

STAND. COM. REP. NO. **2521**

Honolulu, Hawaii

**FEB 27 2014**

RE: S.B. No. 3127  
S.D. 1

Honorable Donna Mercado Kim  
President of the Senate  
Twenty-Seventh State Legislature  
Regular Session of 2014  
State of Hawaii

Madam:

Your Committee on Commerce and Consumer Protection, to which was referred S.B. No. 3127 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) Establish provisions for condominium association annual meetings and quorum requirements; and
- (2) Provide that condominium associations may call for the review and discharge of a managing agent hired by the association upon a majority vote by the association members present.

Your Committee received testimony in support of this measure from Hawaii First; Community Associations Institute, Hawaii Legislative Action Committee; and two individuals. Your Committee received testimony in opposition to this measure from American Resort Development Association-Hawaii and Starwood Vacation Ownership. Your Committee received comments on this measure from the Hawai'i State Association of Parliamentarians.

Your Committee finds that the two most important issues typically addressed at the annual meeting of a condominium association are the election of directors and adoption of a mandatory tax resolution. However, many condominium associations have been unable to conduct these annual ownership meetings



because of quorum requirements. If an association is unable to obtain a quorum, a condominium board may wait another year before scheduling the next meeting. During that time, an association may not be able to approve its tax resolution, which could lead to a future tax liability of the association, and directors whose terms have expired may serve an additional rollover term on the board without standing for reelection. This measure provides a mechanism to ensure that the annual meeting of a condominium association will occur each year.

Your Committee further finds that this measure permits a condominium association to call for the review and discharge of a managing agent hired by the association upon a majority vote by the association members present. However, your Committee finds that association boards are mandated to administer an association's property and manage those who are hired to handle the day-to-day functions of the association. Accordingly, it is more appropriate for the board of an association, rather than the association itself, to be given the responsibility for the hiring and discharging of a managing agent. Amendments to this measure are therefore necessary.

Your Committee has heard the concerns that time share projects that are owned and operated by major hospitality brands have an affiliate of the brand owner who serves as a managing agent of the condominium. If the managing agent is discharged, then a time share project will no longer be branded as a major hospitality brand resort, which could result in all of the owners of a time share project losing their rights to participate in the vacation club associated with the hospitality brand. Amendments addressing these concerns are therefore necessary.

Accordingly, your Committee has amended this measure by:

- (1) Clarifying that if an association is unable to obtain a quorum at the association's first annual meeting, the association shall continue the meeting at least once for no more than ninety days;
- (2) Deleting language that would have amended the powers of an association to include the review and discharge of a managing agent hired by the association, upon a majority vote by the association members present;



- (3) Specifying that the board of an association managed by a managing agent shall have the authority to employ and terminate a managing agent, subject to a vote of a majority of the unit owners at an association meeting;
- (4) Specifying that a project in which a majority of the units have been submitted to one or more vacation plans, or in which one or more units have been submitted to a vacation plan established by the developer of the project or by an affiliate of the developers, shall be exempt from the provisions of this measure relating to the employment and termination of a managing agent; and
- (5) Inserting definitions for "majority of the units" and "vacation plan".

As affirmed by the record of votes of the members of your Committee on Commerce and Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3127, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3127, S.D. 1, and be placed on the calendar for Third Reading.

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



ROSALYN H. BAKER, Chair



The Senate  
 Twenty-Seventh Legislature  
 State of Hawai'i

**Record of Votes**  
**Committee on Commerce and Consumer Protection**  
**CPN**

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 3127	CPN	2/19/14		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	✓			
TANIGUCHI, Brian T. (VC)	✓			
NISHIHARA, Clarence K.	✓			
WAKAI, Glenn	✓			
SLOM, Sam				✓
<b>TOTAL</b>	4	0	0	1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
<b>Distribution:</b> Original     Yellow     Pink     Goldenrod File with Committee Report     Clerk's Office     Drafting Agency     Committee File Copy				

\*Only one measure per Record of Votes