

SCR63 / SR41

Measure Title:	REQUESTING THE LEGISLATIVE REFERENCE BUREAU, IN CONSULTATION WITH THE DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, TO CONDUCT A STUDY ON THE IMPLEMENTATION OF RECOMMENDATIONS FOUND IN THE CONDOMINIUM GOVERNANCE – AN EXAMINATION OF SOME ISSUES 1989 REPORT BY THE LEGISLATIVE REFERENCE BUREAU.
Report Title:	Legislative Reference Bureau; Department of Commerce and Consumer Affairs; Condominium Governance
Description:	
Companion:	HR63
Package:	None
Current Referral:	CPH
Introducer(s):	MORIWAKI, Baker, S. Chang, Dela Cruz, Fevella, Inouye, Kanuha, Nishihara, Wakai

Testimony of the Real Estate Commission

Before the
Senate Committee on Commerce, Consumer Protection, and Health
Thursday, March 21, 2019
9:00 a.m.
State Capitol, Conference Room 229

On the following measure:

S.C.R. 63, REQUESTING THE LEGISLATIVE REFERENCE BUREAU, IN CONSULTATION WITH THE DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, TO CONDUCT A STUDY ON THE IMPLEMENTATION OF RECOMMENDATIONS FOUND IN THE CONDOMINIUM GOVERNANCE – AN EXAMINATION OF SOME ISSUES 1989 REPORT BY THE LEGISLATIVE REFERENCE BUREAU

Chair Baker and Members of the Committee:

My name is Michael Pang, and I am the Chairperson of the Real Estate Commission (Commission). The Commission supports this concurrent resolution and suggests amendments.

The purpose of this concurrent resolution is to request that the Legislative Reference Bureau (Bureau), in consultation with the Department of Commerce and Consumer Affairs and with the cooperation of the Commission, conduct a study on whether, and to what degree, the findings and recommendations in a study titled *Condominium Governance – An Examination of Some Issues*, Report No. 4, 1989, have been implemented. In addition, it requests that the study address any further action that may be needed and that a report be submitted to the Legislature prior to the convening of the Regular Session of 2020.

The Commission notes that most of the findings and recommendations in the 1989 study have been addressed over the past 30 years and is committed to assisting the Bureau in any follow-up study.

The Commission suggests that any follow-up study include at least three additional areas of inquiry and provide recommended solutions. First, the study should assess whether the current form and content of the developer's public report provides adequate and understandable disclosures to prospective purchasers of new and converted condominium projects. Second, the study should assess whether the current

reserves requirement provides sufficient incentives for registered condominium associations to adequately fund and study the issue. Third, the study should assess whether the use of the current voting process, including proxy voting and the disparate interests of owner-occupants, investor owners, and commercial owners, is appropriate.

The following are the suggested amendments:

BE IT FURTHER RESOLVED that the study shall also assess whether the developer's public report provides adequate and understandable disclosures to prospective purchasers of new and converted projects; if the disclosures are inadequate, provide for methods to further educate prospective purchasers; and

BE IT FURTHER RESOLVED that the study shall also assess and recommend solutions on whether the current financial reserves study and funding requirements completed by the registered associations are sufficient; and

BE IT FURTHER RESOLVED that the study shall also assess and recommend solutions on whether the use of the current voting process is appropriate; whether the proxy voting process provides an advantage or a disadvantage in the governing process; and whether there are inherent conflicts between owner-occupants versus investor owners versus commercial owners.

Thank you for the opportunity to testify on this concurrent resolution.

Charlotte A. Carter-Yamauchi
Director

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LEGISLATIVE REFERENCE BUREAU
State of Hawaii
State Capitol, Room 446
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Written Testimony

SCR63

REQUESTING THE LEGISLATIVE REFERENCE BUREAU, IN CONSULTATION WITH THE DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, TO CONDUCT A STUDY ON THE IMPLEMENTATION OF RECOMMENDATIONS FOUND IN THE CONDOMINIUM GOVERNANCE – AN EXAMINATION OF SOME ISSUES 1989 REPORT BY THE LEGISLATIVE REFERENCE BUREAU

Testimony by the Legislative Reference Bureau
Charlotte A. Carter-Yamauchi, Director

Presented to the Senate Committee on Commerce, Consumer Protection, and Health

Thursday, March 21, 2019, 9:00 a.m.
Conference Room 229

Chair Baker and Members of the Committee:

Good morning Chair Baker and members of the Committee, my name is Charlotte Carter-Yamauchi and I am the Director of the Legislative Reference Bureau. Thank you for providing the opportunity to submit written comments on S.C.R. No. 63, H.D. 1, Requesting the Legislative Reference Bureau, in Consultation with the Department of Commerce and Consumer Affairs, to Conduct a Study on the Implementation of Recommendations Found in the Condominium Governance – an Examination of Some Issues 1989 Report by the Legislative Reference Bureau.

The purpose of this measure is to request that:

- (1) The Legislative Reference Bureau, in consultation with the Department of Commerce and Consumer Affairs, conduct a study on whether, and to what degree, the findings and recommendations found in the Condominium Governance – An Examination of Some Issues, Report No. 4, 1989, have been implemented;
- (2) The study also address any further action that may be needed to fulfill unresolved findings and recommendations and any other comments and concerns that interested parties may provide;
- (3) The Real Estate Commission cooperate with the Legislative Reference Bureau and to make available to the Bureau any and all records and other information that the Bureau considers pertinent to the study; and

- (4) The Legislative Reference Bureau submit a report of its findings and recommendations to the Legislature no later than twenty days prior to the convening of the Regular Session of 2020.

While the Legislative Reference Bureau takes no position on the merits of the measure, we submit the following comments for your consideration.

The Bureau would like to note that the report referenced in the measure is thirty years old and the condominium law that it studied has been repealed. Furthermore, at the time of the writing of the 1989 report, the position of condominium specialist within the Department of Commerce and Consumer Affairs' Real Estate Branch had just been established and originally filled on July 1, 1988 (the time of the original report's writing), so very little inherent condominium governance experience had been amassed. Currently, according to the Real Estate Commission's website, there are roughly 1,668 condominium association registrations and 29 condominium hotel operator registrations, and the Department of Commerce and Consumer Affairs' Real Estate Branch has had the benefit of thirty years of practical experience relating to condominium property regimes and is authorized to employ multiple condominium specialists. It would seem that the practical experience obtained by the Real Estate Branch, along with the Real Estate Commission, which is responsible for, among other things, the licensure, education and discipline of condominium projects, condominium associations, condominium managing agents, and condominium hotel operators, not only over the past thirty years, but also through the transition of the statutorily-established governance structure of condominiums from Chapter 514A to Chapter 514B, Hawaii Revised Statutes, would place either entity in a far better experiential position to conduct the study contemplated in this measure than the Bureau, which has not maintained an ongoing policy review of condominium property regimes over the past thirty years.

Thank you again for your consideration.