

NEIL ABERCROMBIE
GOVERNOR

SHAN S. TSUTSUI
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

335 MERCHANT STREET, ROOM 310
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HONOLULU, HAWAII 96809
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KEALI`I S. LOPEZ
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

PRESENTATION OF
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
REGULATED INDUSTRIES COMPLAINTS OFFICE

TO THE HOUSE COMMITTEE ON
CONSUMER PROTECTION AND COMMERCE

TWENTY-SEVENTH STATE LEGISLATURE
REGULAR SESSION, 2013

MONDAY, MARCH 11, 2013
2:00 P.M.

TESTIMONY ON SENATE BILL NO. 41 S.D.1
RELATING TO REAL ESTATE

TO THE HONORABLE ANGUS L.K. MCKELVEY, CHAIR,
AND TO THE HONORABLE DEREK S.K. KAWAKAMI, VICE CHAIR,
AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs ("Department") appreciates the opportunity to testify on Senate Bill No. 41 S.D.1, Relating To Real Estate. My name is Daria Loy-Goto. I am the Complaints and Enforcement Officer for the Department's Regulated Industries Complaints Office ("RICO"). RICO offers the following testimony in support of the bill.

Senate Bill No. 41 S.D.1 clarifies the role of a local contact for operators of transient accommodations under Act 326, Session Laws of Hawaii 2012. Act 326 requires operators of transient accommodations to identify a local contact when the operators are not located on the island where the transient accommodations are located.

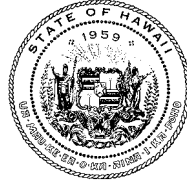
The bill originally sought to clarify the activities in which custodians or caretakers may engage under chapter 467, Hawaii Revised Statutes. This Committee heard a similar bill, House Bill No. 23, and passed that bill out with a defective effective date. House Bill No. 23 did not cross over to the Senate.

Senate Bill No. 41 S.D.1 represents the collaborative efforts and consensus language of various stakeholders to address the limited role of local contacts and the services they can legitimately provide without a real estate license. In addition, RICO, the Real Estate Commission, and various stakeholders are working on an informational handout to assist operators of transient accommodations in determining when the services of a real estate licensee would be required.

Thank you for this opportunity to testify on Senate Bill No. 41 S.D.1. I will be happy to answer any questions that the members of the Committee may have.

NEIL ABERCROMBIE
GOVERNOR

SHAN TSUTSUI
LT. GOVERNOR



FREDERICK D. PABLO
DIRECTOR OF TAXATION

JOSHUA WISCH
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
FAX NO: (808) 587-1560

To: The Honorable Angus L.K. McKelvey, Chair
and Members of the House Committee on Consumer Protection & Commerce

Date: Monday, March 11, 2013

Time: 2:00 p.m.

Place: Conference Room 325, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: S.B. 41 S.D.1, Relating to Real Estate

The Department of Taxation (Department) appreciates the intent of S.B. 41, S.D. 1 to clarify who may be designated as a local contact under Act 326, Session Laws of Hawaii 2012. The Department has received many inquiries from the public on this issue.

The Department suggests amending this measure to further clarify that the local contact may be either an individual who resides on the same island as the transient accommodation, or an entity that has its principal place of business on the same island.

Thank you for the opportunity to provide comments.

kawakami2 - Rise

From: mailinglist@capitol.hawaii.gov
Sent: Friday, March 08, 2013 10:58 AM
To: CPCtestimony
Cc: celia.c.suzuki@dcca.hawaii.gov
Subject: Submitted testimony for SB41 on Mar 11, 2013 14:00PM

SB41

Submitted on: 3/8/2013

Testimony for CPC on Mar 11, 2013 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Celia Suzuki	Real Estate Commission	Support	Yes

Comments: Someone from the REC will be present at the hearing.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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**PRESENTATION OF THE
REAL ESTATE COMMISSION**

TO THE HOUSE COMMITTEE ON
CONSUMER PROTECTION AND COMMERCE

TWENTY-SEVENTH LEGISLATURE
Regular Session of 2013

Monday, March 11, 2013
2:00 p.m.

TESTIMONY ON SENATE BILL NO. 41, S.D. 1 - RELATING TO REAL ESTATE.

TO THE HONORABLE ANGUS L.K. MCKELVEY, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Nikki Senter and I am the Chairperson of the Hawaii Real Estate Commission ("Commission"). The Commission appreciates the opportunity to present supporting testimony on Senate Bill No. 41, S.D. 1, Relating to Real Estate.

The amendments made to Senate Bill 41, S.D. 1, Relating to Real Estate clarifies and defines a local contact by requiring the contact to: serve as the on-site contact, reside on the same island, and have the contact's name prominently posted and included in the contract or written agreement. It further allows the local contact to act as a "pass through" conduit of information between the operator and the transient without running afoul of the current real estate licensing statute, chapter 467, Hawaii Revised Statutes.

For these reasons, the Commission supports Senate Bill No. 41, S.D. 1, and thanks you for the opportunity to testify.

March 11, 2013

The Honorable Angus L.K. McKelvey, Chair
House Committee on Consumer Protection & Commerce
State Capitol, Room 325
Honolulu, Hawaii 96813

RE: S.B. 41, S.D.1, Relating to Real Estate

HEARING: Wednesday, January 30, 2013 at 2:00 p.m.

Aloha Chair McKelvey, Vice Chair Kawakami, and Members of the Committee:

I am Myoung Oh, Government Affairs Director, here to testify on behalf of the Hawai'i Association of REALTORS® (“HAR”), the voice of real estate in Hawai'i, and its 8,000 members. HAR **supports the intent** of S.B. 41, S.D.1 which clarifies the role of a local contact for operators of transient accommodations under Act 326, Session Laws of Hawaii 2012.

Act 326, Session Laws of Hawaii 2012 was intended to require operators of transient accommodations to designate local contact information and to require website advertisements for transient accommodations to display tax registration identification numbers. The purpose of the law was to foster consumer protection for visitors by requiring a local contact, and to ease tax enforcement.

S.B. 41, S.D.1 serves to strengthen and clarify Act 326, by defining the services of a “local contact.” Although it allows the local contact to act as a “pass through” conduit of information between the operator and the transient without running afoul of the real estate licensing law, we recommend that this measure **explicitly clarify that a local contact is permitted to act for more than one owner provided that the services are within the definition of “local contact” under this measure.**

HAR notes that we are and continue to be in collaboration with the Regulated Industries Complaint office (RICO), the Real Estate Commission (REC) and other interested parties on this measure.

Mahalo for the opportunity to testify.



March 11, 2013

The Honorable Angus L. K. McKelvey, Chair
House Committee on Consumer Protection & Commerce
State Capitol, Room 325
Honolulu, Hawaii 96813

RE: S.B. 41, Relating to Real Estate.

Aloha Chair McKelvey, Vice Chair Kawakami, and Members of the Committee:

I am Dan Monck, here to testify on behalf of the Hawai'i Association of Vacation Rental Managers ("HAVRM").

This letter is written in to **oppose SB 41 SD1 in its present form.**

SB 41, in its original form, sought to provide clarity that activities associated with owner rental representatives, as required by Landlord Tenant Code and referenced in Act 326, take place under the auspices of HRS 467.

SB 41 SD1 conflicts with existing Statues HRS 521 and HRS 467, and it lacks clarity. SB 41 SD1 is very confusing, and does not serve to identify for operators of rental real estate who can be a representative in Act 326.

The matter of when an owner representative for rental real estate is required, and who this individual can be is very simple, and has been law in Hawaii for 30 years.

The existing statutes that are involved with "Local Contact" identification cited in Act 326 are as follows:

- 1) The Landlord Tenant Code HRS 521-43(f) states that an off island rental owner must use an on-island agent **to act on their behalf.** (This requirement is to protect the renter in the event of a problem or emergency during the rental period.) The ability and authority to act on the owner's behalf is very important, and required by this clause.

The Real Estate Code HRS 467 identifies only two options for who the above individual may be.

- 1) A "Caretaker or Custodian" as allowed in HRS 467-2(3), and defined in 467-1, can provide this service for one rental owner only, their employer.
- 2) A Real Estate Licensee

Item (1) above pertaining to the Landlord Tenant Code is discussed at length in Section 1 of Act 326.

It has been Hawaii Law since 1983 that the persons who can act as a representative of a rental owner or Landlord are the two options provided by the Real Estate Code.

A simple statement of these statutory requirements in the definition of who the On-Island agent aka Local Contact is, is all that is needed to clarify the definition of this individual within Act 326.

Thank you for the opportunity to testify.



Waikoloa Vacation Rental Management

808-987-4519 831-308-7799 eFax

WaikoloaVRM@aol.com

www.WaikoloaVacationRentals.com

Aloha Representative McKelvey,

I support the original intent of SB 41, which was to clarify an existing law that is not being followed by thousands of people in the State of Hawaii.

Unfortunately the bill in its revised state does not do this. As defined in this bill, the term "local contact" does not meet the requirements under 521-43(f) so now we are asking out of state owners to not only have an on island agent to act on their behalf as required by 521-43(f), but to also have a "local contact" that can pass messages between the owners and guests. This is unreasonable and does nothing to fix the existing consumer protection and unlicensed real estate activity issues in the State of Hawaii and just offers further confusion.

The language offered in HB 457 seems to move in a better direction. Here are a few areas that I feel need clarification.

- 1) The term "on island agent" needs to consistently be used rather than "local contact". "On island agent" is what is used in current law and is what needs clarification on.
- 2) This is an unlicensed real estate activity issue and not a tax issue. Ultimately it needs to be addressed in the real estate code rather than tax code or Act 326 (a tax Act). While the Department of Taxation has been very helpful in the process they have confirmed that they will not be enforcing unlicensed real estate activity.

Thank you for your time on this issue.

Mahalo,

A handwritten signature in black ink, appearing to read 'Rob Dalton', written in a cursive style.

Rob Dalton



MAILING ADDRESS
77-6425 Kuakini Hwy.
C2 PMB 80
Kailua-Kona, HI 96740

OFFICE LOCATION
75-1029 Henry Street
Suite 103
Kailua-Kona, HI 96740

Tel 808-331-8878
Fax 808-443-0220
Toll Free 866-456-4252
mail@konarentals.net
mail@kohalarentals.com

3/8/13

Dear Chairman McKelvey,

This letter is written in to Oppose SB 41 SD1 in its present form.

SB 41, in its original form, sought to provide clarity that activities associated with owner rental representatives, as required by Landlord Tenant Code and referenced in Act 326, take place under the auspices of HRS 467.

SB 41 SD1, instead of clarifying who these individuals may be, conflicts with existing Statutes HRS 521 and HRS 467, and it lacks clarity. SB 41 SD1 is very confusing and does not serve to identify for operators of rental real estate who can be a representative in Act 326.

The matter of when an owner representative for rental real estate is required, and who this individual can be is very simple, and has been law in Hawaii for 30 years.

The existing statutes that are involved with "Local Contact" identification cited in Act 326 are as follows:

1) The Landlord Tenant Code HRS 521-43(f) states that an off island rental owner must use an on-island agent **to act on their behalf**. (This requirement is to protect the renter in the event of a problem or emergency during the rental period.) The ability and authority to act on the owner's behalf is very important, and required by this clause.

The Real Estate Code HRS 467 identifies only two options for who the above individual may be.

- 1) A "Caretaker or Custodian" as allowed in HRS 467-2(3), and defined in 467-1, can provide this service for one rental owner only, their employer.
- 2) A Real Estate Licensee

Item (1) above pertaining to the Landlord Tenant Code is discussed at length in Section 1 of Act 326.

It has been Hawaii Law since 1983 that the persons who can act as a representative of a rental owner or Landlord are the two options provided by the Real Estate Code.

A simple statement of these statutory requirements in the definition of who this On-Island agent aka Local Contact is all that is needed the definition of this individual within Act 326.

Thank you for the opportunity to testify.

Sincerely yours,

Eme Manley



P.O. Box 383940
Waikoloa, HI 96738
Waikoloa highlands Shopping Center
68-1845 Waikoloa Rd. Suite 104
Office: (808) 883-9550
Fax: (808) 883-9440
www.hawaiiandreamproperties.com

March 8, 2013

Aloha,

This letter is written in to Oppose SB 41 SD1 in its present form.

SB 41, in its original form, sought to provide clarity that activities associated with owner rental representatives, as required by Landlord Tenant Code and referenced in Act 326, take place under the auspices of HRS 467.

SB 41 SD1, instead of clarifying who these individuals may be, conflicts with existing Statutes HRS 521 and HRS 467, and it lacks clarity. SB 41 SD1 is very confusing and does not serve to identify for operators of rental real estate who can be a representative in Act 326.

The matter of when an owner representative for rental real estate is required, and who this individual can be is very simple, and has been law in Hawaii for 30 years.

The existing statutes that are involved with "Local Contact" identification cited in Act 326 are as follows:

1) The Landlord Tenant Code HRS 521-43(f) states that an off island rental owner must use an on-island agent **to act on their behalf**. (This requirement is to protect the renter in the event of a problem or emergency during the rental period.) The ability and authority to act on the owner's behalf is very important, and required by this clause.

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- 2) A Real Estate Licensee

Item (1) above pertaining to the Landlord Tenant Code is discussed at length in Section 1 of Act 326.

It has been Hawaii Law since 1983 that the persons who can act as a representative of a rental owner or Landlord are the two options provided by the Real Estate Code.

A simple statement of these statutory requirements in the definition of who this On-Island agent aka Local Contact is all that is needed the definition of this individual within Act 326.

Thank you for the opportunity to testify.

Jim Albone
Principle Broker/Owner

kawakami2 - Rise

From: mailinglist@capitol.hawaii.gov
Sent: Friday, March 08, 2013 2:09 PM
To: CPCtestimony
Cc: hawaiiocfront@yahoo.com
Subject: Submitted testimony for SB41 on Mar 11, 2013 14:00PM

SB41

Submitted on: 3/8/2013

Testimony for CPC on Mar 11, 2013 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Adeline Andres	Individual	Comments Only	No

Comments: This letter is written in to Oppose SB 41 SD1 in its present form. SB 41, in its original form, sought to provide clarity that activities associated with owner rental representatives, as required by Landlord Tenant Code and referenced in Act 326, take place under the auspices of HRS 467. SB 41 SD1, instead of clarifying who these individuals may be, conflicts with existing Statutes HRS 521 and HRS 467, and it lacks clarity. SB 41 SD1 is very confusing and does not serve to identify for operators of rental real estate who can be a representative in Act 326. The matter of when an owner representative for rental real estate is required, and who this individual can be is very simple, and has been law in Hawaii for 30 years. The existing statutes that are involved with "Local Contact" identification cited in Act 326 are as follows: 1) The Landlord Tenant Code HRS 521-43(f) states that an off island rental owner must use an on-island agent to act on their behalf. (This requirement is to protect the renter in the event of a problem or emergency during the rental period.) The ability and authority to act on the owner's behalf is very important, and required by this clause. The Real Estate Code HRS 467 identifies only two options for who the above individual may be. 1) A "Caretaker or Custodian" as allowed in HRS 467-2(3), and defined in 467-1, can provide this service for one rental owner only, their employer. 2) A Real Estate Licensee Item (1) above pertaining to the Landlord Tenant Code is discussed at length in Section 1 of Act 326. It has been Hawaii Law since 1983 that the persons who can act as a representative of a rental owner or Landlord are the two options provided by the Real Estate Code. A simple statement of these statutory requirements in the definition of who this On-Island agent aka Local Contact is all that is needed the definition of this individual within Act 326. Thank you for the opportunity to testify.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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kawakami2 - Rise

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, March 09, 2013 8:10 AM
To: CPCtestimony
Cc: nealhalstead@yahoo.ca
Subject: Submitted testimony for SB41 on Mar 11, 2013 14:00PM

SB41

Submitted on: 3/9/2013

Testimony for CPC on Mar 11, 2013 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Neal Halstead	Individual	Support	No

Comments: As a proud owner of a transient rental accomodation property in the beautiful State of Hawaii, I am submitting comments expressing our support of House Bill 41 SD1 as it is currently drafted. The Senate took great deal of time addressing the need for clarification of the on island contact and allowed interested stakeholders to work together and reach a consensus on the role of a local contact, including what a local contact can and cannot do. I believe this language is accurately reflected in House Bill 41 SD1. Thank you for your hard work and thought on this issue. Neal Halstead

