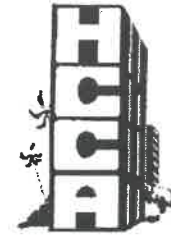




**Hawaii Council of Associations  
of Apartment Owners**  
**DBA: Hawaii Council of Community Associations**  
1050 Bishop Street, #366, Honolulu, Hawaii 96813



June 27, 2020

Rep. Sylvia Luke, Chair  
Rep. Ty J.K. Cullen, Vice-Chair  
House Committee on Finance

Re: Testimony in support of  
SB2421 SD1 RELATING TO CONDOMINIUMS  
Hearing: Monday, June 29, 2020, 2 p.m., Conf. Rm. #329

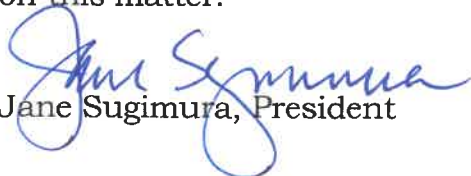
Chair Luke and Vice-Chair Cullen and Members of the Committee:

I am Jane Sugimura, President of the Hawaii Council of Associations of Apartment Owners (HCAAO dba HCCA).

HCCA supports this bill for the following reasons:

- HCCA strongly supported passage of HB1873 HD1SD1 CD1, which was enacted as Act 195 on July 10, 2018, which clarified the process, including payment obligations, mediation requirements, and triggers for further default, where a condominium unit owner and association reach a payment plan to resolve a nonjudicial foreclosure; established procedures that provided owners with the right to submit disputed legal fees, penalties or fines, late fees, lien filing fees, or other charges, except for common expenses assessments, to the mediation process prior to payment; and removed the priority of payments provision.
- As a result of the passage of Act 195, condo owners and associations have had additional remedies to address non-payment and default situations and non-judicial foreclosures.
- The Act has been in effect for almost 2 years and HCCA has not heard concerns relating to its implement or enforcement.

For these reasons, HCCA believes that the sunset provision that will become effective on 6/30/2020 in the bill is unnecessary and should be removed. Accordingly, HCCA respectfully requests that you pass out this bill. Thank you for the opportunity to testify on this matter.

  
Jane Sugimura, President



June 27, 2020

VIA WEB TRANSMITTAL

Hearing Date: Monday, June 29, 2020

Time: 2:00 p.m.

Place: Conference Room 329

Committee on Finance

The Senate, the Thirtieth Legislature

Regular Session of 2020

Re: Community Associations Institute's **Testimony in support of SB 2421, SD1**

Dear Chair Luke, Vice Chair Cullen and Committee members:

I am a member of the Hawaii Chapter of the Community Associations Institute Legislative Action Committee ("CAI"). We represent the condominium and community association industry and submit this testimony in support to SB 2421, SD 1.

We are in agreement with and support the findings provided in SB 2421, viz., that Act 195, Session Laws of 2018, created important and effective rules relating to association foreclosures on condominiums and that the amendments made therein successfully effectuated the purpose of Act 195 and should, therefore, remain permanent.

Based on the foregoing, we respectfully submit that SB 2421, SD 1 should be passed out of Committee. Thank you for your time and consideration.

Sincerely yours,

/s/ R. Laree McGuire

R Laree McGuire

CAI LAC Hawaii

**SB-2421-SD-1**

Submitted on: 6/27/2020 5:44:09 PM

Testimony for FIN on 6/29/2020 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Mike Golojuch, Sr.	Palehua Townhouse Association	Support	No

Comments:

We are in strong support of SB2421. It needs to be a permanent part of the law. Please pass SB2421. Thank you,

Mike Golojuch, Sr.

President, Palehua Townhouse Association

**SB-2421-SD-1**

Submitted on: 6/27/2020 8:33:17 AM

Testimony for FIN on 6/29/2020 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Richard Emery	Associa	Support	No

Comments:

This Bill deletes the sunset provisions of Act 195 that have proved to be effective. The sunset provisions should be deleted.

**SB-2421-SD-1**

Submitted on: 6/27/2020 2:15:06 PM

Testimony for FIN on 6/29/2020 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Sandie Wong	Individual	Support	No

Comments:

As a condo owner, I support SB2421, SD1.

**SB-2421-SD-1**

Submitted on: 6/27/2020 4:44:45 PM

Testimony for FIN on 6/29/2020 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Anne Anderson	Individual	Support	No

Comments:

Dear Representative Luke, Chair, Representative Cullen, Vice Chair, and Members of the Committee:

I support SB 2421. Please consider amending this bill to include an amendment to HRS Section 514B-148 that would authorize a condominium board of directors, without notice or approval of the owners, to borrow money or use the association's replacement reserves in the event of a state of emergency or pandemic that adversely impacts the association's revenue and/or operating expenses.

Sincerely,

Anne Anderson

**SB-2421-SD-1**

Submitted on: 6/26/2020 8:53:46 PM

Testimony for FIN on 6/29/2020 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
lynne matusow	Individual	Support	No

## Comments:

As both a condo owner and member of a condo board I am in full support of this measure. We have long benefitted from priority of payments, and thought that when Act 192 became effective in 2019 we were set. To my amazement and that of others that act clarified the repeal of the "priority of payment" provision. However, the repeal with the sunset provision was passed by the Legislature in 2018 and it was Act 195. Thus we have to go through another step to make things pono,.

Please support this bill and stop the agony.

Lynne Matusow

House of Representatives  
Committee on Finance  
Monday, June 29, 2020, 2:00 pm  
Conference Room 329 Hearing

Rep. Sylvia Luke, Chair  
Rep, Ty J.K. Cullen, Vice Chair

SB 2421, SD1 Relating to Condominium Associations

Chair Luke, Vice Chair Cullen, and Members of the Finance Committee:

This testimony is in **STRONG SUPPORT** of SB 2421, SD1 which will repeal the sunset provision of Act 195, resulting in permanently codifying the amendments to association foreclosures. This provision clearly states the priority of payments that must be applied when payments are made and received for maintenance fees, fines, legal fees, etc. This protects the owners and the association.

It also clearly states the obligations of the owner and if in default, what fees/fines would not be considered to be in default. As we go through the issue of COVID-19, these types of protections are very important to the condominium owner. As I am a Director on the Honolulu Tower AOA, it is important to have these amendments to Act 195 become permanent.

I humbly ask for you to **SUPPORT** the approval of SB2421, SD1. Mahalo!

Me ke aloha pumehana  
With warm aloha,

Lynn P. McCrory  
60 N Beretania Street, #3203  
Honolulu, HI 96917



**From:** [Jasmine Shinn](#)  
**To:** [FINtestimony](#)  
**Subject:** SUPPORT FOR SB2421  
**Date:** Saturday, June 27, 2020 6:38:20 PM

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Chair Luke, Vice Chair Cullen, and Members of the Committee,

I **STRONGLY SUPPORT** SB2421 SD1 relating to CONDOMINIUM ASSOCIATIONS and the repeal of the sunset clause to Act 195. Specifically, the changes to the rules for Priority of Payments should continue.

According to the 2019 Federal Reserve, 40% of individuals are unable to pay for a \$400 expense.

Oftentimes, Managing Agents will involve their attorneys against an Owner for non-existent violations or without satisfying the Association's Fines Enforcement policies, Due Process policies, or Board Hearing policies. Every time the Owner then makes an effort to resolve the situation, they get charged another \$500 for the attorneys to respond, plus Late Charges and Interest Penalties. This downward spiral can easily create a financial hardship that is impossible to recover from. The very real result is the Owner loses their Condo through a non-judicial **foreclosure** and becomes **homeless** with **no due process**, as has already happened hundreds of times in Hawai'i.

Act 195 provides a desperately needed incentive for Boards to **have a dialogue** with Owners. Otherwise, Management Agents will continue to **outsource** their job responsibilities to the Law Firms at a cost of hundreds of dollars per hour to the Owner. The Law Firms will continue to encourage the use of their services to resolve trivial and non-legal matters since they know they will be able to bill an unlimited amount to the Owner who is for all functional purposes, completely **defenseless**.

