

Honolulu, Hawaii

FEB 16 2018

RE: S.B. No. 2624

S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2018
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Health,
to which was referred S.B. No. 2624 entitled:

"A BILL FOR AN ACT RELATING TO CONDOMINIUMS,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Require condominium owners to pay for administrative costs, related to requests to view voting documents, in excess of forty hours per year;
- (2) Require a condominium association's proxies and ballots to be retained for five years after an association meeting; and
- (3) Criminalize knowingly making any false certificate, entry, or memorandum upon any of the books or records of any managing agent or association and knowingly altering, destroying, mutilating, or concealing any books or records of a managing agent or association.

Your Committee received testimony in support of this measure from Hui 'Oia'i'o and five individuals. Your Committee received testimony in opposition to this measure from the Hawaii Council of Association of Apartment Owners, Associa, and six individuals.



Your Committee received comments on this measure from one individual.

Your Committee finds that this measure makes several changes to requirements related to a condominium's voting documents, including increasing the amount of time an owner may have to view voting documents after an association meeting, increasing the length of time an association's proxies and ballots must be retained, and criminalizing certain conduct related to the alteration of documents.

However, your Committee has heard concerns that this measure's expansion of time for owners to view association documents is excessive. According to testimony received by your Committee, since these administrative services are generally provided by paid employees of a property management firm that administers records of a condominium association, forty free hours per owner would be financially burdensome for those firms, who would likely pass on the cost to the association. Concerns were also raised regarding the five-year retention requirement for proxies and ballots proposed by this measure. Your Committee notes that the election of officers is an annual event, and any effort to overturn an election years later may create undue potential liability for an association. Furthermore, because many associations must pay a fee to store proxies and ballots, requiring an association to retain these types of documents for five years, regardless of whether a meeting is contested, may result in unnecessary expenses for the association.

Your Committee has also heard the concerns that this measure essentially criminalizes conduct of unpaid volunteers. According to testimony received by your Committee, association board members are already exposed to personal liability under the State's condominium laws if the members breach their fiduciary duty. Further subjecting a board member's conduct to criminalization will likely discourage more condominium owners from serving on their boards. Amendments to this measure are therefore necessary to address these concerns.

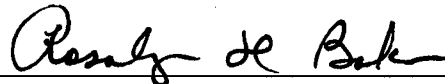
Accordingly, your Committee has amended this measure by:



- (1) Removing language that would have required condominium owners to pay for administrative costs, related to voting documents, in excess of forty hours per year;
- (2) Specifying that a condominium association's proxies and ballots may be destroyed ninety days, rather than five years, after an association meeting;
- (3) Removing language that would have criminalized knowingly making any false certificate, entry, or memorandum upon any of the books or records of any managing agent or association or knowingly altering, destroying, mutilating, or concealing any books or records of a managing agent or association; and
- (4) 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. 2624, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2624, S.D. 1, and be referred to your Committee on Judiciary.

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



ROSALYN H. BAKER, Chair



