

Honolulu, Hawaii

MAR 03 2017

RE: S.B. No. 1263
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2017
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Health,
to which was referred S.B. No. 1263 entitled:

"A BILL FOR AN ACT RELATING TO REAL ESTATE,"

begs leave to report as follows:

The purpose and intent of this measure is to require
principal brokers in a brokerage firm to ensure that:

- (1) Associated real estate licensees and other staff who assist common interest communities are responsive to requests from owners regarding association-related finances, documents, records, and information; and
- (2) Any request from the Real Estate Commission to distribute Commission-generated information, materials, or documents to an association, a board of directors, or a unit owner in a common interest community is completed within ten days after receiving the request.

Your Committee received testimony in support of this measure from the Real Estate Commission, Hui 'Oia'i'o, and two individuals. Your Committee received testimony in opposition to this measure from the Hawai'i Association of REALTORS and Hawaii Council of Associations of Apartment Owners. Your Committee received comments on this measure from Associa.



Your Committee finds that this measure provides an additional measure of protection for owners by requiring the principal broker in a real estate brokerage firm to ensure that associated licensees and other staff who assist with common interest communities are responsive to requests from owners and can assist the Real Estate Commission in distributing Commission-generated information.

Your Committee has heard testimony that boards of directors should be responsible for a decision to produce association-related finances, documents, records, and information or comply with any other mandatory provisions of the State's condominium laws. An amendment to this measure is therefore necessary to clarify that compliance with mandatory provisions of the condominium laws is part of the fiduciary duty a board of directors owes to its association. Your Committee further finds that clearly outlining this duty in statute prevents a board from relying on its managing agent to handle owner requests for documents.

Your Committee has amended this measure by:


- (1) Clarifying that principal brokers shall ensure that all associated real estate licensees and other staff who assist in providing management services for common interest communities are responsive to requests from owners regarding association-related finances, documents, records, and information;
- (2) Clarifying that any violation of a mandatory provision of the State's condominium law by a board or its officers and members is a per se violation of the board's fiduciary duty, but providing a safe harbor provision for a board member who votes for compliance during a board meeting; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1263, as amended herein, and



recommends that it pass Second Reading in the form attached hereto as S.B. No. 1263, S.D. 1, and be placed on the calendar for Third Reading.

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



ROSALYN H. BAKER, Chair



