Dear President Kim, Speaker Souki, and Members of the Legislature:

Re: SB2483 SD1 HD1 CD1

SB2483 SD1 HD1 CD1, entitled "A BILL FOR AN ACT RELATING TO CONDOMINIUM ASSOCIATIONS" will become law without my signature, pursuant to Section 16 of Article III of the State Constitution.

The purpose of this bill is to clarify that a condominium association’s lien is subordinate to real property taxes and that the association may assess unpaid common fees against any purchaser who purchases a delinquent unit in a foreclosure. Part II of the bill also clarifies filling of board vacancies.

The Department of Taxation and representatives of condominium associations have agreed to monitor the effect of these amendments on the collection of property taxes. Additionally, the language of the order of collection needs to be reassessed and reviewed by the Legislature.

For the foregoing reasons, SB2483 SD1 HD1 CD1 will become law as ACT 235, Session Laws of Hawaii 2014, effective July 8, 2014, without my signature.
Sincerely,

NEIL ABERCROMBIE
Governor, State of Hawaii
A BILL FOR AN ACT

RELATING TO CONDOMINIUM ASSOCIATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

PART I

SECTION 1. The legislature finds that section 514B-146,
Hawaii Revised Statutes, was amended during the regular session
of 2013 to address, in part, the timing of the payment to a
condominium association of the six-month special assessment for
unpaid common expenses pursuant to section 514B-146(g) and (h),
Hawaii Revised Statutes. However, the term "other purchaser"
was inadvertently left out of the amended statute, and needs to
be added back in to section 514B-146(g), Hawaii Revised
Statutes, in order to clarify, correct, and mitigate disputes
resulting from the absence of this term.

The legislature further finds that section 514B-146(a)(1),
Hawaii Revised Statutes, provides, in part, that taxes take
priority over a condominium association's assessments and
related lien for such assessments. However, the term taxes
referenced in section 514B-146(a)(1), Hawaii Revised Statutes,
may have only been intended to include real property taxes,
rather than all taxes owed by the unit owner.
The purpose of this part is to make housekeeping amendments
to state condominium laws.

SECTION 2. Section 514B-146, Hawaii Revised Statutes, is
amended as follows:

1. By amending subsection (a) to read:

"(a) All sums assessed by the association but unpaid for
the share of the common expenses chargeable to any unit shall
constitute a lien on the unit with priority over all other
liens, except:

(1) Liens for real property taxes and assessments lawfully
imposed by governmental authority against the unit;
and

(2) Except as provided in subsection (g), all sums unpaid
on any mortgage of record that was recorded prior to
the recordation of a notice of a lien by the
association, and costs and expenses including
attorneys' fees provided in such mortgages;
provided that a lien recorded by an association for unpaid
assessments shall expire six years from the date of recordation
unless proceedings to enforce the lien are instituted prior to
the expiration of the lien; provided further that the expiration
of a recorded lien shall in no way affect the association's
automatic lien that arises pursuant to this subsection or the
declaration or bylaws. Any proceedings to enforce an
association's lien for any assessment shall be instituted within
six years after the assessment became due; provided that if the
owner of a unit subject to a lien of the association files a
petition for relief under the United States Bankruptcy Code (11
U.S.C. §101 et seq.), the period of time for instituting
proceedings to enforce the association's lien shall be tolled
until thirty days after the automatic stay of proceedings under
section 362 of the United States Bankruptcy Code (11 U.S.C.
§362) is lifted.

The lien of the association may be foreclosed by action or
by nonjudicial or power of sale foreclosure procedures set forth
in chapter 667, by the managing agent or board, acting on behalf
of the association and in the name of the association; provided
that no association may exercise the nonjudicial or power of
sale remedies provided in chapter 667 to foreclose a lien
against any unit that arises solely from fines, penalties, legal
fees, or late fees, and the foreclosure of any such lien shall
be filed in court pursuant to part IA of chapter 667.

In any such foreclosure, the unit owner shall be required
to pay a reasonable rental for the unit, if so provided in the
bylaws or the law, and the plaintiff in the foreclosure shall be
entitled to the appointment of a receiver to collect the rental
owed by the unit owner or any tenant of the unit. If the
association is the plaintiff, it may request that its managing
agent be appointed as receiver to collect the rent from the
tenant. The managing agent or board, acting on behalf of the
association and in the name of the association, unless
prohibited by the declaration, may bid on the unit at
foreclosure sale, and acquire and hold, lease, mortgage, and
convey the unit. Action to recover a money judgment for unpaid
common expenses shall be maintainable without foreclosing or
waiving the lien securing the unpaid common expenses owed."

2. By amending subsection (g) to read:

"(g) Subject to this subsection, and subsections (h) and
(i), the board may specially assess the amount of the unpaid
regular monthly common assessments for common expenses against a
mortgagee or other purchaser who, in a judicial or nonjudicial
power of sale foreclosure, purchases a delinquent unit; provided
that the mortgagee or other purchaser may require the
association to provide at no charge a notice of the
association's intent to claim lien against the delinquent unit
for the amount of the special assessment, prior to the
subsequent purchaser's acquisition of title to the delinquent unit. The notice shall state the amount of the special assessment, how that amount was calculated, and the legal description of the unit."

**PART II**

SECTION 3. Section 514B-106, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The board may not act on behalf of the association to amend the declaration or bylaws (sections 514B-32(a)(11) and 514B-108(b)(7)), to remove the condominium from the provisions of this chapter (section 514B-47), or to elect members of the board or determine the qualifications, powers and duties, or terms of office of board members (subsection (e)); provided that nothing in this subsection shall be construed to prohibit board members from voting proxies (section 514B-123) to elect members of the board; and provided further that notwithstanding anything to the contrary in the declaration or bylaws, the board may only fill vacancies in its membership to serve until the next annual or duly noticed special association meeting. Notice of a special association meeting to fill vacancies shall include notice of the election. Any special association meeting to fill vacancies shall be held on a date that allows sufficient time to allow the board to prepare the necessary materials and ensure that all members have adequate notice of the meeting and the election."

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for owners to declare their intention to run for election and to solicit proxies for that purpose.

PART III

SECTION 4. New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 2014.

APPROVED this day of , 2014

GOVERNOR OF THE STATE OF HAWAII