

STAND. COM. REP. NO.

892

Honolulu, Hawaii

March 6, 2015

RE: H.B. No. 271
H.D. 2

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Eighth State Legislature
Regular Session of 2015
State of Hawaii

Sir:

Your Committee on Consumer Protection & Commerce, to which was referred H.B. No. 271, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO TIME SHARING,"

begs leave to report as follows:

The purpose of this measure is to assist time share purchasers and time share developers by:

- (1) Providing cancellation rights to persons who contract to buy short-term products that grant a time-limited right to time share accommodations in Hawaii under Hawaii's time share law; and
- (2) Allowing for the disbursement prior to closing of purchasers' funds to a developer provided that the developer first posts a bond, letter of credit, or other financial assurance.

Starwood Vacation Ownership; American Resort Development Association Hawaii; Marriot Vacations Worldwide Corporation; and Wyndham Vacation Ownership supported this measure. The Department of Commerce and Consumer Affairs and the Regulated Industries Complaint Office of the Department of Commerce and Consumer Affairs commented on this measure.

HB271 HD2 HSCR CPC HMS 2015-2506



Your Committee has amended this measure by, among other things:

- (1) Requiring a short-term product seller to disclose in the contract to all short-term buyers that the short-term product buyer will be required to pay transient accommodations tax for the occupancy of accommodations in Hawaii;
- (2) Requiring specified disclosure for a contract to purchase a short-term product in conspicuous type on the same page as the short-term product buyer's signature and specifying that the disclosure is not required on any addendum to the contract;
- (3) Removing the limitation of the time that an action may be brought for any violation of the purchasing and selling of a short-term product;
- (4) Removing the requirement that the offer or sale of short-term products by the developer or affiliate not be subject to Chapter 468L, Hawaii Revised Statutes (HRS);
- (5) Specifying that a developer of a time share plan may be entitled to the release of 90 percent of a time share purchaser's funds from escrow to be used for costs associated with time share development in this State if certain conditions are met;
- (6) Specifying the requirements for surety bonds for developers of a time share plan that are filed with the Director of Commerce and Consumer Affairs;
- (7) Requiring that if a developer fails to refund a purchaser's funds within thirty days pursuant to Chapter 514E, HRS, that a surety deposit with the escrow agent funds sufficient to pay any refunds due and payable to purchasers that a developer has failed to pay;
- (8) Deleting provisions concerning the bond, letter of credit, or other financial assurances for accommodations of a time share plan located outside of the State;
- (9) Specifying that if a purchaser is entitled to receive a refund of the purchaser's deposits, then the amount of

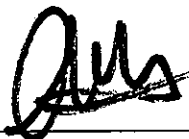


the refund shall not be reduced to pay the cost of any surety bond or letter of credit;

- (10) Specifying the disclosure requirements if an escrow agreement permits the release of a purchaser's funds;
- (11) Inserting a new section on the closing deadline for a sales contract for the sale of a time share interest;
- (12) Amending the definition of "short-term product";
- (13) Removing references to escrow agents in connection with sales made out of the State;
- (14) Adding a five-year sunset to the provisions of this measure relating to the release of a purchaser's funds pursuant to a bond or letter of credit and the closing deadline;
- (15) Changing its effective date to July 1, 2112, to encourage further discussion; and
- (16) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

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. 271, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 271, H.D. 2.

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



ANGUS L.K. MCKELVEY, Chair



