

# SB2010

Measure Title: RELATING TO TENANCY.

Report Title: Condominiums; Tenants; Association Approval

Description: Prohibits adoption of bylaws that require owner to obtain approval of association to rent or lease or for a particular tenant, provided that rental or lease agreement requires tenant to comply with bylaws and owner indemnifies association for any loss caused by tenant.

Companion:

Package: None

Current Referral: CPN

Introducer(s): BAKER, CHUN OAKLAND, GALUTERIA, SHIMABUKURO, Espero, Fukunaga, Ihara, Taniguchi, Wakai

<u>Sort by</u> <u>Date</u>		<b>Status Text</b>
1/18/2012	S	Introduced.
1/18/2012	S	Passed First Reading.
1/18/2012	S	Referred to CPN.
1/31/2012	S	The committee(s) on CPN has scheduled a public hearing on 02-22-12 9:00AM in conference room 229.



February 15, 2012

Honorable Rosalyn H. Baker  
Honorable Brian Taniguchi  
Commerce and Consumer Protection  
415 South Beretania Street  
Honolulu, Hawaii 96813

Re: SB 2010, CAI position: OPPOSED. Hearing date 2-22-2012

Dear Chair Baker, Vice-Chair Taniguchi and Committee Members:

I am a member of the CAI Legal Action Committee and CAI is has substantive concerns about SB 2010.

The Condominium Statutes 514A and 514B were established so Condominium Associations could be self governing. This bill interferes with that self government by limiting the powers of the Association to establish By Laws that relate to the needs of their individual Association.

While few Associations elect to incorporate this authority and responsibility to their board in their By Laws, in 1991 at least one association amended their By Laws by at least a 65% vote of ALL OWNERS to charge their Board of Directors with authority to review and approve all tenants. This level of condominium grassroots approval indicates this provision was seriously in the best interest of that association.

Obtaining association approval prior to renting is not a common problem in condominiums in Hawaii and to establish a statute based upon one or two homeowner experiences interferes with association management and defies the concept of self management.

The condominium statute provides individual homeowners with the opportunity to contact their fellow owners through a volunteer owners' committee and amend the bylaw if they disagree with it. This is the proper forum for condominium governance, not the legislature.

We encourage you to defer or hold this bill. Thank you for the opportunity to testify,

Joani Taylor  
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February 21, 2012

The Honorable Rosalyn H. Baker, Chair  
Committee on Commerce and Consumer Protection

RE: BILL: SB 2010  
DATE: February 22, 2012  
TIME: 9:00 a.m.  
PLACE: Conference Room 229

Dear Senator Baker and Members of the Committees:

This testimony is submitted on my behalf as a member of the Hawai'i State Bar Association and as the lawyer for many planned community associations. I believe I am very qualified to testify on this issue. I have twice written the article for the Hawai'i State Bar Association entitled "Community Associations" in its periodic 3 volume publication: Hawaii Real Estate Law Manual Vol. II. I have also written and taught the GRI course for Realtors® in Hawai'i for the Hawai'i Association of Realtors® and for its various statewide boards. During that time, I have served and testified on behalf of the HSBA Subcommittee on Community Associations (part of the Real Property Section) and on the Legislative Action Committee for CAI for which I have also testified. I have been selected by my peers over the last few years as one of the "Best Lawyers in America." I have practiced community association law for more than 30 years in Hawai'i.

This bill would prohibit owners in a residential use condominium project from amending the bylaws of the Association to require approval from the Association to rent the unit or to obtain approval from the Association to rent or lease the apartment to a specific tenant.

- Any legislation like this that prohibits owners from amending their bylaws is simply an intrusion on the right of owners to manage their own project. I am generally opposed to micromanagement by the legislature unless there are material problems being experienced by a number of owners as there are so many types of condominium projects in Hawai'i that "one size" does not fit all.
- I am not aware of any problems created in Hawaii by such bylaw provisions. This proposed bill addresses an issue that does not exist, to my knowledge.

- It should be made clear that this will not prevent owners in a condominium project from enacting a bylaw amendment precluding certain types of rentals in the project (*e.g.*, for less than 30 days).
- Residential cooperatives have these types of provisions (requiring owners to obtain approval prior to leasing out a residential unit). Why should residential units in condominiums not be permitted to do the same if they are having material problems with the types of tenants placed in the Project.
- Tenants create many problems in a condominium project as they oftentimes do not have the same interest in maintaining the common elements of the Project or maintaining the peace and quiet and atmosphere at the Project as owners.
- This proposed language appears inconsistent with language added to the new Condominium Property Act drawn from the Model Condominium Act (used in many states) which would permit the Board to adopt rules to prohibit tenancy altogether if such rules are reasonably designed to meet underwriting requirements of institutional lenders who regularly lend money secured by first mortgages on units in condominiums or regularly purchase those mortgages. See Section 514B-105(b) (3).

Thank you for the opportunity to submit this testimony. If you have any questions, I will be present at the hearing. I can be reached at 697-6006 or by email at [jneeley@alf-hawaii.com](mailto:jneeley@alf-hawaii.com).

Very truly yours,

ANDERSON LAHNE & FUJISAKI LLP  
A Limited Liability Law Partnership

/s/ Joyce Y. Neeley

Joyce Y. Neeley

JYN:mas

Testimony for CPN 2/22/2012 9:00:00 AM SB2010

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Randy Kay Pisani

Organization: Pokai Bay Beach Cabanas Board

E-mail: [rkpisani@hawaii.rr.com](mailto:rkpisani@hawaii.rr.com)

Submitted on: 2/19/2012

Comments:

This bill would allow owners to put anyone in inspite of their Back ground. The owner doesn't reside there. All They care about is the rent. Then the rest of the tenants Have to be exposed to a bad tenant's actions. It takes 3-4 Months to get that tenant removed and causes havoc For all who live there. All owners don't interview and run Checks to see if there will be potential problems.

Testimony for CPN 2/22/2012 9:00:00 AM SB2010

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Patricia Haller

Organization: Individual

E-mail: [pakelekia808@gmail.com](mailto:pakelekia808@gmail.com)

Submitted on: 2/19/2012

Comments:

Having the home owner's association screen applicants before renting protects me, an owner, and helps keep our home area safe. Please do not deny us this right!

Mahalo

Testimony for CPN 2/22/2012 9:00:00 AM SB2010

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: William Bains-Jordan

Organization: Individual

E-mail: [bj85@hawaiiantel.net](mailto:bj85@hawaiiantel.net)

Submitted on: 2/19/2012

Comments:

Testimony for CPN 2/22/2012 9:00:00 AM SB2010

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Harold E. Brown

Organization: Individual

E-mail: [haledwardbrown@earthlink.net](mailto:haledwardbrown@earthlink.net)

Submitted on: 2/17/2012

Comments:

Tenant screening is essential to maintaining property values and quality of life for residents. Unfortunately, most rental agents only care about getting the tenant to sign on the dotted line and in my experience, they do NOT screen with the best interest of all residents in mind.