

# HB1219 HD1

# PROPOSED SD1

Measure Title: RELATING TO CONSUMER PROTECTION.

Report Title: Unfair and Deceptive Practices; Free Trial Offers

Description: RELATING TO CONSUMER PROTECTION.  
Clarifies the lieutenant governor's rulemaking authority; authorizes the lieutenant governor to assess and collect fees and administrative fines; establishes a revolving fund into which the fees and administrative fines are to be deposited; clarifies that the lieutenant governor is responsible for the program; and increases the surety bond requirement from \$1,000 to \$10,000. Effective 01/07/2059.  
(Proposed SD1)

Companion:

Package: None

Current Referral: CPN/WAM

Introducer(s):



OFFICE OF THE LIEUTENANT GOVERNOR  
STATE OF HAWAII  
STATE CAPITOL  
HONOLULU, HAWAII 96813

SHAN S. TSUTSUI  
LIEUTENANT GOVERNOR

**TESTIMONY OF  
THE OFFICE OF THE LIEUTENANT GOVERNOR  
TO THE  
SENATE COMMITTEE ON COMMERCE AND COSUMER PROTECTION  
AND THE  
SENATE COMMITTEE ON WAYS AND MEANS**

**HOUSE BILL 1219, HOUSE DRAFT 1, PROPOSED SENATE DRAFT 1  
Relating to Consumer Protection**

Chair Baker, Chair Tokuda, Vice-Chair Taniguchi, Vice-Chair Kouchi and members of the Committee:

The Office of the Lieutenant Governor ***supports***, House Bill 1219, House Draft 1, Proposed Senate Draft 1, Relating to Consumer Protection. This measure adds new sections to chapter 503B, Hawaii Revised Statutes to clarify the Lieutenant Governor's rulemaking authority, authority to assess and collect fees and administrative fines, and to establish a revolving fund into which the fees and administrative fines are to be deposited. It also amends chapter 503B, Hawaii Revised Statutes, to clarify that the Lieutenant Governor is responsible for the program and increases the surety bond requirement from \$1,000 to \$10,000. All proposed fines and fees, minus the surety bond requirement, are similar to those for Hawaii Notary Publics.

Act 277, SLH 2013 (now codified as Chapter 503B, HRS) established the Time Share Commissioners of Deeds Program within the Office of the Lieutenant Governor. Act 277 requires the Office of the Lieutenant Governor to establish a process for the Governor to appoint individuals to serve as Commissioners of Deeds to administer oaths, take acknowledgements, and take proofs of execution outside of the United States in connection with the execution of conveyance documents relating to a time share interest, any property subject to a time share plan, or the operation of a time share plan covering any property located within Hawaii.

Preparing for the implementation of the law and to address concerns with the law, a working group consisting of the Office of the Lieutenant Governor, the Department of the Attorney General, the Department of Commerce and Consumer Affairs, the Bureau of Conveyances, and members of the time share industry was convened and met on multiple occasions over the course of several months to discuss and analyze the law. Although substantial progress has been made to draft proposed administrative rules for the program's implementation, throughout the process it was determined that additional legislation and authorization is necessary prior to implementation. This measure addresses those issues and will provide the Office of the Lieutenant Governor the necessary authority and clarification to properly implement the law effectively.

While the Office does not know with certainty which time share property businesses will avail itself of the law, currently, Hilton, Disney, Marriott, Wyndham, RCI, among others, all employ time share sales personnel globally and sell/resell Hawaii time share interests worldwide and have expressed some interest in participating in the Commissioners of Deeds program.

The Office of the Lieutenant Governor **supports**, House Bill 1219, House Draft 1, Proposed Senate Draft 1 and respectfully urges the passage of this bill. Thank you for the opportunity to testify.



March 31, 2015

TO: COMMITTEE ON COMMERCE AND CONSUMER PROTECTION  
COMMITTEE ON WAYS AND MEANS  
Senator Rosalyn Baker, Chair; Senator Jill Tokuda, Chair  
Senator Brian Taniguchi, Vice Chair; Senator Ronald Kouchi, Vice-Chair

FR: Henry Perez, President – via Blake Oshiro, Executive Director  
American Resort Development Association

RE: H.B. 1219, HD1, SD1 Relating to Consumer Protection  
**Position: Support for Proposed SD1**

Dear Chairs Baker and Tokuda, Vice Chairs Taniguchi and Kouchi and members,

The American Resort Development Association (ARDA) Hawaii, the local chapter of the national timeshare trade association, supports HB1219, HD1, SD1. This is an Administration bill that would help to provide ongoing sustainable funding for the Commissioner of Deeds position and responsibilities housed within the Lieutenant Governor (LG)'s Office.

Session Laws 2013 Act 277 was codified as Haw. Rev. Statutes Chapter 503B. This established the Time Share Commissioner of Deeds. Funding for that position was placed in the supplemental budget for one position to administer the program. However, as this is a function that is ongoing, ARDA supports having this position being sustained via the reasonable fees and fines provided for in this bill.

The bill also clarifies and authorizes the LG's rule-making authority to administer and implement this chapter.

Thank you for the opportunity to submit testimony in support of HB1219, HD1, SD1.

McCORRISTON MILLER MUKAI MACKINNON LLP

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March 30, 2015

Sen. Rosalyn H. Baker, Chair  
Sen. Brian T. Taniguchi, Vice Chair  
Members of the Senate Committee on  
Commerce and Consumer Protection  
Twenty-Eighth Legislature  
Regular Session, 2015

Sen. Jill No. Tokuda, Chair  
Sen. Ronald D. Kouchi, Vice Chair  
Members of the Senate Committee  
on Ways and Means  
Twenty-Eighth Legislature  
Regular Session, 2015

Re: H.B. 1219 Proposed S.D. 1  
Hearing on March 31, 2015, 9:00 a.m.  
Conference Room 211

Dear Chairs, Vice Chairs and Members of the Committees:

My name is Charles Pear. I am present today on behalf of Disney Vacation Development, Inc., a Florida corporation ("DVD"). It is the vacation ownership division affiliated with The Walt Disney Company.

DVD supports the bill.

Deeds of timeshare interests in Hawai'i timeshare plans must be notarized in order to be recordable. Typically, this is not a problem for deeds signed in Hawai'i or in other states. However it can pose a problem in jurisdictions outside of the U.S. in which notaries are not common. It can also pose a problem on cruise ships where there are no notaries.

In 2013, the Legislature adopted Chapter 503B, HRS. It revived former Chapter 503, HRS, which grants the Governor the authority to appoint "Commissioners of Deeds." Commissioners of Deeds would have the authority to acknowledge the execution of timeshare conveyance documents (e.g., deeds, mortgages, etc.) for Hawai'i timeshares in foreign countries and on cruise ships.

Representatives of the time share industry (Disney Vacation Development, Marriott Ownership Resorts, and Wyndham Vacation Resorts) spent the last year participating in an informal working group that was very ably chaired by Jayson Watts of the Office of the Lt. Governor. Other participants included representatives of the Office of the Attorney General, the Department of Commerce and Consumer Affairs, and the Bureau of Conveyances.

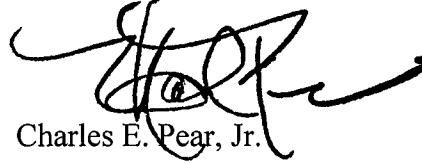
During its deliberations, the working group identified a number of areas where Chapter 503B could be clarified or otherwise improved. We understand that the bill currently under consideration is intended to address those improvements, and we support that effort.

Chair, Vice Chair and Members,  
Senate Committees on Commerce and Consumer Protection and on Ways and Means  
March 30, 2015  
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Thank you for your kind consideration of this legislation. I would be happy to take any questions if you think that I may be of assistance.

Very truly yours,

MCCORRISTON MILLER MUKAI MACKINNON LLP

A handwritten signature in black ink, appearing to read "Charles E. Pear, Jr.", written in a cursive style.

Charles E. Pear, Jr.

CEP:kn