

STAND. COM. REP. NO. 1770

Honolulu, Hawaii

APR 06 2023

RE: H.B. No. 11
H.D. 2
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 Commerce and Consumer Protection, to which was referred H.B. No. 11, H.D. 2, entitled:

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

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Specify that primary and secondary plan documents be listed in the public disclosure statement of a time share plan;
- (2) Clarify when the disclosure of pertinent provisions of condominium project instruments must occur;
- (3) Clarify the manner in which the required disclosure of liens, title defects, or encumbrances on the titles of units may be made;
- (4) Provide that a consultant's review of encumbrances may be waived upon the certification from the developer that the time share interest is free and clear of blanket liens or that identifies all blanket liens; and



- (5) Require the Director of Commerce and Consumer Affairs to include in the annual time share plan report to the Legislature information regarding developers' certifications.

Your Committee received testimony in support of this measure from the American Resort Development Association - Hawaii, Hilton Grand Vacations, Marriott Vacations Worldwide Corporation, Maui Hotel & Lodging Association, and one individual. Your Committee received testimony in opposition to this measure from UNITE HERE Local 5. Your Committee received comments on this measure from the Department of Commerce and Consumer Affairs.

Your Committee finds that the laws governing time sharing plans in Hawaii were first adopted in 1980. At the time, most time sharing plans were confined to a single site and buyers would typically receive a deed of a fractional interest in a specific condominium unit together with the right to use that unit for a specific week every year. Listing the encumbrances for a single condominium project was simple and added one or two pages to the disclosure statement. It was also appropriate since the buyer would be a co-owner of a condominium unit in the condominium project. However, modern time share plans frequently involve hundreds of units at dozens of sites. The list of encumbrances, which formerly added one or two pages, now adds fifty or more pages to the disclosure statement and lists items that are not likely to be of interest to the time share buyer, such as electrical easements and waterline easements. Furthermore, in modern time share plans, buyers do not typically receive a deed to a unit at any given site. Instead, title is lodged in a land trust, and buyers own a beneficial interest in the trust. As a result, if the disclosure statement becomes too long, buyers will likely not read any of it. This measure decreases the size of disclosure statements provided to time share buyers and promotes consumer protection by increasing access to documents electronically and simplifying review processes.

Your Committee notes that the Department of Commerce and Consumer Affairs Time Share Program and relevant stakeholders have had an opportunity to discuss potential amendments to this measure that further streamline the document review process while protecting consumers' interest. Amendments to this measure are therefore necessary to incorporate this consensus language.



Accordingly, your Committee has amended this measure by:

- (1) Deleting language that would have required a time share developer offering a time sharing plan to disclose to the public a list of its supplementary plan documents;
- (2) Clarifying that a consultant's review of encumbrances shall be waived upon the certification from the developer that the time share interest is free and clear of blanket liens or that identifies all blanket liens;
- (3) Deleting language that would have required the Director of Commerce and Consumer Affairs to include in the annual time share plan report to the Legislature information regarding developers' certifications; and
- (4) 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 H.B. No. 11, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 11, H.D. 2, 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,



CARRETT KEOHOKALOLE, Chair



The Senate
 Thirty-Second Legislature
 State of Hawai'i

Record of Votes
Committee on Commerce and Consumer Protection
CPN

Bill / Resolution No.:*	Committee Referral:	Date:
HB 11 HD 2	CPN	4/5/23
<input checked="" type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: <u>pass with amendments</u>		
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	
KEOHOKALOOLE, Jarrett (C)	✓	
FUKUNAGA, Carol (VC)	✓	
MCKELVEY, Angus L.K.	✓	
RICHARDS, III, Herbert M. "Tim"		✓
AWA, Brenton	✓	
TOTAL	4	0
0	0	1
Recommendation:		
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted		
Chair's or Designee's Signature:		
<i>Carol Fukunaga</i>		
Distribution:		
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Goldenrod Committee File Copy		

*Only one measure per Record of Votes

The Senate
 Thirty-Second Legislature
 State of Hawai'i

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Committee on Commerce and Consumer Protection
CPN

Bill / Resolution No.:*	Committee Referral:	Date:		
HB 11 HD 2	CPN	03/15/2023		
<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
KEOHOKALO, Jarrett (C)	✓			
FUKUNAGA, Carol (VC)				✓
MCKELVEY, Angus L.K.	✓	/		
RICHARDS, III, Herbert M. "Tim"	✓	/		
AWA, Brenton	✓	/		
TOTAL	4	0	0	1
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