

**SB945**  
**TESTIMONY**

## SB945 Testimony

Delete the words “dwelling units”. I am a non-smoker; but I still respect the rights of others to do what they wish to do in their own unit. I believe there must be a vote by the owners to incorporate this restriction in the bylaws. Rules may be made arbitrarily by Boards (and have in our Association) that do not comply with Hawaii law and go beyond the “unreasonable interference” with use and enjoyment of other units. This may be a health issue; but until the entire state votes to banish smoking from anywhere in other residences, this bill goes too far.

GLADYS SHERLEY BLODGETT  
3823 Lwr Honoapiilani Rd, Apt 317  
Lahaina, HI 96761-8911



To: The Honorable Josh Green, Chair, Committee on Health  
The Honorable Rosalyn Baker, Vice Chair, Committee on Health  
Members, Senate Committee on Consumer Protection and Commerce  
From: Jessica Yamauchi, Executive Director  
Date: January 29, 2013  
Hrg: Senate Committee on Health; Wed., January 30, 2013 at 1:15 p.m. in Rm 229  
Re: **Support for SB 945, Relating to Smoking**

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Thank you for the opportunity to offer testimony in support of SB 945 which allows condominiums and cooperative housing corporations to adopt rules to prohibit smoking in units, common elements, or limited common elements.

The Coalition for a Tobacco Free Hawaii (Coalition) is an independent organization in Hawaii working to reduce tobacco use through education, policy and advocacy. Our organization is a small nonprofit organization of over 100 member organizations and 2,000 advocates that works to create a healthy Hawaii through comprehensive tobacco prevention and control efforts. The Coalition also supports the public through its Smoke-Free Homes Initiative, designed to create smoke-free apartments and condos through voluntary policy adoption.

Secondhand smoke is dangerous; the **U.S. Surgeon General in 2010 notes that any level of exposure to secondhand smoke is dangerous and can be harmful.** The International Agency for Research on Cancer and the U.S. Environmental Protection Agency both note that environmental tobacco smoke (or secondhand smoke) is carcinogenic to humans. Secondhand smoke contains 7,000 identifiable chemicals, 69 of which are known or probable carcinogens.

The Coalition receives calls from residents who reside in multi-unit housing and who have asthma and other health issues affected by secondhand smoke exposure. The Coalition supports efforts that will encourage any multi-unit dwelling to go smoke-free. Condominiums currently have the right to create house rules that will prohibit smoking, but a law will give the condominium boards and residents stronger legal support should they be interested in pursuing a smoke-free policy. Through our efforts we have learned that all residents—regardless if they have asthma, COPD or other health issues—are impacted by the hazards of secondhand smoke.

**All families deserve to live free of second-hand smoke. The only way to ensure this is to prohibit smoking in units.** The American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE) adopted a position that states, “[a]t present, the only means of effectively eliminating health risks associated with indoor exposure is to ban smoking activity. . . No other engineering approaching, including current and advanced dilution ventilation or air cleaning technologies, have demonstrated or should be relied upon to control health risks from ETS [environmental tobacco smoke] exposure in spaces where smoking occurs.”

In addition to protection from second-hand smoke, a smoke-free environment also reduces the fire hazards caused by cigarettes and lessens the high maintenance costs for rehabilitating units formerly occupied by a smoker.



COALITION FOR A  
TOBACCO-FREE HAWAII

Thank you for the opportunity to testify on this matter.

A handwritten signature in black ink that reads "Jessica Yamauchi". The signature is written in a cursive, flowing style.

Jessica Yamauchi, M.A.  
Executive Director

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**Subject:** \*Submitted testimony for SB945 on Jan 30, 2013 13:15PM\*  
**Date:** Tuesday, January 29, 2013 12:36:58 PM

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**SB945**

Submitted on: 1/29/2013

Testimony for HTH on Jan 30, 2013 13:15PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Michael S. Nakasone	Individual	Oppose	No

**Comments:**

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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P.O. Box 976  
Honolulu, Hawaii 96808

January 29, 2013

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

Re: **SB 945 COMMENTS**

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

I chair the CAI Legislative Action Committee. CAI has the following comments about SB 945.

First, it is appropriate to allow cooperative housing corporations and condominium associations to regulate smoking in common areas and common elements (including limited common elements like lanais). CAI has no particular concern about that portion of SB 945, although that power is generally perceived to already exist in condominium associations.

Second, cooperative housing corporations are distinctly different from condominium associations. With respect to condominium associations, at least, it is appropriate to require owner (not board) approval of measures to prohibit smoking within units, to the extent that the impact of smoking behavior remains within units. The power to regulate behavior adversely affecting others outside a unit already exists.

Smokers who live in cooperative housing corporations or condominium associations would be substantially impacted by SB 945 in its current form. Some condominium projects may wish to prohibit smoking in units, and putting the question to the owners is a way to make that decision democratically. There should be reluctance to legislate behavior entirely within a person's home.

Honorable Rosalyn H. Baker  
Honorable Brickwood Galuteria  
January 29, 2013  
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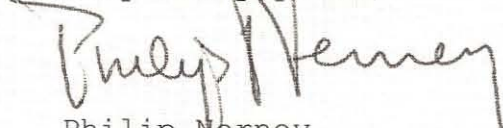
At least, some consideration should be given to delaying implementation of the portion of the law that would enable boards to prohibit smoking within units. Alternatively, SB 945 could be amended to provide that if a board is allowed to prohibit smoking within units, it could only do so after a long notice period. Smokers may benefit from a commercially reasonable amount of time to sell their units before such a prohibition comes into effect.

Even then, it is appropriate to observe that not everyone can afford a single family dwelling. SB 945 would disproportionately impact people with limited housing options.

It is easy to imagine, therefore, that people who are addicted to smoking might feel a strong urge to disobey a prohibition against smoking. CAI asks the Committee to consider the potential enforcement difficulties that might accompany smoking bans lacking the support of a majority of members.

If the Committee is concerned that achieving owner approval of a smoking ban might be impractical at some projects, then the Committee might also consider allowing such a ban to take place with approval by a simple majority of all owners (rather than 67%). There should be a principled basis for setting the bar lower for some By-Law amendments than others, but it is an approach that might be considered.

Very truly yours,



Philip Nerney

THE SENATE  
THE TWENTY-SEVENTH LEGISLATURE  
REGULAR SESSION OF 2013

COMMITTEE ON HEALTH

Senator Josh Green, Chair  
Senator Rosalyn H. Baker, Vice Chair

NOTICE OF HEARING

DATE: Wednesday, January 30, 2013  
TIME: 1:15 p.m.  
PLACE: Conference Room 229  
State Capitol  
415 South Beretania Street

**The Hawaii Smokers Alliance is Strongly Opposed to SB945.**

This bill is a dangerous step against established condo law that currently requires a 2/3 majority for such a major alteration in the terms and conditions that existed when a person bought their condo.

Take for example the condo I live in and own. It has over 240 units and a board of nine members. To allow a split vote of nine people to override the will of hundreds is not just. People spend large amounts of money to buy a condo, and a few people should not override the will of the majority. Owners such as myself would have to spend thousands of dollars in fees and much effort to sell my unit (at a loss from the purchase price mind you) and relocate to a building with a non-bigoted board. And then there would be no guarantee it would stay that way.

What is clear that this bill is purely an attempt at social engineering the lifestyles of others, spearheaded by a tiny ring of professional lobbyists called "Tobacco Free Hawaii" who make their living primarily off the settlement agreement. Please let constituents that own their condos decide this issue for themselves.

Respectfully, Michael Zehner, Co-Chair of the Hawaii Smokers Alliance  
808-952-0275

Note: The Hawaii Smokers Alliance is a citizens group formed in 2006 to promote through education and advocacy the civil rights and liberties of those who enjoy tobacco. The group is self funded by its' members. Hawaiiismokersalliance.net



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**Subject:** Submitted testimony for SB945 on Jan 30, 2013 13:15PM  
**Date:** Monday, January 28, 2013 11:10:14 PM  
**Attachments:** [TERRY AMOS 1.odt](#)

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SB945

Submitted on: 1/28/2013

Testimony for HTH on Jan 30, 2013 13:15PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
TERRY AMOS	Individual	Oppose	No

Comments:

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**Subject:** Submitted testimony for SB945 on Jan 30, 2013 13:15PM  
**Date:** Tuesday, January 29, 2013 8:44:33 PM

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**SB945**

Submitted on: 1/29/2013

Testimony for HTH on Jan 30, 2013 13:15PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Dustin Andrews	Individual	Oppose	No

Comments: This bill is insane. It assumes that people shouldn't have a say unless they are on a condo board. Insulting!

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