Thank you,

Jasmine Shinn

**SB-2421-SD-1**

Submitted on: 6/28/2020 1:39:37 PM

Testimony for FIN on 6/29/2020 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jeff Sadino	Individual	Support	No

Comments:

Chair Luke, Vice Chair Cullen, and Members of the Committee,

**I STRONGLY SUPPORT SB2421 SD1** relating to CONDOMINIUM ASSOCIATIONS and the repeal of the sunset clause to Act 195. Specifically, the changes to the rules for Priority of Payments should continue.

Porter McGuire Kiakona, under the direction of Hawai'iiana, has accrued over **\$40,000 in attorney fees** to my account for non-legal disagreements. They have felt comfortable doing this in large part because the law allowed them to intercept my maintenance fee payments to pay for their charges, without my permission or even my knowledge.

Porter McGuire Kiakona even lost their first lawsuit against me, but they did not stop. They then made up more frivolous allegations against me. I asked them to go to Mediation, but they refused. Instead, they plowed ahead and filed a second frivolous lawsuit against me so they could increase their fees. At that point, after three years of their constant abuse, I was finally in a position to file a counter-lawsuit, which caused the insurance company to get involved. The insurance company reviewed all of the information and **the first thing they did was fire Porter McGuire Kiakona.**

Over three years, 5 representatives from Hawai'iiana (plus 2 Managers) and 7 attorneys from PMK (including all three Principals) have been involved in my situation. Why after three years did none of them reach the same conclusion that the insurance company did in less than three weeks? Why did none of them place any value or consideration on the harm they were inflicting upon the Condo Owner?

Due to the way the Priority of Payments used to be, Porter McGuire Kiakona has been able to wrongly enrich themselves tens of thousands of dollars from my bank account so that they can bankroll their defense against the hundreds of illegal non-judicial foreclosures they are currently defending themselves against, and losing.

This did not happen because of a rogue or untrained representative at a small company. This happened under the supervision of the Managers and Principals at the

largest Managing Agent and one of the largest condo law firms in the State. It is objectively important to publicly name these two companies because they shape Condo Governance for over 300,000 Hawai'i residents.

In addition, Hawai'iana has allowed my Association to charge me **435% interest** on my unpaid balance. Act 195 is the only thing that has kept me from **going bankrupt** and losing my home through no fault of my own. This is not a model of self-governance. It is a model of a **dictatorship**.

Congress gave them this power to intercept maintenance fee payments, and they have horribly and repeatedly abused it. It is now time to hold them accountable for their abuse and take the power back.

Please vote to **pass SB2421**.

Thank you for the opportunity to testify.

Jeff Sadino

**From:** [Naomi Tanizaki](#)  
**To:** [FINtestimony](#)  
**Subject:** SUPPORT for SB2421  
**Date:** Sunday, June 28, 2020 3:06:37 PM

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Naomi Hokama  
"Individual"  
House FINANCE  
6/29/20 2:00 PM  
SB2421

Chair Luke, Vice Chair Cullen, and Members of the Committee,

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Act 195 provides a desperately needed incentive for Boards to **have a dialogue** with Owners. Otherwise, Management Agents will continue to **outsource** their job responsibilities to the Law Firms at a cost of hundreds of dollars per hour to the Owner. The Law Firms will continue to encourage the use of their services to resolve trivial and non-legal matters since they know they will be able to bill an unlimited amount to the Owner who is for all functional purposes, completely **defenseless**.

By abusing this power entrusted to them hundreds of times over, Boards, Managing Agents, and Law Firms have not properly stewarded this great responsibility and the time has come to take this power back from them. All a person has to do is a quick review of lawsuits, Yelp reviews, Facebook posts, or NextDoor horror stories for evidence of this. Instead of encouraging lawyers to solve all problems big, small, and non-legal, please encourage Boards to first have a dialogue with Owners.

Hawai'i has more successful lawsuits against Board Members than any state in the nation! Act 195 is the only practical protection condo Owners have to even stand a chance. Please **encourage dialogue** and discourage lawsuits & **homelessness** by repealing the sunset clause in Act 195.

Thank you for the opportunity to testify.

Naomi Hokama

**LATE**

**SB-2421-SD-1**

Submitted on: 6/28/2020 3:48:12 PM

Testimony for FIN on 6/29/2020 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Philip Nerney	Individual	Support	No

Comments:

SB2421 SD1 will remove the sunset provision from Act 195 (2018). This should be supported because Act 195's provisions have served the public well and should continue in effect.

**LATE**

**SB-2421-SD-1**

Submitted on: 6/28/2020 9:49:57 PM

Testimony for FIN on 6/29/2020 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Raelene Tenno	Individual	Support	No

Comments:

House of Representatives

Committee on Finance



To: Chair Sylvia Luke and Vice-Chair Ty Cullen

Re: SB2421 SD1, relating to Condominium Associations

Aloha Chair Luke, Vice-Chair Cullen, and members of the House Committee on Finance,

I am Lila Mower and President of Kokua Council, one of Hawaii's oldest advocacy organizations which focuses on policies and practices which can impact the well-being of seniors and our community.

I am also the leader of a coalition of condo owners, Hui Oiaio, which is informally known as "COCO," and which is comprised of over 300 owners from over 150 condo associations in Hawaii.

I am also a Director on the Board of AOA Nauru Tower and served as President of two other condo associations, all located on Oahu.

I request the House Finance Committee to support SB2421 SD1 so that the sunset date on LY2018 Act 195, June 30, 2020, is repealed and that Act 195 becomes a permanent provision in HRS514B which governs condo associations.

Act 195 rectified the "pay first, dispute later" provision so that it applied only to common expense assessments (maintenance fees), thus giving condo owners some semblance of the Constitutionally assured right to due process and the legal principle that one is considered innocent until proven guilty.

Hui `Oia`i`o knows firsthand of associations in which their Manager's compensation was pegged to the number of violations issued, thus creating pecuniary incentive to issue false violations. Prior to Act 195, owners who were not in default on their common expense assessments but may have withheld payment to dispute a false House Rules violation, a wrongly imposed late fee penalty, or unreasonable fees from a bill collections attorney, did not have the right to dispute those NON-essential fees or penalties before being forced to pay those assessments.

In that same environment before Act 195, there existed a harmful payment allocation scheme ("priority of payments") which allowed NON-essential fees to be carved-out before crediting an owner's payment to common expense assessments, an arrangement which caused many owners to *appear* to be in default and put them on the fast-track to foreclosure.



With the passage of Act 282 last year, a measure which the Governor correctly intended to veto but did not, owners could lose their homes through non-judicial foreclosures without the enforcement of proper due process save for what rights Act 195 protected.

(However in the recent case, *Malabe v AOA Executive Centre*, the State of Hawaii Supreme Court noted that, “on April 10, 2020, the United States District Court for the District of Hawai‘i held Act 282 unconstitutional as violative of the Contracts Clause of Article I, § 10 of the United States Constitution.”)

Additionally, a CAI-Hawaii President has repeatedly warned condo owners that Hawaii has the highest Directors’ and Officers’ insurance claims in the nation despite having less condos than larger and more populous states like Florida, California, Illinois, and Nevada. These hundred-plus current and recently settled claims are allegedly contributing to the high cost of all Hawaii associations’ D&O coverage, which then affects the high cost of common expenses, and adds to the high cost of living in Hawaii.

For these reasons, **Hui `Oia`i`o and Kokua Council support the passage of SB2421 SD1 which will make Act 195 permanent** and protect condo owners from that aggressive and harmful payment allocation scheme which destroyed many lives, created more homeless out of homeowners like Charles and Deneen Hicks, and raised Hawaii’s already high cost of living.

Aloha,

Lila Mower

**LATE**

**SB-2421-SD-1**

Submitted on: 6/29/2020 10:05:45 AM

Testimony for FIN on 6/29/2020 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Atlanta Dove	Honolulu Tower AOAO	Support	No

Comments:

At its March 2, 2020 meeting, the Board of Directors of the Honolulu Tower Association of Apartment Owners voted to support this bill, which removes the sunset clause. We urge you to pass this bill at today's Finance Committee meeting.

**From:** [Yuri Kim](#)  
**To:** [FINtestimony](#)  
**Subject:** SUBJECT: SUPPORT for SB2421  
**Date:** Monday, June 29, 2020 2:01:41 AM

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Yuri Kim  
House FINANCE  
[6/29/20 2:00 PM](#)  
SB2421

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Thank you for the opportunity to testify.

