

Honolulu, Hawaii

FEB 14 2024

RE: S.B. No. 2493
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 S.B. No. 2493 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, unless the fees incurred result from attempts to collect delinquent assessments against an individual unit owner;
- (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 and eleven individuals.

Your Committee received testimony in opposition to this measure from the Community Associations Institute; Honolulu Tower AOA; Sky Tower Apartments; Law Offices of Mark K. McKellar, LLC; and sixteen individuals.

Your Committee finds that when a condominium association board seeks legal assistance to protect the collective interests of their association, it is the association, not the individual unit owners, who are the clients of the attorneys. Therefore, this measure would require that fees for attorneys retained by the condominium association be paid from an association's funds or reserves and clarify other matters pertaining to association attorneys and individual owners. Separately, this measure limits condominium associations from seeking reimbursement for its total and final legal fees to twenty-five percent of the original debt amount sought.

Notwithstanding, your Committee has heard the testimony of those in opposition, raising concerns that this measure, in its current form, misunderstands condominium governance and potentially conflicts with state condominium law.

Accordingly, your Committee has amended this measure by:

- (1) Deleting language that would have:
 - (A) Required that the fees for attorneys retained by a condominium association be paid from an association's funds or reserves;
 - (B) Required attorneys retained by a condominium association to confine their communications to the condominium board; and
 - (C) Prohibited attorneys retained by a condominium association from billing unit owners directly;
- (2) Amending section 1 to reflect its amended purpose;



- (3) Inserting an effective date of July 1, 2040, to encourage further discussion; and
- (4) Making a technical, nonsubstantive amendment 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. 2493, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2493, S.D. 1, and be referred to your Committee on Judiciary.

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




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.:* SB 2493	Committee Referral: CPN, JDC	Date: 2/6/24		
<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
KEOHOKALOLE, Jarrett (C)	✓			
FUKUNAGA, Carol (VC)	✓			
MCKELVEY, Angus L.K.	✓			
RICHARDS, III, Herbert M. "Tim"	✓			
AWA, Brenton	✓			
TOTAL	5			
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes