

Honolulu, Hawaii

FEB 13 2018

RE: S.B. No. 2054

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2018
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Health,
to which was referred S.B. No. 2054 entitled:

"A BILL FOR AN ACT RELATING TO CONDOMINIUMS,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Clarify the process, including payment obligations, mediation requirements, and triggers for further default, where a condominium unit owner and association reach a payment plan to resolve a nonjudicial foreclosure; and
- (2) Establish procedures that provide condominium owners with the right to submit disputed legal fees, penalties or fines, late fees, lien filing fees, or other charges, except for common expense assessments, to the mediation process prior to payment.

Your Committee received testimony in support of this measure from the Hawaii Council of Associations of Apartment Owners; Hawaiian Affairs Caucus, Democratic Party of Hawai'i; Community Associations Institute, Hawaii Chapter; Hui 'Oia'i'o; and five individuals. Your Committee received testimony in opposition to this measure from five individuals.

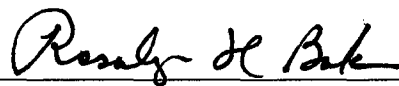


Your Committee finds that under existing law, if an association of apartment owners starts a nonjudicial foreclosure against a condominium owner and the owner pays off the delinquency or proposes a payment plan that the association accepts, the association must rescind the notice of foreclosure and not proceed. However, proposing a payment plan is not sufficient on its own to cure a default. Accordingly, this measure clarifies the process once a condominium owner and association agree on a payment plan to resolve a nonjudicial foreclosure on a condominium.

Your Committee further finds that this measure also amends Hawaii's existing pay first, dispute later requirement, which specifies that owners are not permitted to withhold any assessment claimed by their association, but must first pay the disputed amounts and then exercise their right to mediation, arbitration, or small claims court. Your Committee understands that condominium associations in Hawaii would be unable to function if owners were able to withhold payments of common expense assessments. Accordingly, this measure makes a narrowly-tailored exception to the pay first, dispute later requirement by clarifying that common expense assessments are the only fees that must be paid prior to initiating a dispute. If the unit owner contests any penalties or fines, late fees, lien filing fees, or other charges in an assessment, then the unit owner may, under certain circumstances, proceed to mediation prior to paying those charges.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2054 and recommends that it pass Second Reading and be referred to your Committee on Judiciary.

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

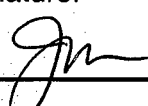


ROSALYN H. BAKER, Chair



The Senate
Twenty-Ninth Legislature
State of Hawai'i

Record of Votes
Committee on Commerce, Consumer Protection, and Health
CPH

Bill / Resolution No.:* SB 2054	Committee Referral: CPH, JDC	Date: 2/7/18		
<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 type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	/			
TOKUDA, Jill N. (VC)	/			
CHANG, Stanley	/			
ESPERO, Will	/			
IHARA, Jr., Les	/			
NISHIHARA, Clarence K.	/			
RUDERMAN, Russell E.				/
TOTAL	6			1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <div style="text-align: center; font-size: 2em; font-family: cursive;">  </div>				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

***Only one measure per Record of Votes**