

STAND. COM. REP. NO.

137

Honolulu, Hawaii

FEB 14 2011

RE: S.B. No. 92  
S.D. 1

Honorable Shan S. Tsutsui  
President of the Senate  
Twenty-Sixth State Legislature  
Regular Session of 2011  
State of Hawaii

Sir:

Your Committees on Commerce and Consumer Protection and  
Judiciary and Labor, to which was referred S.B. No. 92 entitled:

"A BILL FOR AN ACT RELATING TO CONDOMINIUM DISPUTE  
RESOLUTION,"

beg leave to report as follows:

The purpose and intent of this measure is to facilitate  
dispute resolution for matters involving condominium associations  
by mandating mediation for certain disputes arising between  
condominium owners and condominium associations and repealing the  
existing process that allows for mediation, arbitration,  
administrative hearing, and litigation to resolve certain  
condominium disputes.

Your Committees received testimony in support of this measure  
from the Hawaii Chapter of the Community Associations Institute,  
Hawaii First, Hawaii Council of Associations of Apartment Owners,  
Pearl Regency Home Owners Association, Certified Management,  
Mililani Town Association, Wailuna AOA, Ke Noho Kai Community  
Association, and twenty private individuals. Your Committees  
received testimony in opposition to this measure from one private  
individual. Your Committees received comments on this measure  
from the Real Estate Commission.

Your Committees find that mediation is frequently the most  
appropriate means of resolving disputes between parties where it  
is important to preserve an on-going relationship after the  
dispute is over, such as in the case of condominium owners and

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condominium associations. Your Committees note that under current law, the condo court system created by section 514B-161, Hawaii Revised Statutes, includes a mediation component that constitutes the first step in a dispute resolution process that also includes a choice between binding arbitration or an administrative hearing with the right of judicial appeal. Your Committees also find that these subsequent avenues of relief are important mechanisms for avoiding a costly court process in many disputes and, therefore, should be preserved.

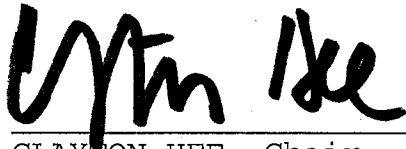
Your Committees have amended this measure by:

- (1) Clarifying that the remedies available under section 514B-146(d) remain available for disputes relating to the collection of assessments;
- (2) Deleting references to requirements for standards of participation in mediation;
- (3) Deleting the requirement that mediation take place with an entity that contracts with the Real Estate Commission;
- (4) Deleting amendments to the Condominium Education Trust Fund;
- (5) Preserving provisions that authorize arbitration, administrative hearing, and judicial appeal in the event that mediation is unsuccessful;
- (6) Deferring its effective date to July 1, 2012, for the purposes of facilitating further discussion on this measure; and
- (7) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Commerce and Consumer Protection and Judiciary and Labor that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 92, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 92, S.D. 1, and be referred to the Committee on Ways and Means.

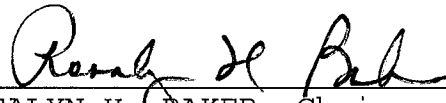


Respectfully submitted on  
behalf of the members of the  
Committees on Commerce and  
Consumer Protection and  
Judiciary and Labor,



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CLAYTON HEE, Chair



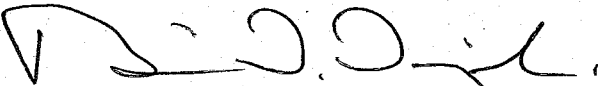
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ROSALYN H. BAKER, Chair



The Senate  
Twenty-Sixth Legislature  
State of Hawai'i

**Record of Votes**  
**Committee on Commerce and Consumer Protection**  
**CPN**

Bill / Resolution No.:* <b>SB 92</b>	Committee Referral: <b>CPN/JDL, WAM</b>	Date: <b>2/8/2011</b>		
<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
BAKER, Rosalyn H. (C)	✓			
TANIGUCHI, Brian T. (VC)	✓			
GALUTERIA, Brickwood				✓
GREEN, M.D., Josh	✓			
NISHIHARA, Clarence K.	✓			
SOLOMON, Malama	✓			
SLOM, Sam	✓			
<b>TOTAL</b>	<b>6</b>	<b>0</b>	<b>0</b>	<b>1</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
<b>Distribution:</b> Original     Yellow     Pink     Goldenrod File with Committee Report     Clerk's Office     Drafting Agency     Committee File Copy				

\*Only one measure per Record of Votes

The Senate  
Twenty-Sixth Legislature  
State of Hawai'i

**Record of Votes**  
**Committee on Judiciary and Labor**  
**JDL**

Bill / Resolution No.:* <b>SB 92</b>	Committee Referral: <b>CPN/JDL, WAM</b>	Date: <b>2/8/11</b>		
<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
HEE, Clayton (C)	✓			
SHIMABUKURO, Maile (VC)	✓			
GABBARD, Mike				✓
IHARA, Jr., Les	✓			<i>MS</i>
SLOM, Sam	✓			
<b>TOTAL</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>1</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
<b>Distribution:</b> Original                      Yellow                      Pink                      Goldenrod File with Committee Report    Clerk's Office            Drafting Agency        Committee File Copy				

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