

STAND. COM. REP. NO.

614

Honolulu, Hawaii

MAR 05 2015

RE: S.B. No. 826

S.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Eighth State Legislature
Regular Session of 2015
State of Hawaii

Madam:

Your Committee on Commerce and Consumer Protection, to which was referred S.B. No. 826 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;
- (2) Permit the board of an association to employ and discharge the managing agent of an association, subject to a vote of a majority of the unit owners at an association meeting; and
- (3) Provide an exemption for a condominium project in which a majority of the units have been submitted to one or more vacation plans, or in which one or more units has been submitted to a vacation plan established by the developer of the project or by an affiliate of the developers.

Your Committee received testimony in support of this measure from the Hawaii Community Associations Institute Legislative Action Committee and one individual. Your Committee received testimony in opposition to this measure from the Hawai'i Association of REALTORS and thirteen individuals.



Your Committee finds that the bylaws of a condominium provide for an annual meeting. At this meeting, certain required business must be attended to, including adopting a mandatory tax resolution to file the association's income tax and electing or reelecting members to the board of directors. Obtaining quorum may be difficult in certain situations, which can cause problems including failure to file the mandatory tax resolution or holdover board members. Your Committee has heard the concerns about the quorum requirement, as proposed by this measure. Your Committee has also heard the concerns regarding the managing agent provisions of this measure. Your Committee understands these concerns and concludes that amendments to this measure are necessary to address some of the challenges to condominium living that were brought up during testimony before your Committee.

Your Committee further finds that after the public hearing on this measure, interested stakeholders met to discuss consensus language to enhance the effectiveness and efficiency of the self-governance necessary in condominium living. Your Committee notes that, as part of the discussion, the Real Estate Commission and Regulated Industries Complaints Office will be developing a standardized form for written requests for association documents that are required to be provided under certain sections of chapter 514B, Hawaii Revised Statutes. This standardized form will clearly specify the documents condominium owners are entitled to receive and the parameters for receiving them and must be responded to within a set period of time. The form will also assist the Regulated Industries Complaints Office respond to complaints or questions regarding access to or receipt of association documents.

Your Committee is encouraged by discussions among the interested stakeholders and believes the amendments proposed by the stakeholders represent a balanced approach that will benefit condominium owners, boards, and associations. Amendments to this measure are therefore necessary to incorporate the language agreed upon by the interested stakeholders.

Accordingly, your Committee has amended this measure by:

- (1) Specifying that the annual meeting held by an association shall conduct business that includes but is not limited to filing applicable Internal Revenue Service forms and adopting a tax resolution and electing



unit owners to the board of directors to fill any position that is expiring or has expired;

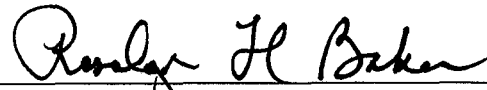
- (2) Clarifying that an association may allow two subsequent duly noticed adjourned annual meetings if there is no quorum present at the initial annual meeting and restricting the time between the originally-noticed adjourned annual meeting and the subsequent adjourned annual meeting to no longer than ninety days;
- (3) Permitting a reduced quorum requirement if quorum is not met at the third attempt to obtain quorum at a duly noticed adjourned annual meeting, and specifying the association business to be conducted at this meeting;
- (4) Clarifying the ability of a majority of unit owners to terminate a managing agent's contract at an association meeting;
- (5) Clarifying other circumstances in which a managing agent's contract may be terminated;
- (6) Clarifying exemptions to the managing agent contract provisions established by this measure;
- (7) Requiring association meetings to be held at a location convenient and easily accessible to a majority of condominium unit owners;
- (8) Requiring a condominium association with fifty or more units to prepare its budget on an accrual basis in accordance with generally accepted accounting principles;
- (9) Requiring the use of standardized forms prescribed or approved by the Real Estate Commission for the condominium unit owner's request for records and the association's response to the request for records;
- (10) Inserting a purpose section, savings clause, and severability clause;
- (11) Inserting an effective date of July 1, 2050, to encourage further discussion; and



- (12) 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 and Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 826, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 826, 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,

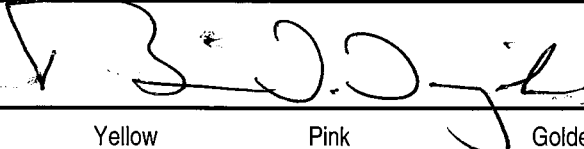


ROSALYN H. BAKER, Chair



The Senate
 Twenty-Eighth Legislature
 State of Hawai'i

Record of Votes
Committee on Commerce and Consumer Protection
CPN

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 826	CPN	2/27/15		
<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)	✓			
KAHELE, Gilbert				✓
KIDANI, Michelle N.	✓			
NISHIHARA, Clarence K.	✓			
WAKAI, Glenn	✓			
SLOM, Sam				✓
TOTAL	5	0	0	2 (B2)
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes