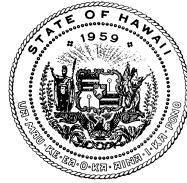


SB269

Measure Title:	RELATING TO CONDOMINIUMS.
Report Title:	Condominiums; Associations; Rules and Regulations; Smoking; Prohibitions; Owners; Lease Agreements
Description:	Enables condominium associations to adopt rules and regulations that: require unit owners to prohibit smoking inside a condominium unit as part of a lease agreement; and prohibit smoking on a lanai of a condominium unit and in all common elements.
Companion:	HB1257
Package:	None
Current Referral:	CPH
Introducer(s):	K. RHOADS, Moriwaki, Taniguchi



STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. Box 3378
Honolulu, HI 96801-3378
doh.testimony@doh.hawaii.gov

**Testimony in SUPPORT of S.B. 269
RELATING TO CONDOMINIUMS**

SENATOR ROSALYN H. BAKER, CHAIR
SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH
Hearing Date: February 15, 2019 Room Number: 229

1 **Fiscal Implications:** None.

2 **Department Testimony:** The Department of Health supports Senate Bill 269 (S.B. 269) as a
3 public health approach to protect dwellers of condominium units from involuntary exposure to
4 secondhand smoke (SHS). This measure proposes to amend §514B-105, Hawaii Revised
5 Statutes (HRS). Currently, the law merely implies that that condominium associations may
6 adopt rules and regulations that require unit owners to prohibit smoking by their renters. This
7 measure inserts language that explicitly allows associations the option to adopt policies that
8 would require unit owners to prohibit smoking inside the rental unit as part of a lease agreement;
9 and allows associations to adopt policies to prohibit smoking on a lanai of a condominium unit
10 and in all common elements.

11 Individuals who live in multi-unit housing are especially susceptible to involuntary
12 exposure to SHS. According to data from the 2013-2014 National Adult Tobacco Survey,
13 tobacco use was slightly higher among those living in multi-unit housing (24.7%) compared to
14 those living in single family homes (18.9%).¹ This survey further showed that among those
15 living in multi-unit dwellings with no smoking rules, approximately 34.4% experienced
16 incursions of SHS from neighbors or somewhere in the building.² Hawaii's relatively high
17 volume of multi-unit housing dwellers, in contrast to the rest of the nation (46.2% Hawaii vs.

¹ Nguyen, K. H., Ms, MPH, Gomez, Y., MPH, Homa, D. M., PhD, & King, B. A., PhD, MPH. (2016). *Tobacco Use, Secondhand Smoke, and Smoke-Free Home Rules in Multiunit Housing*. *American Journal of Preventive Medicine*, 51(5), 682-692. <http://dx.doi.org/10.1016/j.amepre.2016.05.009>

² Ibid.

1 29.8% U.S.), leaves many in vulnerable situations when choosing to live in condominiums.³
2 Passing this measure could help decrease the threat of being exposed to SHS.

3 SHS exposure is causally linked to adverse health outcomes among non-smokers
4 including heart disease, stroke, and lung cancer in adults, and increased risk of severe asthma
5 attacks, respiratory infections, ear infections, and sudden infant death syndrome (SIDS) in
6 children.^{4,5} As smoke-free policies in public places, such as worksites, bars, restaurants, parks
7 and beaches, are now the accepted social norm, much of the remaining involuntary exposure to
8 SHS occurs in private places including homes and cars. The only way to effectively eliminate
9 exposure is to prohibit tobacco use altogether. The American Society of Heating, Refrigerating,
10 and Air-Conditioning Engineers states that ventilation and other air filtration technologies cannot
11 eliminate all the health risks caused by SHS exposure.⁶ According to the Center for Energy and
12 the Environment, depending on outside temperature conditions, up to 65% of the air is shared
13 between units in apartment buildings.⁷ SHS can potentially affect all other units in a building.

