

STAND. COM. REP. NO.

3348

Honolulu, Hawaii

MAR 22 2024

RE: H.B. No. 2801  
H.D. 1  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Thirty-Second State Legislature  
Regular Session of 2024  
State of Hawaii

Sir:

Your Committee on Commerce and Consumer Protection, to which was referred H.B. No. 2801, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO COMMERCIAL PROPERTY ASSESSED FINANCING,"

begs leave to report as follows:

The purpose and intent of this measure is to allow condominiums to be eligible for commercial property assessed financing, also known as commercial property assessed clean energy and resiliency, or C-PACER financing.

Your Committee received testimony in support of this measure from the Department of Commerce and Consumer Affairs; Office of Planning and Sustainable Development; Hawaii Green Infrastructure Authority; Hawaii State Energy Office; City and County of Honolulu Department of Budget and Fiscal Services; City and County of Honolulu Board of Water Supply; City and County of Honolulu Office of Climate Change; Sustainability and Resiliency; one member of the Honolulu City Council; Hawai'i Association of REALTORS; Holomua Collaborative; C-Pace Alliance, Inc.; Petros PACE Finance, LLC; Hawaii Insurers Council; Hawaii Laborers-Employers Cooperation and Education Trust; United Association of Plumbers and Fitters of Hawaii, Local 675; Laborer's International Union of North America--Local 368; Hawaii Solar Energy Association; AARP Hawai'i; Hawaii First Realty LLC; Palehua Townhouse Association; Ulupono



Initiative; CastleGreen Finance, LLC; Hawai'i Energy; aio; Hawai'i Gas; Hawai'i Community Foundation; HPM Building Supply; Hawaii Venture Capital Association; Mana Up; Tori Richard, Ltd.; The Association of Apartment Owners of Pat's at Punalu'u, Inc.; and five individuals.

Your Committee received testimony in opposition of this measure from two individuals.

Your Committee received comments on this measure from the Hawaii Credit Union League, Hawaii Bankers Association, and Mortgage Bankers Association of Hawaii.

Your Committee finds that the tragic fire that occurred in 2017, at the Marco Polo high-rise condominium in Honolulu, resulting in four deaths and the damage or destruction of approximately two hundred units in the building, brought to light the consequences that can occur when a residential high-rise building lacks an automatic fire sprinkler system. While county ordinances have been enacted to require older high-rise buildings to either install fire sprinkler systems or pass a safety evaluation, many high-rise buildings have been slow to comply due to the high cost of installation. Your Committee finds that allowing residential high-rise condominium properties to participate in commercial property assessed financing (C-PACER), which generally provides financing at more attractive rates and terms than are available with conventional financing, can help high-rise buildings install these necessary and lifesaving fire safety systems, as well as incentivize other high-rise buildings already in compliance with county fire safety requirements to install other high-cost but valuable improvements, such as renewable energy systems. Therefore, this measure allows high-rise residential condominium properties to participate in C-PACER financing.

Notwithstanding, your Committee has heard the testimony of the Hawaii Green Infrastructure Authority, noting that the counties have indicated their preference to outsource all aspects of the C-PACER program to the Hawaii Green Infrastructure Authority and requesting that certain amendments be made to the measure in its current form to address this issue.



Subsequent to the hearing on this measure, your Committee posted and made available for public review a proposed S.D. 1, which amends this measure by deleting its contents and replacing it with language that allows high-rise residential condominium properties to be eligible for C-PACER financing and delegates all existing administrative responsibilities of the counties under C-PACER to the Hawaii Green Infrastructure Authority.

Your Committee has amended this measure by adopting the proposed S.D. 1 and further amending it by:

- (1) Amending its legislative findings to delete inaccurate statements pertaining to high-rise condominium properties;
- (2) Replacing references to condominiums with condominium associations to maintain consistency with chapter 514B, Hawaii Revised Statutes, relating to condominiums;
- (3) Inserting language that defines "property owner" in section 196-61, Hawaii Revised Statutes;
- (4) Deleting language that would have amended the definition of "commercial property" to include "any long-term care or assisted living facility", which is independently eligible for C-PACER financing;
- (5) Clarifying that the definition of "commercial property" includes any condominium organized under chapter 514B, Hawaii Revised Statutes, consisting of six or more units; provided that individual residential condominium units shall not be considered commercial property and shall be ineligible to apply for C-PACER financing under part IV of chapter 196, Hawaii Revised Statutes;
- (6) Clarifying that the principal amount of financing made pursuant to section 196-64.5, Hawaii Revised Statutes, in the case of a condominium, shall be a governmental lien against the condominium association;
- (7) Inserting language that a condominium organized under chapter 514B, Hawaii Revised Statutes, entering into a C-PACER financing assessment contract shall provide

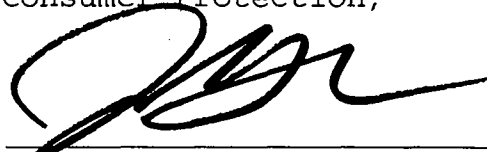


evidence of the written consent of each creditor with a valid Uniform Commercial Code financing statement or mortgage recorded with the bureau of conveyances that encumbers or otherwise secures the condominium;

- (8) Reinstating language in section 196-64.5, Hawaii Revised Statutes, that the lien of general real property taxes or any other assessments levied under section 46-80, Hawaii Revised Statutes, or any other lien foreclosed shall not accelerate or extinguish the remaining term of the commercial property assessed financing assessment;
- (9) Inserting language that before commercial property assessed financing program assessments are imposed upon a project, a commercial property assessed financing contract must be entered into by a condominium association with an approved commercial property assessed financing lender and the Hawaii Green Infrastructure Authority; and
- (10) 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 H.B. No. 2801, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2801, H.D. 1, S.D. 1, and be referred to your Committee on Ways and Means.

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




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JARRETT KEOHOKALOLE, Chair



The Senate  
 Thirty-Second Legislature  
 State of Hawai'i

**Record of Votes**  
**Committee on Commerce and Consumer Protection**  
**CPN**

Bill / Resolution No.:* <b>HB2801, HD1</b>	Committee Referral: <b>CPN, WAM</b>	Date: <b>3/21/24</b>		
<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 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
KEOHOKALOPE, Jarrett (C)	✓			
FUKUNAGA, Carol (VC)	✓			
MCKELVEY, Angus L.K.				✓
RICHARDS, III, Herbert M. "Tim"	✓			
AWA, Brenton				✓
<b>TOTAL</b>	<b>3</b>			<b>2</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
<b>Distribution:</b> Original     Yellow     Pink     Goldenrod File with Committee Report     Clerk's Office     Drafting Agency     Committee File Copy				

\*Only one measure per Record of Votes