

STAND. COM. REP. NO.

561

Honolulu, Hawaii

MAR 02 2017

RE: S.B. No. 292

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. 292 entitled:

"A BILL FOR AN ACT RELATING TO CONDOMINIUMS,"

begs leave to report as follows:

The purpose and intent of this measure is to repeal chapter 514A, Hawaii Revised Statutes, relating to condominium property regimes, and ensure all condominiums in the State are governed under chapter 514B, Hawaii Revised Statutes, relating to condominiums.

Your Committee received testimony in support of this measure from the Hawai'i State Association of Parliamentarians, Hawaii Council of Associations of Apartment Owners, Associa, and four individuals. Your Committee received comments on this measure from one individual.

Your Committee finds that two condominium chapters are currently maintained: chapter 514A, Hawaii Revised Statutes (chapter 514A), and chapter 514B, Hawaii Revised Statutes (chapter 514B). Chapter 514A is relevant only to condominium property regimes that were created before July 1, 2006, but not yet brought to market for sale. Chapter 514B has applied to all condominiums created within the State since July 1, 2006. Furthermore, virtually all provisions of chapter 514B that affect the management of condominiums have applied automatically to



condominiums in existence before July 1, 2006, the effective date of chapter 514B, subject to two conditions: the specified provisions automatically apply only to events and circumstances occurring on or after July 1, 2006; and such automatic application shall not invalidate existing provisions of a condominium's governing documents if to do so would invalidate a developer's reserved rights or be an unreasonable impairment of contract.

Your Committee further finds that the applicability provisions of chapter 514B seek to balance the benefits of having the improved condominium law apply to all condominiums against reasonable contractual expectations of condominiums in existence before July 1, 2006. Your Committee notes that the "reasonable contractual expectation" of condominiums in existence before July 1, 2006, is in regard to the condominium's recorded governing documents, such as the master deed, declaration, bylaws, and condominium map. When these condominiums "opted-in" to chapter 514B, the condominiums were opting-in to this chapter over the language of any governing documents that were drafted under Chapter 514A. According to testimony received by your Committee, the fact that chapter 514A is still maintained has caused some to mistakenly believe that because a condominium has not opted-in to chapter 514B, chapter 514A still applies, even for things that happened after July 1, 2006.

Your Committee also finds that although there are still some condominium projects that were created before July 1, 2006, these projects exist only on paper and have never been built and sold to anyone in the general public. Your Committee notes that the developers of such projects have had more than a decade to bring their condominium projects created under chapter 514A to market. However, this measure still provides a generous window of opportunity, until January 1, 2019, for these developers to register their projects with the Real Estate Commission and bring the projects to market. Finally, your Committee notes that this measure is needed to eliminate the unnecessary confusion caused by maintaining two condominium chapters under Hawaii law.

Your Committee has amended this measure by:

- (1) Specifying that this measure shall take effect on January 1, 2019, and removing language that referenced condominiums formerly subject to chapter 514A being

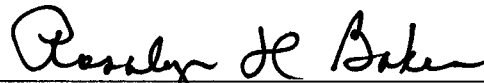


transitioned to and governed by chapter 514B, without paying any additional costs or filing any additional paperwork with the Real Estate Commission; and

- (2) 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. 292, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 292, 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



The Senate
Twenty-Ninth Legislature
State of Hawai'i

Record of Votes
Committee on Commerce, Consumer Protection, and Health
CPH

Bill / Resolution No.:* <i>SB292</i>	Committee Referral: <i>CPH</i>	Date: <i>2/23/17</i>		
<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)	✓			
NISHIHARA, Clarence K. (VC)				✓
CHANG, Stanley	✓			
ESPERO, Will	✓			
IHARA, Jr., Les	✓			
KIDANI, Michelle N.				✓
RUDERMAN, Russell E.				✓
TOTAL	<i>4</i>	<i>0</i>	<i>0</i>	<i>3</i>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <i>[Signature]</i>				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes