

SB-147-SD-1

Submitted on: 2/19/2025 11:41:13 AM

Testimony for JDC on 2/21/2025 10:20:00 AM

Submitted By	Organization	Testifier Position	Testify
Mark McKellar	Testifying for Law Offices of Mark K. McKellar, LLC	Oppose	Written Testimony Only

Comments:

Dear Senator Rhoades, Chair, Senator Gabbard, Vice Chair, and Member of the Committee:

I OPPOSE S.B. No. 147, S.D.1 for the reasons set forth below.

S.B. No. 147 adds a new provision on fines and appeals from fines. It establishes procedures to be followed by associations and time periods for action. While procedures and time periods serve a good purpose, this provision may conflict with the procedures and time periods for action found in the governing instruments of condominium associations. This will likely create confusion. If this bill is to be adopted, a provision should be added addressing how those conflicts are to be resolved.

The new subsection (e) provides that no attorneys' fees shall be charged by an association against any unit owner or tenant with respect to a fine before the fine is deemed collectible. This could be construed as prohibiting an association from recovering attorneys' fees incurred by it in having its lawyer send a demand letter to an owner who has violated a covenant if a fine resulting from the violation is later waived, rescinded, or set aside. The fact that a fine has been waived, rescinded, or set aside does not necessarily mean that there was no violation warranting the sending of a demand letter. It may be that the board agreed to waive or rescind the fine as a gesture of goodwill or that the fine was set aside by the small claims court for technical reasons. Furthermore, a board may be less inclined to waive fines upon appeal if doing so means that it must also waive all attorneys' fees incurred by the association in connection with the violation.

SECTION 3 of the bill amends the fine provision found in HRS Section 514B-104(a)(11), but omits a change to HRS Section 514B-104(b) which also relates to fines. This omission will create inconsistencies in the law. If a new fine provision is to be added, HRS Section 514B-104(b) should be deleted to avoid conflict with the new provision.

The proposed changes to HRS Section 514B-146 found in SECTION 5 of the bill are quite substantial without any stated compelling reason for the changes. If HRS Section 514B-146 is to be amended, the proposed wording should be amended for clarification.

The new Section 514B-146(f) allows a unit owner to request mediation within thirty days of the statement described in subsection (d). The statement referred to in subsection (d) is given only if an owner requests such a statement. The deadline to request mediation should not be tied to a date that is uncertain and may never arise.

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For the foregoing reasons, I respectfully OPPOSE S.B. No. 147, S.D.1 and urge your Committee to defer this measure. Alternatively, if it is to be passed by the Committee, I urge the Committee to amend the bill to address the issues discussed above.

Respectfully submitted,

Mark McKellar

HAWAII LEGISLATIVE
ACTION COMMITTEE


community
ASSOCIATIONS INSTITUTE

P.O. Box 976
Honolulu, Hawaii 96808

February 19, 2025

Honorable Karl Rhoads
Honorable Mike Gabbard
Committee on Judiciary
415 South Beretania Street
Honolulu, Hawaii 96813

Re: **SB 147 SD1 SUPPORT**

Dear Chair Rhoads, Vice Chair Gabbard and Committee Members:

CAI supports SB 147 SD1. SB 147 SD1 will protect consumers by preventing exposure to the risk of attorneys' fees for fines unless and until such fines are deemed to be collectable.

Substantial due process protections and procedures are incorporated into SB 147 SD1. It is, therefore, true that associations will have to be more thoughtful and careful in the *process* of assessing fines.

SB 147 SD1 further incentivizes boards to carefully consider owner *appeals* of fines, because small claims court will decide disputes about fines *with finality*. This will have salutary effect.

Pleas to preserve the status quo lack sensitivity to real concerns that adequate due process procedures are absent from existing law. SB 147 SD1 corrects that deficiency, in a fair manner that is protective of legal rights.

SB 147 SD1 also attends to the patchwork and unwieldy nature of some aspects of existing law. SB 147 SD1 better operationalizes practice and procedure requirements.

Please pass SB 147 SD1.

CAI Legislative Action Committee, by



Its Chair

SB-147-SD-1

Submitted on: 2/19/2025 2:54:26 PM

Testimony for JDC on 2/21/2025 10:20:00 AM

Submitted By	Organization	Testifier Position	Testify
Rachel Glanstein	Testifying for AOA Lakeview Sands	Oppose	Written Testimony Only

Comments:

Dear Senator Rhoades, Chair, Senator Gabbard, Vice Chair, and Member of the Committee:

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For the foregoing reasons, I respectfully OPPOSE S.B. No. 147, S.D.1 and urge your Committee to defer this measure. Alternatively, if it is to be passed by the Committee, I urge the Committee to amend the bill to address the issues discussed above.

Mahalo!

Rachel Glanstein

SB-147-SD-1

Submitted on: 2/19/2025 5:16:59 PM

Testimony for JDC on 2/21/2025 10:20:00 AM

Submitted By	Organization	Testifier Position	Testify
Richard Emery	Testifying for Hawaii First Realty	Support	Written Testimony Only

Comments:

SB147 efficiently addresses fines without incurring unnecessary legal fees.

SB-147-SD-1

Submitted on: 2/19/2025 8:57:24 PM

Testimony for JDC on 2/21/2025 10:20:00 AM

Submitted By	Organization	Testifier Position	Testify
Primrose Leong-Nakamoto	Testifying for Nakamoto Realty, LLC	Oppose	Written Testimony Only

Comments:

Dear Senator Rhoades, Chair, Senator Gabbard, Vice Chair, and Member of the Committee:

I OPPOSE S.B. No. 147, S.D.1 for the reasons set forth below.

S.B. No. 147 adds a new provision on fines and appeals from fines. It establishes procedures to be followed by associations and time periods for action. While procedures and time periods serve a good purpose, this provision may conflict with the procedures and time periods for action found in the governing instruments of condominium associations. This will likely create confusion. If this bill is to be adopted, a provision should be added addressing how those conflicts are to be resolved.

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For the foregoing reasons, I respectfully OPPOSE S.B. No. 147, S.D.1 and urge your Committee to defer this measure. Alternatively, if it is to be passed by the Committee, I urge the Committee to amend the bill to address the issues discussed above.

Respectfully submitted,

Primrose Leong-Nakamoto

LATE

The Honorable Karl Rhoads, Chair and
Members of the Committee on Judiciary
Hawaii State Senate
State of Hawaii
415 S. Beretania Street, Rm. #016
Honolulu, HI 96813



February 20, 2025

Dear Chair Rhoads,

RE: COMMENTS ON SB147 SD1 RELATING TO CONDOMINIMUMS

HIMAST is a state-wide membership organization that advocates on behalf of Hawaii's short- and mid-term rental industry. We believe that the availability of diverse rental choices contributes to the generation of local employment opportunities, boosts state and county revenues while reinforcing housing stability and affordability and strengthening our local economy.

We support clarifying the fines and fees that are assessed and or accrued by condominium associations. We are concerned that the bill could lead to arbitrary enforcement of rules against rental owners and unfairly burden them for tenant behavior, while also risking unequal enforcement based on bias.

We provide the following comments for consideration to further refine the bill to ensure equal protection and reduce unintended consequences.

1. Vulnerability to Selective or Arbitrary Rule Enforcement - If the bill strengthens ADR without clear protection for owners, boards may use it to harass or intimidate rental-friendly owners with excessive or frivolous complaints.
2. Unfair Burden on Owners for Tenant or Guest Behavior - The bill might make it easier for condo boards to fine owners or force costly arbitration over minor or one-time issues.
3. Risk of Unequal Enforcement Based on Bias - Boards may enforce rules inconsistently, targeting rental owners while overlooking violations by owner-occupants. If ADR processes favor the association, owners who rent out units may have little recourse against unfair treatment.

It may also be more efficient to combine the amendments relating to attorneys' fees and costs in SB147 SD1 into SB146 SD1.

Respectfully submitted,

Jennifer Wilkinson, JD/MBA
President and Executive Director

SB-147-SD-1

Submitted on: 2/18/2025 9:54:03 PM

Testimony for JDC on 2/21/2025 10:20:00 AM

Submitted By	Organization	Testifier Position	Testify
Margaret Murchie	Individual	Support	Written Testimony Only

Comments:

Support with attention & consideration of below issues

1. Prevention of Retaliatory and Unequal Enforcement:

Unequal covenant enforcement and false covenant violations are often used as retaliation, harassment, intimidation, or weapons against homeowners who ask questions, request financial documents, disagree with Board Members, run for a Board position, or engage in protected activities. o Covenant enforcement should be applied fairly and consistently to prevent discrimination and abuse. **See Hoku Board of Directors final settlement determination for harrasment, conflict of interest and spending beyond agreed upon budget. approx. \$650,000. See Dowsett Point article for horrid examples of abuse. Moana Pacific examples of abuse. Two of the aforementioned had developers sitting on the boards themselves.**

2. Limitations on Attorney’s Fees and Late Fees:

Attorney’s fees and late fees often exceed the original fine or amounts owed, creating financial burdens for homeowners. Homeowners should not face excessive fees that create an inescapable financial trap. **SEE Civil Beat Dowsett Point for examples of abuse**

The goal of an AOA/HOA should be to benefit its members, not to financially damage them or facilitate the unjust loss of their homes. I don't agree with non judicial foreclosure either. See Associa Keoniana lawsuit regarding Wayne Kanno, owner.

3. Protection of Homeowners’ Rights: No provision in the Declaration or Governing Documents should supersede a member’s constitutional rights, including free speech and protections under state and federal law. All fair housing, fair collections, fair lending, and consumer protection laws should apply equally to all members of AOA/HOAs.

4. Clear and Reasonable Notice Requirements: Homeowners must be given reasonable and consistent time periods to correct CCR (Covenants, Conditions, Restrictions) violations before fines are imposed. All violations and fines must be documented and made readily available to members.

A 30-day written notice should be required for all fines, and homeowners should

5. Fair and Transparent Dispute Resolution Process: All fines, late fees, and interest should stop accruing once a dispute is filed in writing with the HOA, until resolved in a small claims court or a State Office. The Board must arrange a member appeal at the next Board Meeting, with the appeal taking place at the beginning of the meeting. Each Board Member's vote on the appeal must be recorded and made publicly available. No fines, fees, or attorney fees should be imposed before an official resolution through a small claims court or the State Office.

6. Limitations on Attorney's Fees: Attorney fees should not exceed 10% of the original amount owed, excluding fees or interest. o Attorney fees should only be charged after the case is decided through small claims court or State Office, and all appeals have concluded. **Google Civil Beat Dowsett Point** example

7. Judicial Oversight Over HOA Boards: Challenged CCR violations and fines must be reviewed by small claims court or State Office before any fines are imposed. o AOA/OHOA Boards should not serve as judges in disputes where they are a party. Small claims court will likely not be effective as there is a limit of \$5,000 and counter claims against homeowner could be as much as \$40,000

8. Transparency and Access to HOA Records: All AOA/OHOA records and arguments to be presented in court or the State Office must be provided to the homeowner at least 30 days before the hearing. All records of CCR violations and fines must be accessible to all members, including the name of the person filing the complaint, the document on which the complaint was filed, and all related communications between the accuser, the Board, and AOA/OHOA employees. By implementing these provisions, SB147 can ensure fair, transparent, and ethical governance of AOA/OHOAs, protecting homeowners from unjust penalties, financial exploitation, and retaliation.

SB-147-SD-1

Submitted on: 2/19/2025 8:34:22 AM

Testimony for JDC on 2/21/2025 10:20:00 AM

Submitted By	Organization	Testifier Position	Testify
christine morrison	Individual	Support	Written Testimony Only

Comments:

[2024 Sen Hashimoto.pdf](#)

SB-147-SD-1

Submitted on: 2/19/2025 9:43:42 AM

Testimony for JDC on 2/21/2025 10:20:00 AM

Submitted By	Organization	Testifier Position	Testify
Anne Anderson	Individual	Oppose	Written Testimony Only

Comments:

Dear Senator Rhoades, Chair, Senator Gabbard, Vice Chair, and Member of the Committee:

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For the foregoing reasons, I respectfully OPPOSE S.B. No. 147, S.D.1 and urge your Committee to defer this measure. Alternatively, if it is to be passed by the Committee, I urge the Committee to amend the bill to address the issues discussed above.

Respectfully submitted,

Anne Anderson

SB-147-SD-1

Submitted on: 2/19/2025 9:46:41 AM

Testimony for JDC on 2/21/2025 10:20:00 AM

Submitted By	Organization	Testifier Position	Testify
Lance S. Fujisaki	Individual	Oppose	Written Testimony Only

Comments:

Dear Senator Rhoades, Chair, Senator Gabbard, Vice Chair, and Member of the Committee:

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Respectfully submitted,

Lance Fujisaki

SB-147-SD-1

Submitted on: 2/19/2025 9:47:14 AM

Testimony for JDC on 2/21/2025 10:20:00 AM

Submitted By	Organization	Testifier Position	Testify
mary freeman	Individual	Oppose	Written Testimony Only

Comments:

Dear Senator Rhoades, Chair, Senator Gabbard, Vice Chair, and Member of the Committee:

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Respectfully submitted,

Mary Freeman

Ewa Beach

SB-147-SD-1

Submitted on: 2/19/2025 9:56:51 AM

Testimony for JDC on 2/21/2025 10:20:00 AM

Submitted By	Organization	Testifier Position	Testify
Michael Targgart	Individual	Oppose	Written Testimony Only

Comments:

Dear Senator Rhoades, Chair, Senator Gabbard, Vice Chair, and Member of the Committee:

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Respectfully submitted,

Michael Targgart

SB-147-SD-1

Submitted on: 2/19/2025 10:38:40 AM

Testimony for JDC on 2/21/2025 10:20:00 AM

Submitted By	Organization	Testifier Position	Testify
Joe M Taylor	Individual	Oppose	Written Testimony Only

Comments:

Dear Senator Rhoades, Chair, Senator Gabbard, Vice Chair, and Member of the Committee:

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1. 3 of the bill amends the fine provision found in HRS Section 514B-104(a)(11), but omits a change to HRS Section 514B-104(b) which also relates to fines. This omission will create inconsistencies in the law. If a new fine provision is to be added, HRS Section 514B-104(b) should be deleted to avoid conflict with the new provision.

The proposed changes to HRS Section 514B-146 found in SECTION 5 of the bill are quite substantial without any stated compelling reason for the changes. If HRS Section 514B-146 is to be amended, the proposed wording should be amended for clarification.

1. new Section 514B-146(f) allows a unit owner to request mediation within thirty days of the statement described in subsection (d). The statement referred to in subsection (d) is given only if an owner requests such a statement. The deadline to request mediation should not be tied to a date that is uncertain and may never arise.
1. new subsection (f) states that an owner shall be entitled to a refund of any amounts paid that are determined to have not been owed. It is not clear who makes this determination because it follows the section allowing an owner to file a court action or to request mediation. It should be revised to clarify that the determination must be made by a court of competent jurisdiction, via a binding final judgment, and that payment of any refund shall be subject to any orders of a court granting stays or other relief.

For the foregoing reasons, I respectfully OPPOSE S.B. No. 147, S.D.1 and urge your Committee to defer this measure. Alternatively, if it is to be passed by the Committee, I urge the Committee to amend the bill to address the issues discussed above.

Respectfully submitted,
JMT

SB-147-SD-1

Submitted on: 2/19/2025 12:26:06 PM

Testimony for JDC on 2/21/2025 10:20:00 AM

Submitted By	Organization	Testifier Position	Testify
John Toalson	Individual	Oppose	Written Testimony Only

Comments:

Dear Senator Rhoades, Chair, Senator Gabbard, Vice Chair, and Member of the Committee:

I OPPOSE S.B. No. 147, S.D.1 for the reasons set forth below.

S.B. No. 147 adds a new provision on fines and appeals from fines. It establishes procedures to be followed by associations and time periods for action. While procedures and time periods serve a good purpose, this provision may conflict with the procedures and time periods for action found in the governing instruments of condominium associations. This will likely create confusion. If this bill is to be adopted, a provision should be added addressing how those conflicts are to be resolved.

The new subsection (e) provides that no attorneys' fees shall be charged by an association against any unit owner or tenant with respect to a fine before the fine is deemed collectible. This could be construed as prohibiting an association from recovering attorneys' fees incurred by it in having its lawyer send a demand letter to an owner who has violated a covenant if a fine resulting from the violation is later waived, rescinded, or set aside. The fact that a fine has been waived, rescinded, or set aside does not necessarily mean that there was no violation warranting the sending of a demand letter. It may be that the board agreed to waive or rescind the fine as a gesture of goodwill or that the fine was set aside by the small claims court for technical reasons. Furthermore, a board may be less inclined to waive fines upon appeal if doing so means that it must also waive all attorneys' fees incurred by the association in connection with the violation.

SECTION 3 of the bill amends the fine provision found in HRS Section 514B-104(a)(11), but omits a change to HRS Section 514B-104(b) which also relates to fines. This omission will create inconsistencies in the law. If a new fine provision is to be added, HRS Section 514B-104(b) should be deleted to avoid conflict with the new provision.

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The new subsection (f) states that an owner shall be entitled to a refund of any amounts paid that are determined to have not been owed. It is not clear who makes this determination because it follows the section allowing an owner to file a court action or to request mediation. It should be revised to clarify that the determination must be made by a court of competent jurisdiction, via a binding final judgment, and that payment of any refund shall be subject to any orders of a court granting stays or other relief.

For the foregoing reasons, I respectfully OPPOSE S.B. No. 147, S.D.1 and urge your Committee to defer this measure. Alternatively, if it is to be passed by the Committee, I urge the Committee to amend the bill to address the issues discussed above.

Respectfully submitted,

John Toalson

SB-147-SD-1

Submitted on: 2/19/2025 1:00:28 PM

Testimony for JDC on 2/21/2025 10:20:00 AM

Submitted By	Organization	Testifier Position	Testify
Carol Walker	Individual	Oppose	Written Testimony Only

Comments:

Dear Senator Rhoades, Chair, Senator Gabbard, Vice Chair, and Member of the Committee:

I OPPOSE S.B. No. 147, S.D.1 for the reasons set forth below.

S.B. No. 147 adds a new provision on fines and appeals from fines. It establishes procedures to be followed by associations and time periods for action. While procedures and time periods serve a good purpose, this provision may conflict with the procedures and time periods for action found in the governing instruments of condominium associations. This will likely create confusion. If this bill is to be adopted, a provision should be added addressing how those conflicts are to be resolved.

1. new subsection (e) provides that no attorneys' fees shall be charged by an association against any unit owner or tenant with respect to a fine before the fine is deemed collectible. This could be construed as prohibiting an association from recovering attorneys' fees incurred by it in having its lawyer send a demand letter to an owner who has violated a covenant if a fine resulting from the violation is later waived, rescinded, or set aside. The fact that a fine has been waived, rescinded, or set aside does not necessarily mean that there was no violation warranting the sending of a demand letter. It may be that the board agreed to waive or rescind the fine as a gesture of goodwill or that the fine was set aside by the small claims court for technical reasons. Furthermore, a board may be less inclined to waive fines upon appeal if doing so means that it must also waive all attorneys' fees incurred by the association in connection with the violation.
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The proposed changes to HRS Section 514B-146 found in SECTION 5 of the bill are quite substantial without any stated compelling reason for the changes. If HRS Section 514B-146 is to be amended, the proposed wording should be amended for clarification.

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1. new subsection (f) states that an owner shall be entitled to a refund of any amounts paid that are determined to have not been owed. It is not clear who makes this determination because it follows the section allowing an owner to file a court action or to request mediation. It should be revised to clarify that the determination must be made by a court of competent jurisdiction, via a binding final judgment, and that payment of any refund shall be subject to any orders of a court granting stays or other relief.

For the foregoing reasons, I respectfully OPPOSE S.B. No. 147, S.D.1 and urge your Committee to defer this measure. Alternatively, if it is to be passed by the Committee, I urge the Committee to amend the bill to address the issues discussed above.

Respectfully submitted,

Carol Walker

SB-147-SD-1

Submitted on: 2/19/2025 3:52:05 PM

Testimony for JDC on 2/21/2025 10:20:00 AM

Submitted By	Organization	Testifier Position	Testify
Laura Bearden	Individual	Oppose	Written Testimony Only

Comments:

Dear Senator Rhoades, Chair, Senator Gabbard, Vice Chair, and Member of the Committee:

I OPPOSE S.B. No. 147, S.D.1 for the reasons set forth below.

S.B. No. 147 adds a new provision on fines and appeals from fines. It establishes procedures to be followed by associations and time periods for action. While procedures and time periods serve a good purpose, this provision may conflict with the procedures and time periods for action found in the governing instruments of condominium associations. This will likely create confusion. If this bill is to be adopted, a provision should be added addressing how those conflicts are to be resolved.

The new subsection (e) provides that no attorneys' fees shall be charged by an association against any unit owner or tenant with respect to a fine before the fine is deemed collectible. This could be construed as prohibiting an association from recovering attorneys' fees incurred by it in having its lawyer send a demand letter to an owner who has violated a covenant if a fine resulting from the violation is later waived, rescinded, or set aside. The fact that a fine has been waived, rescinded, or set aside does not necessarily mean that there was no violation warranting the sending of a demand letter. It may be that the board agreed to waive or rescind the fine as a gesture of goodwill or that the fine was set aside by the small claims court for technical reasons. Furthermore, a board may be less inclined to waive fines upon appeal if doing so means that it must also waive all attorneys' fees incurred by the association in connection with the violation.

