

STAND. COM. REP. NO.

1339

Honolulu, Hawaii

APR 05 2017

RE: H.B. No. 832
H.D. 1
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2017
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Health,
to which was referred H.B. No. 832, H.D. 1, 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) Require association members who are not on a condominium board to be allowed to participate in any deliberation or discussion, including executive sessions with approval by a majority vote of the condominium board members, subject to certain limitations; and
- (2) Allow condominium board members to limit the time provided to any member of the condominium association to participate in deliberations to a reasonable time, pursuant to board rules.

Your Committee received testimony in support of this measure from the Hawaii Council of Associations of Apartment Owners, Associa, Hui 'Oia'i'o, and nine individuals. Your Committee received testimony in opposition to this measure from the Hawai'i State Association of Parliamentarians.



Your Committee finds that condominium owners provide valuable information and input during board meetings for a condominium association. This measure therefore provides members of a condominium association an opportunity to attend and participate in all meetings of the board of directors of their association of apartment owners, including executive sessions with board approval. However, this measure, as written, may affect the ability of boards to conduct board meetings in an efficient manner.

Your Committee notes that unit owners have a right to speak and participate in any deliberation or discussion of a board. However, this participation must be balanced with the board's need to complete its agenda in a timely manner. Enabling a board to establish owner participation rules, and requiring the board to notify owners of such rules, will foster participation while ensuring board meetings can be conducted in an efficient manner. Your Committee further finds that although many boards provide an agenda at board meetings, providing this information in advance, and shortening the time frame under which unapproved final drafts of meetings are made available, will encourage participation and communication between owners and their boards. Amendments to this measure are therefore needed to address these issues.

Your Committee also notes that boards of directors should be responsible for a decision to comply with certain mandatory provisions of the State's condominium laws. An amendment to this measure is therefore necessary to clarify that compliance with specific mandatory provisions of the condominium laws is part of the fiduciary duty a board of directors owes to its association.

Finally, your Committee notes that some concerns have been raised regarding permitting boards to establish rules governing owner participation at board meetings, and whether this could lead to a situation where some owners were considered favored members of an association, to the detriment of other owners. Your Committee appreciates these concerns and believes further discussion on this issue may be warranted as this measure moves through the legislative process.

Your Committee has amended this measure by:

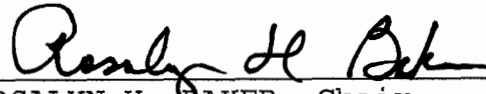


- (1) Clarifying that a violation of specific provisions of the State's condominium law by a condominium board of directors or its officers or members is a violation of the board's fiduciary duty, but providing a safe harbor provision for a board member who votes for compliance or rescinds or withdraws the violating conduct;
- (2) Clarifying that a board is permitted to establish rules for owner participation in any deliberation or discussion at board meetings, other than executive sessions, and specifying that notice must be provided to owners regarding these rules;
- (3) Clarifying that a board, by majority vote, may adjourn a meeting and reconvene in executive session;
- (4) Requiring the notice for board meetings to include a list of items expected to be on the meeting agenda;
- (5) Requiring unapproved final drafts of the minutes of a board meeting to be available within fourteen days after the meeting;
- (6) Removing language that would have permitted a board, by majority vote, to allow members of the association to attend executive sessions to present personal information;
- (7) Inserting an effective date of July 1, 2050, to encourage further discussion; and
- (8) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 832, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 832, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.



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



ROSALYN H. BAKER, Chair



The Senate
Twenty-Ninth Legislature
State of Hawai'i

Record of Votes
Committee on Commerce, Consumer Protection, and Health
CPH

Bill / Resolution No.:* <i>HB 832 HD1</i>	Committee Referral: <i>CPH</i>	Date: <i>3/21/17</i>		
<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)	/			
NISHIHARA, Clarence K. (VC)	/			
CHANG, Stanley	/			
ESPERO, Will				/
IHARA, Jr., Les				/
KIDANI, Michelle N.				/
RUDERMAN, Russell E.	/			
TOTAL	<i>4</i>			<i>3</i>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <i>Clarence K. Nishihara</i>				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes