

STAND. COM. REP. NO. 1145

Honolulu, Hawaii

MAR 16 2023

RE: H.B. No. 12
H.D. 1
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Second State Legislature
Regular Session of 2023
State of Hawaii

Sir:

Your Committee on Water and Land, to which was referred H.B. No. 12, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO TIME SHARING,"

begs leave to report as follows:

The purpose and intent of this measure is to clarify that a developer is responsible for ensuring that the use of time share units located outside the State for time sharing purposes complies with zoning and land use laws and rules of the jurisdiction where the time share units are located but is not required to submit evidence of such compliance to register in Hawaii.

Your Committee received testimony in support of this measure from the American Resort Development Association-Hawaii, Hilton Grand Vacations, Marriott Vacations Worldwide Corporation, and one individual. Your Committee received comments on this measure from the Department of Commerce and Consumer Affairs.

Your Committee finds that the 1980 Hawaii Time Share Act -- which prohibits time sharing in areas that are not specifically zoned for time sharing -- was enacted to prevent time sharing in local residential neighborhoods that are popular with visitors, such as Hawaii Kai or Kailua, from being disrupted by time sharing activities to the detriment of local residents. However, the 1980 Hawaii Time Share Act did not contemplate that, over time, the



State would serve as a regulatory safeguard for Hawaii purchasers of out-of-state time share units, by investigating whether time share units located outside the State were similarly compliant with the foreign zoning and land use requirements of the jurisdiction where the time share units were located.

Your Committee finds that the Department of Commerce and Consumer Affairs has been requiring that developers with time share units located outside the State submit confirmations or legal opinions that the developer's time share units are in compliance with the zoning laws of the jurisdiction where the time share units are located before they can register those units in the State. Your Committee finds that no other state requires this type of information and that developers have complained that complying with the Department's request has caused delays and is burdensome. Therefore, this measure clarifies the existing law and preempts the Department's requirement that a developer submit evidence that its time share units located outside the State are in compliance with foreign zoning and land use laws prior to registration.

Your Committee has heard the testimony of the Department of Commerce and Consumer Affairs, which expressed concerns that this measure, as written, provides inadequate protections and recourse for Hawaii purchasers of time share units located outside the State, as developers would no longer be required to provide any proof of compliance or even make a representation to a purchaser that this is true.

Therefore, your Committee has amended this measure by:

- (1) Requiring a developer to submit a certification to the Department of Commerce and Consumer Affairs that the developer has reviewed and concluded that the time share units located outside the State are in compliance with the zoning and land use laws and regulations of the jurisdiction where the time share units are located; and
- (2) Amending section 1 to reflect its amended purpose.

As affirmed by the record of votes of the members of your Committee on Water and Land that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 12,



H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 12, H.D. 1, S.D. 1, and be referred to your Committees on Commerce and Consumer Protection and Judiciary.

Respectfully submitted on
behalf of the members of the
Committee on Water and Land,


LORRAINE R. INOUE, Chair



