

# SB 2978

Measure Title: RELATING TO FORECLOSURE.

Report Title: Foreclosure; Associations

Description: Requires an association to offset any amount that it owes a unit owner against the amount of the assessment prior to an alternative power of sale foreclosure.

Companion:

Package: None

Current Referral: CPN

Introducer(s): IGE



P.O. Box 976  
Honolulu, Hawaii 96808

February 17, 2014

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

Re: **SB 2978 / OPPOSE**

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

I am the Chair of the Community Associations Institute's Legislative Action Committee ("CAI"). CAI, which represents the association industry in this State, **opposes SB 2978**.

**This Bill is unnecessary.** There have been no industry wide complaints to the property managers, boards and/or association attorneys about associations not recognizing some amounts as credit to an owner, and ignoring this credit and proceeding with a non-judicial foreclosure. If that happened, the owner would likely allege a violation of the Federal Fair Debt Collection Practices Act. So this "remedy" as proposed in the Bill is unnecessary.

**The Bill will result in unnecessary litigation.** The Bill assumes that associations owed money to their owners and, thus, if that is the case, they must first offset such amounts before proceeding with a non-judicial foreclosure. This is almost never the case. However, someone could "argue" or "allege" that they are owed money by the association, and thus, use the current language of the Bill to "stall out" the foreclosure process. In addition, Hawaii law requires an owner that disputes their debts to "pay first" and then dispute later as associations operate on a "zero based budget". The current Bill could be read to undermine the current law.

For these reasons we respectfully request the Committee not pass out **SB 2978**. Thank you for your consideration.

Very truly yours,

Christian P. Porter

**SB2978**

Submitted on: 2/18/2014

Testimony for CPN on Feb 19, 2014 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
michele matsuo	Individual	Support	Yes

Comments: Thank you Madam Chairperson for hearing this SB 2978. I am strongly in favor of SB2978. The power of the condo boards to conduct non-judicial foreclosure sales is great, unchecked, uncheckable, unsupervised, and is initiated by volunteer lay people serving on the boards. Once sent to the attorneys for non-judicial foreclosure, the process can be extremely difficult to stop, as condo boards refuse to discuss the matter because it is in litigation and attorneys run up fees. One would think that it would be common sense to offset amounts owed to the unit owner before foreclosing on the amounts owed to the condo association, but unless it is mandated by law, it can be very difficult to get a condo board to do this. I therefore respectfully request that the law be amended, as set forth in SB2978, to require condo associations to be required to perform this offset before initiating the extreme step of foreclosure proceedings. Thank you very much!

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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Submitted By	Organization	Testifier Position	Present at Hearing
Juanita Kawamoto Brown	Individual	Support	No

Comments:

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