

**LATE**



NEIL ABERCROMBIE  
GOVERNOR

SHAN S. TSUTSUI  
LT. GOVERNOR

STATE OF HAWAII  
OFFICE OF THE DIRECTOR  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
335 MERCHANT STREET, ROOM 310  
P.O. Box 541  
HONOLULU, HAWAII 96809  
Phone Number: 586-2850  
Fax Number: 586-2856  
www.hawaii.gov/dcca

KEALI'I S. LOPEZ  
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI  
DEPUTY DIRECTOR

PRESENTATION OF THE  
OFFICE OF CONSUMER PROTECTION

TO THE COMMITTEE ON COMMERCE & CONSUMER PROTECTION

THE TWENTY-SEVENTH  
REGULAR SESSION OF 2014

FEBRUARY 4, 2014  
9:00 AM

TESTIMONY IN SUPPORT OF S. B. 2483, RELATING TO CONDOMINIUM  
ASSOCIATIONS.

TO THE HONORABLE ROSALYN H. BAKER, CHAIR,  
AND TO THE HONORABLE BRIAN T. TANIGUCHI, VICE CHAIR,  
AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs, Office of Consumer Protection ("OCP") appreciates the opportunity to appear today in support of S. B. 2483, Relating to Condominium Associations. My name is Bruce B. Kim and I am the Executive Director of OCP.

S. B. 2483 would clarify that condominium liens are subordinate to real property taxes and assessments, and address an unintended consequence of Act 196, SLH 2013 ("Act 196"), wherein mortgagees were added as an eligible purchaser for special assessments of unpaid regular monthly assessments for common expenses, but all other

types of purchasers were excluded.

OCP defers to the testimony of the Department of Taxation regarding the issue of specifying that condominium liens be only subordinate to “[l]iens for real property taxes and assessments lawfully imposed by governmental authority against the unit,” but supports the amendment on page 4, line 19, clarifying the “other purchaser” issue. During discussions of Act 196, last year, the possibility of denying associations the ability to specially assess delinquent regular monthly assessments for common expenses was not a topic of discussion during the various committee hearings, as evidenced by the different drafts of the bill, testimony, and committee reports. The deletion of “person” and substitution of “mortgagee” in HRS §514B-146(g) in the conference draft of Act 196 was subsumed by the discussion of the disposition of excess rental income collected by associations after an association foreclosure, and was never substantively addressed.

Thank you for the opportunity to support S. B. 2483, with deference to the testimony by the Department of Taxation. I would be happy to answer any questions members of the committee may have.



**LATE**

P.O. Box 976  
Honolulu, Hawaii 96808

February 4, 2014

Honorable Rosalyn H. Baker  
Honorable Brian T. Tanaguchi  
Commerce and Consumer Protection  
415 South Beretania Street  
Honolulu, Hawaii 96813

Re: **SB 2483/ SUPPORT**

Dear Chair Baker, Vice-Chair Tanaguchi and Committee Members:

I am the Chair of the Community Association Institutes Legislative Action Committee ('CAI'). CAI supports SB 2483 for the following reasons.

First, §514B -146, HRS, was amended during the 2013 Legislative Session so that association's 6-month "super priority lien" or special assessment would be paid upon closing of a foreclosure sale. Although the intent was clear when the language was revised for this purpose, a word – "purchaser" – was dropped from the final language.

This has created a problem in that one or more title companies are taking the position that an association's 6-month special assessment right or super priority lien rights only apply to a lender foreclosing on a property and being the highest bidder, but if a third-party is the successful bidder the 6-month special assessment is "wiped out" and not paid.

The proposed revisions seek to correct this error; therefore, CAI supports this.

Second, the proposal to add to §514B-146 (a)(1), HRS, the word "real property" before "taxes" does clarify that the only taxes that have priority over an association's lien are "real property taxes" which is the intent of the law. This clarification will assist with avoiding some taxing authorities attempting to argue from time-to-time that "all taxes" have priority over an association's lien. The correct legal position is that only "real property taxes" have priority over an association lien.

Honorable Rosalyn H. Baker  
Honorable Brian T. Tanaguchi  
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CAI represents the association industry, and **supports the passage of SB 2483**. Thank you.

Very truly yours,

A handwritten signature in black ink, appearing to read 'C. Porter', with a long horizontal flourish extending to the right.

Christian P. Porter