

Honolulu, Hawaii  
February 19, 2016

RE: H.B. No. 1802  
H.D. 1

Honorable Joseph M. Souki  
Speaker, House of Representatives  
Twenty-Eighth State Legislature  
Regular Session of 2016  
State of Hawaii

Sir:

Your Committee on Consumer Protection & Commerce, to which was referred H.B. No. 1802 entitled:

"A BILL FOR AN ACT RELATING TO CONDOMINIUMS,"

begs leave to report as follows:

The purpose of this measure, as received by your Committee, is to help facilitate the dispute process between condominium unit owners and the condominium board or association by, among other things:

- (1) Establishing the Office of the Condominium Ombudsman within the Department of Commerce and Consumer Affairs;
- (2) Establishing the framework for dispute intervention by the Office of the Condominium Ombudsman; and
- (3) Appropriating funds to assist in the establishment of the Office of the Condominium Ombudsman.

Hawaii Condo Hui, Hui Oia Io, and numerous individuals testified in support of this measure. The Real Estate Commission, Associa, Hawaii Council of Associations of Apartment Owners, and Community Associations Institute Hawaii Chapter testified in opposition to this measure. Hui Malama O Hale and an individual provided comments on this measure.



Upon further consideration, your Committee has amended this measure by deleting its substance and inserting provisions establishing the Office of Self-Governance Oversight (Office) within the Department of the Attorney General. The amended measure:

- (1) Establishes the position of Condominium Czar (Czar) to head the Office. The Czar would be appointed by the Attorney General, in consultation with the Director of Commerce and Consumer Affairs with the approval of the Governor. The Czar would be exempt from civil service and be required to hold a license to practice law before the Hawaii Supreme Court and have extensive experience in Hawaii real estate and condominium law and in conflict and alternative dispute resolution;
- (2) Sets forth the Czar's duties and responsibilities, including the Czar's role in dispute intervention, investigations, dispute resolution assistance, contested hearings, and imposition of fines or fees;
- (3) Establishes the Office of Self-Governance Oversight Special Fund to be funded by the Condominium Education Trust Fund;
- (4) Requires every member of an association board to file annual financial disclosures to the Office. The financial disclosures would be confidential and not open to public inspection;
- (5) Requires the Czar, and not the Real Estate Commission to report annually to the Legislature;
- (6) Appropriates an unspecified amount from the Condominium Education Trust Fund to the Office of Self-Governance Oversight Special Fund to assist in the establishment of the Office;
- (7) Requires the Legislative Reference Bureau to conduct a study regarding the Office and to submit a written report to the Legislature; and
- (8) Takes effect on January 1, 2017; provided that sections 15 and 16 of this measure shall take effect on July 1, 2016.



An overwhelming amount of bills was referred to your Committee regarding condominium rights including the establishment of an ombudsman office to assist in ensuring that self-governance is carried out as intended by Chapter 514B, Hawaii Revised Statutes. While self-governance has been successful in Hawaii, there have been abuses as evidenced by the action of certain rogue condominium boards. Furthermore, your Committee finds that enforcement of Chapter 514B, Hawaii Revised Statutes, is scattered at best which is leading to more consumer confusion and frustration.

While other states have established condominium ombudsman offices, your Committee finds the role of an ombudsman duplicative of existing alternative dispute resolution services currently available. As such your Committee has created the Condominium Czar to:

- (1) Advocate for aggrieved unit owners, many of whom are on a limited income, in mediation, arbitration and court proceedings; and
- (2) Filter out vexatious and frivolous lawsuits that clog up the condominium mediation process.

Furthermore your Committee notes there is no authority to standardize trainings for board members or to oversee conflicts of interests, financial disclosures and other disputes. Therefore, your Committee has replaced the office of the condominium ombudsman with the office of Self-Governance Oversight to fulfill the intent of Chapter 514B, Hawaii Revised Statutes, as affirmed by the record of votes.

Therefore, there is a need for a central enforcement body to address the problem faced by many condominium owners who sometimes fear retribution from certain board members when challenging their governance.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1802, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1802, H.D. 1, and be referred to your Committee on Finance.



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



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ANGUS L.K. MCKELVEY, Chair



