

SB 41

Measure Title: RELATING TO REAL ESTATE.
Report Title: Real Estate; Custodians or Caretakers; Rental Properties
Description: Clarifies the activities custodians or caretakers may engage in under chapter 467, Hawaii Revised Statutes.
Companion:
Package: None
Current Referral: CPN
Introducer(s): BAKER (Introduced by request of another party)

<u>Sort by Date</u>		Status Text
1/17/2013	S	Introduced.
1/17/2013	S	Passed First Reading.
1/17/2013	S	Referred to CPN.
1/25/2013	S	The committee(s) on CPN has scheduled a public hearing on 02-01-13 8:30AM in conference room 229.



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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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 SENATE COMMITTEE ON
COMMERCE AND CONSUMER PROTECTION

TWENTY-SEVENTH STATE LEGISLATURE
REGULAR SESSION, 2013

FRIDAY, FEBRUARY 1, 2013
8:30 A.M.

TESTIMONY ON SENATE BILL NO. 41
RELATING TO REAL ESTATE

TO THE HONORABLE ROSALYN H. BAKER, CHAIR,
AND TO THE HONORABLE BRICKWOOD GALUTERIA, 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, 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 opposition to the bill.

Senate Bill No. 41 amends the definition of "custodian or caretaker" in §467-1, Hawaii Revised Statutes ("HRS"), to clarify that a custodian or caretaker does not include a designated agent or local contact. The bill also exempts from licensing requirements individuals who act as a designated agents or local contacts.

A real estate broker's or salesperson's license is required to (1) lease or offer to lease; (2) to rent or offer to rent; and (3) to manage or offer to manage any real estate. (§§ 467-1 and 467-7, HRS.) Under the bill, persons acting as "designated agents" or "locals contacts" could manage properties for more than a single owner without a real estate license.

The bill as drafted is confusing and we are unsure of its intent. Therefore, RICO opposes this bill, which we believe contradicts the current licensing law requiring a real estate license to lease, rent, or manage property and deprives consumers of important consumer protections afforded by chapter 467, including requirements that monies be placed in trust and prohibiting false advertising.

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

**PRESENTATION OF THE
REAL ESTATE COMMISSION**

**TO THE SENATE COMMITTEE ON
COMMERCE AND CONSUMER PROTECTION**

**TWENTY-SEVENTH LEGISLATURE
Regular Session of 2013**

**Friday, February 1, 2013
8:30 a.m.**

TESTIMONY ON SENATE BILL NO. 41 - RELATING TO REAL ESTATE.

**TO THE HONORABLE ROSALYN H. BAKER, 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 testimony on Senate Bill No. 41, Relating to Real Estate, and opposes this measure for the following reasons.

The Commission is unsure of the proposed amendments' intent and purpose. The current real estate licensing statute chapter 467, Hawaii Revised Statutes ("HRS"), clearly provides that all persons practicing real estate must attain a real estate license unless there is an applicable exception. One of the exceptions found in section 467-2, HRS, is the "custodian" or "caretaker" designation.

The proposed amendment appears to amend the "custodian" or "caretaker" exception to include any individual who:

- Manages, or offers to manage any real estate or the improvements thereon of which the individual is the custodian or caretaker;
- Acts as a designated agent pursuant to section 521-43(f); or
- Acts as a local contact pursuant to Act 326, Session Laws of Hawaii 2012.

This measure then further excludes the same exception from the definition of a "custodian" or "caretaker," found in section 467-1, HRS, for any individual who:

- Manages or offers to manage any real estate for more than a single owner;
- Acts as a designated agent pursuant to section 521-43(f); or
- Acts as a local contact pursuant to Act 326, Session Laws of Hawaii 2012.

By providing an exception and then removing the exception from the definition, this proposed measure basically negates itself. The proposed amendments, therefore, are unnecessary.

The Commission provides further opposition as this measure attempts to have two areas not regulated by the Commission to be regulated: a chapter 521, HRS, designated agent; and a chapter 237, HRS, local contact. Section 26H-6, HRS, requires that new regulatory measures being considered for enactment be referred to the Auditor for a sunrise analysis. The statute further requires that the analysis shall set forth the probable effects of regulation, assess whether its enactment is consistent with the legislative policies of the Hawaii Regulatory Licensing Reform Act, and assess alternative forms of regulation.

For the aforementioned reasons, the Commission opposes Senate Bill No. 41. Thank you for the opportunity to testify.



February 1, 2013

This letter is written in SUPPORT of SB 41.

Over the past decade, an increasing number of unlicensed individuals have appeared offering rental services to multiple owners in conflict with the clear intent of HRS 467-1 & 467-2 in this regard.