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The new subsection (f) states that an owner shall be entitled to a refund of any amounts paid that are determined to have not been owed. It is not clear who makes this determination because it follows the section allowing an owner to file a court action or to request mediation. It should be revised to clarify that the determination must be made by a court of competent jurisdiction, via a binding final judgment, and that payment of any refund shall be subject to any orders of a court granting stays or other relief.

For the foregoing reasons, I respectfully OPPOSE S.B. No. 147, S.D.1 and urge your Committee to defer this measure. Alternatively, if it is to be passed by the Committee, I urge the Committee to amend the bill to address the issues discussed above.

Respectfully submitted,

Laura Bearden

SB-147-SD-1

Submitted on: 2/19/2025 4:49:53 PM

Testimony for JDC on 2/21/2025 10:20:00 AM

Submitted By	Organization	Testifier Position	Testify
Mike Golojuch, Sr.	Individual	Support	Written Testimony Only

Comments:

I support SB147.

Committee on Judiciary

SB 147_SD1: Regarding Fines

Friday, February 21, 2025 @ 10:20AM

My name is Jeff Sadino, I am a condo owner in Makiki, and I **STRONGLY SUPPORT** this Bill.

This very important Bill is addressing a very important problem, is long overdue, and will significantly contribute to improving self-governance.

I ask for the following revisions, all of which address problems based on my personal experiences but which I believe are representative to the systemic problem of Hawai'i's status as having the worst-in-the-nation self-governance.

None of these should be controversial or difficult to implement.

Revision 1:

Page 2: 514B-___(b)(4) & (5) (regarding information included with violation notices) (**We have a Constitutional right to see the evidence used against us.**):

(b) Notice of the imposition of the fine shall include:

- (1) A general description of the act or omission for which the fine is imposed;
- (2) Reference to one or more provisions of the declaration, bylaws, or house rules violated by the act or omission; and
- (3) Notice of an appeal procedure that provides an aggrieved person a reasonable opportunity to challenge the fine and be heard by the board; provided that an appeal shall be initiated within thirty days after receipt of the notice.
- (4) Any evidence that the alleged violation is based on shall be provided to the owner. Hearsay shall not be used as the basis for a violation notice.
- (5): The notifications in this subsection shall be provided to the owner without costs or attorney fees incurred to the owner. (My association charged me attorney fees at \$400/hr to provide me this boiler-plate information.)

Revision 2:

Page 3: 514B-___(c)(1) (regarding small claims) (Even though this is standard procedure in small claims court, it would be helpful to be explicit that this standard procedure extends to condominium disputes.):

(c) Subject to its jurisdictional limits, the small claims division of the district court in the circuit where the condominium is located may finally determine the validity and the amount of a fine imposed pursuant to this section; provided that the right to file a claim pursuant to this subsection shall not accrue until the board submits a notice of its final disposition of any properly initiated appeal; provided further that any complaint brought pursuant to this subsection shall be filed within thirty days after receipt of the board's notice of its final disposition of the appeal.

(1) Attorney fees related to attorney time spent preparing for or participating in the small claim suit shall not be charged to the losing party.

Revision 3:

Page 19: 514B-146(d)(4) (related to requested information for assessments):

(d) A unit owner may dispute other assessments, apart from common expense assessments, before making payment. A unit owner who disputes an assessment, other than a common expense assessment, may request a written statement clearly detailing;

(1) The common expenses included in an assessment, and stating the due date of each amount of common expense assessed;

(2) The amount of any charge included in the assessment that is not imposed on all unit owners as a common expense, such as a fine or penalty, a late fee, or a filing fee; and

(3) The amount of attorneys' fees and costs, if any, included in the assessment.

(4) Attorney fees shall not be charged to the owner for providing the information included in this subsection. (When I asked Hawaiiiana to provide me the information in this subsection, they said that they could have their attorneys review my ledger for errors, but they would have to post their attorney charges (\$400/hr) to my account. This is even worse because **Hawaiiiana has posted thousands of dollars of erroneous charges to my account over many different separate incidences.** This threat of financial lawfare completely nullifies the protections that this subsection is trying to effectuate.)

Thank you for the opportunity to provide testimony,

Jeff Sadino

JSadino@gmail.com

(808) 371-2017

LATE

SB-147-SD-1

Submitted on: 2/20/2025 10:55:26 AM

Testimony for JDC on 2/21/2025 10:20:00 AM

Submitted By	Organization	Testifier Position	Testify
Gregory Misakian	Individual	Comments	Written Testimony Only

Comments:

While I support SB147 SD1 and its intentions, this bill still needs to be amended further.

As I previously stated in testimony, Small Claims Court in Hawaii has strict limitations to what can be adjudicated. The monetary limit to recover is only \$5K and the opposing side can file a counterclaim for up to \$40K.

After reviewing the SD1 version I see additional amendments are still needed. I will point out one glaring one in section (f) below, where you simply left condominium owners in the dust again. Please amend to say ... "available to an association **or owner** under this chapter."

(f) The imposition of a fine, and the determination of a small claims court, if any, shall be without prejudice to the exercise of any other remedy available to an association under this chapter."

And as I've testified previously, our legislators still don't seem to get it, and it's 100% clear to me that the bills that would substantially help condominium owners are intentionally not being scheduled by CPC, CPN, and HSG for hearings.

Gregory Misakian

**The Senate
The Thirty-Third Legislature
Committee on Judiciary
Friday, February 21, 2025
10:20 a.m.**

To: Senator Karl Rhoads, Chair
Re: SB 147 SD 1, Relating to Condominiums

Aloha Chair Karl Rhoads, Vice-Chair Mike Gabbard, and Members of the Committee,

Mahalo for the opportunity to testify in support of the intent of SB 147 SD 1 to provide greater protection for condominium unit owners in disputes with their condominium associations.

I repeat comments made in testimony to SB 146 SD 1 because they are relevant to SB 147 SD 1:

One of the most egregious complaints made by owners regarding actions by their association is that they were not provided with proper notification of alleged violations. Many of those who lost their homes due to nonjudicial foreclosures made this accusation, rendering it too common to dismiss. Thus, the following addition is suggested:

Before taking any action under this section, the board shall give to the unit owner and/or tenant written notice of its intent to collect the assessment owed. The notice shall be sent both by first-class and certified mail, return request requested, with adequate postage to the recipient's address as shown by the records of the association or to an address designated by the owner for the purpose of notification, or, if neither of these is available, to the owner's last known address.

Additionally, the following excerpts from Florida's Statutes¹ are suggested for consideration:

- *An association may levy reasonable fines for violations of the declaration, association bylaws, or reasonable rules of the association. A fine may not exceed \$100 per violation against any member or any member's tenant, guest, or invitee for the failure of the owner of the parcel or its occupant, licensee, or invitee to comply with any provision of the declaration, the association bylaws, or reasonable rules of the association unless otherwise provided in the governing documents. A fine may be levied by the board for each day of a continuing violation, with a single notice and opportunity for hearing, except that the fine may not exceed \$1,000 in the aggregate unless otherwise provided in the governing documents. **A fine of less than \$1,000 may not become a lien against a parcel.** In any action to recover a fine, the prevailing party is entitled to reasonable attorney fees and costs from the nonprevailing party as determined by the court.*

¹ http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&URL=0700-0799/0718/0718.html

- *A fine or suspension levied by the board of administration may not be imposed unless the board first provides at least 14 days' written notice of the parcel owner's right to a hearing to the parcel owner at his or her designated mailing or e-mail address in the association's official records and, if applicable, to any occupant, licensee, or invitee of the parcel owner, sought to be fined or suspended. Such hearing must be held within 90 days after issuance of the notice before a committee of at least three members appointed by the board who are not officers, directors, or employees of the association, or the spouse, parent, child, brother, or sister of an officer, director, or employee. The committee may hold the hearing by telephone or other electronic means. The notice must include a description of the alleged violation; the specific action required to cure such violation, if applicable; and the hearing date, location, and access information if held by telephone or other electronic means. A parcel owner has the right to attend a hearing by telephone or other electronic means.*
- *If the committee, by majority vote, does not approve a proposed fine or suspension, the proposed fine or suspension may not be imposed. The role of the committee is limited to determining whether to confirm or reject the fine or suspension levied by the board.*
- *If a violation has been cured before the hearing or in the manner specified in the written notice... a fine or suspension may not be imposed.*

Mahalo for the opportunity to propose these improvements to SB 147 SD 1.

Malama pono.

Lila Mower

SB-147-SD-1

Submitted on: 2/19/2025 9:38:48 PM

Testimony for JDC on 2/21/2025 10:20:00 AM

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

Comments:

I live in a condo that has a fines enforcement policy. It was adopted by a resolution in 2008 and amended in 2017. I noticed that on page 6, line 21 through page 7, line 2, you deleted language referring to a resolution of the board ("pursuant to a resolution adopted by the board that establishes a fining procedure"). I believe you need the referral to a resolution of the board so we will be protected. It is not clear that a resolution falls under the categories of bylaws, rules, or regulations. For this, and the reasons stated below, I object to this bill and urge you to defer it.

This bill establishes procedures to be followed by associations and time periods for action, which may conflict with the procedures and time periods found in the governing documents or resolutions. How are these conflicts to be resolved?

A new subsection (e) provides that no attorneys' fees shall be charged by an association against any unit owner or tenant with respect to a fine before the fine is deemed collectible. This creates problems.

The new Section 514B-146(f) allows a unit owner to request mediation within thirty days of the statement described in subsection (d). The statement referred to in subsection (d) is given only if an owner requests such a statement. The deadline to request mediation should not be tied to a date that is uncertain and may never arise.

Why are compelling reasons for changes not stated in the bill? Who determines that refunds are due?

This is a bad bill.

LATE

SB-147-SD-1

Submitted on: 2/20/2025 12:25:11 PM

Testimony for JDC on 2/21/2025 10:20:00 AM

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

Comments:

Testimony in Opposition to SB147 - Condominium Association Fines

Aloha Honorable Members of the Committee,

My name is Jessica Herzog, a condominium owner and advocate for transparent and fair housing practices in Hawaii. I am writing today to express my concerns and opposition to SB147 as it currently stands. This bill aims to clarify the process around the imposition and appeal of fines by condominium associations, but it fails to address critical issues that impact condominium owners, particularly in protecting them from potential abuses.

Concerns with SB147:

1. **Lack of Sufficient Owner Protections:** The bill clarifies the authority of associations to impose fines but does not provide adequate safeguards to protect owners against potential misuse of this power. As written, the bill could enable associations to leverage fines as a punitive tool rather than a means to manage the community effectively, leading to potential financial distress for owners without sufficient means to contest or mitigate these fines.
2. **Foreclosure Risk:** Significantly, the bill does not prohibit the use of accumulated fines as grounds for foreclosure. This omission is alarming as it opens the door for potentially harsh consequences for homeowners who might be struggling financially. The ability to leverage fines into foreclosure actions could disproportionately affect the most vulnerable owners, turning what should be minor infractions into life-altering penalties.
3. **Power Imbalance Not Addressed:** By strengthening the authority of boards without equally enhancing the checks and balances that regulate this power, SB147 perpetuates the existing power imbalances between condominium boards and individual owners. The bill should instead focus on creating mechanisms that ensure board actions, especially regarding fines, are fair, reasonable, and transparent.
4. **Need for Comprehensive Reforms:** Rather than piecemeal legislation that potentially exacerbates the challenges faced by condominium owners, comprehensive reforms are needed to address the governance of condominiums in Hawaii. These reforms should aim to protect owners from abusive practices and ensure that any fines imposed are fair, necessary, and justly administered.

Proposed Changes:

- **Explicit Protection Against Foreclosure:** Amend the bill to include provisions that clearly prohibit the use of fines as a basis for foreclosure actions against condominium owners.
- **Strengthen Owner Rights in Dispute Processes:** Enhance the bill by requiring more robust due process protections for owners facing fines, including mandatory third-party mediation before any fines can be levied and greater transparency in the documentation and communication of alleged violations.
- **Regulatory Oversight:** If you can refer to my testimony for bill SB146, an HOA Office is desperately needed to balance the scales in the condo community. I urge you to introduce amendments to establish stronger regulatory oversight over condominium associations' power to impose fines, hopefully through a new state regulatory body with the power to review and overturn unjust or excessive fines.

In conclusion, while the intent behind SB147 to streamline the process of imposing and appealing fines may be well-meaning, the bill as it stands could lead to more harm than good for condominium owners. I urge the committee to consider these points and oppose the bill unless significant amendments are made to protect the interests and rights of all condominium owners.

Thank you for your attention to these important issues.

Respectfully,

Jessica Herzog
Condo Owner, Waianae, Hawaii
mssc403@gmail.com
707.340.5786
www.leewardrepair.com/condo

LATE

SB-147-SD-1

Submitted on: 2/20/2025 9:13:16 PM

Testimony for JDC on 2/21/2025 10:20:00 AM

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

Comments:

Aloha Committee Members,

I understand the intention of the proposed bill. Ensuring fair play when condo associations issue fines is an important issue. However, I'm not sure this bill gets the right balance. It would make it more challenging to for associations to ensure compliance with governing documents and the inclusion of the small claims court is written in a confusing manner.

I respectfully urge the Committee to oppose this measure and further refine it.