

STAND. COM. REP. NO. 113

Honolulu, Hawaii

FEB 10 2021

RE: S.B. No. 191
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-First State Legislature
Regular Session of 2021
State of Hawaii

Sir:

Your Committee on Commerce and Consumer Protection, to which was referred S.B. No. 191 entitled:

"A BILL FOR AN ACT RELATING TO CONDOMINIUMS,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Provide a process for associations to incorporate power of sale language into governing documents; and
- (2) Clarify that the explicit grant of power of sale to associations is not required for the purposes of enforcing association liens under the association alternate power of sale foreclosure process.

Your Committee received testimony in support of this measure from Community Associations Institute, Associa, Palehua Townhouse Association, and four individuals. Your Committee received testimony in opposition to this measure from Hui 'Oai'i'o, Condo Owners Coalition of Hawaii; and two individuals.

Your Committee finds that Act 282, Session Laws of Hawaii 2019, expressed the legislative intent that condominium associations have authority to use a nonjudicial foreclosure process when owners default on their financial obligations to their fellow owners. Courts have nonetheless cast doubt on

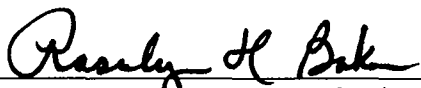


previous legislative action and have insisted that "power of sale" language must be contained within the governing documents of a condominium association before a nonjudicial foreclosure process may be used. Because the courts have not honored this longstanding legislative intent, additional legislation is necessary. Accordingly, this measure strictly prescribes how a condominium association may incorporate "power of sale" language into its governing documents and further provides owners with an "opt out" mechanism to address potential impairment of contract concerns.

Your Committee has amended this measure by 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 and Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 191, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 191, S.D. 1, and be referred to your Committee on Judiciary.

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



ROSALYN H. BAKER, Chair