The wording clarifications to HRS 467 advocated within SB-41 will make the requirement of a real estate license more clearly understood when real estate rental services are provided to more than one owner by more specifically identifying these activities.

These clarifications will also serve to illustrate that the rental representative as identified in the Landlord Tenant code HRS 521-43(f) and ACT 326 is consistent with HRS 467 regulations, and not an alternative to, or in conflict, with HRS 467.

Your support of this bill will remove ambiguity, and improve the clarity of HRS 467.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Daniel Monck", is written over a horizontal line.

Daniel Monck
President
Hawaii Association of Vacation Rental Managers

February 1, 2013

The Honorable Rosalyn H. Baker, Chair

Senate Committee on Commerce and Consumer Protection
State Capitol, Room 229
Honolulu, Hawaii 96813

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

HEARING: Friday, February 1, 2013 @ 8:30 a.m.

Aloha Chair Baker, Vice Chair Galuteria, 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 **submits comments** on S.B. 41 which clarifies the activities custodians or caretakers may engage in under Chapter 467, Hawaii Revised Statutes.

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 agent, and to ease tax enforcement.

S.B. 41 serves to strengthen and clarify Act 326, by narrowing the definition of caretaker or custodian, and making it clear that any person who manages property or is designated as a local contact for more than one property is subject to HRS Chapter 467, the real estate and salespersons licensing law. The intent of H.B. 23 is therefore consistent with the purpose of this chapter.

HAR notes that these amendments also make it clear that, if a person engages in unlicensed activity, the Regulated Industries Complaint office (RICO), in conjunction with the Real Estate Commission (REC) has the power to enforce the licensing law.

Mahalo for the opportunity to testify.

SB41

Submitted on: 1/30/2013

Testimony for CPN on Feb 1, 2013 08:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Amanda Steenman	Prince Properties Inc.	Support	No

Comments: If an individual is in fact performing a real estate rental service being it a "helpful" person, a cleaner, maintenance person or some other unlicensed person it would only make sense that a person is licensed and held to a certain set of standards. It would offer all property owners and visitors to our island protection from not only poorly managed operations but possible harmful actions. The wording suggested by HB-23 and SB-41 will make the requirement for a real estate license and the operation under supervision of a broker more defined and will set the high standards required to provide correct management of properties. These clarifications will clearly improve HRS 467 and reduce the amount of difficulties actual property managers like us run into on a daily basis.



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Waikoloa highlands Shopping Center
68-1845 Waikoloa Rd. Suite 104
Office: (808) 883-9550
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www.hawaiidreamproperties.com

January 29, 2013

Aloha,

This letter is written in SUPPORT of HB-23 and SB 41.

Years ago, the State of Hawaii decided that individuals or companies that were involved in the rental of properties in Hawaii were in fact performing a real estate transaction. This decision required the individual or business to obtain a real estate license, and for the enterprise to be under the supervision of a real estate broker with oversight from the real estate commission.

This move offered consumers, both property owners and the visitor public, significant protections from unscrupulous and poorly managed operations.

Over the past decade, an increasing number of unlicensed individuals have appeared offering rental services to multiple owners in conflict of the clear intent of HRS 467-1 & 467-2 in this regard.

The wording of HB-23 and SB-41 is meant to make the requirement for a real estate license requirement more clearly defined when providing real estate rental services by more clearly identifying these activities.

Your support of this bill will remove ambiguity, and improve clarity of HRS 467 in this regard, and provide the public the consumer protection they expect and deserve.

Sincerely,

A handwritten signature in cursive script that reads "J. F. Albone".

Jim Albone
Broker-in-Charge

ABBHEY VACATION RENTALS
purveyors of paradise

MAILING ADDRESS
77-6425 Kuakini Hwy.
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mail@konarentals.net
mail@kohalarentals.com

1/29/2012

This letter is written in SUPPORT of HB-23 and SB 41.

Years ago, the State of Hawaii decided that individuals or companies that were involved in the rental of properties in Hawaii were in fact performing a real estate transaction. This decision required the individual or business to obtain a real estate license, and for the enterprise to be under the supervision of a real estate broker with oversight from the real estate commission.

This move offered consumers, both property owners and the visitor public, significant protections from unscrupulous and poorly managed operations.

Over the past decade, an increasing number of unlicensed individuals have appeared offering rental services to multiple owners in conflict of the clear intent of HRS 467-1 & 467-2 in this regard.

The wording of HB-23 and SB-41 is meant to make the requirement for a real estate license requirement more clearly defined when providing real estate rental services by more clearly identifying these activities.

Your support of this bill will remove ambiguity, and improve clarity of HRS 467 in this regard, and provide the public the consumer protection they expect and deserve.

Sincerely yours,

Eme Manley

RENTAL BY OWNER AWARENESS ASSOCIATION

% 841 Bishop Street, Suite 2100 | Honolulu, Hawaii 96813

House of Representatives
Twenty-Seventh Legislature, 2013
State of Hawai'i

TO: Honorable Rosalyn Baker, Chair
Honorable Brickwood Galuteria, Vice Chair

DATE: Friday, February 1, 2013

TIME: 8:30 AM

PLACE: Conference Room 229
Hawai'i State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

FROM: Rental By Owner Awareness Association

RE: SENATE BILL 41, RELATING TO REAL ESTATE

Chair Baker, Vice Chair Galuteria, and members of the Committee,

On behalf of the Rental By Owner Awareness Association, I am submitting comments expressing our significant concern with Senate Bill 41. SB 41 aims to clarify the activities custodians or caretakers may engage in under chapter 467, Hawaii Revised Statutes.

We are concerned that SB 41, in its current form, does not provide sufficient clarification in two areas; 1) the definition of "custodian or caretaker," and 2) the criteria for licensure exemptions. As such, the members of the Rental By Owner Awareness Association respectfully request that you hold SB 41 until a full understanding of the measure is reached. We would appreciate the opportunity to share our experience with policymakers and look forward to a positive discussion on this issue.

Thank you for the opportunity to testify on this measure.

Sincerely,

Alicia J. Hopkins
President



Condominium Rentals Hawaii

362 Huku Li'i Pl., # 204, Kihei, HI 96753 • Tel (808) 879-2778 • Toll Free (800) 367-5242 • Fax (808) 879-7825

January 31, 2013

Dear Chairwoman Baker:

I am writing in Support of SB41.

The changes proposed in SB41 will clear up any uncertainty as to when a person can act as a caretaker or custodian and when they must be licensed to perform real estate services for multiple property owners.

Currently there are many individuals who are acting as managers without proper licensing thereby consumers are not being afforded protections guaranteed when licensed individuals perform these same tasks.

I ask for your favorable consideration of this bill.

Mahalo,

R. Allan Raikes
President

RAR/lm



Waikoloa Vacation Rental Management Inc
P.O. Box 385529, Waikoloa, Hawaii 96738
808-987-4519 831-308-7799 eFax
waikoloavrm@aol.com www.WaikoloaVacationRentals.com

Aloha Senator Baker and Members of the Committee,

The existing law of the State of Hawaii requires that if you are going to be involved in real estate activity and an agent for more than one owner you must be licensed. This law seems to be unclear to many and in its current form is unenforceable.

SB 41 seeks to clarify this as well as bring it under the jurisdiction of a single enforcement agency.

Mahalo,

A handwritten signature in black ink, appearing to read "Rob Dalton". The signature is fluid and cursive, with the first and last letters of each word being capitalized and prominent.

Rob Dalton

Timberline Land Co. HI, LLC
91 Midpark Crescent SE Calgary, Alberta
Canada, T2X 1S7

January 31, 2013

Attention: State of Hawaii
Senate Commerce and Consumer Protection Committee

Re: Opposition to SB 41

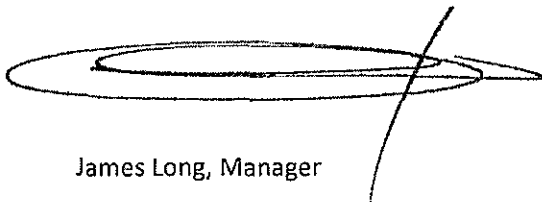
We are the owner of a vacation rental property on the Big Island and are opposed to SB 41.

This bill is confusing as to what it is intending to achieve. On face value it appears that this bill is to trying to achieve what some real estate agents who manage transient accommodation were unable to achieve in 2012 with respect to the 1:1 ratio for on island managers concerning transient accommodation. This issue was debated extensively last year and this bill seems to be a crude attempt to reintroduce this topic for discussion.

Additionally the current draft of this bill appears to amend the "custodian" or "caretaker" exception to include any individual who acts as a local contact pursuant to Act 326. Then it exempts a local contact pursuant to Act 326, making this proposed measure completely unnecessary.

As a result I of the foregoing we oppose SB 41.

Respectfully,
Timberline Land Co. HI, LLC

A handwritten signature in black ink, consisting of a large, stylized loop followed by a vertical stroke that extends downwards and to the right.

James Long, Manager

SB41

Submitted on: 1/31/2013

Testimony for CPN on Feb 1, 2013 08:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Paul W. Shields	Sunshine & Rainbows L.L.C.	Comments Only	No

Comments: The idea that only one person can represent one Condominium owner is outrageous. We have had a On Island company represent us and handle emergencies or report problems for years They have many, and I do mean many people who's property they manage, and maintain, and their other division cleans the condominiums between customers. I have never in the 12 years I have owned property on Maui been let down by this organization. They are a great help and I count on them to keep me and my friends condominiums in perfect working order. Mr. Sullivan and the others who testify in favor of this measure have an agenda that will benefit them and them alone. In this case the thing to remember is that we are organized now and RBOAA has the money to back candidates who support our point of view. Remember "The needs of the many out weigh the needs of the few".

SB41

Submitted on: 1/31/2013

Testimony for CPN on Feb 1, 2013 08:30AM in Conference Room 229

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

Comments: Dear Legislators Pursuant to Act 326 of Hawaii Legislative period 2012, owners of vacation rentals are in compliance, and meet the objectives of supporting efforts by the Department of Taxation as well as important Consumer Protection measures when they:

- prominently post their Tax ID on all internet advertising
- designate a local contact residing on the same island as the rental
- report (and provide timely update of changes) the local contact relevant information to their condominium association
- prominently post the local contact information in their rental agreements and in the rental unit

HB23 and SB41 have been introduced with stated intention to provide further clarification of the activities an unlicensed custodian or caretaker may engage in while leasing, renting or managing on behalf of a single owner. These bills state that leasing, renting or managing for more than one owner requires licensing under HRS 467. It appears from the testimony for HB23 as well as the language of the bill itself there is not a common interpretation of what HB23 and SB41 actually clarify, or whether they indeed do meet the stated objective of providing clarification. I support any intention by this bill or HB23 to provide clarification that any person who rents, or leases a property should be either licensed per HRS467 or shall be the owner of the property. I am opposed to any restrictions placed on a local contact such that this local contact may provide services only to a single owner, where the local contact is not engaged in renting, or leasing activities. The term "manages" used in conjunction with "renting", or "leasing" is sufficiently vague to warrant either further clarification or to be removed from the bills. I believe it is the appropriate intent that individuals who rent or lease more than one property must either be licensed per HRS467 or must be the owner acting on their own behalf as is also allowed in HRS467. Thank you for this opportunity to provide Testimony.

Dear Legislators,

Pursuant to Act 326 of Hawaiian Legislative period 2012, self-managing owners of Transient Vacation Rentals, TVR, are required to meet several important and necessary objectives. Most importantly, they are to comply with Hawaii tax laws and both collect and remit TAT and GET taxes to the state. They must also protect the consumer visiting the state by ensuring that the owner-operator has provided to the consumer, the contact information for an emergency contact person who resides on the same island on which the TVR is located.

The self- managing owner must also provide and keep current the local emergency contact person's contact information to the entity that provides administrative support to the property such as the administrator for a HOA association. The self -managing owner must also provide the local contact's information in their contract with the consumer and also inside the TVR. The self-managing owner must also display on their online advertisements, their tax ID number.

There is nothing in HB2078, H.D.2, S.D.2, and C.DS.1 which became Act 326 in 2012 which states that the emergency contact person is the manager of the TVR. The contact person is merely a contact person for the safety of the consumer.

The introduction of SB41 and HB23, identical bills, attempt to change the meaning of the function of the contact person. These bills imply that the contact person is also managing the TVR, collecting rent, taxes, signing contracts, and therefore subject to HRS467. This would mean that the contact person now must be a licensed real estate professional if they "manage" more than one TVR.

However, if the contact person is not managing the TVR, but merely a contact person, they do not need to be licensed even-though they may be a contact person for more than one TVR. Given the population permanently residing on the islands, there simply are not enough people to have a 1:1 ratio of contact persons to non- resident self- managing owners.

I support any intention of this bill to clarify that any person who rents or leases a property should be either licensed per HRS467 or shall be the owner of the property acting on their own behalf as allowed in HRS467. I am opposed to any restrictions placed on a local contact such that this person may provide such services to only a single owner. This local contact does not necessarily "manage" the TVR as both SB41 & HB23 inaccurately imply.

I thank you for this opportunity to provide Testimony.

Sincerely,

Bonnie Aitken

Dear Senators,

I am a nonresident Maui vacation rental owner who opposes HB23 and SB41 for the following reasons:

The proposed amendment appears to amend the "custodian" or "caretaker" exception to include any individual who acts as a local contact pursuant to Act 326. Then it exempts a local contact pursuant to Act 326, making this proposed measure unnecessary.

I also oppose any measure that would limit a local contact from being able to serve more than one owner as long as the local contact does not rent, offer to rent or collect rent for more than one owner.

Both of these bills are poorly written and cause confusion regarding its intent. The term 'manage any real estate' will require more legislation next year to define what duties are included in 'manage any real estate'.

I believe that the proposed intention of these bills, is to force nonresident vacation rental owners to eventually hire on island property managers or licensed real estate personal to manage their properties. Using the explanation that this would tackle the problem of nonresident owners who do not pay their GET/TAT taxes, is ridiculous. That issue has already been addressed with new and existing laws. The state should enforce those laws instead of create new ones. Prohibiting our on island contacts from working for more than one owner, when all they are doing is handling emergency issues that require an on hands approach, would put them all out of business.

Instead of constantly attacking the off island owners that love the state of Hawaii and only serve to improve the service they provide to the tourist industry in your beautiful state, the legislators should focus on who is really causing the problems. Since all the chaos last year, I am still waiting for that to happen!

Mahalo,

Ada Eschen

OPPOSING SB41

This Bill is Ridiculous, You are just trying to make it difficult for Owners to Own Property in Hawaii which brings in Most of the Tourist Revenue for ALL Of the State of Hawaii.

I also oppose any measure that would limit a local contact from being able to serve more than one owner as long as the local contact does not rent, offer to rent or collect rent for more than one owner.

Owners and their On Island Contacts Support and Serve All Rentors more than any On Island Realty or Management Company as you cannot reach them After Hours or on Weekends. The On Island Contact that Owners have chosen have Agreed to be Available 24/7 and They do an Outstanding Job and can be the contact person for many many units at the same time. They are Excellent At being a Contact person for multiple units.

This is like saying Realty companies can Only Represent One possible Buyer at a time. Extremely Ridiculous.

Signed,

A Concerned Owner in Kona,

G. Mackey

SB41

Submitted on: 1/31/2013

Testimony for CPN on Feb 1, 2013 08:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
cathy eckel	Individual	Comments Only	No

Comments: I am opposed to any changes in current law that would prohibit a local agent from acting as a local agent for more than one property. A local agent is on "on-island" contact a guest can call when they cannot reach the off-island owner in the case of a problem such as a plumbing, electrical or lock issue. Many of the condos this applies to already have AOAO maintenance on site and usually the owner is merely a phone call or email away, no matter where they reside. We have been an off-island owner for over twenty years and can only think of two instances when our guests contacted our on-island contact. And when they did, our on-island contact merely made a couple of calls to the appropriate repairmen to resolve the issue. There is no reason that local contacts cannot serve more than property or one owner. It does not take any training to call a plumber and if the local contact only needs to call them twice in twenty years there is no reason they cannot serve as a local agent for many owners. Off-island owners are one of Hawaii's best resources. They enthusiastically talk to prospective visitors every day and offer wonderful personalized attention to their guests. Please do not pass any legislation which would restrict their ability to use local agents effectively by limiting the number of property owners a local agent can serve.

As was the case with HB23, I am writing to express opposition to the recently proposed HB41. My first question is why is this happening again? Are the few realtors and real estate agents on Maui determined to take away our right to rent and equitably maintain our properties? It appears to me as forcing a 'monopoly' situation where independent owners must use a particular group of people to manage their rental properties and are also being asked to not employ someone who works for more than one person. In my opinion, that goes against the grain of our free enterprise system and I see no one's gain except the realtors and real estate companies who have been looking to corner the market and force independent owners to use their services. As previously stated on HB23, not only does this proposal spit in the face of our basic republic system, it also leads to higher costs, less flexibility, and these things would eventually (if not immediately) impair our ability to do business. It will also retard the flow of business to and from Maui, which I'm sure, even the realtors and real estate people who are proposing this, would not want. I am vehemently opposed to this proposition and strongly urge all to consider the motives of those who are presenting this bill. Since HB23 failed, this is just another end run around that bill to achieve basically the same result. Julie Zweber

IN OPPOSITION TO HAWAII HB23 and SB41

Proposed Hawaii Bills HB23 and SB41 are attempting to remove the ability for self manage and operate my Maui condominium as is currently provided for by Hawaii State law. This is being done via HB23 and SB41 by redefining the local contact, that was introduced and required by 2012 Hawaii Session Law Act 326, to being the property manager when this is in fact not the case.

I have owned and self operated a legal vacation rental condominium in Kaanapali since September of 2012. During that time all business registration, state taxes and other legal operational requirements have been complied with. I personally advertise, contract and invoice all rental contracts. I personally arrange by private contract for cleaning services and make arrangements for on-site maintenance staff to address maintenance issues. I directly subsidize guest check-in and valet services through the front-desk of the condominium hotel of which my condominium is a part. All guests have my personal number for any emergency situation and the number of the local contact.

To suggest, as does HB23 and SB41 do, that the local contact manages my condominium is a farce. The local contact plays no role in managing the vacation rental and there has in fact been no need for any guest to contact the local contact for any reason.

The proposed legislation would bind the local contact to the limitations of one local contact per vacation rental. Given that the number of people offering services of being a local contact is vastly less than the number of self managed vacation rentals, this will force owners to employ real estate agents. For most owners, self operation is break even at best the additional costs of employing real estate agents unnecessarily would force many to sell their units. This is not good for Hawaii tourists who are very supportive of self managed vacation rentals, nor good for the Hawaii economy.

I urge you to vote NO to HB23 and SB21.

Thanks for your consideration.
Geoff Scotton

SB 41

Meredith Johnson

Kihei, HI 96753

1/31/2013

I OPPOSE..... SB41 which tries to redefine what is already in place in regards to a "local contact."

SB41 tries to clarify the activities custodians or caretakers may engage in under chapter 467, Hawaii Revised Statutes.

It is fine the way it is currently written.

As long as the "local contact" does NOT lease, rent or manage property, and is available to help guests if they run into problems, there is no need for them to be a licensed realtor or rental manager. They can be available for more than one owner, also.

Respectfully submitted:

Meredith G. Johnson

SB41

Submitted on: 1/31/2013

Testimony for CPN on Feb 1, 2013 08:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
john eckel	Individual	Comments Only	No

Comments: I am opposed to any changes in current law that would prohibit a local agent from acting as a local agent for more than property. A local agent is on "on-island" contact a guest can call when they cannot reach the off-island owner in the case of a problem such as a plumbing, electrical or lock issue. Many of the condos this applies to already have AOO maintenance on site and usually the owner is merely a phone call or email away, no matter where they reside. We have been an off-island owner for over twenty years and can only think of two instances when our guests contacted our on-island contact. And when they did, our on-island contact merely made a couple of calls to the appropriate repairmen to resolve the issue. There is no reason that local contacts cannot serve more than property or one owner. It does not take any training to call a plumber and if the local contact only needs to call them twice in twenty years there is no reason they cannot serve as a local agent for many owners. Off-island owners are one of Hawaii's best resources. They enthusiastically talk to prospective visitors every day and offer wonderful personalized attention to their guests. Please do not pass any legislation which would restrict their ability to use local agents effectively by limiting the number of property owners a local agent can serve. Mahalo

SB41

Submitted on: 1/31/2013

Testimony for CPN on Feb 1, 2013 08:30AM in Conference Room 229

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

Comments: whom it may concern, I live on Maui and own four vacation rental condos on Maui. I self-manage my own condos (and am therefore my own on-island contact). I am opposed to any changes in current law that would prohibit a local agent from acting as a local agent for more than one property. A local agent is on 'on-island' contact a guest can call when they cannot reach the off-island owner in the case of a problem such as a plumbing, electrical or lock issues. (Please note that most condo complexes have resident managers who would be called especially for plumbing and electrical problems as they affect the entire building.) In many cases, the on-island contact is the housekeeper. In my opinion the housekeepers are best suited for the job of 'on-island contact', as they are intimately familiar with the condos they clean regularly. Having a random licensed realtor who rarely enters the condo as an 'on-island' contact makes very little sense. Last year realtors and property managers put up a good fight trying to take over the marketing and managing of all off-island owned vacation rentals here on Hawaii by claiming off-island owners weren't submitting their share in taxes. I don't know if that's true, but the Hawaii legislature passed laws to aid in enforcement, and I do hope tax collection is being enforced for all. However, had some of the proposed changes passed in the property managers' favor, these managers would have stood to gain huge windfalls in new commissions as off-island owners would have been forced to use them to rent out their condos. Most of these self-managed off-island owners choose not to use property management companies as they have had bad experiences with these managers (I remember reading hundreds of pages of testimony illustrating that last year). I believe disaster was averted with the passing of last year's legislation. I strongly believe many of these off-island owners would have chosen to sell their condos, flooding the market with many additional properties and thus further depressing property prices (and property tax revenue, never mind the lost TA and GE taxes as the condos weren't being rented out at all while trying to sell). Thankfully the Hawaiian legislature did not impose these hardships on off-island condo owners last year. It seems to me, that these same realtors and property managers are now trying to get another kick at the can. I ask that you leave legislation as it currently stands. It may be a good idea to have guidelines for the 'on-island' contacts to follow, however to insist they be licensed with the Hawaii Real-estate Board would be futile. These housekeepers are hard-working Hawaiian residents who can't afford to take several weeks off to take the intense real estate licensing course and exam. For the most part they aren't interested in becoming realtors, they are making good money cleaning. Mahalo for taking my opinion into consideration. Cara Birkholz 808-281-7934 Locally owned and operated condos on Maui www.maui-oceanview-condo.com

SB41

Submitted on: 1/31/2013

Testimony for CPN on Feb 1, 2013 08:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Adam Leamy	Individual	Oppose	No

Comments: Dear Legislators: I oppose this bill and others like it, as introduced this session, in respect of their ultimate and unfortunate disposition of "local contact." In Part II, the bill presents language to honor the "local contact" provision of previous legislation, i.e., by providing appropriate clarification of same by exempting "... a local contact pursuant to Act 326, Session Laws of Hawaii, 2012 ..." from the definition of "custodian or caretaker." Part III contains no reference to "local contact." Part IV, however, advises that "... upon the repeal of Act 326, Session Laws of Hawaii 2012, on December 31, 2015, part II [sic] of this Act shall be repealed and Part III of this Act shall take effect." Accordingly, irrespective of the December 31, 2015 repeal of Act 326 Session Laws of Hawaii 2012, and any subsequent action to further the intent of that Act, this bill would provide supremacy to Part III, which would terminate the exemption of "local contact" from the definition of "custodian or caretaker." I raise this point in respect of the determination by the Legislature last year in passing Bill 2078 in its final form. It agreed that: "[A] local contact is an important aspect of consumer protection. A contact person located on the same island as the transient accommodation is essential in the case of an emergency or natural disaster. An on-island contact is also vital if any questions, concerns, or property issues arise regarding the transient accommodation." The legislature further agreed that " 'Local contact' means an individual or company contracted by the operator of the transient accommodation to provide services required by this section. Nothing in this section shall be deemed to create an employer-employee relationship between an operator and its local contact." In light of this determination by the Legislature last year, the language in this proposed bill would appear to weaken this important consumer protection that has only recently been mandated in the name of those who, in good faith, purchase Hawaii's tourism export. Unless this bill and others like it can uphold this important consumer protection only just mandated by the Legislature, they should rightly garner opposition of Legislators and all those who support a competitive, free-market and consumer-oriented Hawaii tourism industry.

SB41

Submitted on: 1/31/2013

Testimony for CPN on Feb 1, 2013 08:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Jim Stofer	Individual	Oppose	No

Comments: I oppose Senate bill 41 for the following reasons: The proposed amendment appears to amend the "custodian" or "caretaker" exception to include any individual who acts as a local contact pursuant to Act 326. Then it exempts a local contact pursuant to Act 326, making this proposed measure unnecessary. I also oppose any measure that would limit a local contact from being able to serve more than one owner as long as the local contact does not rent, offer to rent or collect rent for more than one owner.

SB41

Submitted on: 1/31/2013

Testimony for CPN on Feb 1, 2013 08:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Della Halvorson	Individual	Oppose	No

Comments: Dear Senators and Representatives We respectfully OPPOSE SB41 and HB23 in the current form. We are owners of a vacation rental property in a condominium complex zoned/approved for short-term rentals. The revision in its current form mentions that an on-island contact would only be able to serve owners 1:1. We don't understand how this is beneficial to anyone, especially the hardworking cleaners and maintenance personnel who also serve as on-island contacts for the homeowners they work for. The requirement for all off-island homeowners to have a licensed property manager keeps popping up in various bills. We strongly disagree with this concept as we feel that it should be up to owners whether we choose to use the services of a PM or elect to manage our property on our own and opt for an on-island contact only. We currently use the services of a wonderful property management company and feel that it is a great partnership - however, it needs to be a choice!!! Mahalo for considering our testimony, Della & Keith

SB41

Submitted on: 1/31/2013

Testimony for CPN on Feb 1, 2013 08:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Carol Coppel	Individual	Oppose	No

Comments: I oppose Senate bill 41 because: It appears to amend the "custodian" or "caretaker" exception to include any individual who acts as a local contact pursuant to Act 326. It then exempts a local contact pursuant to Act 326, making this proposed measure not necessary. I also oppose any measure that would limit a local contact from being able to serve more than one owner as long as the local contact does not rent, offer to rent or collect rent for more than one owner.

SB41

Submitted on: 1/31/2013

Testimony for CPN on Feb 1, 2013 08:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Kevin Hendra	Individual	Oppose	No

Comments: This is unnecessary legislation with the same intention as last year's property manager led assault on off island owner's ability to manage their properties efficiently and economically. An on island contact is and always has been required. To limit the on island contact's scope to only one client is clearly a limitation on commerce intended to provide property managers a captive market and additional revenue stream that they can't capture in a competitive free market environment. An on island contact is necessary to ensure a good guest experience, take care of guest needs and emergencies. Owners should be free to choose who provides these services and not be forced into the same limited competition these same property managers attempted to force on owners with prior versions of SB2078 last year.

SB41

Submitted on: 1/31/2013

Testimony for CPN on Feb 1, 2013 08:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Sandra J Smith	Individual	Oppose	No

Comments: I oppose any measure that would limit a local contact from being able to serve more than one owner as long as the local contact does not rent, offer to rent or collect rent for more than one owner. As a single property owner I disagree with the property managers that are in support of this bill. This is a step backward to protect the property managers because of the increased popularity of HomeAway/VRBO. As a property owner taxpayer if restrictions are applied it will hurt the economy of the State of Hawaii I will either be forced to take my rental off the market which would cut tourist dollars for the state or be forced to sell. How short sighted of our elected officials. This will hurt the state economy not help it! Please think this through and don't base your decision on what the real-estate/property manager lobbyists are telling you. Respectfully submitted- Sandra Smith VRBO Listing #53607 Home Away Property #331522 Kapoho Vacationland sjsmith@me.com

SB41

Submitted on: 1/31/2013

Testimony for CPN on Feb 1, 2013 08:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
R. Stewart	Individual	Oppose	No

Comments: Dear Legislators, OPPOSE SENATE BILL 41 Senate Bill 41 states the purpose is to clarify language. The proposed revisions, however, redefine an on-island contact, custodian or caretaker to be limited to performing work for only one owner or be licensed realtor. In last year's legislative sessions it was reiterated that off-island property owners must provide an on-island local contact for emergency purposes. The legislature stated it was already a longstanding law for consumer protection. The on-island contact has historically not been viewed to be someone who is performing the duties of renting, offering for rent or collecting rent. The on-island contact, custodian or caretaker is now being assigned the definition of managing the property. Further, managing the property would require a real estate license if those functions were performed for more than one owner. The on-island contact for off-island owners has existed for over twenty years. It has not, up to this point, ever been deemed that an on-island contact was performing functions of a licensed realtor. Off-island owners are renting, offering for rent, collecting rents for their own properties. Please recall the Hawaii Board of Realtor's testimony last year regarding this issue. Property owners are allowed to perform the functions of a licensed realtor for their own private property as guaranteed under the US Constitution. Redefining our on-island contact with duties of a licensed realtor is an inaccurate characterization of the functions. I point back to the purpose of on-island contact: it is for emergencies or situations that an off-island owner cannot address due to the necessity of a physical presence. These functions are not licensed realtor functions. Senate Bill 41 is not necessary and is a substantive redefining of the functions of the on-island contact which would result in the necessity to employ a licensed realtor.

SB41

Submitted on: 1/31/2013

Testimony for CPN on Feb 1, 2013 08:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
George Hu	Individual	Oppose	No

Comments: I oppose Senate Bill 41 because I think requiring "local contacts" to only work for one owner is onerous, without any need, and only intended to foster the businesses of bill sponsors. There is no evidence that having a "local contact" provide service for more than one owner is in any way detrimental, any more than a licensed professional serving multiple clients. The only effect of this bill will be to increase costs to law abiding owners who rent through small unlicensed "local contacts" and line the pockets of businesses who speak in favor of this bill. Please let the legislature spend its limited time resolving real problems for the state of Hawaii and promoting tourism, not penalizing law abiding taxpayers who need to turn a profit to continue paying taxes to the state of Hawaii.

SB41

Submitted on: 1/31/2013

Testimony for CPN on Feb 1, 2013 08:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
LuAnn Boone	Individual	Oppose	No

Comments: The proposed amendment appears to amend the "custodian" or "caretaker" exception to include any individual who acts as a local contact pursuant to Act 326. Then it exempts a local contact pursuant to Act 326, making this proposed measure unnecessary. We also oppose any measure that would limit a local contact from being able to serve more than one owner as long as the local contact does not rent, offer to rent or collect rent for more than one owner.

SB41

Submitted on: 1/31/2013

Testimony for CPN on Feb 1, 2013 08:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Robert Rubin	Individual	Oppose	No

Comments: The proposed amendment appears to amend the "custodian" or "caretaker" exception to include any individual who acts as a local contact pursuant to Act 326. Then it exempts a local contact pursuant to Act 326, making this proposed measure unnecessary. I also oppose any measure that would limit a local contact from being able to serve more than one owner as long as the local contact does not rent, offer to rent or collect rent for more than one owner.

SB41

Submitted on: 1/31/2013

Testimony for CPN on Feb 1, 2013 08:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Kathleen Raskowsky	Individual	Oppose	Yes

Comments: SB41 is identical to HB23. This makes the proposed amendment unnecessary.

Submitted By	Organization	Testifier Position	Present at Hearing
Rosemary E. Michaels	Individual	Oppose	No

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