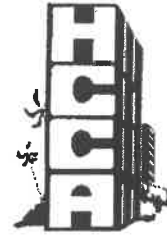




**Hawaii Council of Associations
of Apartment Owners**
DBA: Hawaii Council of Community Associations
1050 Bishop Street, #366, Honolulu, Hawaii 96813



February 9, 2020

Sen. Rosalyn Baker, Chair
Sen. Stanley Chang, Vice-Chair
Senate Committee on Commerce, Consumer Protection & Health

Re: Testimony in support of
SB2421 RELATING TO CONDOMINIUMS
Hearing: Tuesday, Feb. 11, 2020, 9 a.m., Conf. Rm. #229


Chair Baker and Vice-Chair Chang and Members of the Committee:

I am Jane Sugimura, President of the Hawaii Council of Associations of Apartment Owners (HCAAO dba HCCA).

HCCA supports this bill for the following reasons:

- HCCA strongly supported passage of HB1873 HD1SD1, which was enacted as Act 195, which dealt with issues relating to resolution of disputes for unpaid maintenance fees and removed the priority of payments provision from chapter HRS514B.
- As a result of the passage of Act 195, associations can no longer treat certain charges payable to them as having priority and they are still able to recover late charges on unpaid charges.
- The Act has been in effect for more than 18 months and HCCA has not heard of concerns relating to its implement or enforcement.

For these reasons, HCCA believes that the sunset provision that will become effective on 6/30/2020 in the bill is unnecessary and should be removed. Accordingly, HCCA respectfully requests that you pass out this bill. Thank you for the opportunity to testify on this matter.


Jane Sugimura
President



February 8, 2020

VIA WEB TRANSMITTAL

Hearing Date: Tuesday, February 11, 2020

Time: 9:00 a.m.

Place: Conference Room 229

Committee on Commerce, Consumer Protection and Health
The Senate, the 30th Legislature
Regular Session of 2020

Re: Community Associations Institute's **Testimony in support of SB 2421**

Dear Chair Baker, Vice Chair Chang and Committee members:

I am a member of the Hawaii Chapter of the Community Associations Institute Legislative Action Committee ("CAI"). We represent the condominium and community association industry and submit this testimony in support to SB 2421.

We are in agreement with and support the findings provided in SB 2421, viz., that Act 195, Session Laws of 2018, created important and effective rules relating to association foreclosures on condominiums and that the amendments made therein successfully effectuated the purpose of Act 195 and should, therefore, remain permanent.

Based on the foregoing, we respectfully submit that SB 2421 should be passed out of Committee. Thank you for your time and consideration.

Sincerely yours,

/s/ R. Laree McGuire

R Laree McGuire

CAI LAC Hawaii

SB-2421

Submitted on: 2/9/2020 7:04:05 AM

Testimony for CPH on 2/11/2020 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jade Mariano	Individual	Support	No

Comments:

The Senate
Committee on Commerce, Consumer Protection, and Health
Tuesday, February 11, 2020
9:00 am
Conference Room 229

To: Chair Baker

Re: SB2421, relating to condominium associations

Aloha Chair Baker, Vice-Chair Chang, and Members of the Committee

I am Lourdes Scheibert, a director of Kokua Council.

Before retiring, I worked in the construction maintenance field for more than 35 years. The last several years I worked for the Federal Government in energy conservation and efficiency earning federal recognition as Scheibert Energy Co., ENERGY USER NEWS, Army Slashes Energy Bills, 1999. This project at Schofield Barracks cut down on fuel consumption by 23%. I know the importance of maintenance fees used for preventive maintenance, the repair and replacement of components in a building.

The condominium maintenance fees collected are for maintaining and repairing the infrastructure of the building. That's what I understood when purchasing my unit and signing the agreement to pay this monthly fee on time. Collectively, it would be a shared cost and cheaper.

I disagree with paying first the non-essential cost such as legal fees, House Rules violation fines, and interest. I believe these non-essential costs are the financial cost to each owner who violates the Covenants, Conditions & Restrictions (CC&Rs). They should be held financial responsible for themselves and not make other owners carry their debt. Perhaps sending the debt to a collection agency who has a cap on the legal fees on average of 25% to 50% of the debt. Example: House Rule violation fine at \$50 the cap on legal fees would be at most \$25. Do your own research to verify the cost to do business with a collection agency.

Monthly maintenance fees should only be used as intended to maintain the building.

For these reasons, please support to repeal the sunset provision of LY2018, ACT 195.

Mahalo,
Lourdes Scheibert

The Senate
Committee on Commerce, Consumer Protection, and Health
Tuesday, February 11, 2020
9:00 a.m.
Conference Room 229

To: Chair Baker
Re: SB2421, relating to condominium associations

Aloha Chair Baker, Vice-Chair Chang, and Members of the Committee,

I am Lila Mower, president of Kokua Council, one of Hawaii's oldest advocacy groups. Kokua Council is concerned about policies and practices which can impact the well-being of seniors and our community.

