

Honolulu, Hawaii

MAR 03 2017

RE: S.B. No. 104
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 S.B. No. 104 entitled:

"A BILL FOR AN ACT RELATING TO CONDOMINIUM GOVERNING
INSTRUMENTS,"

begs leave to report as follows:

The purpose and intent of this measure is to clarify the
procedures to amend condominium association declarations, bylaws,
and other governing instruments.

Your Committee received testimony in support of this measure
from the American Heart Association, Hawai'i Public Health
Institute, and two individuals. Your Committee received testimony
in opposition to this measure from the Hawaii State Association of
Parliamentarians, Hawaii Council of Associations of Apartment
Owners, Associa, Hui 'Oia'io, and thirteen individuals. Your
Committee received comments on this measure from one individual.

Your Committee finds that under existing law, sixty-seven
percent of all owners within a one-year time frame must vote in
favor of a bylaw in order for it to pass. However, bylaw
amendments often fail because of poor ballot returns. For
example, your Committee has heard testimony that members of a
condominium association have been repeatedly unable to amend their
bylaws to pass non-smoking policies due to owner apathy or ballot
non-return. This measure attempts to address this issue by



lowering the threshold for the vote required to change a condominium's governing documents.

However, your Committee has heard testimony that lowering this threshold requirement could result in unintended consequences. Your Committee notes that a condominium's declaration and bylaws function as the governing foundation for day to day life at condominiums. Your Committee has heard the concerns that lowering the threshold to amend these documents could lead to instability within a condominium, especially if a proposed amendment to a governing document was of a material nature, or otherwise affected the viability or stability of a condominium association, such as amendments affecting voting rights, increases in assessments, responsibility for maintenance and repairs, or hazard and fidelity insurance requirements. Your Committee understands these concerns and concludes amendments to this measure are necessary.

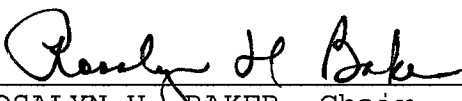
Your Committee has amended this measure by:

- (1) Clarifying that the procedures to amend condominium association declarations, bylaws, and other governing documents shall only apply to those proposed amendments that are not of a material adverse nature to condominium owners or do not imperil the viability or stability of the association;
- (2) Inserting an effective date of July 1, 2050, to encourage further discussion; and
- (3) 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 S.B. No. 104, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 104, 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>SB104</i>	Committee Referral: <i>CPH</i>	Date: <i>3/1/17</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>5</i>			<i>2</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

Revised: 12/2/16