

Honolulu, Hawaii

MAR 05 2021

RE: S.B. No. 191
S.D. 2

Honorable Ronald D. Kouchi
President of the Senate
Thirty-First State Legislature
Regular Session of 2021
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 191, S.D. 1, 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) Provide a process for associations to incorporate power of sale language into governing documents; and
- (2) Clarify the legislative intent that the explicit grant of power of sale to associations is not required for the purposes of enforcing association liens under the statutory power of sale foreclosure process.

Your Committee received testimony in support of this measure from the Community Associations Institute, Palehua Townhouse Association, Associa, and one individual. Your Committee received testimony in opposition to this measure from eight individuals.

Your Committee finds that Act 282, Session Laws of Hawaii 2019, expressed the legislative intent that condominium associations have authority to use a nonjudicial foreclosure process when owners default on their financial obligations to their fellow owners. Courts have nonetheless cast doubt on previous legislative action and have insisted that "power of sale"



language must be contained within the governing documents of a condominium association before a nonjudicial foreclosure process may be used. Your Committee further finds that this measure clarifies that the explicit grant of power of sale to associations is not required for the purposes of enforcing association liens through the nonjudicial foreclosure process in any part of chapter 667, Hawaii Revised Statutes. This measure further establishes a process by which Association documents may be amended to include a power of sale provision.

Your Committee has amended this measure by making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 191, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 191, S.D. 2.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary,



KARL RHOADS, Chair