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kawakami2 - Rise

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, March 09, 2013 8:51 AM
To: CPCtestimony
Cc: joeslabe@hotmail.com
Subject: Submitted testimony for SB41 on Mar 11, 2013 14:00PM

SB41

Submitted on: 3/9/2013

Testimony for CPC on Mar 11, 2013 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Joe Slabe	Individual	Support	No

Comments: As the owner of a rental property on Maui, I would like to support the language clarifying the definition and role of the on island contact contained in this legislation. I fully support the state's need to create accountability from property owners and to benefit from the taxation of rental properties and believe this definition of an on island contact protects renters while allowing Hawaiian citizens who currently act as on island contacts to continue in that capacity.

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kawakami2 - Rise

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, March 09, 2013 10:03 AM
To: CPCtestimony
Cc: stoopse@gmail.com
Subject: Submitted testimony for SB41 on Mar 11, 2013 14:00PM

SB41

Submitted on: 3/9/2013

Testimony for CPC on Mar 11, 2013 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Elen Stoops	Individual	Support	No

Comments: Dear Legislators, I support the language in this bill that clarifies the definition and role of a local contact for a operator of a transient vacation rental. It is a clear and good definition of a local contact and achieves the consumer protection that is required. Mahalo for the opportunity to provide testimony.

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kawakami2 - Rise

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, March 09, 2013 4:42 PM
To: CPCtestimony
Cc: baitken@knitart.com
Subject: Submitted testimony for SB41 on Mar 11, 2013 14:00PM

SB41

Submitted on: 3/9/2013

Testimony for CPC on Mar 11, 2013 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Bonnie Aitken	Individual	Support	No

Comments: I am grateful for the willingness of the legislators to work together with the interested stakeholders to draft legislation which clearly defines the role of the local contact person. The current draft of HB41 SD1 is helpful for property owners in that it makes quite clear the function of the local contact person which the property owner must provide to ensure the safety and well being of their guests. We all want happy tourists who want to return to Hawaii with friends. Mahalo for listening. Perhaps our Federal government could take lessons! Bonnie Aitken

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kawakami2 - Rise

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, March 09, 2013 4:45 PM
To: CPCtestimony
Cc: akamumra@aol.com
Subject: Submitted testimony for SB41 on Mar 11, 2013 14:00PM

SB41

Submitted on: 3/9/2013

Testimony for CPC on Mar 11, 2013 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
MEREDITH JOHNSON	Individual	Support	No

Comments: I am in favor of the clarification of the "local contact" in this document, SB41.

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kawakami2 - Rise

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, March 09, 2013 6:13 PM
To: CPCtestimony
Cc: marshavaughn@comcast.net
Subject: Submitted testimony for SB41 on Mar 11, 2013 14:00PM

SB41

Submitted on: 3/9/2013

Testimony for CPC on Mar 11, 2013 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Marsha Vaughn	Individual	Support	No

Comments: I would like to respectfully offer my support of this bill which a lot of stakeholders put a lot of thought into. It does a good job of clarifying a issue that has been causing problems for some.
Mahalo

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kawakami2 - Rise

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, March 09, 2013 7:14 PM
To: CPCtestimony
Cc: jann@dccnet.com
Subject: Submitted testimony for SB41 on Mar 11, 2013 14:00PM

SB41

Submitted on: 3/9/2013

Testimony for CPC on Mar 11, 2013 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Jann Mittlestead	Individual	Support	No

Comments: I am submitting support of House Bill 41 SD1 as it is currently drafted.

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kawakami2 - Rise

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, March 10, 2013 6:08 AM
To: CPCtestimony
Cc: carabirk@gmail.com
Subject: Submitted testimony for SB41 on Mar 11, 2013 14:00PM

SB41

Submitted on: 3/10/2013

Testimony for CPC on Mar 11, 2013 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Cara Birkholz	Individual	Support	No

Comments: I support of House Bill 41 SD1 as it is currently drafted (March 9, 2013). I am encouraged that the stakeholders involved have worked together to come up with wording for this bill that makes sense to all involved. Mahalo. Cara Birkholz Kihei HI

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House of Representatives
Twenty-Seventh Legislature, 2013
State of Hawaii

