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Honolulu, Hawaii
February 15, 2013

RE: H.B. No. 21
H.D. 1

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Seventh State Legislature
Regular Session of 2013
State of Hawaii

Sir:

Your Committee on Consumer Protection & Commerce, to which was referred H.B. No. 21 entitled:

"A BILL FOR AN ACT RELATING TO CONDOMINIUMS,"

begs leave to report as follows:

The purpose of this measure is to clarify statutory law for condominium associations in situations where a delinquent condominium is purchased under a judicial or non-judicial foreclosure by:

- (1) Raising the priority of a lien that consists of all sums assessed by a condominium association but unpaid for the share of the common expenses chargeable to any unit;
- (2) Providing that upon the subsequent acquisition of a unit as a result of a foreclosure, unpaid shares of common expenses and assessments owed to the condominium association will not be deemed to be common expenses collectible from all unit owners;
- (3) Providing that subsequent acquirers of foreclosed condominium units are not personally liable for past-due common expenses and assessments owed to a condominium association;
- (4) Providing that past due common expenses and assessments secured by a condominium association as a lien upon a



foreclosed unit will remain as an enforceable lien upon the foreclosed unit regardless of subsequent acquisition or transfer of title;

- (5) Removing provisions regarding the applicability of the lien on subsequent acquirers of foreclosed units; and
- (6) Removing the limitation on the amount of the assessment to subsequent acquirers under a condominium association's placement of a lien for past-due common expenses.

The Country Club Village Association of Apartment Owners, Elima Lani Association of Apartment Owners, Hilo Lagoon Centre Association of Apartment Owners, Kaha Lani Association of Apartment Owners, Banyan Harbor Association of Apartment Owners, Plantation Hale Association of Apartment Owners, Pono Kai Association of Apartment Owners and numerous individuals testified in support of this measure. The Hawaii Credit Union League, Hawaii Bankers Association, and the Hawaii Financial Services Association testified in opposition of this measure. The Department of Commerce and Consumer Protection, Mortgage Bankers Association of Hawaii, Community Association Institute Hawaii Chapter, and a few individuals provided comments on this measure.

Your Committee has amended this measure by:

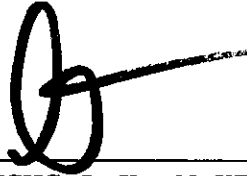
- (1) Establishing that only excess rental incomes will be paid to existing lien holders based on the priority of liens;
- (2) Establishing that excess rental income is the net income received by a condominium association after paying past due fees for common expenses and assessments owed to the association, maintenance fees, attorney's fees and other collection costs, and any other costs incurred by the association in the rental, repair, maintenance, or rehabilitation of a unit
- (3) Specifying that past due fees for common expenses and assessments owed to a condominium association, will be paid first out of income received by the condominium association; and



- (4) Changing its effective date to July 1, 2112, to encourage further discussion.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 21, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 21, H.D. 1, and be referred to the Committee on Judiciary.

Respectfully submitted on
behalf of the members of the
Committee on Consumer
Protection & Commerce,



ANGUS L.K. MCKELVEY, Chair