Kokua Council hosts an annual Policy and Legislative Priorities Community Meeting attended by representatives from over 50 organizations* to present their priorities. At the end of the 2019 annual meeting, a poll of participants indicated **strong support for the protection of condominium owners' rights.**

I am also leader of Hui 'Oia'i'o, informally known as "COCO," a coalition of over 300 property owners--mostly seniors--from over 150 common-interest associations, and I write this testimony on behalf of this coalition.

Hui `Oia`i`o supports the repeal of the sunset provision of Act 195, to permanently codify amendments to Hawaii Revised Statutes 514B-105, 514B-146, and 667-94.

Prior to the enactment of LY 2018 Act 195, despite efforts by groups in the business of condo associations to exaggerate the benefits of aggressive collection behaviors allowed by statute, neither associations nor owners benefitted.

Foreclosures tended to dampen property values and hurt the entire association. Aggressive collection methods caused distress, dismay, and disharmony among owners. Disputes over defaulted amounts affected insurance costs for all. And discredited owners were in position to lose equity and damage their credit for years to come.

Prior to Act 195, the payment scheme that allowed non-essential expenses to be carved from common expense payments, thus causing owners to appear to be deficient on their common-expense payments and potentially subject to foreclosure, destroyed many lives needlessly.

For these reasons, we request your support to repeal the sunset provision of LY2018, Act 195.

Mahalo,

Lila Mower

*The organizations include AARP - Advocacy Director, Altres Home Care, Alzheimer's Association, Arcadia Family Of Companies, Caring Across Generations, Catholic Charities, Child And Family Services, Common Cause Hawaii, Community Alliance On Prisons (CAP), Condo 411, Drug Policy Forum, Elderly

Affairs Division, City and County Of Honolulu (EAD), Executive Office On Aging (State Of Hawaii), Faith Action (fka Faith Action For Community Equity), Foster Grandparent Program, Grassroot Institute Of Hawaii, Hawaii Disability & Communication (DCAB), Hawaii Alliance Of Non-Profits (HANO), Hawaii Appleseed Center For Law And Economic Justice, Hawaii Alliance Of Retired Americans (HARA), Hawaii Community Foundation, Hawaii Family Caregiver's Coalition (HFCC), Hawaii Disability Rights Center, Hawaii Long Term Care Ombudsman, Hawaii Meals On Wheels, Helping Hands Hawaii, Hui `Oia`i`o, Institute For Human Services (IHS), KAHEA, Kookaa Kalihi Valley, Kupuna Caucus, Kupuna Education Center at KCC, Lanakila Meals On Wheels, League Of Women Voters, Manoa Cottage Care Home, Mediation Center Of The Pacific, National Alliance On Mental Illness (NAMI), Native Hawaiian Legal Group, Osher Lifelong Learning Institute, Pacific Alliance To Stop Slavery (PASS), Partners In Care, Phocused, Policy Advisory Board For Elderly Affairs (PABEA), Pono Action, Project Dana, Public Health Nursing, Sierra Club, Senior Companion Program, Times Pharmacy, UH Center On Aging, and the State of Hawaii Governor's Coordinator on Homelessness.

SB-2421

Submitted on: 2/9/2020 7:04:05 AM

Testimony for CPH on 2/11/2020 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jade Mariano	Individual	Support	No

Comments:

SB-2421

Submitted on: 2/9/2020 12:26:02 PM

Testimony for CPH on 2/11/2020 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Stuart Donachie	Individual	Support	No

Comments:

SB-2421

Submitted on: 2/9/2020 12:26:22 PM

Testimony for CPH on 2/11/2020 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Naomi Hokama	Individual	Support	No

Comments:

Chair Baker, Vice Chair Chang and members of the Committee,

I strongly SUPPORT SB2421 relating to CONDOMINIUM ASSOCIATIONS and the repeal of the sunset clause to Act 195. Specifically, the changes to the rules for Priority of Payments should continue.

According to the 2019 Federal Reserve, 40% of individuals are unable to pay for a \$400 expense. When an Owner is referred to attorneys for non-existent violations, the financial hardship this creates can be impossible to recover from. The result is the Owner loses their Condo through a non-judicial foreclosure.

Act 195 provides a desperately needed incentive for Boards to have a dialogue with Owners. Otherwise, Management Agents will continue to outsource their job responsibilities to the Law Firms at hundreds of dollars per hour. The Law Firms will continue to encourage the use of their services to resolve trivial and non-legal matters since they know they will be able to bill an astronomical amount to the Owner who is for all practical purposes, completely defenseless.

With no due process available to Owners, the power to charge unlimited attorney fees is an insidious power that is ripe for abuse. By abusing this power entrusted to them, Boards, Management Agents, and Law Firms brought Act 195 upon themselves. Sunsetting Act 195 would send a message to Management Agents and Law Firms that they don't have to resolve disagreements with Owners; they can instead just fine & charge them into a non-judicial foreclosure.

Hawai'i has more successful lawsuits against Board Members than any state in the nation! Act 195 is the only practical protection condo Owners have. Please encourage dialogue and discourage lawsuits by repealing the sunset clause in Act 195.

Thank you for the opportunity to testify.

SB-2421

Submitted on: 2/9/2020 11:21:23 AM

Testimony for CPH on 2/11/2020 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Marcia Kimura	Individual	Support	No

Comments:

I support this measure because it needs to become permanently established in condominium statutes, to protect owners from being required to pay before they dispute, their associations' late fees, legal fees, penalties, fines and other non common element charges, and from being victimized by the wrongful priority of payments procedures.

SB-2421

Submitted on: 2/10/2020 1:19:45 AM

Testimony for CPH on 2/11/2020 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Yuri Kim	Individual	Support	No

Comments:

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Act 195 provides a desperately needed incentive for Boards to **have a dialogue** with Owners. Otherwise, Management Agents will continue to **outsource** their job responsibilities to the Law Firms at hundreds of dollars per hour. The Law Firms will continue to encourage the use of their services to resolve trivial and non-legal matters since they know they will be able to bill an astronomical amount to the Owner who is for all practical purposes, completely **defenseless**.

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Thank you for the opportunity to testify.

SB-2421

Submitted on: 2/10/2020 1:27:28 AM

Testimony for CPH on 2/11/2020 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Aaron Fong	Individual	Support	No

Comments:

Chair Baker, Vice Chair Chang and members of the Committee,

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According to the 2019 Federal Reserve, 40% of individuals are unable to pay for a \$400 expense. When an Owner is referred to attorneys for **non-existent violations**, the financial hardship this creates can be impossible to recover from. The result is the Owner loses their Condo through a non-judicial **foreclosure**.

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Thank you for the opportunity to testify.

SB-2421

Submitted on: 2/9/2020 11:09:22 PM

Testimony for CPH on 2/11/2020 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jeff Sadino	Individual	Support	Yes

Comments:

Chair Baker, Vice Chair Chang and members of the Committee,

I strongly **SUPPORT SB2421** relating to CONDOMINIUM ASSOCIATIONS and the repeal of the sunset clause to Act 195. Specifically, the changes to the rules for Priority of Payments should continue.

I have always kept my maintenance fee balance current. Since moving in, I have never received one single violation notice and all my attempts at scheduling a Board Hearing over disagreements were **denied**. Instead, I have had to write checks for attorney fees & late charges totaling over **\$28,000** and have over **\$16,000** outstanding on my Condo account coming due if Act 195 sunsets. This is despite the Board **abandoning** their court-filed Complaint and **refusing Mediation** for reimbursement. All because one powerful and entrenched Board Member has a personal vendetta against me.

Poor training and very high turnover at one of the largest Managing Agents has compounded the problem.

Prior to Act 195, the Board charged me **535% interest** on delinquent maintenance fee balances, further compounding the problem.

With an impractical estimated cost of \$100,000 for full litigation, my only hope to prevent my non-judicial foreclosure is the continuation of Act 195.

Hawai'i has more successful lawsuits against Board Members than any state in the nation! Boards, Management Agents, and Law Firms have brought Act 195 upon themselves. Act 195 is the only practical protection condo Owners have. Please **encourage dialogue** and discourage lawsuits by repealing the sunset clause in Act 195.

Thank you for the opportunity to testify,

Jeff Sadino

baker8 - Jessica

From: Jasmine <jasmineshinn@gmail.com>
Sent: Sunday, February 9, 2020 4:18 PM
To: CPH Testimony
Subject: Support for SB2421 for Condominium Associations

Chair Baker, Vice Chair Chang and members of the Committee,

I strongly **SUPPORT SB2421** relating to CONDOMINIUM ASSOCIATIONS and the repeal of the sunset clause to Act 195. Specifically, the changes to the rules for Priority of Payments should continue.

According to the 2019 Federal Reserve, 40% of individuals are unable to pay for a \$400 expense. When an Owner is referred to attorneys for **non-existent violations**, the financial hardship this creates can be impossible to recover from. The result is the Owner loses their Condo through a non-judicial **foreclosure**.

Act 195 provides a desperately needed incentive for Boards to **have a dialogue** with Owners. Otherwise, Management Agents will continue to **outsource** their job responsibilities to the Law Firms at hundreds of dollars per hour. The Law Firms will continue to encourage the use of their services to resolve trivial and non-legal matters since they know they will be able to bill an astronomical amount to the Owner who is for all practical purposes, completely **defenseless**.

With **no due process** available to Owners, the power to charge unlimited attorney fees is an insidious power that is ripe for abuse. By abusing this power entrusted to them, Boards, Management Agents, and Law Firms brought Act 195 upon themselves. Sunsetting Act 195 would send a message to Management Agents and Law Firms that they don't have to resolve disagreements with Owners; they can instead just fine & charge them into a non-judicial foreclosure.

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Thank you for the opportunity to testify.

baker8 - Jessica

From: Nisse Tirado <nstirado@me.com>
Sent: Sunday, February 9, 2020 6:39 PM
To: CPH Testimony

Chair Baker, Vice Chair Chang and members of the Committee,

I strongly **SUPPORT SB2421** relating to CONDOMINIUM ASSOCIATIONS and the repeal of the sunset clause to Act 195. Specifically, the changes to the rules for Priority of Payments should continue.

According to the 2019 Federal Reserve, 40% of individuals are unable to pay for a \$400 expense. When an Owner is referred to attorneys for **non-existent violations**, the financial hardship this creates can be impossible to recover from. The result is the Owner loses their Condo through a non-judicial **foreclosure**.

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Thank you for the opportunity to testify.

Nisha Tirado

baker8 - Jessica

From: Svetlana Dubinina <svetlana0813@gmail.com>
Sent: Sunday, February 9, 2020 6:40 PM
To: CPH Testimony
Subject: "SUPPORT for SB 2421 relating to CONDOMINIUM ASSOCIATIONS"

Chair Baker, Vice Chair Chang and members of the Committee,

I strongly **SUPPORT SB2421** relating to CONDOMINIUM ASSOCIATIONS and the repeal of the sunset clause to Act 195. Specifically, the changes to the rules for Priority of Payments should continue.

According to the 2019 Federal Reserve, 40% of individuals are unable to pay for a \$400 expense. When an Owner is referred to attorneys for **non-existent violations**, the financial hardship this creates can be impossible to recover from. The result is the Owner loses their Condo through a non-judicial **foreclosure**.

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Thank you for the opportunity to testify.

Lana Dubinina

baker8 - Jessica

From: bert takita <btakita@yahoo.com>
Sent: Sunday, February 9, 2020 8:44 PM
To: CPH Testimony
Subject: SUPPORT for SB 2421 relating to CONDOMINIUM ASSOCIATIONS

I strongly **SUPPORT SB2421** relating to CONDOMINIUM ASSOCIATIONS and the repeal of the sunset clause to Act 195. Specifically, the changes to the rules for Priority of Payments should continue.

According to the 2019 Federal Reserve, 40% of individuals are unable to pay for a \$400 expense. When an Owner is referred to attorneys for **non-existent violations**, the financial hardship this creates can be impossible to recover from. The result is the Owner loses their Condo through a non-judicial **foreclosure**.

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SB-2421

Submitted on: 2/10/2020 8:47:05 AM

Testimony for CPH on 2/11/2020 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Dawn Smith	Individual	Support	Yes

Comments:

This has been a wonderful inclusive provision which obviated making numerous other statutes to protect those condo owners who were - well... doing anything to annoy those in condo-power. As a retired attorney, I had numerous experience trying to help an owner fight the Goliath - all the while - being excessively fined and in foreclosure situation due to financial strangulation by the Board and/or management.

Please, PLEASE do not let this important safety measure lapse into oblivion. Sunsetting will only spawn needless expensive court actions, retaliatory activity, and additional movements to reenact and revise the protections afforded by this measure.

Lastly, someone named "Dawn" (that's me) wants to see rebirth - not sunset - of SB2421. Vote YES for SB2421. Mahalo, 'Dawn' Smith

SB-2421

Submitted on: 2/10/2020 6:01:49 PM

Testimony for CPH on 2/11/2020 9:00:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Philip Nerney	Individual	Support	Yes

Comments:

From: [Derek Williams](#)
To: [CPH Testimony](#)
Subject: SUPPORT for SB 2421 relating to CONDOMINIUM ASSOCIATIONS
Date: Monday, February 10, 2020 9:21:03 PM



Chair Baker, Vice Chair Chang and members of the Committee,

I strongly **SUPPORT SB2421** relating to CONDOMINIUM ASSOCIATIONS and the repeal of the sunset clause to Act 195. Specifically, the changes to the rules for Priority of Payments should continue.

According to the 2019 Federal Reserve, 40% of individuals are unable to pay for a \$400 expense. When an Owner is referred to attorneys for **non-existent violations**, the financial hardship this creates can be impossible to recover from. The result is the Owner loses their Condo through a non-judicial **foreclosure**.

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Derek Williams