

Conference room: 229

Testifier position: Support

Testifier will be present: No

Submitted by: Jim Dodson

Organization: Ewa by Gentry Community Association

E-mail: jdodson@ebgca.net

Submitted on: 1/31/2012

Comments:

From: mailinglist@capitol.hawaii.gov
Sent: Monday, January 30, 2012 3:16 PM
To: CPN Testimony
Cc: richard@hawaiifirst.com
Subject: Testimony for SB2442 on 2/1/2012 9:00:00 AM

Testimony for CPN 2/1/2012 9:00:00 AM SB2442

Conference room: 229
Testifier position: Support
Testifier will be present: Yes
Submitted by: Richard Emery
Organization: Hawaii First, Inc.
E-mail: richard@hawaiifirst.com
Submitted on: 1/30/2012

Comments:

This Bill protects consumers by providing an efficient fair method of collection of delinquent maintenance fees.

Testimony for CPN 2/1/2012 9:00:00 AM SB2442

Conference room: 229

Testifier position: Support

Testifier will be present: No

Submitted by: MARY LOU LABIANO

Organization: Hawaii First

E-mail: mary@hawaiiifirst.com

Submitted on: 1/31/2012

Comments:

Testimony for CPN 2/1/2012 9:00:00 AM SB2442

Conference room: 229

Testifier position: Support

Testifier will be present: No

Submitted by: Ken Bailey

Organization: Hawaii First Inc.

E-mail: ken@hawaiifirst.com

Submitted on: 1/31/2012

Comments:

Testimony for CPN 2/1/2012 9:00:00 AM SB2442

Conference room: 229

Testifier position: Support

Testifier will be present: No

Submitted by: Gladys Hernandez-Kamalani

Organization: Hawaii First, Inc.

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Submitted on: 1/30/2012

Comments:

Testimony for CPN 2/1/2012 9:00:00 AM SB2442

Conference room: 229

Testifier position: Support

Testifier will be present: No

Submitted by: Jasmin Kubota

Organization: Hawaii First, Inc

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Submitted on: 1/30/2012

Comments:

From: mailinglist@capitol.hawaii.gov
Sent: Monday, January 30, 2012 3:01 PM
To: CPN Testimony
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Subject: Testimony for SB2442 on 2/1/2012 9:00:00 AM

Testimony for CPN 2/1/2012 9:00:00 AM SB2442

Conference room: 229
Testifier position: Support
Testifier will be present: No
Submitted by: Shana Maguire
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E-mail: shana@hawaiiirst.com
Submitted on: 1/30/2012

Comments:

From: mailinglist@capitol.hawaii.gov
Sent: Monday, January 30, 2012 2:47 PM
To: CPN Testimony
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Subject: Testimony for SB2442 on 2/1/2012 9:00:00 AM

Testimony for CPN 2/1/2012 9:00:00 AM SB2442

Conference room: 229
Testifier position: Support
Testifier will be present: No
Submitted by: Rosaline Wang
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Submitted on: 1/30/2012

Comments:

From: mailinglist@capitol.hawaii.gov
Sent: Monday, January 30, 2012 2:47 PM
To: CPN Testimony
Cc: bill@hawaiiirst.com
Subject: Testimony for SB2442 on 2/1/2012 9:00:00 AM

Testimony for CPN 2/1/2012 9:00:00 AM SB2442

Conference room: 229
Testifier position: Support
Testifier will be present: No
Submitted by: William W. Spotts
Organization: Hawaii First
E-mail: bill@hawaiiirst.com
Submitted on: 1/30/2012

Comments:

From: mailinglist@capitol.hawaii.gov
Sent: Monday, January 30, 2012 3:07 PM
To: CPN Testimony
Cc: jbillings@hawaiifirst.com
Subject: Testimony for SB2442 on 2/1/2012 9:00:00 AM

Testimony for CPN 2/1/2012 9:00:00 AM SB2442

Conference room: 229
Testifier position: Support
Testifier will be present: No
Submitted by: Jonathan Billings
Organization: Hawaii First
E-mail: jbillings@hawaiifirst.com
Submitted on: 1/30/2012

Comments:

Testimony for CPN 2/1/2012 9:00:00 AM SB2442

Conference room: 229

Testifier position: Support

Testifier will be present: No

Submitted by: Dante Carpenter

Organization: CCV, Phase 2, AOA0

E-mail: carpenterd@hawaiiantel.net

Submitted on: 1/31/2012

Comments:

support as President of BOD representing Country Club Village, Phase 2, AOA0. There are 469 condominium apartments (owners) in two (2) 20-story Hi-Rise Units located in the Salt Lake Area of O'ahu. Dante Carpenter, President.

Testimony for CPN 2/1/2012 9:00:00 AM SB2442

Conference room: 229
Testifier position: Support
Testifier will be present: No
Submitted by: Al Denys
Organization: CAI-LAC
E-mail: al@certifiedhawaii.com
Submitted on: 1/30/2012

Comments:

Aloha,

On behalf of CAI-LAC, I would like to submit my testimony in support of SB 2442. This SB supports and protects consumers as it provides an alternate non-judicial power of sale remedy for use by condos and planned community associations. Please support SB 2442. Mahalo.

warmest aloha,

Al Denys

Testimony for CPN 2/1/2012 9:00:00 AM SB2442

Conference room: 229

Testifier position: Support

Testifier will be present: No

Submitted by: Kenneth F. Colucci

Organization: Golf Villas at Mauna Lani AOA

E-mail: ken.colucci@gmail.com

Submitted on: 1/30/2012

Comments:

SB2442 is best suited to assist AOAOs in pursuing non judicial remedies to deal with owners substantially delinquent in payment of association maintenance fees or who have abandoned their units and are in hiding.

Testimony for CPN 2/1/2012 9:00:00 AM SB2442

Conference room: 229

Testifier position: Support

Testifier will be present: No

Submitted by: Scott I. Batterman

Organization: AOA0 909 Kapiolani

E-mail: sib@paclawteam.com

Submitted on: 1/31/2012

Comments:

Community Associations are in an entirely different position from mortgage lenders. They represent numerous home owners, and are charged with protecting their interests. They need to be able to take action quickly, to ensure that the funds are available to maintain the common elements. The time and expense of judicial foreclosure represent a hardship to the members of Community Associations, which can be avoided if this bill is passed.

Testimony for CPN 2/1/2012 9:00:00 AM SB2442

Conference room: 229
Testifier position: Support
Testifier will be present: No
Submitted by: Roger Exline
Organization: Individual
E-mail: rae@goskywest.com
Submitted on: 1/31/2012

Comments:

As an owner and a Board member in a condo association in Hawaii, I oppose SB2429. SB2442 is a more sensible and fair option to deal with the problem. Associations and the dues-paying-owners have been completely handcuffed by the banks that refuse to foreclose and the owners who have abandoned their units and are dodging all contact. Dues paying owners that are fulfilling their obligations are the ones being unfairly treated as the cost and time for an AOA to foreclose force a substantial debt on the AOA. While the AOA now can recover \$7200 (up from \$3600) or six months dues whichever is less it does not come close to making the AOA whole as dues rates for one year are in excess of \$12,000. In our complex we have 5 units that have built up a total debt of over \$160,000!!! Banks post foreclosure notices, but not one has followed through. This process just bleeds the AOA dry and will likely end up with lower sales as lenders will not lend and new owners will not buy just because of a burdensome delinquency situation in that community. When that happens, property values will decline further and more owners will abandon their units just making the problem worse. Please consider the plight of us dues-paying-owners that are making every effort to fulfill our obligations even though our properties are worth substantially less than what we paid for them. We have received no bailouts or interest rate breaks from the government, yet we continue to do the right thing. Now it is time for government to help us out. Please vote down SB2429 and pass SB2442.

Testimony for CPN 2/1/2012 9:00:00 AM SB2442

Conference room: 229
Testifier position: Support
Testifier will be present: No
Submitted by: Arthur Kluvo
Organization: Individual
E-mail: akluvo@gmail.com
Submitted on: 1/31/2012

Comments:

Please support this bill so it will make it easier for our association to collect delinquent maintenance fees. Right now AOA Cathedral Point has \$201,000 in delinquent accounts. Last year with all your wisdom, you passed a bill basically eliminating Non-judicial foreclosures and made associations use the time consuming and more costly Judicial foreclosure. Now the courts have a huge backlog in Judicial foreclosures with no end in sight. Please give the associations some relief by making it easier to deal with deadbeat owners. As you are probably aware, some owners do have the ability to pay their maintenance fees, but chose to use the money for other lesser important obligations.

Testimony for CPN 2/1/2012 9:00:00 AM SB2442

Conference room: 229

Testifier position: Support

Testifier will be present: No

Submitted by: Steve Glanstein

Organization: Individual

E-mail: steveghi@gmail.com

Submitted on: 1/30/2012

Comments:

When somebody doesn't pay their maintenance fee, the other 99% suffer. A good part of this dispute can be rectified if maintenance fees were collected AHEAD of the 1st mortgage. The banks are set up for this type of collection; they already do it for real property taxes and some do it for lease rent.

Testimony for CPN 2/1/2012 9:00:00 AM SB2442

Conference room: 229

Testifier position: Support

Testifier will be present: No

Submitted by: anne oleary

Organization: Individual

E-mail: anne@globalworldwidetraders.com

Submitted on: 1/30/2012

Comments:

I support SB2442as it will be helpful to hard working taxpayers and homeowners such as myself and my husband. I urge you to vote yes on SB2442

Testimony for CPN 2/1/2012 9:00:00 AM SB2442

Conference room: 229

Testifier position: Support

Testifier will be present: No

Submitted by: Ralph F. Harris

Organization: Individual

E-mail: rfh@hawaii.rr.com

Submitted on: 1/30/2012

Comments:

SB 2442 is a better bill! As a condo AOA0 director I too support this version.
Ralph F. Harris

Testimony for CPN 2/1/2012 9:00:00 AM SB2442

Conference room: 229
Testifier position: Support
Testifier will be present: No
Submitted by: David Medeiros
Organization: Individual
E-mail: dauidsotg@yahoo.com
Submitted on: 1/31/2012

Comments:
I support SB 2442.

Aloha,

I'm very frustrated that we as an association have no power over an OWNER that refuses to pay. We had some power when there was non-judicial foreclosures. Let me make this perfectly clear, we don't want to own properties. We don't want to rent properties. We want everyone to pay for the all the things the associations provide.

If the owner doesn't agree or doesn't think we are spending there money correctly, they have every right to take action and get involved. Nothing is more frustrating then sending letters and being ignored. We need your help, Please.

Sincerely,
Anthony Becker
91-1073 Kaiko St
Ewa Beach, HI 96706

Testimony for CPN 2/1/2012 9:00:00 AM SB2442

Conference room: 229
Testifier position: Support
Testifier will be present: No
Submitted by: Ted Walkey
Organization: Individual
E-mail: tedwalkey@hmcmt.com
Submitted on: 1/30/2012

Comments:

I support the efforts of the legislature to provide protection to the members of non-profit communities such as condominiums and homeowner associations from their neighbors who will not pay their fair share of the association's expenses.

From: mailinglist@capitol.hawaii.gov
Sent: Monday, January 30, 2012 3:25 PM
To: CPN Testimony
Cc: Leo@hawaiiifirst.com
Subject: Testimony for SB2442 on 2/1/2012 9:00:00 AM

Testimony for CPN 2/1/2012 9:00:00 AM SB2442

Conference room: 229
Testifier position: Support
Testifier will be present: No
Submitted by: Leonard Tom
Organization: Individual
E-mail: Leo@hawaiiifirst.com
Submitted on: 1/30/2012

Comments:

From: mailinglist@capitol.hawaii.gov
Sent: Monday, January 30, 2012 3:26 PM
To: CPN Testimony
Cc: Colleen@certifiedhawaii.com
Subject: Testimony for SB2442 on 2/1/2012 9:00:00 AM

Testimony for CPN 2/1/2012 9:00:00 AM SB2442

Conference room: 229
Testifier position: Support
Testifier will be present: No
Submitted by: Colleen N. A. Iseri
Organization: Individual
E-mail: Colleen@certifiedhawaii.com
Submitted on: 1/30/2012

Comments:

From: mailinglist@capitol.hawaii.gov
Sent: Monday, January 30, 2012 3:13 PM
To: CPN Testimony
Cc: Cheryl@certifiedhawaii.com
Subject: Testimony for SB2442 on 2/1/2012 9:00:00 AM

Categories: Printed- Not recorded into Measure Tracking

Testimony for CPN 2/1/2012 9:00:00 AM SB2442

Conference room: 229
Testifier position: Support
Testifier will be present: No
Submitted by: Cheryl Jepsen
Organization: Individual
E-mail: Cheryl@certifiedhawaii.com
Submitted on: 1/30/2012

Comments:

From: mailinglist@capitol.hawaii.gov
Sent: Monday, January 30, 2012 2:51 PM
To: CPN Testimony
Cc: kcbch@aol.com
Subject: Testimony for SB2442 on 2/1/2012 9:00:00 AM