To: Honorable Angus McKelvey, Chair
Honorable Derek Kawakami, Vice Chair

Date: Monday, March 11, 2013

Time: 2:00 PM

Place: Conference Room 325
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

From: Rental By Owner Awareness Association

RE: SENATE BILL 41 SD1, RELATING TO REAL ESTATE

Chair McKelvey, Vice Chair Kawakami, and members of the Committee,

On behalf of the Rental By Owner Awareness Association, I am submitting comments expressing our **support of Senate Bill 41 SD1 as it is currently drafted.**

The Senate took great deal of time addressing the need for clarification of the on island contact and allowed interested stakeholders to work together and reach a consensus on the role of a local contact, including what a local contact can and cannot do. We believe this language is accurately reflected in Senate Bill 41 SD1.

Thank you for the opportunity to testify on this measure.

Sincerely,

Alicia J. Hopkins
President

kawakami2 - Rise

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, March 10, 2013 7:28 AM
To: CPCtestimony
Cc: bob@humistonandcompany.com
Subject: Submitted testimony for SB41 on Mar 11, 2013 14:00PM

SB41

Submitted on: 3/10/2013

Testimony for CPC on Mar 11, 2013 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Robert Humiston	Individual	Comments Only	No

Comments: I do not see a need for this bill as the on island contact is already defined in HRS 467. If you must pass a bill, this one seems to follow the intent of what was passed last year.

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kawakami2 - Rise

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, March 10, 2013 7:33 AM
To: CPCtestimony
Cc: SherlBlod@aol.com
Subject: Submitted testimony for SB41 on Mar 11, 2013 14:00PM

SB41

Submitted on: 3/10/2013

Testimony for CPC on Mar 11, 2013 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Gladys Sherley Blodgett	Individual	Support	No

Comments: SD1 to SB41 is a great improvement over the original bill in defining the limitations permitted by a "Local contact."

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kawakami2 - Rise

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, March 10, 2013 10:57 AM
To: CPCtestimony
Cc: Lindafinearts@yahoo.com
Subject: Submitted testimony for SB41 on Mar 11, 2013 14:00PM

SB41

Submitted on: 3/10/2013

Testimony for CPC on Mar 11, 2013 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Linda Mitchell	Individual	Support	No

Comments: Please keep the wording about the on-island contact as in this bill.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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This letter is written in to Oppose SB 41 SD1 in its present form.

SB 41, in its original form, sought to provide clarity that activities associated with owner rental representatives, as required by Landlord Tenant Code and referenced in Act 326, take place under the auspices of HRS 467.

SB 41 SD1, instead of clarifying who these individuals may be, conflicts with existing Statutes HRS 521 and HRS 467, and it lacks clarity. SB 41 SD1 is very confusing and does not serve to identify for operators of rental real estate who can be a representative in Act 326.

The matter of when an owner representative for rental real estate is required, and who this individual can be is very simple, and has been law in Hawaii for 30 years.

The existing statutes that are involved with “Local Contact” identification cited in Act 326 are as follows:

1) The Landlord Tenant Code HRS 521-43(f) states that an off island rental owner must use an on-island agent **to act on their behalf**. (This requirement is to protect the renter in the event of a problem or emergency during the rental period.) The ability and authority to act on the owner’s behalf is very important, and required by this clause.

The Real Estate Code HRS 467 identifies only two options for who the above individual may be.

1) A “Caretaker or Custodian” as allowed in HRS 467-2(3), and defined in 467-1, can provide this service for one rental owner only, their employer.

2) A Real Estate Licensee

Item (1) above pertaining to the Landlord Tenant Code is discussed at length in Section 1 of Act 326.

It has been Hawaii Law since 1983 that the persons who can act as a representative of a rental owner or Landlord are the two options provided by the Real Estate Code.

A simple statement of these statutory requirements in the definition of who this On-Island agent aka Local Contact is all that is needed the definition of this individual within Act 326.

Thank you for the opportunity to testify.

The following individuals submitted the same written testimony in opposition to SB 41:

Leigh Ann Conway

Christopher Conway

Jennifer Conway

Margaret Alderman

West Hawaii Property Services, Inc.

Dawn C. Kane