

Honolulu, Hawaii

FEB 20 2008

RE: S.B. No. 1815
S.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fourth State Legislature
Regular Session of 2008
State of Hawaii

Madam:

Your Committees on Tourism and Government Operations and Commerce, Consumer Protection, and Affordable Housing, to which was referred S.B. No. 1815 entitled:

"A BILL FOR AN ACT RELATING TO CONDOMINIUMS,"

beg leave to report as follows:

The purpose of this measure is to provide greater accountability of the condominium management by clarifying the management responsibilities and notification requirements to association members.

Specifically, this measure:

- (1) Prohibits the managing agent of a condominium from engaging in the business of a condominium hotel operator; and
- (2) Requires the managing agent to make electronic mail addresses of unit owners available to all unit owners.

Testimony in support of this measure was submitted by one private individual. Testimony in opposition to this measure was submitted by Wyndham Worldwide, Outrigger Hotels and Resorts, the Hawaii Chapter of the Community Associations Institute, the Waikiki Improvement Association, the Hawaii Council of Associations of Apartment Owners, ResortQuest, and two private individuals.



The development and operation of condominium hotels has increased in recent years, which have resulted in questions relating to the managing agents of condominium hotels. A conflict of interest may arise when the managing agent of a condominium must manage the operations of the residential portion and hotel portion of the condominium property. Your Committees find that when employees of a condominium association are also employed in a vacation rental business operated by the managing agent at the same complex, these employees must serve the best interest of the association while simultaneously generating the greatest profit for the managing agent's vacation rental business. This measure will prohibit the managing agent of a condominium from engaging in the business of a condominium hotel operator.

Your Committees recognize testimony that indicates that requiring associations of apartment owners (AOAO) and condominium vacation rental companies to have separate employees and management teams may be unfeasible, especially for small condominium properties. Despite the governing importance of declarations and bylaws to manage condominiums, your Committees further find that the management of the residential and vacation units in the same property needs to be further defined for accountability purposes, especially with respect to the common elements that are shared between the resident owners and guests of the condominium hotel operators. Furthermore, requiring managing agents to make electronic mail addresses of unit owners available to all owners in the condominium property may impose a responsibility on associations and their managers to maintain data that may not be obtainable, and may lead to unintended consequences, such as harassment and identity theft.

Accordingly, your Committees have amended this measure by:

- (1) Deleting language that prohibits a managing agent of a condominium from engaging in the business of a condominium hotel operator, and replacing it with language that:
 - (A) Allows the board of directors of a condominium to lease, under certain conditions, common elements of the condominium that are not used by the unit owners for an originally intended purpose permitted in the declaration; and



- (B) Requires all direct costs attributable to condominium hotel operations to be charged only to unit owners whose units are included in condominium operations;
- (2) Deleting language that requires the managing agent to make electronic mail addresses of unit owners available to all unit owners;
- (3) Inserting an effective date of July 1, 2050 to ensure ongoing discussions on this issue; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity and style.

Your Committees believe that this measure, as amended, fulfills the intent of this measure, which is to provide greater accountability of condominium management.

As affirmed by the records of votes of the members of your Committees on Tourism and Government Operations and Commerce, Consumer Protection, and Affordable Housing that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 1815, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1815, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on behalf of the members of the Committees on Tourism and Government Operations and Commerce, Consumer Protection, and Affordable Housing,



RUSSELL S. KOKUBUN, Chair


CLARENCE K. NISHIHARA, Chair



The Senate
 Twenty-Fourth Legislature
 State of Hawaii

Record of Votes
Committee on Tourism and Government Operations
TSG

Bill / Resolution No.:* SB 1815	Committee Referral: TSG/CPH	Date: 2/12/08		
<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
NISHIHARA, Clarence K. (C)	/			
KIM, Donna Mercado (VC)				/
TSUTSUI, Shan S.	/			
TRIMBLE, Gordon	/			
TOTAL	3			1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes

