

**baker2 - Heath**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, March 20, 2017 2:25 PM  
**To:** CPH Testimony  
**Cc:** pirelandkoftinow@alf-hawaii.com  
**Subject:** Submitted testimony for HB1499 on Mar 21, 2017 09:00AM

**LATE**

**HB1499**

Submitted on: 3/20/2017

Testimony for CPH on Mar 21, 2017 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Paul A. Ireland Koftinow	Individual	Comments Only	Yes

Comments: Thank you for this opportunity to provide the following comments. This measure should be amended to clarify that all demands or requests for mediation must be in writing to help avoid disputes as to when or whether such demands or requests were made. Also, this measure should clarify that a unit owner shall pay all common expense assessments before an association is required to engage in mediation regarding any fine, late fee, lien filing fee, or other charges included in the assessment, by amending the following sections to reflect this requirement: 1) section 514A-90(d)(4) beginning at pg 11, line 18; 2) section 514A-90(g) beginning at pg 13, ln 8; 3) section 514B-146(d)(4) at pg 27, 11; 4) and section 514B-146(d)(g) beginning at pg 28, ln 20. HRS Sections 514B-105(c) and 514A-15.1 will be entirely removed by this measure. HRS Section 514B-105(c) currently sets forth a procedure to be followed by condominium associations before they may apply portions of common expense payments to late fees, legal fees, fines, and interest. HRS Section 514A-15.1 includes a similar procedure related to the application of payments to late fees. A board's ability to decide how partial payments are applied is important to the healthy operation of condominium associations, especially in cases where a unit owner fails or refuses to pay all amounts due to an association. The deletion of these two sections in their entirety will undermine the Association's ability to collect late fees, fines, attorneys' fees, and other amounts, even when those amounts are not in dispute. One way to avoid this burden would be to add a new provision to HRS Chapter 514B and HRS Chapter 514A that states that a condominium association may adopt a policy allowing for the application of common expense payments to late fees, legal fees, fines, and interest, provided that no common expense payment shall be applied to any disputed late fee, legal fee, fine, or interest during any period that the association is prohibited from collecting such disputed charge under the proposed language of HRS Section 514B-146(g) or HRS Section 514A-90(g). This will ensure that these sections do not undermine the changes being proposed in the bill, while at the same time preserve application of payment policies in instances where the amounts in question are not in dispute or the subject of any mediation.

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