STAND. COM. REP. NO. 113

Honolulu, Hawaii

FEB 1 0 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,

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The Senate Thirty-First Legislature State of Hawai'i

Record of Votes Committee on Commerce and Consumer Protection CPN

Bill / Resolution No.:*	1	Committee Referral: Date:			2 (
SB191	CPN	, <u>10c</u>	2	-3 -2	20 <u>9</u> 1
The Committee is reconsidering its previous decision on this measure.					
If so, then the previous decision was to:					
The Recommendation is:					
Pass, unamended Pass, with amendments Hold Recommit 2312 2311 2310 2313					
Members	· <u>-</u>	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)		/			
CHANG, Stanley (VC)		/			
MISALUCHA, Bennette E.					
NISHIHARA, Clarence K.					
RIVIERE, Gil		/			
SAN BUENAVENTURA, Joy	Α	1			
FEVELLA, Kurt					
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TOTAL		6		_	/
Recommendation: Adopted Not Adopted					
Chair's or Designee's Signature:					
Clarence K Dishihara					
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy					

*Only one measure per Record of Votes