JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LT GOVERNOR

Hawaii Green Infrastructure Authority
An Agency of the State of Hawaii

JAMES KUNANE TOKIOKA
CHAIR

GWEN S YAMAMOTO LAU
EXECUTIVE DIRECTOR

Testimony of
Gwen Yamamoto Lau
Executive Director
Hawaiʻi Green Infrastructure Authority
before the
SENATE COMMITTEE ON WAYS AND MEANS
Tuesday, April 1, 2025, 10:01 AM
State Capitol, Conference Room 211
in consideration of
House Bill No. 807, HD2, SD1
RELATING TO CONDOMINIUMS

Chair Dela Cruz, Vice Chair Moriwaki, and Members of the Committee:

Thank you for the opportunity to testify on HB 807, HD2, SD1 relating to condominiums. The Hawaiʻi Green Infrastructure Authority (HGIA) **supports** this bill which establishes the Condominium Loan and Condominium Loan Loss Reserves Programs administered by HGIA.

With approximately 55% of all condo units in Hawaii built prior to 1980[1], there are a significant number of 40+-year old condominium projects requiring replacements, upgrades and retrofits, including re-piping, spalling, window and railing replacements, and fire alarms[2], etc., all of which are costly and complicated. Additionally, there are a number of condominium projects on the secondary market's "unavailable list" already negatively impacting over 30,000 units, due to inadequate insurance coverage and other issues, elevating the urgency of this situation.

Similar to secondary market lenders financing condo mortgages, commercial lenders[3] typically require full insurance coverage before issuing loans for condo upgrades and retrofits. This bill will enable HGIA to provide much needed financing for condominium associations to fund essential repairs and address deferred maintenance and structural issues to enhance its insurability, which in turn will enable buyers of individual units to access secondary mortgage financing.

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[1] "Why Hawaii's Aging Condos Can't Afford to Defer Maintenance," First Insurance Company of Hawaii, January 5, 2004.
[2] "A Condominium Can Last Hundreds of Years, But Not Its Components," Hawaii Business Magazine, August 31, 2020.
[3] Including C-PACE lenders.

Additionally, in collaboration with the banking industry, this bill would enable HGIA to provide credit enhancements to community development financial institutions, mitigating their risks and enabling them to provide loans at competitive rates and terms to condominium associations to make necessary repairs.

We support the measure so long as it does not adversely impact priorities identified in Executive Budget Request for FY2026. Thank you for this opportunity to provide comments and testify in support of HB 807, HD2, SD1.

JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LIEUTENANT GOVERNOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAI'I EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

STATE OF HAWAIʻI
DEPARTMENT OF BUDGET AND FINANCE
Ka ʻOihana Mālama Moʻohelu a Kālā
P.O. BOX 150
HONOLULU, HAWAIʻI 96810-0150

LUIS P. SALAVERIA
DIRECTOR

SABRINA NASIR
DEPUTY DIRECTOR

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT

WRITTEN ONLY
TESTIMONY BY LUIS P. SALAVERIA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE SENATE COMMITTEE ON WAYS AND MEANS
ON
HOUSE BILL NO. 807, H.D. 2, S.D. 1

April 1, 2025
10:01 a.m.
Room 211 and Videoconference

RELATING TO CONDOMINIUMS

The Department of Budget and Finance (B&F) offers comments on this bill.

House Bill (H.B.) No. 807, H.D. 2, S.D. 1: 1) establishes the Condominium Loan (CL) Program (CLP) within the Hawaiʻi Green Infrastructure Authority (HGIA) for the purpose of providing qualified condominium associations with low-cost financing, or refinancing of loans previously obtained, for maintenance or repair projects; 2) establishes the CL Revolving Fund (CLRF) to provide loans for the CLP, provide credit enhancements, and pay the CLP administrative costs; 3) requires the CLRF to be audited at least once annually by a certified public accountant and for HGIA to submit annual reports to the Legislature; and 4) establishes the CL Loss Reserves Program (CLLRP) within HGIA for the purpose of incentivizing community development financial institutions to provide loans to condominium associations to make necessary repairs and maintenance by covering potential losses arising from a loan default. This measure also appropriates an unspecified amount of general funds in FY 26 and FY 27 for deposit into the CLRF; and appropriates an unspecified amount of revolving fund ceiling for the CLRF in FY 26 and FY 27.

First, B&F notes that HGIA may not be the appropriate agency to administer the CLP and the CLLRP. HGIA's purpose is to provide low-cost financing for green infrastructure projects to accelerate the State's transition to clean energy. It is unclear how the repair and maintenance of condominiums relate to this mission.

Second, prior to the establishment of such a major loan program or loan loss reserve program, assessments and/or studies should be carried out to collect the data necessary to determine its feasibility and/or identify other solutions to address financing difficulties for condominium associations. Without knowing crucial information such as the total number of condominiums, facility ages, insurance statuses, previously completed capital improvement projects, etc., it is difficult to determine whether it would be feasible for the State to establish the CLP and the CLLRP, much less how much funding they would need to ameliorate the condominium insurance issue in Hawai'i. Furthermore, given that many projects will likely cost millions or even tens of millions of dollars each, any appropriated amount for the CLP or the CLLRP will likely only benefit a very limited number of condominium associations.

Lastly, as a matter of general policy, B&F does not support the creation of any revolving fund, which does not meet the requirements of Section 37-52.4, HRS. Revolving funds should: 1) serve a need as demonstrated by the purpose, scope of work, and an explanation why the program cannot be implemented successfully under the general fund appropriation process; 2) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries or a clear link between the program and the sources of revenue; 3) provide an appropriate means of financing for the program or activity; and 4) demonstrate the capacity to be financially self-sustaining. Regarding H.B. No. 807, H.D. 2, S.D. 1, it is difficult to determine whether the proposed CLRF would be self-sustaining.

Thank you for your consideration of our comments.

DATE: March 31, 2025

TO: Senator Donovan Dela Cruz
Chair, Committee on Ways and Means

Senator Sharon Moriwaki
Vice Chair, Committee on Ways and Means

FROM: Mihoko Ito

RE: **H.B. 807 HD2, SD1 – Relating to Condominiums**

Hearing Date: Tuesday, April 1, 2025 at 10:01 a.m.
Conference Room: 211

Dear Chair Dela Cruz, Vice Chair Moriwaki, and Members of the Committee on Ways and Means:

We submit this testimony on behalf of the Hawaii Bankers Association (HBA). HBA represents seven Hawai`i banks and one bank from the continent with branches in Hawai`i.

HBA **supports** the intent of **H.B. 807 HD2, SD1** which 1) establishes the Condominium Loan Program to provide condominium associations with low-cost financing, or refinancing for previously obtained loans, for maintenance or repair projects, 2) establishes the Condominium Loan Loss Reserves Program to incentivize lenders to provide loans at competitive rates and terms to condominium associations for the purpose of allowing condominium associations to make necessary maintenance or repairs, 3) appropriates funds, and 4) requires annual reports to the Legislature.

This program proposes to provide loans for repair and maintenance purposes to condominium associations that are unable to secure full replacement value insurance for their properties. The program has two components: 1) a direct state loan program, and 2) a credit enhancement program which involves a public/private partnership with community development financial institutions.

HBA believes that creating these new loan programs will help condominiums address some of the repair and maintenance issues that are related to insurability issues. This is important because the high cost of insurance premiums for condominiums has resulted in condominium boards electing to reduce the amount of insurance coverage of condominiums to less than one hundred percent (100%) replacement coverage. Unfortunately, this has had the unintended consequence of impacting mortgage loans for condominium units, because federal guidelines on Fannie Mae and Freddie Mac prohibit these entities from purchasing mortgages on condominium units that are insured at less than full replacement coverage.

