

STAND. COM. REP. NO. **2729**

Honolulu, Hawaii

MAR 03 2022

RE: S.B. No. 2730
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-First State Legislature
Regular Session of 2022
State of Hawaii

Sir:

Your Committee on Commerce and Consumer Protection, to which was referred S.B. No. 2730 entitled:

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

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Require that the fees for attorneys retained by a condominium association be paid from an association's funds or reserves;
- (2) Limit the total and final legal fees to twenty-five percent of the original debt amount;
- (3) Require attorneys retained by a condominium association to confine their communications to the condominium board, except when the attorneys must request and require materials and responses directly from owners for each matter; and
- (4) Prohibit attorneys retained by a condominium association from billing unit owners directly.

Your Committee received testimony in support of this measure from the Kokua Council, Hui 'Oia'i'o, and four individuals. Your Committee received testimony in opposition to this measure from



the Legislative Action Committee of the Community Associations Institute, Hawaii Chapter; Hawaii Council of Community Associations; Associa; Palehua Townhouse Association; Law Offices of Mark K. McKellar, LLC; Country Club Village, Phase 2; and seventeen individuals.

Your Committee finds that associations have a fiduciary duty to, for example, collect delinquent maintenance fees. However, associations generally engage attorneys to do the collection even for de minimis fines, which can at times triple any original amounts owed. Accordingly, there should be additional protections in place to deter associations from assessing inflated legal fees against individual unit owners.

Your Committee has amended this measure by:

- (1) Clarifying that the association shall not assess, demand, or seek reimbursement for its total and final legal fees in any matter in an amount exceeding twenty-five percent of the original debt amount sought by the association unless approved by the majority of unit owners at a regular meeting of the association; provided that, for the collection of debt totaling less than \$2,000, the total and final legal fees the board seeks to recover from a unit owner for the matter shall not exceed twenty-five percent of the claimed debt;
- (2) Inserting an effective date of July 1, 2050, to encourage further discussion; and
- (3) 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 Commerce and Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2730, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2730, S.D. 1, and be placed on the calendar for Third Reading.



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

Rosalyn H. Baker

ROSALYN H. BAKER, Chair



