

STAND. COM. REP. NO.

1349

Honolulu, Hawaii

March 24, 2017

RE: S.B. No. 306
S.D. 1
H.D. 1

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Ninth State Legislature
Regular Session of 2017
State of Hawaii

Sir:

Your Committee on Consumer Protection & Commerce, to which was referred S.B. No. 306, S.D. 1, entitled:

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

begs leave to report as follows:

The purpose of this measure is to clarify document disclosure requirements for certain condominium associations and ensure that boards of directors of condominium associations remain compliant with the mandatory provisions of Hawaii's condominium law.

Specifically, this measure:

- (1) For time share projects that contain time share units, transient vacation rentals, and private residential units on the same property:
 - (A) Requires the disclosure and provision of basic documents necessary for an owner to sell the owner's time share unit within forty-eight hours of a written or electronic request to the resident manager or property manager; and
 - (B) Affords an owner of a time share unit the right to receive a list of all time share owners, including

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contact information, for purposes directly related to the business of a time share owners association or vacation club;

- (2) Requires a management company of a time share owners association or vacation club board of directors to provide specific information to owners regarding candidates for election to the board of directors at least thirty days prior to the election;
- (3) Prohibits a representative of a management company from having a controlling interest on a board of directors for a time share owners association or vacation club; and
- (4) Establishes 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 provides an exception for a board member who votes against the board action that constitutes the violation.

Several concerned individuals testified in support of this measure. The Hawaii Council of Associations of Apartment Owners dba Hawaii Council of Community Associations testified in support of the intent of this measure. The American Resort Development Association-Hawaii, Hawaii State Association of Parliamentarians, RCI, LLC, Soleil Management Hawaii, LLC, Wyndham Vacation Ownership, Association of Apartment Owners The Punahala, Marriott Vacations Worldwide Corporations, and numerous individuals testified in opposition to this measure. The Department of Commerce and Consumer Affairs, Regulated Industries Complaints Office of the Department of Commerce and Consumer Affairs, and Anderson Lahne & Fujisaki LLP, provided comments.

Your Committee has amended this measure by:

- (1) Changing the terms "time share unit" and "management company" to "time share interest" and "plan manager," respectively, for accuracy and consistency;
- (2) Deleting language establishing the right of a unit owner to receive a list of all time share owners, including contact information, for purposes directly related to



the business of a time share owners association or vacation club;

- (3) Deleting language establishing 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;
- (4) Changing the timeframe for disclosure of the basic documents from forty-eight hours to thirty days;
- (5) Changing its effective date to July 1, 2059, to facilitate further discussion; and
- (6) Making technical, nonsubstantive amendments for 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 S.B. No. 306, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 306, S.D. 1, H.D. 1, and be referred to your Committee on Judiciary.

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



ROY M. TAKUMI, Chair



