

STAND. COM. REP. NO.

914

Honolulu, Hawaii

March

, 2013

RE: H.B. No. 21
H.D. 2

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

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 21, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO CONDOMINIUMS,"

begs leave to report as follows:

The purpose of this measure is to assist condominium associations with the collection of unpaid common assessments by:

- (1) Removing language that granted certain sums unpaid on any mortgage of record priority over an association's lien for unpaid common assessments;
- (2) Authorizing enforcement of association liens for unpaid common assessments through foreclosure against any acquirer of the condominium property and the acquirer's successors and assigns;
- (3) Repealing the board of directors of an association's authority to collect a special assessment equal to six months of unpaid regular monthly common assessments from the purchaser of a condominium unit with a recorded lien for delinquent common assessments; and
- (4) Specifying the allocation of excess rental income from a condominium unit to which an association holds title pursuant to a foreclosure proceeding.

HB21 HD2 HSCR JUD HMS 2013-2420



Your Committee received testimony in support of this measure from Elima Lani AOA; Country Club Village, Phase 2 Association of Apartment Owners; Pono Kai Resort Apartment Owners Association; and numerous individuals. Hawaii Bankers Association, Hawaii Financial Services Association, Hawaii Credit Union League, and OLS Hotels and Resorts testified in opposition to this measure. The Department of Commerce and Consumer Affairs, Hawai'i Association of REALTORS, Community Associations Institute Hawaii Chapter, and two individuals submitted comments.

Your Committee has amended this measure by:

- (1) Restoring existing statutory language which granted certain sums unpaid on any mortgage of record priority over an association's lien for unpaid common assessments;
- (2) Deleting provisions that would have authorized an association to enforce liens for unpaid common assessments against any acquirer of the condominium property and the acquirer's successors and assigns;
- (3) Authorizing an association to collect from unit owners, on a monthly basis at a rate of no more than ten percent of the regular monthly common assessments, an amount equal to twelve months of regular monthly common assessments for deposit into an interest-bearing account as surety against the nonpayment of regular monthly common assessments following foreclosure of a condominium unit;
- (4) Restoring a board of directors' authority to collect a six-month special assessment from the purchaser of a condominium unit with a recorded lien for delinquent common assessments;
- (5) Clarifying that the provisions of this measure apply equally to condominium property regimes subject to chapter 514A, Hawaii Revised Statutes, and condominiums subject to chapter 514B, Hawaii Revised Statutes; and
- (6) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.



As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 21, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 21, H.D. 2.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary,



KARL RHOADS, Chair