Testimony for CPN 2/1/2012 9:00:00 AM SB2442

Conference room: 229
Testifier position: Support
Testifier will be present: No
Submitted by: Keith Brunner
Organization: Individual
E-mail: kcbch@aol.com
Submitted on: 1/30/2012

Comments:

Testimony for CPN 2/1/2012 9:00:00 AM SB2442

Conference room: 229

Testifier position: Support

Testifier will be present: No

Submitted by: Bob Beardslee

Organization: Individual

E-mail: mbbt11@hotmail.com

Submitted on: 1/30/2012

Comments:

Testimony for CPN 2/1/2012 9:00:00 AM SB2442

Conference room: 229

Testifier position: Support

Testifier will be present: No

Submitted by: Susan Doles

Organization: Individual

E-mail: subodo@kahala.net

Submitted on: 1/30/2012

Comments:

Testimony for CPN 2/1/2012 9:00:00 AM SB2442

Conference room: 229

Testifier position: Support

Testifier will be present: No

Submitted by: Keala Kupihea

Organization: Individual

E-mail: keala@hawaiiifirst.com

Submitted on: 1/30/2012

Comments:

Testimony for CPN 2/1/2012 9:00:00 AM SB2442

Conference room: 229

Testifier position: Support

Testifier will be present: No

Submitted by: Marcy Murphy

Organization: Individual

E-mail: Marcy@hawaiifirst.com

Submitted on: 1/30/2012

Comments:

Testimony for CPN 2/1/2012 9:00:00 AM SB2442

Conference room: 229

Testifier position: Support

Testifier will be present: No

Submitted by: Ross Nashiro

Organization: Individual

E-mail: soar_n@hotmail.com

Submitted on: 1/30/2012

Comments:

Testimony for CPN 2/1/2012 9:00:00 AM SB2442

Conference room: 229

Testifier position: Support

Testifier will be present: No

Submitted by: Cherry Leybag

Organization: Individual

E-mail: cherry@hawaiiifirst.com

Submitted on: 1/30/2012

Comments:

Testimony for CPN 2/1/2012 9:00:00 AM SB2442

Conference room: 229

Testifier position: Support

Testifier will be present: No

Submitted by: Roland Mina

Organization: Individual

E-mail: andy.pearl@gmail.com

Submitted on: 1/30/2012

Comments:

Testimony for CPN 2/1/2012 9:00:00 AM SB2442

Conference room: 229

Testifier position: Support

Testifier will be present: No

Submitted by: McKeon Imlay Mehling LLLC

Organization:

E-mail: shannon@mimhawaii.com

Submitted on: 1/30/2012

Comments:

Testimony for CPN 2/1/2012 9:00:00 AM SB2442

Conference room: 229

Testifier position: Support

Testifier will be present: No

Submitted by: Karri Exline

Organization: Individual

E-mail: kse@goskywest.com

Submitted on: 1/31/2012

Comments:

Testimony for CPN 2/1/2012 9:00:00 AM SB2442

Conference room: 229

Testifier position: Support

Testifier will be present: No

Submitted by: Kevin Gagan

Organization: Individual

E-mail: ronin111@hawaii.rr.com

Submitted on: 1/31/2012

Comments:

Support.

Testimony for CPN 2/1/2012 9:00:00 AM SB2442

Conference room: 229

Testifier position: Support

Testifier will be present: No

Submitted by: Willard W. Gusler Jr.

Organization: Individual

E-mail: BGRock24@aol.com

Submitted on: 1/31/2012

Comments:

Testimony for CPN 2/1/2012 9:00:00 AM SB2442

Conference room: 229

Testifier position: Support

Testifier will be present: No

Submitted by: DL Shockley

Organization: Individual

E-mail: david@hawaiiifirst.com

Submitted on: 1/31/2012

Comments:

Testimony for CPN 2/1/2012 9:00:00 AM SB2442

Conference room: 229

Testifier position: Support

Testifier will be present: No

Submitted by: Grant Miller

Organization: Individual

E-mail: gmillersprint2@earthlink.net

Submitted on: 1/31/2012

Comments:

Testimony for CPN 2/1/2012 9:00:00 AM SB2442

Conference room: 229

Testifier position: Support

Testifier will be present: No

Submitted by: Warren F. Wegesend, Jr.

Organization:

E-mail: wwegesend@villagesofkapolei.com

Submitted on: 1/31/2012

Comments:

Testimony for CPN 2/1/2012 9:00:00 AM SB2442

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Joanne Taylor

Organization: Individual

E-mail: joanipt@hawaii.rr.com

Submitted on: 1/30/2012

Comments: