

SB-2765-HD-1

Submitted on: 3/30/2026 3:56:18 PM

Testimony for JHA on 4/1/2026 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Idor Harris	Honolulu Tower	Support	Written Testimony Only

Comments:

Honolulu Tower is a fee simple sprinklered 396 unit condominium located at Maunakea and Beretania Streets. At its meeting on February 2, 2026, the Board of Directors of the Association of Apartment Owners of Honolulu Tower unanimously voted its support of this bill.

This bill clarifies that associations that have obtained title through foreclosure may retain rental income received prior to appointment of a commissioner in subsequent foreclosure provided the association may be required by a court to remit rental income received after appointment of a commissioner.

The association has in the past obtained title through foreclosure and understands the importance of this bill. When funds are not received, all the owners see increases in their maintenance bills. That is not fair or equitable.

The Board asks you to move this bill forward.

Idor Harris
Resident Manager

SB-2765-HD-1

Submitted on: 3/30/2026 4:29:08 PM

Testimony for JHA on 4/1/2026 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Rachel Glanstein	AOAO Lakeview Sands	Support	Written Testimony Only

Comments:

Aloha,

I support S.B. 2765 S.D.1, H.D.1 and urge the committee to pass it as it reads now.

Mahalo!

Rachel Glanstein

SB-2765-HD-1

Submitted on: 3/30/2026 5:51:58 PM

Testimony for JHA on 4/1/2026 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Mike Golojuch, Sr.	Palehua Townhouses Association	Support	Written Testimony Only

Comments:

Our association S.B. 2765 SD1, HD1. Please pass this bill.

Mike Golojuch, Sr., President

SB-2765-HD-1

Submitted on: 3/31/2026 8:15:41 AM

Testimony for JHA on 4/1/2026 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Mark McKellar	Law Offices of Mark K. McKellar, LLC	Support	Written Testimony Only

Comments:

I support S.B. 2765 S.D.1, H.D.1 and urge the committee to pass it, as is.

Sincerely,

Mark McKellar



Mortgage Bankers Association of Hawaii
P.O. Box 4129, Honolulu, Hawaii 96812

March 31, 2026

The Honorable David Tarnas, Chair
The Honorable Mahina Poepoe, Vice Chair
Members of the House Committee on Judiciary & Hawaiian Affairs

Hearing Date: April 1, 2026
Hearing Time: 2:00 pm
Hearing Place: Hawaii State Capitol, Conference Room 325

Re: SB 2765 SD1 HD1 Relating to Condominiums

I am Victor Brock, representing the Mortgage Bankers Association of Hawaii (“MBAH”). The MBAH is a voluntary organization of individuals involved in the real estate lending industry in Hawaii. Our membership consists of employees of banks, savings institutions, mortgage bankers, mortgage brokers, financial institutions, and companies whose business depends upon the ongoing health of the financial services industry of Hawaii. The members of the MBAH originate and service, or support the origination and servicing, of the vast majority of residential and commercial real estate mortgage loans in Hawaii. When, and if, the MBAH testifies on legislation or rules, it is related only to mortgage lending and servicing.

The MBAH is **OPPOSED TO SB 2765 SD1 HD1** (the “Bill”).

The Bill 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.

The Bill would amend Section 514B-146, Hawaii Revised Statutes, which currently requires an association that acquires title to a condominium unit through judicial or nonjudicial foreclosure to turn over rental income from the unit to existing lien holders, in order of priority of each lender’s lien, **for the benefit of the former unit owner** whose unit was foreclosed on by the association.

The Bill would allow the association to retain rental income until a foreclosure commissioner is appointed in a subsequent foreclosure filed by an existing lien holder. The Bill would, in essence, provide the association with a windfall in the form of rental income that would otherwise be paid to an existing lien holder and applied to the existing loan of the borrower whose unit was foreclosed on by the association.

The MBAH strongly opposes the Bill. The Bill's revision of Section 514B-146, Hawaii Revised Statutes is not only harmful to the borrower through the loss of rental income that would otherwise be applied to the outstanding balance of the borrower's loan, but is also inconsistent with the language of the mortgage, which includes a security interest in all rents from the condominium unit subject to the mortgage. The Bill would allow an association to retain rental income in contravention of the superior lien and to the detriment of the borrower.

Thank you for the opportunity to present this testimony.

Victor Brock
Mortgage Bankers Association of Hawaii

HAWAII LEGISLATIVE
ACTION COMMITTEE


community
ASSOCIATIONS INSTITUTE

P.O. Box 976
Honolulu, Hawaii 96808

March 31, 2026

Honorable Rep. David A. Tarnas
Honorable Rep. Mahina Poepoe
Committee on Judiciary & Hawaiian Affairs
415 South Beretania Street
Honolulu, Hawaii 96813

Re: SB 2765 SD 1 HD1 (Support)

Dear Chair Tarnas, Vice Chair Poepoe and Committee Members:

The Community Associations Institute (CAI) is a national and statewide organization of individuals involved in the operation of community associations, including homeowners, directors, managers and business partners of community associations.

