

COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH
HEARING ON FEBRUARY 23, 2017
COMMENTS REGARDING SB391

Common expense assessments (aka "maintenance fees"), must be paid to assure the continued operation and maintenance of their properties.

Some associations have enacted rules which essentially convert peripheral fees-- such as attorneys' fees, late fees, penalties or fines for violations, bad check fees which are not essential to the operation of the association--into common expense assessments, using a "priority of payments" scheme that can reduce the amount that is credited to an owner's common expense assessment. This may cause an owner to unintentionally default on his common expense assessment and unnecessarily put that owner on the rhetorical "slippery slope" towards foreclosure.

That "priority of payments" scheme also implies that those peripheral charges are more necessary to the association's operation than the actual common expense assessment.

Thus, while HB244 provides that owners may demand mediation prior to paying any contested charges other than common expense assessments (aka, "maintenance fee), we ask for clarity and adherence to the principle that associations should not convert peripheral fees into common expense which continuance may circumvent HB244's intent.

We recommend that that 514B-105 (c) is amended as follows, deleting those sections which have been stricken:

~~"No association shall deduct and apply portions of common expense payments received from a unit owner to unpaid late fees, legal fees, fines, and interest (other than amounts remitted by a unit in payment of late fees, legal fees, fines, and interest) unless the board adopts and distributes to all owners a policy stating that: (1) Failure to pay late fees, legal fees, fines, and interest may result in the deduction of such late fees, legal fees, fines, and interest from future common expense payments, so long as a delinquency continues to exist; and (2) Late fees may be imposed against any future common expense payment that is less than the full amount owed due to the deduction of unpaid late fees, legal fees, fines, and interest from the payment"~~

And amend HRS667-94 to add:

Any fines owed to the association by a unit owner shall not be converted into any additional fees that may cause the unit owner to default.

We ask that legislators prevent aggressive collection practices which include the needless of seizure of homes and to halt potential homelessness whenever possible. Mahalo.

Lila Mower of Hui `Oia`i`o

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 22, 2017 9:23 AM
To: WAM Testimony
Cc: richard.emery@associa.us
Subject: Submitted testimony for SB391 on Feb 23, 2017 13:35PM

SB391

Submitted on: 2/22/2017

Testimony for WAM on Feb 23, 2017 13:35PM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Richard Emery	Associa	Support	No

Comments: A fair plan for owners and associations.

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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From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 21, 2017 11:08 PM
To: WAM Testimony
Cc: sunnymakaha@yahoo.com
Subject: Submitted testimony for SB391 on Feb 23, 2017 13:35PM

SB391

Submitted on: 2/21/2017

Testimony for WAM on Feb 23, 2017 13:35PM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Dale A. Head	Individual	Support	No

Comments: I support his bill. Sometimes the legal bills are surreal and the matter should instead be in Small Claims Court.

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To the Committee:

I hereby submit my support of the testimony as described below by Lila Mower of Hui `Oia`i`o

Diann K Lynn
Mo`ili`ili

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