

**SB 3024 SD1
RELATING TO CORPORATIONS**

**PAUL T. OSHIRO
MANAGER – GOVERNMENT RELATIONS
ALEXANDER & BALDWIN, INC.**

MARCH 13, 2012

Chair McKelvey and Members of the House Committee on Economic Revitalization & Business:

I am Paul Oshiro, testifying on behalf of Alexander & Baldwin, Inc. (A&B) on SB 3024 SD1, "A BILL FOR AN ACT RELATING TO CORPORATIONS." We support this bill with the inclusion of the attached amendments.

The purpose of this bill is to modify the shareholder voting requirements for publicly traded corporations incorporated in Hawaii before July 1, 1987 for mergers with their subsidiary corporations. The Hawaii Revised Statutes presently require corporations incorporated in Hawaii before July 1, 1987 to obtain the affirmative vote of the holders of three-fourths of all the issued and outstanding shares of stock prior to a merger. In contrast, companies incorporated in Hawaii after July 1, 1987 are only required to obtain the affirmative vote of the holders of shares of a majority of each class of shares of stock prior to a merger.

This bill will lower the shareholder voting threshold required for companies incorporated in Hawaii before July 1, 1987 who pursue a very limited type of merger—one that involves a merger by a company with or into its own subsidiaries. This majority

voting threshold will be identical to the present statutory voting requirement for companies incorporated on or after July 1, 1987 who pursue mergers.

We support this bill as it will enable Hawaii based, publicly traded companies, regardless of when they were incorporated, to re-organize themselves within their "family" of related entities with the approval of a majority vote of its shareholders. We believe that this will provide Hawaii based, publicly traded companies with the additional flexibility to restructure their organizations to better suit their operational goals, future initiatives, and to enhance their contributions to Hawaii and its economy.

We respectfully request your consideration to incorporate clarifying amendments into this bill to ensure that its provisions will only apply if the plan of merger involves a merger of a publicly traded corporation with a subsidiary corporation of which all of the outstanding shares of each class are owned by the publicly traded corporation. We have attached a proposed HD1 for your consideration.

Based on the aforementioned, we respectfully request your favorable consideration on this bill with the inclusion of the attached amendments.

Thank you for the opportunity to testify.

SB 3024 SD1 (HD1 Proposed)
Draft #1

RELATING TO CORPORATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Section 414-313, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

"(f) With respect to corporations incorporated before July 1, 1987, at such meeting, a vote of the shareholders shall be taken on the proposed plan. [~~The~~]

If the plan involves a merger of a publicly traded corporation with or into a direct or indirect subsidiary corporation, of which all of the outstanding shares of each class are owned directly or indirectly by the [~~parent~~] publicly traded corporation, subsection (e) shall apply as if each party to the merger was incorporated on or after July 1, 1987.

Otherwise, the plan shall be approved upon receiving the affirmative vote of the holders of three-fourths of all the issued and outstanding shares of stock having voting power even though their right to vote is otherwise restricted or denied by the articles, bylaws, or resolutions of any such corporation. The articles of incorporation may be amended by the vote set forth in the preceding sentence to provide for a lesser proportion of shares, or of any class or series thereof, than is

provided in the preceding sentence, in which case the articles of incorporation shall control; provided that the lesser proportion shall be not less than the proportion set forth in subsection (e).

As used in this section, "publicly traded corporation" means any corporation listed on a national securities exchange."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.



Maui Land & Pineapple Company, Inc.

March 13, 2012

Chair and Members of the House Committee on Economic
Revitalization & Business
State Capitol
415 South Beretania Street
Honolulu, HI 96813

Chair McKelvey, Vice-Chair Choy and Members of the House Committee:

RE: S.B. 3024 SD1—Relating to Corporations

Maui Land & Pineapple Company, Inc. is a public Hawaii company, incorporated in 1909, and our stock is traded on the New York Stock Exchange (NYSE:MLP). MLP is dedicated to the creation and management of holistic communities on the island of Maui, where we own approximately 22,000 acres, including the Kapalua Resort and the 8,300-acre Pu'u Kukui Watershed Preserve, one of the largest private nature preserves in Hawai'i.

MLP strongly supports S.B. 3024 SD1, Relating to Corporations, with the inclusion of the attached amendment, which we understand will be introduced at today's hearing. This bill will provide public companies in Hawaii with additional flexibility in making changes to improve its efficiency over time. Most importantly, the bill is restricted solely to mergers of wholly-owned subsidiaries, so it creates no shareholder issues. Finally, the bill simply places public companies incorporated prior to July 1, 1987 on the very same footing as all companies incorporated after that date, with respect to mergers among wholly-owned subsidiaries.

We ask for this committee's support of S.B. 3024 SD1 with the inclusion of the attached amendment. Thank you kindly for your thoughtful consideration.

Sincerely,

Warren H. Haruki
Chairman & Chief Executive Officer

SB 3024 SD1 (HD1 Proposed)
Draft #1

RELATING TO CORPORATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Section 414-313, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

"(f) With respect to corporations incorporated before July 1, 1987, at such meeting, a vote of the shareholders shall be taken on the proposed plan. [~~The~~]

If the plan involves a merger of a publicly traded corporation with or into a direct or indirect subsidiary corporation, of which all of the outstanding shares of each class are owned directly or indirectly by the [parent] publicly traded corporation, subsection (e) shall apply as if each party to the merger was incorporated on or after July 1, 1987.

Otherwise, the plan shall be approved upon receiving the affirmative vote of the holders of three-fourths of all the issued and outstanding shares of stock having voting power even though their right to vote is otherwise restricted or denied by the articles, bylaws, or resolutions of any such corporation. The articles of incorporation may be amended by the vote set forth in the preceding sentence to provide for a lesser proportion of shares, or of any class or series thereof, than is

provided in the preceding sentence, in which case the articles of incorporation shall control; provided that the lesser proportion shall be not less than the proportion set forth in subsection (e).

As used in this section, "publicly traded corporation" means any corporation listed on a national securities exchange."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.