For the following reasons, CAI **supports** SB 2765 SD1 HD1.

This bill clarifies the current confusion in the Circuit Courts regarding what constitutes "excess rental income" under HRS § 514B-146(n).

This bill upholds the plain language of the statute and the intent of the legislature and prevents large financial institutions from taking excessive amounts of money out of the pockets of non-profit condominium associations - funds that are meant to benefit condominium unit owners.

As explained in the example below, the way that the courts are interpreting the statute rewards banks that delay foreclosure for more than a decade, as they walk away with the property, a money judgment and a windfall from the condominium association.

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Brief Background

For background, HRS § 514B-146(n) applies where a condominium association forecloses on a unit, subject to the bank's superior mortgage. Then later, the bank forecloses.

This happens often, for example, where a unit owner is deceased and has no known heirs. Therefore, both the maintenance fees and the mortgage go unpaid (as in the example below).

Under the plain language of the statute, rental income received by the AOA after the bank forecloses (the second foreclosure) is subject to disgorgement, if there is an excess after deductions.

The Circuit Courts' Confusion

The Circuit Courts are confused about at what point in the process the Court should start counting rental income in the "excess rental income" calculation pursuant to HRS § 514B-146(n).

The statute in its current form clearly states that it is rental income received after the bank obtains its foreclosure judgment and prior to the confirmation of the bank's foreclosure sale.

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: [list of deductions]

HRS § 514B-146(n).

However, the Circuit Courts have been counting income received prior to the bank's foreclosure. **In the case cited below, the Circuit Court counted an extra 13 years of income** - raising a slew of constitutional issues, taking \$71,634.48 from the owners and giving it to the multi-billion dollar financial institution.

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Example Case:

An example case is Civil No. 1CC191000316. The following is public record:

- The unit owner passed away in or around 2007.
- The very small, 23-unit non-profit condominium association foreclosed in 2011.
- The bank (which is worth \$304 Billion) did not file its foreclosure until 2019. It did not get its foreclosure judgment until 2024.
- Under the plain wording of the statute, as passed by the legislature, "excess rental income" would not be counted until starting in 2024.
- However, the Circuit Court counted the AOA's rental income going back to 2011 - an extra 13 years of rental income.
- The court ordered the AOA to pay the Bank \$71,634.48, where at most it should have paid
- **At 23 units, this is over \$3,100 per unit owner that had to be paid to the bank.**
- **Meanwhile, the bank received a complete windfall, including (a) the property, (b) a money judgment and (c) the \$71,634.48.**
- **Furthermore, the bank was rewarded for delaying its foreclosure and doing nothing for 13 years.**

The case is now up on appeal, where it will be for the next five to seven years.

In sum, the way that the Circuit Courts are interpreting the law favors the \$300 Billion banks over the small, non-profit AOA's. The law needs to be clarified, because the Circuit Courts are wreaking havoc on small AOA's and creating needless appellate litigation.

Honorable Rep. David A. Tarnas
Honorable Rep. Mahina Poepoe
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Page 4

Conclusion

This measure would uphold the plain wording of the statute intended by the legislature, and it would also stop the Circuit Courts from taking money out of the pockets of the small AOA's and handing it to the large financial institutions.

Thank you for your time and consideration. If you have any questions, I will be available to answer them.

Very truly yours,

/s/ Dallas H. Walker

Dallas Walker, Esq.
The Hawaii Legislative
Action Committee of the
Community Associations
Institute



DATE: March 31, 2026
TO: Representative David Tarnas, Chair
Committee on Judiciary & Hawaiian Affairs
FROM: Mihoko Ito / Tiffany Yajima
RE: **SB2765, SD1, HD1 – Relating to Condominiums**
Hearing Date: Wednesday, April 1, 2026 at 2:00 p.m.
Conference Room: 325

Dear Chair Tarnas, Vice Chair Poepoe, and Members of the Committee:

HBA submits this testimony in **opposition** to SB2765, SD1, HD1 which 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, but 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.

While we understand the challenges associations face when units become delinquent, the bill raises concerns for mortgage lenders and the overall stability of condominium lending. The bill allows a junior lienholder to retain rental income generated by collateral that secures a senior mortgage. This would disrupt long-standing lien priority principles and create uncertainty regarding entitlement to rents during foreclosure proceedings. The bill effectively shifts financial risk from associations to mortgage lenders, and in doing so, creates uncertainty and increased risk for lenders.

Mortgage loans are underwritten based on the expectation that a lender's senior mortgage lien and associated rights to the property and its income are preserved in a foreclosure proceeding. This proposal may have a chilling effect on a lender's willingness to lend and may ultimately lead to higher borrowing costs, tighter underwriting standards, or reduced lending availability for condominium units in Hawaii. These impacts would make it more difficult for residents to obtain financing to purchase condominium homes.

For these reasons, the Hawaii Bankers Association respectfully opposes this measure and requests that the Committee defer the bill.

Thank you for the opportunity to testify.



808-524-5161



P.O. Box 10065, Honolulu, Hawaii 96816



director@hawaiiiba.org

SB-2765-HD-1

Submitted on: 3/30/2026 2:53:19 PM

Testimony for JHA on 4/1/2026 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Anne Anderson	Individual	Support	Written Testimony Only

Comments:

Dear Chair Tarnas, Vice Chair Poepoe, and Members of the Committee:

I support S.B. 2765 S.D.1, H.D.1 and urge the committee to pass it, as is.

Sincerely,

M. Anne Anderson

SB-2765-HD-1

Submitted on: 3/30/2026 3:38:36 PM

Testimony for JHA on 4/1/2026 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
lynne matusow	Individual	Support	Written Testimony Only

Comments:

I am an owner occupant of a high rise condominium in Honolulu. I respectfully ask that you support this bill.

Costs are increasing. My maintenance skyrocketed this year because of circumstances beyond our control, including rising insurance costs. Meanwhile, delinquent owners means the rest of us have to cover their fees. This bill would help an association recover funds and reduce the maintenance others have to pay.

Lynne Matusow

SB-2765-HD-1

Submitted on: 3/30/2026 3:55:59 PM

Testimony for JHA on 4/1/2026 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
John Toalson	Individual	Support	Written Testimony Only

Comments:

I support S.B. 2765 S.D.1, H.D.1 as currently written, and urge the committee to pass it.

John Toalson

SB-2765-HD-1

Submitted on: 3/30/2026 4:49:37 PM

Testimony for JHA on 4/1/2026 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Laurence Chapman	Individual	Support	Written Testimony Only

Comments:

I support S.B. 2765 S.D.1, H.D.1 and urge the committee to pass it, as is.

SB-2765-HD-1

Submitted on: 3/30/2026 5:00:32 PM

Testimony for JHA on 4/1/2026 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Joe M Taylor	Individual	Support	Written Testimony Only

Comments:

I support this bill as it is now.

SB-2765-HD-1

Submitted on: 3/30/2026 7:03:34 PM

Testimony for JHA on 4/1/2026 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Nancy D Moser	Individual	Support	Written Testimony Only

Comments:

In support

SB-2765-HD-1

Submitted on: 3/30/2026 7:34:28 PM

Testimony for JHA on 4/1/2026 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
mary freeman	Individual	Support	Written Testimony Only

Comments:

I support the latest version of this bill. The last changes brought the bill back to what seems to be its original intent. Keep costs down for associations as it affects all involved unit owners.

Mary Freeman

Ewa Beach

SB-2765-HD-1

Submitted on: 3/30/2026 8:35:03 PM

Testimony for JHA on 4/1/2026 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Julie Wassel	Individual	Support	Written Testimony Only

Comments:

I support S.B. 2765 S.D.1, H.D.1 and urge the committee to pass it, as is.

Respectfully Submitted

Julie Wassel

SB-2765-HD-1

Submitted on: 3/30/2026 11:11:47 PM

Testimony for JHA on 4/1/2026 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Steve Glanstein	Individual	Support	Written Testimony Only

Comments:

When owners don't pay maintenance fees on time, the rest of the owners are left to shoulder the burden. This affects everybody else's maintenance fees. It also adversely affects the availability of mortgage financing. Several years ago, associations were severely limited in their ability to collect delinquent fees. This bill, after several changes, is good for condominium owners and will provide a little relief. I urge you to approve it.

SB-2765-HD-1

Submitted on: 3/31/2026 6:36:54 AM

Testimony for JHA on 4/1/2026 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Lance S. Fujisaki	Individual	Support	Written Testimony Only

Comments:

I support S.B. 2765 S.D.1, H.D.1 and urge the committee to pass it, as is.

Thank you,

Lance Fujisaki

SB-2765-HD-1

Submitted on: 3/31/2026 9:37:16 AM

Testimony for JHA on 4/1/2026 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Paul A Ireland Koftinow	Individual	Support	Remotely Via Zoom

Comments:

Dear Representative Tarnas, Chair, Representative Poepoe, Vice Chair, and Members of the Committee:

I support this measure. The present requirement that condominium associations disgorge a portion of their rental proceeds to mortgagees is inequitable and harmful to association members. This measure should put an end to the practice of mortgagees disgorging rental proceeds from condominium associations.

Please pass this measure. Thank you for the opportunity to provide written testimony.

Sincerely,

Paul A. Ireland Koftinow

SB-2765-HD-1

Submitted on: 3/31/2026 12:32:13 PM

Testimony for JHA on 4/1/2026 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Richard Emery	Individual	Support	Written Testimony Only

Comments:

Support. This Bill clarifies the law.

TESTIMONY IN OPPOSITION TO SB2765 SD1 HD1

Committee on Judiciary and Hawaiian Affairs (JHA)

DATE: Wednesday, April 1, 2026
TIME: 2:00 PM
PLACE: Conference Room 325
& VIDEOCONFERENCE
State Capitol
415 South Beretania Street

From: Gregory Misakian (as an individual)

Submitted: 3/31/26

Aloha Chair, Vice Chair, and Members of the JHA Committee,

I am in opposition to SB2765 SD1 HD1.

My Background

I currently serve as:

- ❖ President, Kokua Council
- ❖ Vice President, Hawaii Alliance for Retired Americans (HARA)
- ❖ Director, Keoni Ana AOA

I previously served on the Waikiki Neighborhood Board from Jan. 2023 to June 2025.

I have been advocating for condominium owners in Hawaii since 2021, when I realized how bad things were here as an owner and from speaking with many other owners. I have a good understanding of HRS 514B and associated laws that govern condominium associations and management companies that oversee them. I also have experience with condominium issues in California for many years as Power of Attorney for a condominium owner in San Francisco, and have a good understanding of California's Davis-Stirling laws.

SB2765 SD1 HD1, as written, is very concerning for two reasons, one which the Hawaii Bankers Association and the Mortgage Bankers Association of Hawaii clearly defined in their testimony regarding priority of lienholders (with established precedent in Hawaii). There is already an allowance for HOAs and Associations to recover some unpaid maintenance fees ahead of the first mortgagee. This bill, in my opinion, would create the potential for more legal issues and costs going forward for all parties (associations, mortgagees, and owners). The second reason this bill is not a good bill is the reference to non-judicial foreclosures, which can be challenged and often are. The dynamics of the lienholder priority concerns, together with the dynamics of a possible non-judicial foreclosure, are a recipe for one thing - further harm to the owners or former owners who still have debts to resolve with their mortgagees, and potential for court challenges and litigation.

And I would be remiss to not remind our legislators that they need to ensure that condominium owners, associations, and HOAs have a place to go to address concerns and disputes when there are clear violations of governing documents and established laws within HRS 514B and other statutes. This year, two Committee Chairs - Scot Matayoshi (CPC) and Jarrett Keohokalole (CPN) could have done something to help all condominium owners, but chose to not schedule a committee hearing for the most important condominium bill of the 2026 legislative session - **HB2453 (companion - SB3309)**, which would have established an **Ombudsman's Office for Condominium Owners and Associations**, and required no State funding.

With the passing of Act 189 in 2023, the Hawaii State Legislature recognized that Hawaii has numerous unresolved issues related to disputes within condominium associations that require better laws to protect the public from unwarranted assessments, fines, legal fees, and retaliation.

Act 189 established a Condominium Property Regime (CPR) Task Force to study and make recommendations on issues within Hawaii's condominium laws, including disputes, board governance, and dispute resolution, with reports due to the legislature. The CPR Task Force published their formal findings and recommendations to the Legislature in December of 2023, and the Legislature passed on the baton to the Legislative Reference Bureau in the 2024 session with the passing of Act 43, which provided funding for a study and research report on condominium issues and how they are addressed in five pre-selected States (California, Delaware, Florida, Massachusetts, and Nevada). This report, at a cost of over \$300,000, was published in November 2025 and confirmed that some States have Ombudsman's Offices to assist the public with disputes, and some have additional enforcement elements. Ironically, this report did not include a review of Hawaii, which begs the question why not.

What is well known from years of testimony, numerous reports previously published, the December 2023 CPR Task Force report, and the Legislature via Act 189 (2023) and Act 43 (2024), is that the current structure in Hawaii to address condominium issues and disputes is not working. Hawaii urgently needs to shift to a better and more consumer friendly model, or face continuing discourse, more unnecessary condominium related litigation, and more homeowners at risk of losing their homes or facing unaffordable legal fees.

Better consumer protections are needed to ensure that condominium associations, their Boards, and their Managing Agents are compliant with the laws that govern condominium associations, including governing documents and HRS 514B statutes.

The State of Hawaii urgently needs an Ombudsman's Office for Condominium Owners and Associations, and numerous States with many condominiums and many complaints have recognized this and have them.

Respectfully,

Gregory Misakian