

STAND. COM. REP. NO. 3081

Honolulu, Hawaii

MAR 21 2014

RE: H.B. No. 2656  
H.D. 1  
S.D. 1

Honorable Donna Mercado Kim  
President of the Senate  
Twenty-Seventh State Legislature  
Regular Session of 2014  
State of Hawaii

Madam:

Your Committee on Commerce and Consumer Protection, to which was referred H.B. No. 2656, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO CONDOMINIUMS,"

begs leave to report as follows:

The purpose and intent of this measure is to permit condominium associations to call for the review and discharge of a managing agent hired by the association upon a majority vote by the association members.

Your Committee received testimony in support of this measure from the Legislative Action Committee of the Community Associations Institute and one individual. Your Committee received comments on this measure from the American Resort Development Association-Hawaii; Community Associations Institute, Hawaii Chapter; Hawai'i State Association of Parliamentarians; and one individual.

Your Committee finds that this measure specifies that condominium associations may call for the review and discharge of managing agents hired by the association upon a majority vote by association members. However, your Committee has heard the concerns that this requirement is cumbersome, as many associations already experience difficulties meeting quorum requirements for annual meetings. Furthermore, there are additional concerns associated with permitting association members to approve the retention and discharge of managing agents, as all other

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association agents and vendors are hired and discharged only by association boards.

Your Committee notes that the companion to this measure, S.B. No. 3127, S.D. 1, which was previously passed by the Senate, establishes provisions for condominium association annual meetings and quorum requirements, permits the board of an association to employ and discharge the managing agent of an association, and provides an exemption for time share plans.

Your Committee further finds that many condominium associations have been unable to conduct annual ownership meetings because of quorum requirements. The language in S.B. No. 3127, S.D. 1, is therefore preferable because it provides a mechanism to ensure that the annual meeting of a condominium association will occur each year.

Your Committee additionally finds that association boards are mandated to administer an association's property and manage those who are hired to handle the day-to-day functions of the association. The language in S.B. No. 3127, S.D. 1, is therefore preferable because it permits the board of an association, rather than the association itself, to be given the responsibility for the hiring and discharging of a managing agent.

Finally, your Committee has heard the concerns that time share projects that are owned and operated by major hospitality brands have an affiliate of the brand owner who serves as a managing agent of the condominium. If the managing agent is discharged, then a time share project will no longer be branded as a major hospitality brand resort, which could result in all of the owners of a time share project losing their rights to participate in the vacation club associated with the hospitality brand. S.B. No. 3127, S.D. 1, is therefore preferable as it contains language to address these concerns.

Accordingly, your Committee has amended this measure by deleting its contents and inserting the contents of S.B. No. 3127, S.D. 1, a substantively similar measure, which:

- (1) Establishes provisions for condominium association annual meetings and quorum requirements;
- (2) Specifies that the board of an association managed by a managing agent shall have the authority to employ and

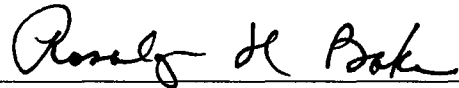


terminate a managing agent, subject to a vote of a majority of the unit owners at an association meeting;

- (3) Provides an exemption from the provisions relating to the employment and termination of a managing agent for a project in which a majority of the units have been submitted to one or more vacation plans, or in which one or more units have been submitted to a vacation plan established by the developer of the project or by an affiliate of the developers; and
- (4) Includes an effective date of July 1, 2014.

As affirmed by the record of votes of the members of your Committee on Commerce and Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2656, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2656, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on  
behalf of the members of the  
Committee on Commerce and  
Consumer Protection,

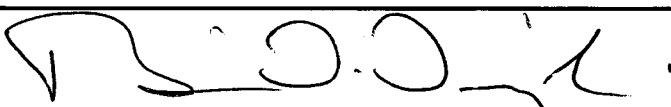


ROSALYN H. BAKER, Chair



The Senate  
 Twenty-Seventh Legislature  
 State of Hawai'i

**Record of Votes**  
**Committee on Commerce and Consumer Protection**  
**CPN**

Bill / Resolution No.:* <b>HB 2656, HD1</b>	Committee Referral: <b>CPN</b>	Date: <b>3/18/2014</b>		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	✓			
TANIGUCHI, Brian T. (VC)	✓			
NISHIHARA, Clarence K.				✓
WAKAI, Glenn				✓
SLOM, Sam	✓			
<b>TOTAL</b>	<b>3</b>	<b>0</b>	<b>0</b>	<b>2</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
<b>Distribution:</b> Original     Yellow     Pink     Goldenrod File with Committee Report     Clerk's Office     Drafting Agency     Committee File Copy				

\*Only one measure per Record of Votes