

Honolulu, Hawaii

APR 04 2019

RE: H.B. No. 61
H.D. 1
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirtieth State Legislature
Regular Session of 2019
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Health,
to which was referred H.B. No. 61, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO CONDOMINIUMS,"

begs leave to report as follows:

The purpose and intent of this measure is to authorize condominium boards of directors to establish application schedules for excess amounts received, specifying that the excess amounts shall be applied to fines, legal fees, late fees, and interest as the last priority.

Your Committee received testimony in support of this measure from the Board of Directors of the Honolulu Tower Association of Apartment Owners, Hawaii Council of Associations of Apartment Owners, Community Associations Institute, and eleven individuals.

Your Committee finds that Act 195, Session Laws of Hawaii 2018 (Act 195), was intended to provide greater clarity regarding the application of common expense payments by condominium unit owners. However, Act 195 did not address situations that require the application of funds beyond common expenses. In particular, Act 195 has caused some confusion with regard to the general payment of association maintenance fees and sub-metered utility fees. Many associations buy electricity in bulk, then bill units based on their individual consumption. This results in savings on



electricity rates and ensures that each user pays a fair share. According to testimony received by your Committee, it is now unclear whether existing law allows condominium associations to collect these fees. Your Committee notes that unit owners within an association pay for many fees that are not common expenses, including ground lease rent, utility sub-metering, storage lockers, parking stalls, boat slips, insurance deductibles, among many others. Clarifying the ability of associations to collect and apply payments, and the application priority of those payments, is therefore important.

Your Committee notes the concerns raised in testimony that this measure classifies certain items as common expenses that would not otherwise be considered common expenses under existing law. Your Committee understands these concerns and concludes amendments to this measure are needed to prevent potential confusion or inconsistencies.

Accordingly, your Committee has amended this measure by:

- (1) Clarifying that any payments made by or on behalf of a unit owner must first be applied to outstanding common expenses that are assessed to all unit owners, after which a condominium association may apply other charges in accordance with an application of payment policy adopted by the board;
- (2) Allowing unit owners to designate payments for specific charges that are not common expenses, which payments may be applied accordingly to the owner's designation even if there are outstanding common expenses;
- (3) Inserting an effective date of July 1, 2019; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 61, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto



as H.B. No. 61, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committee on Commerce, Consumer
Protection, and Health,




ROSALYN H. BAKER, Chair



The Senate
Thirtieth Legislature
State of Hawai'i

Record of Votes
Committee on Commerce, Consumer Protection, and Health
CPH

Bill / Resolution No.:*	Committee Referral:	Date:		
HB 61, HD 1	CPH	3/12/19		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	✓			
CHANG, Stanley (VC)	✓			
KEOHOKALOPE, Jarrett	✓			
NISHIHARA, Clarence K.	✓			
RUDERMAN, Russell E.	✓			
THIELEN, Laura H.	✓			
FEVELLA, Kurt				✓
TOTAL	6			1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes