

STAND. COM. REP. NO.

1463

Honolulu, Hawaii

APR 06 2017

RE: H.B. No. 1499
H.D. 1
S.D. 2

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2017
State of Hawaii

Sir:

Your Committees on Judiciary and Labor and Ways and Means, to which was referred H.B. No. 1499, H.D. 1, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO CONDOMINIUM ASSOCIATIONS,"

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Clarify that a condominium association does not have to rescind the notice of default and intention to foreclose or restart the foreclosure by filing a new notice of default and intent to foreclose if a unit owner defaults on a payment plan to cure a nonjudicial foreclosure agreed to by the parties;
- (2) Specify that if a unit owner and an association have agreed on a payment plan to prevent a nonjudicial foreclosure from proceeding, any association fines imposed while the payment plan is in effect shall not be deemed a default under the payment plan;
- (3) Clarify the obligations of a unit owner and an association while a unit owner is not otherwise in default under a payment plan;



- (4) Clarify that the pay first, dispute later provisions in Hawaii's condominium law apply only to common expense assessments claimed by an association of apartment owners;
- (5) Specify that a unit or apartment owner who disputes the amount of an assessment may request a written statement about the assessment from the association, including that a unit or apartment owner may demand mediation prior to paying contested charges, other than common expense assessments;
- (6) Specify requirements for mediation on contested charges, except for common expense assessments;
- (7) Expand the scope of the condominium education trust fund to cover voluntary binding arbitration; and
- (8) Amend the conditions that mandate mediation and exceptions to mandatory mediation.

Your Committees received testimony in support of this measure from Associa Hawaii and one individual. Your Committees received testimony in opposition to this measure from the Association of Unit Owners Kipuka at Hoakalei, The Maui Lani Community Association, and twenty-six individuals. Your Committees received comments on this measure from the Real Estate Commission.

Your Committees find that it is important to have clear and effective laws related to association foreclosures against condominium owners, including which actions successfully cure a default. Your Committees further find that a condominium owner and an association agreeing to a payment plan is not sufficient to cure a default; the delinquency must be paid in full to cure a nonjudicial foreclosure on a condominium. Your Committees also find that it is important to preserve the pay first, dispute later provision in existing law, as it applies to common expense assessments, but your Committees support encouraging the use of mediation for all other penalties or fines, late fees, lien filing fees, or other charges in an assessment.



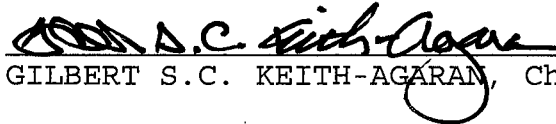
Your Committees have amended this measure by inserting an effective date of January 7, 2059, to encourage further discussion.

As affirmed by the records of votes of the members of your Committees on Judiciary and Labor and Ways and Means that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1499, H.D. 1, S.D. 1, as amended herein, and recommend that it pass Third Reading in the form attached hereto as H.B. No. 1499, H.D. 1, S.D. 2.

Respectfully submitted on
behalf of the members of the
Committees on Judiciary and
Labor and Ways and Means,



JILL N. TOKUDA, Chair



GILBERT S.C. KEITH-AGARAN, Chair



The Senate
 Twenty-Ninth Legislature
 State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:* HB1499, HD1, SD1	Committee Referral: CPH, JDL/WAM	Date: 3/30/17		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input checked="" type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
KEITH-AGARAN, Gilbert S.C. (C)	✓			
RHOADS, Karl (VC)	✓			
GABBARD, Mike	✓			
KIM, Donna Mercado	✓			
THIELEN, Laura H.	✓			
TOTAL	5	0	0	0
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <i>Karl Rhoads</i>				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes

The Senate
Twenty-Ninth Legislature
State of Hawai'i

Record of Votes
Committee on Ways and Means
WAM

Bill / Resolution No.:*	Committee Referral:	Date:
HB 1499, HD1, SD1	CPH, SDL/WAM	3/29/17
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____		
The Recommendation is:		
<input checked="" type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313		
Members	Aye	Aye (WR)
Nay	Excused	
TOKUDA, Jill N. (C)	/	
DELA CRUZ, Donovan M. (VC)	/	
ENGLISH, J. Kalani		/
GALUTERIA, Brickwood	/	
HARIMOTO, Breene	/	
INOUE, Lorraine R.	/	
KAHELE, Kaiali'i		/
RIVIERE, Gil	/	
SHIMABUKURO, Maile S.L.		/
TANIGUCHI, Brian T.	/	
WAKAI, Glenn	/	
TOTAL	8	3
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted		
Chair's or Designee's Signature:		
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy		

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