THE SENATE
THIRTY-THIRD LEGISLATURE, 2026
STATE OF HAWAII

S.B. NO. 2765 S.D. 1

A BILL FOR AN ACT

RELATING TO CONDOMINIUMS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The legislature finds that condominiums are a significant and valuable housing resource in the State, especially with limited space available for new development. The structure of condominium ownership requires each owner to share in the total cost of maintaining common areas such as building exteriors, landscaping, and recreation rooms, in addition to paying insurance premiums. All owners pay for such maintenance through payment of their share of common expense assessments.

The legislature further finds that it is crucial that condominium associations are able to secure timely payment of common expense assessments to provide services to all residents of a condominium community.

The legislature notes that increasing delinquencies, related enforcement expenses, and lengthy delays in the judicial foreclosure process exacerbate the financial burden on association owners.

The legislature further finds that associations are treated differently from other parties that acquire title through foreclosure, and that this treatment burdens association members who pay their share of common expense assessments on time. In particular, associations that have acquired title to a unit through a judicial or nonjudicial foreclosure face additional administrative and financial burdens of accounting for rental income.

The legislature further notes that many associations do not obtain "excess rental income" as defined by section 514B-146(n), Hawaii Revised Statutes. However, in cases where another lienholder is foreclosing on a unit acquired by an association, associations with excess rental income are also unfairly burdened by the requirement to disgorge "excess rental income" received prior to the appointment of a commissioner in a subsequent foreclosure.

Accordingly, the purpose of this Act is to clarify that condominium associations that have acquired title through foreclosure may retain rental income received prior to the appointment of a commissioner, provided that the association may be required by a court to remit rental income received after the

appointment of a commissioner to be held until an order of distribution is entered by the court.

SECTION 2. Section 514B-146, Hawaii Revised Statutes, is amended by amending subsection (n) to read as follows:

"(n) After any judicial or nonjudicial foreclosure proceeding in which the association acquires title to the unit, any [~~excess~~] rental income received by the association from the unit [~~shall~~] may be [~~paid to existing lien holders based on the priority of lien, and not on a pro rata basis, and shall be applied to the benefit of the unit owner. For purposes of this subsection, excess rental income shall be any net income received by the association after a court has issued a final judgment determining the priority of a senior mortgagee and after paying, crediting, or reimbursing the association or a third party for:~~

~~(1) The lien for delinquent assessments pursuant to subsections (a) and (b);~~

~~(2) Any maintenance fee delinquency against the unit;~~

~~(3) Attorney's fees and other collection costs related to the association's foreclosure of the unit; or~~

~~(4) Any costs incurred by the association for the rental, repair, maintenance, or rehabilitation of the unit while the association is in possession of the unit including monthly association maintenance fees, management fees, real estate commissions, cleaning and repair expenses for the unit, and general excise taxes paid on rental income;~~

~~provided that the lien for delinquent assessments under paragraph (1) shall be paid, credited, or reimbursed first.~~] used for the benefit of the association or the unit owner; provided that a court may require that rental income received after the appointment of a commissioner in a subsequent foreclosure of a lien against the unit shall be remitted to the court-appointed commissioner to be held until an order of distribution is entered by the court."

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 2050.

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Report Title:
Condominiums; Associations; Rental Income; Foreclosures; Third-Party Commissioners

Description:
Clarifies that condominium associations that have obtained title to a unit through foreclosure may retain rental income received prior to the appointment of a commissioner in a subsequent foreclosure; provided that the association may be required by a court to remit rental income received after the appointment of a commissioner to be held until an order of distribution is entered by the court. Effective 7/1/2050. (SD1)

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