

STAND. COM. REP. NO. 372

Honolulu, Hawaii

FEB 14 2019

RE: S.B. No. 722
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 S.B. No. 722 entitled:

"A BILL FOR AN ACT RELATING TO PLANNED COMMUNITY
ASSOCIATIONS,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Require planned community associations to register with the Real Estate Commission;
- (2) Require the Real Estate Commission to administer and enforce planned community association laws; and
- (3) Establish the planned community association education trust fund.

Your Committee received testimony in support of this measure from the Hawaii Council of Associations of Apartment Owners and two individuals. Your Committee received testimony in opposition to this measure from the Regulated Industries Complaints Office of the Department of Commerce and Consumer Affairs; Real Estate Commission; Community Associations Institute, Hawaii Chapter; and Associa. Your Committee received comments on this measure from the Department of Budget and Finance.



Your Committee finds that this measure is intended to grant additional powers to, and provide additional means for the self-governance of, planned community associations. This measure also extends certain benefits granted to condominium residents to members of planned community associations, including extending certain powers of the Real Estate Commission to cover planned community associations and creating an education trust fund funded by fees paid by planned community associations.

However, your Committee has heard the concerns raised in testimony that planned community associations are vastly different from condominium associations, in terms of their needs and operations. As planned community associations have traditionally been regarded as created by contract, rather than created via statute like condominiums, it may not be appropriate for these entities to share the exact same rights and benefits.

Your Committee notes that planned community associations and condominiums have had similar ongoing issues regarding nonjudicial foreclosure and power of sale remedies. Clarification regarding whether planned community associations may exercise non-judicial or power of sale foreclosure remedies regardless of the presence or absence of the power of sale language in the association documents would give planned community associations another tool to address this particular area of governance. Your Committee therefore concludes that amendments to this measure are necessary.

Your Committee has amended this measure by:

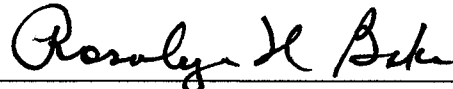
- (1) Inserting language clarifying that planned community associations may exercise nonjudicial or power of sale foreclosure remedies regardless of the presence or absence of the power of sale language in the association documents;
- (2) Removing language that would have required planned community associations to register with the Real Estate Commission, required the Real Estate Commission to administer and enforce planned community association laws, and established the planned community association education trust fund;



- (3) Inserting an effective date of July 1, 2050, to encourage further discussion; 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 S.B. No. 722, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 722, S.D. 1, and be referred to your Committees on Judiciary and Ways and Means.

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: | | |
| SB 722 | CPH, JDC/WAM | 2/7/19 | | |
| <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) | ✓ | | | |
| KEOHOKALOLE, Jarrett | | | | ✓ |
| NISHIHARA, Clarence K. | ✓ | | | |
| RUDERMAN, Russell E. | | | | ✓ |
| THIELEN, Laura H. | ✓ | | | |
| FEVELLA, Kurt | | | | ✓ |
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| TOTAL | 4 | | | 3 |
| Recommendation: | | | | |
| <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted | | | | |
| Chair's or Designee's Signature: | | | | |
|  | | | | |
| Distribution: | | | | |
| Original File with Committee Report | Yellow Clerk's Office | Pink Drafting Agency | Goldenrod Committee File Copy | |

*Only one measure per Record of Votes