

Honolulu, Hawaii

MAR 25 2009

RE: H.B. No. 1415
H.D. 1
S.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fifth State Legislature
Regular Session of 2009
State of Hawaii

Madam:

Your Committee on Commerce and Consumer Protection, to which was referred H.B. No. 1415, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO SERVICE OF PROCESS,"

begs leave to report as follows:

The purpose of this measure is to require condominium associations, planned community associations, and cooperative housing corporations to implement a policy to provide entry for a process server.

Your Committee received testimony in support of this measure from Hawaii Council of Apartment Owners, the Collection Law Section of the Hawaii State Bar Association, Alston Hunt Floyd & Ing, and one private citizen. Testimony with comments on this measure was received from the Department of Commerce and Consumer Affairs and the Real Estate Commission. Written testimony presented to the Committee may be reviewed on the Legislature's website.

Your Committee finds that fair and efficient service of process is an important component of a fair and efficient civil legal system. Your Committee further finds that under the current law, an individual living in a condominium, cooperative housing project, or gated community may be able to delay or avoid service of process by denying the process server entry to the property. Your Committee finds that this measure strikes a reasonable balance between respect for private property rights and the need



to promote efficiency in the judicial process by requiring access for a process server but allowing an association or housing corporation to determine its own access policy.

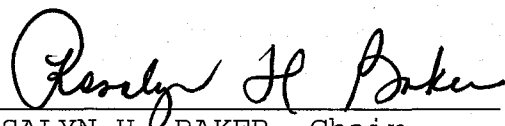
Your Committee notes that it is the intent of this measure to require that the responsibility of the various entities within the Department of Commerce and Consumer Affairs (DCCA) for implementing this measure is limited to adopting or amending forms only for the housing entities under their respective jurisdiction. Your Committee anticipates that the extent of each DCCA entity's duty under this measure is to provide a means for a housing entity to indicate on its already mandated filings that the housing entity has an access policy in place.

Your Committee has amended this measure by:

- (1) Making this measure effective upon approval;
- (2) Deferring the date by which condominium associations, planned community associations, and cooperative housing corporations are required to report their respective access policies to January 1, 2010 in order to allow all affected parties time to implement the requirements of this measure; and
- (3) Making nonsubstantive technical changes for the purpose of clarity and accuracy in the language of this measure.

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 H.B. No. 1415, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1415, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary and Government Operations.

Respectfully submitted on
behalf of the members of the
Committee on Commerce and
Consumer Protection,



ROSALYN H. BAKER, Chair



