

HB  
763

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## A BILL FOR AN ACT

RELATING TO CONDOMINIUMS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Section 514B-3, Hawaii Revised Statutes, is  
2 amended by adding a new definition to be appropriately inserted  
3 and to read as follows:

4           "Government money market fund" means any money market fund  
5 that invests 99.5 per cent or more of its total assets in cash,  
6 the obligations of the United States government, the State of  
7 Hawaii, or their respective agencies or repurchase agreements  
8 that are collateralized by United States government securities  
9 or cash."

10          SECTION 2. Section 514B-149, Hawaii Revised Statutes, is  
11 amended by amending subsection (c) to read as follows:

12          "(c) (1) All funds collected by an association, or by a  
13 managing agent for any association, shall be:

14               (A) Deposited in a financial institution, including a  
15               federal or community credit union, located in the  
16               State, pursuant to a resolution adopted by the



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- 1 board, and whose deposits are insured by an
- 2 agency of the United States government;
- 3 (B) Held by a corporation authorized to do business
- 4 under article 8 of chapter 412;
- 5 (C) Held by the United States Treasury;
- 6 (D) Purchased in the name of and held for the benefit
- 7 of the association through a securities broker
- 8 that is registered with the Securities and
- 9 Exchange Commission, that has an office in the
- 10 State, and the accounts of which are held by
- 11 member firms of the New York Stock Exchange or
- 12 National Association of Securities Dealers and
- 13 insured by the Securities Insurance Protection
- 14 Corporation; or
- 15 (E) Placed through a federally insured financial
- 16 institution located in the State for investment
- 17 in certificates of deposit issued through the
- 18 Certificate of Deposit Account Registry Service
- 19 in federally insured financial institutions
- 20 located in the United States.



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- 1           (2) All funds collected by an association, or by a  
2           managing agent for any association, shall be invested  
3           only in:
- 4           (A) Deposits, investment certificates, savings  
5           accounts, and certificates of deposit;
- 6           (B) Obligations of the United States government, the  
7           State of Hawaii, or their respective agencies;  
8           provided that those obligations shall have stated  
9           maturity dates no more than ten years after the  
10          purchase date unless approved otherwise by a  
11          majority vote of the unit owners at an annual or  
12          special meeting of the association or by written  
13          consent of a majority of the unit owners;
- 14          (C) Mutual funds comprised solely of investments in  
15          the obligations of the United States government,  
16          the State of Hawaii, or their respective  
17          agencies; government money market funds; or  
18          shares or units of another mutual fund satisfying  
19          the requirements of this subparagraph; provided  
20          that those obligations shall have stated maturity  
21          dates no more than ten years after the purchase



1 date unless approved otherwise by a majority vote  
2 of the unit owners at an annual or special  
3 meeting of the association or by written consent  
4 of a majority of the unit owners; or  
5 (D) Certificates of deposit issued through the  
6 Certificate of Deposit Account Registry Service  
7 in an amount at least equal in their market  
8 value, but not to exceed their par value, to the  
9 amount of the deposit with the depository;  
10 provided that before any investment longer than one year is made  
11 by an association, the board must approve the action; and  
12 provided further that the board must clearly disclose to owners  
13 all investments longer than one year at each year's association  
14 annual meeting.

15 Records of the deposits and disbursements shall be  
16 disclosed to the commission upon request. All funds collected  
17 by an association shall only be disbursed by employees of the  
18 association under the supervision of the association's board.  
19 All funds collected by a managing agent from an association  
20 shall be held in a client trust fund account and shall be



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1 disbursed only by the managing agent or the managing agent's  
2 employees under the supervision of the association's board."

3 SECTION 3. New statutory material is underscored.

4 SECTION 4. This Act shall take effect upon its approval.

5

INTRODUCED BY:

Beal  
Lindeschmiz

JAN 22 2019



# H.B. NO. 763

**Report Title:**

Condominiums; Associations; Investment

**Description:**

Clarifies that condominium associations may invest in government money market funds.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*



Presentation to The  
Committee on Consumer Protection & Commerce  
February 5, 2019 at 2:00 P.M.  
State Capitol Conference Room 329

**Testimony in Support of House Bill 763**

TO: The Honorable Roy M. Takumi, Chair, Committee on Consumer Protection & Commerce  
The Honorable Linda Ichiyama, Vice Chair Committee on Consumer Protection & Commerce  
Members of the Committee

My name is Neal K. Okabayashi, the Executive Director of the Hawaii Bankers Association (HBA). HBA is the trade association representing eleven banks, including eight with headquarters in Hawai'i.

Present Hawai'i law allows association of apartment owners to only invest in certain securities (aside from FDIC insured deposit accounts so that the monies collected from unit owners be prudently invested. In 2014, the SEC adopted amendments regulation reducing interest rate, credit, and liquidity risks in money market mutual funds. Those rules took effect on October 14, 2016 but notwithstanding the changes, the State laws have no kept pace. The purpose of this bill is to modernize State law to be consistent with SEC regulations.

We support HB 763 which proposes changes to the section on fiscal matters in order to bring the allowable investments in line with the SEC regulations so that associations may invest in government money market funds. The bill further clarifies the existing language to conform with the realities of how mutual funds comprised of government obligations operate. Mutual funds with government obligations often invest their excess cash in a sub-fund or funds. This enables to the mutual fund to give associations a greater return than holding cash while allowing the overlying fund to remain liquid enough to invest directly in government obligations when the excess cash accumulates sufficiently or the market favors direct investment.

Government money market funds (as now defined under the SEC rule changes) are mutual funds comprised solely of government obligations but government money market funds are not currently specifically an allowable investment. This proposed amendment would clarify that such funds would be permissible investments. With the current rates presently in effect, it would be advantageous for associations to be able to invest in these types of funds. These changes reflect the way mutual funds comprised of government obligations actually operate. Although government money market mutual funds are not cash, they are considered the equivalent of cash, or otherwise known as cash equivalent.

Thank you for the opportunity to submit this testimony on HB 763 and for the reasons set forth herein, we support this bill. Please let us know if we can provide further information.

Neal K. Okabayashi  
(808) 524-5161



HAWAII LEGISLATIVE  
ACTION COMMITTEE

  
community  
ASSOCIATIONS INSTITUTE

P.O. Box 976  
Honolulu, Hawaii 96808

January 31, 2019

Chair Roy M. Takumi  
Vice Chair Linda Ichiyama  
Committee on Consumer Protection & Commerce  
415 South Beretania Street  
Honolulu, Hawaii 96813

Re: HB763/SUPPORT

Dear Chair Takumi and Committee Members:

This testimony in favor of HB763 is submitted on behalf of the Community Associations Institute ("CAI") Legislative Action Committee.

We believe that the current law allows condominium associations to already invest in government money market funds. Many associations already do so.

We support adding additional clarity to the law.

CAI represents the condominium industry, and respectfully requests the Committee to pass HB 763.

Very truly yours,

*Richard Emery*

Richard Emery  
Co-Chair, CAI LAC

**HB-763**

Submitted on: 1/31/2019 7:21:29 PM

Testimony for CPC on 2/5/2019 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jane Sugimura	HI Council of Assoc. of Apt. Owners a	Support	No

Comments:

We support this bill because it expands the financial products that are available for condos to invest in. Because the banks have requirements affecting the maximum that can be deposited in their institution, having more safe alternatives to hold reserve accounts would benefit all condo associations

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Submitted on: 1/31/2019 9:13:53 AM

Testimony for CPC on 2/5/2019 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
lynne matusow	Individual	Support	No

Comments:

As we build our reserves for major projects in the future, we find it harder and harder to find investments while keeping funds with one issuer below \$250,000, which is the maximum amount covered by FDIC insurance.

Passage of this measure will enable us to further diversity our investments and be sure all our investments are FDIC insured.

Lynne Matusow

**HB-763**

Submitted on: 1/31/2019 9:49:07 PM

Testimony for CPC on 2/5/2019 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Dale	Individual	Support	No

Comments:

Good bill, please pass it. I have watched, and questioned, why \$2,000,000 of monies from my Association were put into Mutual of Omaha Bank (Phoenix, AZ) which in turn seeded it to their banker friends in an arc running through the Texas 'panhandle', through Ohio and West Virginia, to a Bank of China branch on Manhattan island. After making an issue of it, Associa then stopped providing the monthly bank statement about it. There were other acts of retaliation for daring to question their secrecy. Glad we got rid of them. The monies should have stayed in Hawaii, in my opinion.