We appreciate the amendments that have been made in the SD1 version of this bill, and would ask that the Committee pass the measure to continue discussions on this proposal.

We look forward to continuing to work with policymakers to develop solutions that serve both condominium owners and the broader financial ecosystem. Thank you for the opportunity to submit this testimony.

HB-807-SD-1
Submitted on: 3/27/2025 10:25:31 AM
Testimony for WAM on 4/1/2025 10:01:00 AM

Submitted By	Organization	Testifier Position	Testify
Mike Golojuch, Sr.	Testifying for Palehua Townhouse Association	Support	Written Testimony Only

Comments:

Our association supports BH807. Please pass this bill.

HB-807-SD-1
Submitted on: 3/27/2025 8:37:51 PM
Testimony for WAM on 4/1/2025 10:01:00 AM

Submitted By	Organization	Testifier Position	Testify
lynne matusow	Individual	Support	Written Testimony Only

Comments:

I am a condo owner and resident. This is an important bill. It provides a source of funds to associations and their hundreds of thousands of members who would otherwise be unable to make necessary repairs or do necessary maintenance. Please move it forward.

HB-807-SD-1
Submitted on: 3/27/2025 8:54:49 PM
Testimony for WAM on 4/1/2025 10:01:00 AM

Submitted By	Organization	Testifier Position	Testify
Jacob Wiencek	Individual	Support	Written Testimony Only

Comments:

Aloha Committee Members,

I am glad to see this bill continue to advance through the legislative process. Condo associations, especially older associations, face significant financial pressures. From escalating insurance costs, increased maintenance and construction costs, and higher interest rates, we face challenges properly caring for our homes. I believe this bill will help condo owners and associations afford future costs. I urge the Committee to keep SUPPORTING this bill!

HB-807-SD-1
Submitted on: 3/29/2025 10:29:03 AM
Testimony for WAM on 4/1/2025 10:01:00 AM

Submitted By	Organization	Testifier Position	Testify
Nancy Manali-Leonardo	Individual	Support	Written Testimony Only

Comments:

Thank you for proposing this necessary bill.

I have lived in several condominiums in Honolulu for the last 43 plus years. including, the Marco Polo, and currently other older condos.

We live on an island and no one building, including our pipes, our electrical, etc., on the inside, much less the outside of our buildings, escape the salt air of the Pacific Ocean.

Our condos need low-cost loans to upkeep our aging buildings.

Mahalo,

Nancy Manali-Leonardo

Honolulu, Hawai'i

808-542-1556

TESTIMONY IN OPPOSITION TO HB807 HD2 SD1

For: The Committee on Ways and Means

DATE:	Tuesday, April 1, 2025
TIME:	10:01 AM
PLACE:	Conference Room 211 & Videoconference State Capitol 415 South Beretania Street

Aloha Chair Dela Cruz, Vice Chair Moriwaki, and Members of the Committee,

My name is Gregory Misakian and I have been advocating for the rights of condominium owners in Hawaii since 2021, when I realized how much misconduct and corruption there is within many condominium associations throughout Hawaii, in addition to misconduct and corruption within numerous large management companies that manage and oversee condominium associations.

I currently serve as 1st Vice President of the Kokua Council, an elder advocacy organization in Hawaii since 1972, a Director at the Hawaii Alliance for Retired Americans, and a member of the Waikiki Neighborhood Board, where we have advocated for better consumer protections for condominium owners in a resolution adopted in 2023 (also adopted by other Neighborhood Boards).

This bill and the intent of the bill is out of scope for the mission of the Hawaii Green Infrastructure Authority (HGIA), who has not been forthcoming to answer questions and concerns I and others have raised numerous times (some listed below, which I hope you will ask at the committee hearing).

1) How will a C-PACER loan be paid back? Loan originators I have spoken with clearly stated it will be via the condominium owner's property tax assessments and bills.

2) Please provide data to show that C-PACER loans have lower interest rates than traditional loans.
3) Please provide full disclosure regarding C-PACER loan origination and administrative costs.
4) Please provide actual and factual assessments and data to show that a C-PACER loan is more cost effective than a traditional loan. Please focus on the length of the loan, as C-PACER loans are for longer periods of time and with simple math will most likely cost more.
5) Please explain how this will impact sales of condominiums and mortgage financing and refinancing for condominiums, as there will be higher costs assessed to the property taxes and a master priority lien that mortgage companies and Fannie Mae, Freddie Mac, HUD, and the VA, may all question and which may be detrimental to those seeking loans.

The bill as written is very concerning and there are many sections to point to that should raise red flags. To save time and add emphasis, I will provide a portion of testimony presented for Bill SD1044 SD2 on 3/12/25 at the Committee on Consumer Protection & Commerce, from Luis P. Salaveria, Director, Hawaii State Department of Budget and Finance, which provides a good assessment.

First, B&F notes that HGIA may not be the appropriate agency to administer the CLP and the CLPSF. HGIA's purpose is to provide low-cost financing for green infrastructure projects to accelerate the State's transition to clean energy. It is unclear how the repair and maintenance of condominiums relate to this mission.

Second, prior to the establishment of such a major loan program, assessments and/or studies should be carried out to collect the data necessary to determine its feasibility and/or identify other solutions to address financing difficulties for condominium associations. Without knowing crucial information such as the total number of condominiums, facility ages, insurance statuses, previously completed capital improvement projects, etc., it is difficult to determine whether it would be feasible for the State to establish the CLP and the CLPSF, much less how much funding they would need to ameliorate the condominium insurance issue in Hawaiʻi. Furthermore, given that many projects will likely cost millions or even tens of millions of dollars each, any appropriated amount for the CLP or the CLPSF will likely only benefit a very limited number of condominium associations.

Lastly, as a matter of general policy, B&F does not support the creation of any special fund, which does not meet the requirements of Section 37-52.3, HRS. Special funds should: 1) serve a need as demonstrated by the purpose, scope of work, and an explanation why the program cannot be implemented successfully under the general fund appropriation process; 2) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries or a clear link between the program and the sources of revenue; 3) provide an appropriate means of financing for the program or activity; and 4) demonstrate the capacity to be financially self-sustaining. Regarding S.B. No. 1044, S.D. 2, it is difficult to determine whether the proposed CLPSF would be self-sustaining.

This is what is stated at the HGIA website regarding C-PACER loans:

How it Works:

- *Qualifying Improvements are financed through a <u>voluntary</u> assessment, senior to mortgages, but junior to real property taxes.*
- *Mitigating QCP risk opens new markets for long-term, fixed rate financing over the blended useful life of the retrofit(s) financed.*

Maybe the Committee on Commerce and Consumer Protection can ask HGIA to elaborate on this two-sentence explanation of "How it Works."

In addition, there appears to be a moratorium for new applications since November 30, 2024. Below is what stated at the HGIA website regarding this.

NOTICE: Application Moratorium

Effective ***November 30, 2024 at 5:00 p.m.****, HGIA will have a moratorium on accepting new applications. The existing application portal will be disabled at 5:00 p.m. on November 30, 2024.*

When the moratorium is lifted, we will provide an update on our website and begin accepting applications in a new application portal. The link to the new application portal will be provided at that time.

Please feel free to contact us with any questions.

Maybe the committee can also inquire regarding this.

I urge the committee to please defer this bill and please ensure that the Hawaii Green Infrastructure Authority is held accountable for providing all requested data and answers to questions. I currently have no faith in the Executive Director based on numerous discussions and questions that have gone unanswered, or where misinformation was provided.

I am also available to assist with any task force or committee to help provide oversight, to ensure the proper questions are asked and the proper data is collected, and to offer substantive solutions that are based on facts and not misinformation or misguided marketing.

Mahalo,

Gregory Misakian

HB-807-SD-1
Submitted on: 3/30/2025 7:46:32 PM
Testimony for WAM on 4/1/2025 10:01:00 AM

Submitted By	Organization	Testifier Position	Testify
Jessica Herzog	Individual	Oppose	Written Testimony Only

Comments:

TESTIMONY IN OPPOSITION TO HB807 SD1
Position: OPPOSE UNLESS AMENDED

RE: HB807 SD1 – RELATING TO CONDOMINIUMS

Aloha Chair Dela Cruz, Vice Chair Moriwaki and Honorable Committee Members,

I emailed each of you on Friday March 28, 2025. My name is Jessica Herzog. I am not a paid lobbyist — I'm a hardworking single mother with an expansive education and a deep passion for equity under the law. I'm submitting my public testimony here as a condominium owner and actively engaged constituent to express my serious concerns regarding HB807. While I am currently an AOAO board Vice President, while I do not speak for that association today, I have about 40 other Hawai'i condo owners now who continue to encourage my efforts on behalf of all of us!

While I support the intent to assist aging buildings in addressing critical infrastructure needs, **I'm concerned that the bill—as written—may unintentionally expose owners to long-term financial risks and potential loss of control over their communities**.

To support constructive dialogue, I've compiled a summary of risks, documented patterns from other states, and specific recommendations that could strengthen HB807 and ensure it truly serves property owners—not outside financial interests:

This testimony is offered in strong **opposition** to HB807 SD1 unless amended to include meaningful protections for condominium owners and associations against long-term financial risk, control loss, or asset encumbrance resulting from the lending structures authorized in this bill.

OVERVIEW: WHAT THIS BILL DOES

HB807 SD1 establishes two programs:

- A **direct loan program** for condo associations to finance critical repairs (e.g., fire systems, plumbing, roofing).

- A **loan loss reserve program** to incentivize third-party lenders, backed by a State-funded reserve account.

Though well-intentioned, the bill lacks essential safeguards to prevent **predatory lending, long-term indebtedness, and financial manipulation of aging condominium communities**.

KEY CONCERNS

1. **Reserve Accounts & Collateralization Risks**
   The bill authorizes the Hawaiʻi Green Infrastructure Authority (HGIA) to create **reserve accounts held by private lenders** (community development financial institutions or CDFIs), which can be used to reimburse lenders for loan defaults
   - The **State retains ownership of these funds**, but the CDFIs can **recover default losses**, raising questions about who ultimately bears the risk—and how associations' assets might be leveraged or encumbered.
2. **Absence of Borrower Protections**
   HB807 does **not require homeowner consent**, transparency in lending terms, or independent legal counsel for condo boards. This creates a ripe environment for **uninformed debt agreements** and **hidden liens** on common property or association assessments.
3. **Risk of Losing Local Control**
   Loans may be sold on the **secondary market** with the consent of HGIA. This provision opens the door for **outsiders to hold leverage over condo properties**, potentially altering how maintenance, insurance, or governance decisions are made.

RELEVANT SCHOLARLY & PRACTICAL WARNINGS

***The Great Taking* by David Webb**
This book outlines how **financial instruments like trust accounts and collateral arrangements** are used globally to strip individuals and communities of asset control. HB807 SD1 creates similar conditions—**State-secured loans via third parties**, backed by reserve accounts that could grow into structures of financial dependence and foreclosure risk if defaults occur.

***The Great American Neighborhood* by Evan McKenzie**
McKenzie describes how **boards can be manipulated into debt** under the pressure of emergency repairs or deferred maintenance. These debts are often **packaged by private lenders and used to influence land use or voting control**. HB807 SD1 incentivizes condo boards to **borrow without homeowner checks and balances**—a textbook example of the risk McKenzie warns against.

***Privatopia* by Evan McKenzie**
This foundational work shows how HOAs and condo associations become **vulnerable to exploitation** due to their corporate structure. Debt instruments—like the ones authorized under HB807—can **accelerate the erosion of democratic control and lead to property "takeovers"** by investor interests.

***HOA Warrior* series by Shelly Marshall**
In these anecdotal but widely echoed accounts, property managers and lenders collude to **lock associations into debt-based contracts**, ultimately resulting in **loss of owner control** and rising fees. Without mandatory owner approval or oversight, HB807 opens the same door.

SUGGESTED AMENDMENTS TO PROTECT CONDO OWNERS

1. **Require majority owner approval before any loan is executed or renewed.**
2. **Prohibit resale of loans on the secondary market without full owner consent and public disclosure.**
3. **Mandate third-party legal counsel and financial disclosure review for any board entering into a loan.**
4. **Disallow liens or encumbrances against units or common areas without explicit homeowner authorization.**
5. **Publicly audit all CDFIs participating in the program and disclose full lending terms to unit owners.**

FNAL THOUGHTS

While HB807 SD1 seeks to address urgent maintenance needs, it risks creating **a system of debt-based dependency**. The financial mechanisms in this bill **mirror real-world examples**—documented in *The Great Taking*, *Privatopia*, and other sources—where **control of property shifts from residents to financiers**.

While HB807 SD1 addresses a pressing infrastructure need, it risks doing so at the expense of homeowner autonomy and financial safety. Without amendments, it may exchange one crisis—building deterioration—for another: governance instability and owner disenfranchisement.

I hope you'll take a moment to review these findings. I've based my suggestions on national research, real-life HOA experiences, and case law—aimed at protecting democratic governance and financial transparency within Hawai'i's condo communities.

Please consider discussing this resource with your colleagues. A few key amendments could help this bill become a powerful tool for sustainable community improvement—without exposing owners to unnecessary risk.

Sincere regards & mahalo,

Jessica Herzog
Condo Owner, Notary Public
Member of the National Association of Parliamentarians
mssc403@gmail.com | 707.340.5786
To see more condo owner concerns visit:
https://www.leewardrepair.com/condo/

The Senate
The Thirty-Third Legislature
Committee on Ways and Means
Tuesday, April 1, 2025
10:01 a.m.

To: Senator Donovan M. Dela Cruz, Chair
Re: HB 807 HD2 SD1, Relating to Condominiums

Aloha Chair Donovan Dela Cruz, Vice-Chair Sharon Moriwaki, and Members of the Committee,

Mahalo for the opportunity to provide these comments about the proposed measure.

While I appreciate the Legislature's efforts to provide condominium associations and their owners with financial relief, greater focus should be on the *causes* of the need for relief so that this is not a recurring need.

These causes include uninformed and unaccountable management and boards, feeble enforcement of rules and laws that should protect consumers, and uninformed owners who lack easy access to essential condominium documents including financials and meeting minutes necessary to understand the status of their association and its physical plant.

It is unfair for current residents and owners of those associations to bear the financial burden of upkeep, repair, and maintenance that were ignored or deferred by previous association boards and management.

And it is also unfair for taxpayers to participate with their hard-earned tax dollars--via appropriations from the State's general funds--in bearing the risk of funding condominium associations that failed to demonstrate wise fiscal and physical plant management.

There must be greater assurance that associations that neglected proper planning, including budgeting and assessing, and disregarded maintenance of their properties, will correct their management and governance practices so that they do not repeat their errors.

Additionally, the condominium loan program proposed in this measure appears to fall beyond the mission of the Hawaii Green Infrastructure Authority, "Make clean energy investment accessible and affordable to Hawaii's underserved ratepayers, stimulate private investments, and leverage innovative financing tools to mitigate risks and reach new markets in support of Hawaii's goal of 100% clean energy in the electricity sector by 2045." This noncompliance gives the impression that this Authority is looking for ways to make itself relevant whereas its relevance and necessity should have been determined before its creation.

The State should stay out of the lending industry and allow traditional lenders to determine risk assessment and appropriate lending costs without involving Hawaii's taxpayers.