14 The movement for smoke-free multi-unit housing is rapidly growing in Hawaii and
15 across the country with the greatest protections offered now to persons living in public housing.
16 In 2014 the Hawaii Legislature enacted Act 91, a groundbreaking law prohibiting smoking in all
17 public housing, and in the summer of 2018, the U.S. Department of Housing and Urban

³ Annual Estimates of Housing Units for the United States, Regions, Divisions, States, and Counties: April 1, 2010 to July 1, 2017
Source: U.S. Census Bureau, Population Division. Data release: May 2018 Retrieved January 31, 2019 from

<https://factfinder.census.gov/faces/nav/jsf/pages/searchresults.xhtml?refresh=t> ⁴ U.S. Department of Health and Human
Services. *Let's Make the Next Generation Tobacco-Free: Your Guide to the 50th Anniversary Surgeon General's Report on
Smoking and Health (2014)*. <https://www.surgeongeneral.gov/library/reports/50-years-of-progress/consumer-guide.pdf>

⁴ U.S. Department of Health and Human Services. *Let's Make the Next Generation Tobacco-Free: Your Guide to the 50th
Anniversary Surgeon General's Report on Smoking and Health (2014)*. [https://www.surgeongeneral.gov/library/reports/50-
years-of-progress/consumer-guide.pdf](https://www.surgeongeneral.gov/library/reports/50-
years-of-progress/consumer-guide.pdf)

⁵ U.S. Department of Health and Human Services. *The Health Consequences of Smoking—The 50 Years of Progress: A Report of
the Surgeon General (2014)*.

⁶ American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE). (2010). [https://www.ashrae.org/about-
ashrae/position-documents](https://www.ashrae.org/about-
ashrae/position-documents)

⁷ Minnesota Live Smoke-Free. *The Case for Smoke-Free Multi-Housing (Presentation)*, (2011).

http://www.mnsmokefreehousing.org/documents/presentations/CPW1_Case_for_Smoke_Free_Housing_MN.pdf

1 Development implemented uniform no-smoking restrictions across all 3,300 nationwide public
2 housing authorities.⁸

3 While great gains have been made in the public housing sector, the affordable and
4 market-rate sector still lack adequate comprehensive safeguards against SHS. The Department
5 supports this measure as a public health strategy toward comprehensive protections against
6 involuntary SHS exposure for those living in condominiums.

7 Thank you for the opportunity to provide testimony.

⁸ U.S. Department of Housing and Urban Development. *Smoke-Free Public Housing and Multifamily Properties*.
https://portal.hud.gov/hudportal/HUD?src=/program_offices/healthy_homes/smokefree



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En Young, MBA
Sansei, Lanai

Date: February 12, 2019

To: The Honorable Rosalyn H. Baker, Chair
The Honorable Stanley Chang, Vice Chair
Members of the Senate Committee on Commerce, Consumer
Protection and Health

From: Trish La Chica, Policy and Advocacy Director, Hawai'i Public Health
Institute

Re: **Support for SB269, Relating to Condominiums**

Hrg: February 15, 2019 at 9:30 AM at Capitol Room 229

The Coalition for a Tobacco-Free Hawai'i, a program of the Hawai'i Public Health Instituteⁱ is in **SUPPORT** of SB269, which enables condominium associations to adopt rules and regulations that:

- Require unit owners to prohibit smoking inside a condominium unit as part of a lease agreement; and
- Prohibit smoking on a lanai of a condominium unit and in all common elements.

SB269 helps to promote smoke-free environments. This measure is a step towards helping to protect nonsmoking neighbors from the health dangers of inhaling tobacco smoke. In addition, this measure aims to protect unit owners from the high costs associated with the removal and damage caused by thirdhand smoke. The Coalition supports any efforts that encourage multi-unit dwellings to adopt smoke-free policies and reduce secondhand smoke exposure.

A majority of Hawai'i residents prefer to buy or rent a house or apartment that is smoke-free.

An independent poll conducted by Ward Research Inc. for the Coalition, in November 2018 finds that 87% of registered Hawai'i voters would choose to buy or rent a smoke-free house or apartment.

Condominium and apartment residents are suffering from secondhand smoke, a known carcinogen, with little recourse.

The Coalition receives calls from residents who reside in multi-unit housing and who have asthma and other health issues affected by secondhand smoke exposure. The Coalition supports efforts that will encourage any multi-unit dwelling to go smoke-free. Through our efforts

we have learned that all residents—regardless if they have asthma, COPD or other health issues—are impacted by the hazards of secondhand smoke.

Thank you for the opportunity to testify in **support** of SB269. We ask that you pass this measure out of committee.

Mahalo,



Trish La Chica, MPA
Policy and Advocacy Director

ⁱ The Coalition for a Tobacco-Free Hawai'i (Coalition) is a program of the Hawai'i Public Health Institute (HIPHI) that is dedicated to reducing tobacco use through education, policy, and advocacy. With more than two decades of history in Hawai'i, the Coalition has led several campaigns on enacting smoke-free environments, including being the first state in the nation to prohibit the sale of tobacco and electronic smoking devices to purchasers under 21 years of age.

The Hawai'i Public Health Institute is a hub for building healthy communities, providing issue-based advocacy, education, and technical assistance through partnerships with government, academia, foundations, business, and community-based organizations.



O`ahu County Committee on Legislative Priorities

COMMITTEE ON CONSUMER PROTECTION AND HEALTH
Senator Roselyn H. Baker, Luna Ho`omalu/Chair
Senator Stanley Chang, Hope Luna Ho`omalu/Vice Chair

La/DATE: Friday, February 15, 2019

Hola/TIME: 9:30 a.m.

Wahi/PLACE: Conference Room 229, State Capitol

RE: SB 269 Relating to Condominiums

To the Honorable Roselyn H. Baker, Chair; the Honorable Stanley Chang, Vice Chair; and Members of the Committee on Consumer Protection and Health:

The O`ahu County Committee on Legislative Priorities (OCCLP) of the Democratic Party of Hawai`i (DPH) hereby submits its testimony in **SUPPORT of SB 269 relating to Condominiums**.

SB 269 enables condominium associations to adopt rules and regulations that: require unit owners to prohibit smoking inside a condominium unit as part of a lease agreement; and prohibit smoking on a lanai of a condominium unit and in all common elements.

DPH believes that it must take a number of proactive steps so that all people – regardless of location, income or history – have the opportunity to live full, healthy lives. Democrats will fight for increased investments and coordination in public health to better address emerging threats as well as persistent needs around our State. *Democratic Party of Hawai`i Platform (2018), p. 15, ln. 32-50.*

For the foregoing reasons, i.e. to take proactive steps so that all people – regardless of location, income or history – have the opportunity to live full, healthy lives, OCCLP supports SB 269 and urges its passage out of the Committee on Consumer Protection and Health.

Mahalo nui loa
Me ka `oia`i`o

/s/ *Melodie Aduja*

Melodie Aduja

Chair, O`ahu County Committee on Legislative Priorities of the Democratic Party of
Hawai`i

Ph. (808) 258-8889

Email: legislativepriorities@gmail.com

SB-269

Submitted on: 2/12/2019 11:06:18 AM

Testimony for CPH on 2/15/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Richard Emery	Testifying for Associa	Comments	Yes

Comments:

The Bill discriminates against an owner occupant and a tenant and is bothersome. Allowing boards to establish smoking rules for lanais makes sense as it clears up the issue of lanais that are limited common element or a part of the apartment in the project's Declaration..

SB-269

Submitted on: 2/12/2019 7:49:47 AM

Testimony for CPH on 2/15/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Nancy Manali-Leonardo	Individual	Support	No

Comments:

Good Morning,

I am a person who is highly sensitive to chemicals.

I am highly sensitive to cigarette smoke.

I am a condo owner. Nearly all condos are affected by our strong tradewinds; therefore, smoking anywhere in condos buildings makes NO SENSE.

In addition, second and third hand smoke are issues as well. One more obvious issue caused by smoking is FIRE. We still do not know how the Marco Polo fire started-but we do know the unit owners smoked!

Mahalo for the work you do for the entire community. SB 269 is a bill for the entire community.

SB-269

Submitted on: 2/11/2019 4:21:16 PM

Testimony for CPH on 2/15/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Alan Watanabe	Individual	Oppose	No

Comments:

SB-269

Submitted on: 2/11/2019 6:13:21 PM

Testimony for CPH on 2/15/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kimo Cruz	Individual	Oppose	Yes

Comments:

SB-269

Submitted on: 2/12/2019 4:31:25 AM

Testimony for CPH on 2/15/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
B.A. McClintock	Individual	Support	No

Comments:

For those of us with respiratory and chemical disabilities this is an important bill. When we aren't safe in our own homes this is a problem. When you are ill to begin with the aggravation of smoke can send us to the hospital. In severe cases it can kill especially for those of us with asthma. This is a common sense bill. Please do everything in your power to pass it. Mahalo.

SB-269

Submitted on: 2/11/2019 6:05:29 PM

Testimony for CPH on 2/15/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Sean Higa	Individual	Oppose	No

Comments:

It should be up to the owner.

RESPECT PRIVATE PROPERTY RIGHTS!

SB-269

Submitted on: 2/11/2019 8:23:54 PM

Testimony for CPH on 2/15/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
lynne matusow	Individual	Oppose	No

Comments:

Please accept this as testimony in opposition. I am a non-smoker. I do not like the smell of cigarette smoke. I do not like it when smoke travels to my unit. I do not like the health implicaitons of second hand smoke. However, this bill does not treat all owners equally and could well be subject to law suits. You cannot tell an owner occupant that they can smoke in their unit but an absentee owner is not allowed to rent to a smoker. This can also be treated as a taking. Either eveyone is allowed to smoke or no one is.

Lynne Matusow

SB-269

Submitted on: 2/12/2019 11:05:21 AM

Testimony for CPH on 2/15/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Marcia Kimura	Individual	Support	No

Comments:

I support this measure because I don't believe associations should be required to obtain a 67% vote in favor of prohibiting smoking, if those mandates have not already been established in governing documents. Particularly in associations where 50% or fewer owners are residents, there is a real possibility that non resident owners will not be concerned enough about the dangers of being exposed to second-and third-hand cigarette smoke that we resident owners and tenants must tolerate on a daily basis. The tendency is for non resident owners to be disinterested in instituting living improvements in buildings they own units in, unless they themselves face the prospect of prohibitive costs if those improvements are not done.

The growing trend is that most prospective buyers and tenants of existing properties find cigarette residue and odor repugnant. Experts have stated that the only way to get rid of cigarette smoke residue in drywalls is to tear down and rebuild the walls. Carpets and drapes must also be replaced, as it is often not possible to completely clean them. Many owners do not realize these concerns until they try to either sell their units or to rent them to new tenants.

Smoking health hazards and prohibitive costs of getting rid of smoking residue trump so many other considerations in debates on whether or not to allow smokig in buildinbgs, that there is no doubt association boards should be given automatic rein to mandate smoking bans.

SB-269

Submitted on: 2/12/2019 5:22:14 PM

Testimony for CPH on 2/15/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Michael Zehner	Testifying for Hawaii Smokers Alliance	Oppose	No

Comments:

We strongly oppose this bigoted attack on property rights as well as the attack on right to privacy. This isn't North Korea, we need to actually respect the OWNER'S right to make their own choices on their own property. The bill is also a dangerous **precedence - that more power should be given to condo boards and less to the owners themselves. Yikes.**

SB-269

Submitted on: 2/12/2019 6:20:31 PM

Testimony for CPH on 2/15/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Monika Lopez	Individual	Oppose	No

Comments:

SB-269

Submitted on: 2/12/2019 7:22:03 PM

Testimony for CPH on 2/15/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Tammy Young	Individual	Oppose	No

Comments:

Stay out of my home!

SB-269

Submitted on: 2/12/2019 7:39:16 PM

Testimony for CPH on 2/15/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jessica Chang	Individual	Oppose	No

Comments:

SB-269

Submitted on: 2/13/2019 7:00:53 AM

Testimony for CPH on 2/15/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Chris Cooper	Individual	Oppose	No

Comments:

Senator Rosalyn Baker, Chair
Senator Stanley Chang, Vice Chair

Re: SB 269

Friday, February 15, 2019, 9:30 AM
in Conference Room 229

While I, Adeline Porter, Strongly Support SB269, relating to condominiums, I ask that it would be modified to prohibit smoking within condominium units occupied by all persons: owners, tenants, guests, and/or invitees.

I am a senior citizen and a cancer survivor, who has been deemed permanently disabled, by Social Security Administration, due to multiple chemical sensitivity. I have lived in my condominium for the past forty-six (46) years. In 2015, I spent nearly \$40,000.00 to refurbish my unit, replacing materials containing formaldehyde, asbestos, mold and other toxicants to acquire a safer and healthier living environment, and thus a better quality of life. Tragically, since about two years ago, my medical condition worsened due to the daily drifting of my neighbor's secondhand smoke. I can no longer enjoy my lanai and/or open windows and the lanai door. In spite of my installing two air purifiers, one of which indicates poor air quality when I detect cigarette smoke odor, I need to leave my unit at least once, oftentimes twice daily, to alleviate my symptoms. Unfortunately, I find myself returning to an environment with residual toxins, causing my symptoms to linger and requiring oxygen therapy. And now, my recently refurbished home is contaminated with thirdhand smoke.

Attempts to resolve the issue by communicating with the Board and the smoking owner-occupant neighbor have not been successful. Secondhand smoke continues to drift from within his unit into mine.

While the Board supports the smoking ban, which includes individual units, their only accessible mechanism for remedy is an amendment to our dated By-laws. The Board expects this process will take at least a year and longer to accomplish: 1) 67% of owners' approval will be required, 2) non-occupant owners, consisting 50% of our current residents, may not be readily reachable to obtain this required 67%, and if/when we obtain the necessary approval, the 3) Attorney's fee to amend the By-laws will likely be prohibitive at this time when our association prepares for our building's repiping project and possibly the need to install sprinklers.

In addition to my personal predicament, I offer the following compelling findings to uphold my strong support to prohibit smoking in condominium units:

1. Secondhand smoke is a poisonous air pollutant that contains over 250 known toxins and carcinogens, including Arsenic, Carbon monoxide, Formaldehyde, Benzene, Nicotine and more. The U.S. Environmental Protection Agency has classified it a Group A Carcinogen.

2. The CDC warns that even a brief, low level exposure to secondhand smoke can substantially increase the risk on non-smokers of lung cancer, cardiovascular disease, reproductive and developmental abnormalities, immune and respiratory conditions and more. Infants and children are particularly at risk and vulnerable to asthma and sudden infant death syndrome. Secondhand smoke makes existing illnesses worse and it can cause death.
3. According to The U.S. Surgeon General, there is No Safe Level of Exposure to Secondhand Smoke and Eliminating Indoor Smoking Is The Only Way to Protect Non-Smokers from the Harmful Effects of Secondhand Smoke Exposure.
4. There is No Effective Way to Contain Secondhand Smoke at its point of origin: smoke will find its way into your unit through open windows, under doors, tiny cracks and openings in the walls, electrical outlets, spaces around pipes and plumbing fixtures and ventilations systems.
5. According to the American Society of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE): “There is no known ventilation or air cleaning system that can eliminate all the toxins from another resident’s smoke.”
6. Thirdhand Smoke, as referred to by researchers of Harvard Cancer Center, is the remnants on surfaces after secondhand smoke has cleared out. These surfaces include walls, ceilings, furniture, carpets, drapes, beddings, hair, clothing and more. The presence of thirdhand smoke may be indicated by the stale, lingering odor and/or yellowish stain on surfaces.

Restoration of individual units and common areas following thirdhand smoke contamination can be costly and time consuming. i.e. Walls and ceilings need to be decontaminated and repainted, window coverings and carpets need to be replaced, ventilation ducts need to be cleaned out, and more.

Chair Baker, and members of this Committee on Commerce, Consumer Protection and Health, please heed the warnings set forth by agencies included in this testimony and ban smoking in condominiums, including individual units occupied by all persons, whether they are owners, renters or guests. We are in dire need of protection against harmful secondhand smoke, and we need this protection expeditiously. I humbly ask that you take to heart the foregoing testimony and pass SB269 with amendments during this session.

Thank you for this opportunity to testify.

Adeline Porter

SB-269

Submitted on: 2/13/2019 4:32:10 PM

Testimony for CPH on 2/15/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jake J. Watkins	Individual	Oppose	Yes

Comments:

We are overtaxed already.

Enough already. Please do not this bill leave the committee.

SB-269

Submitted on: 2/13/2019 5:49:09 PM

Testimony for CPH on 2/15/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Mark Dietrich	Individual	Oppose	No

Comments:

SB-269

Submitted on: 2/13/2019 7:19:24 PM

Testimony for CPH on 2/15/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
John Bickel	Individual	Support	No

Comments:

In our condo building, we have problems with second hand smoke blowing from the inside of one unit to the inside of another.

Senator Rosalyn H. Baker, Chair
Senator Stanley Chang, Vice Chair
Committee on Commerce, Consumer Protection, and Health

SB 269, Relating to Condominiums

Friday, February 15, 2019, 9:30 am

I submit this testimony in strong support of SB 269, Relating to Condominiums, but respectfully request that it be amended to prohibit all persons from smoking inside a condominium unit, not only tenants.

Although I do not live in a condominium, my son, daughter-in-law, and 9-month old grandson live in a condo, and they are being affected by drifting secondhand smoke coming from other units. I am very much concerned that my grandson is being exposed to secondhand smoke since he was born. I am sure you are well aware of the adverse health effects that secondhand smoke have on infants' and children's health.

While my son's condo has House Rules that include a section on Quiet Enjoyment, which prohibits offensive smell or odor of any kind, the condo association board felt that smell from cigarette smoke does not fall under the Quiet Enjoyment section. Therefore, nothing is being done to stop the smell of drifting smoke from entering into their unit. Non-smokers in their building are having their health and quality of life adversely affected by secondhand smoke coming into their homes from smokers in other units.

Some may oppose this bill insisting that it is a violation of their rights. But when it affects children, action must be taken similar to the law which was passed on Oahu in 2017 prohibiting smoking in vehicles when a minor is present. This bill will also protect children living in condos who are breathing secondhand smoke coming from other units.

While some condominiums already have a total ban on smoking on their premises, amending and passing this bill will allow other condominium associations to expedite a no-smoking ban in individual units immediately. Amending and passing this bill will mean that my grandson and other families will have cleaner air to breathe much sooner in their own homes. It will also alleviate those with respiratory problems and reduce condo fires due to unattended lit cigarettes.

I respectfully urge the Committee to amend and pass SB 269. Thank you for this opportunity to testify.

Respectfully submitted,
N. Masuda

SB-269

Submitted on: 2/14/2019 6:48:24 AM

Testimony for CPH on 2/15/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Mark Owens	Individual	Oppose	No

Comments:

SB-269

Submitted on: 2/14/2019 11:29:24 AM

Testimony for CPH on 2/15/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Bill Patterson	Individual	Oppose	No

Comments:

I oppose this ban. I will remember next November how you guys voted on this.

SB-269

Submitted on: 2/14/2019 1:02:36 PM

Testimony for CPH on 2/15/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Anne Anderson	Individual	Support	No

Comments:

Dear Senator Baker, Chair, Senator Stanley Chang, Vice Chair, and Members of the Committee:

I support the intent of proposed S.B. 269 in that it seeks to empower condominium associations to regulate secondhand smoke which the Legislature has found to be a dangerous Class A carcinogen. However, the bill does not go far enough and needs to be amended.

S.B. 269 authorizes condominium associations to adopt rules to require owners who rent their units to include prohibitions against smoking in their lease agreements. It also provides that condominium associations may adopt rules prohibiting smoking on lanais and in all common elements. This provision is good, but it should be modified in several ways.

First, as written, S.B. 269 does not allow condominium associations, by rule making authority, to prohibit smoking in the units by owners or persons who are not governed by a lease agreement. A prohibition against smoking that is limited to tenants will have little impact on condominium projects that have a high percentage of owner-occupied units. Accordingly, given that the Legislature has found that secondhand smoke is a dangerous carcinogen, the Legislature should empower condominium associations to adopt rules and regulations prohibiting smoking in the units and the entire condominium project by all persons.

Second, HRS Section 514B-105(b) pertains to rules and regulations that affect the use of, or behavior in, units that may be used for residential purposes. Condominium associations should have rule making authority to prohibit smoking in all units, whether they be used for residential or commercial purposes.

Third, as mentioned above, HRS Section 514B-105(b) pertains to rules and regulations that affect the use of, or behavior, in residential units. Accordingly, the reference in the new proposed Section 514B-105(b)(2)(B) to the common elements is confusing because Section 514B-105(b) does not apply to rules related to the use of the common elements.

If the Legislative intent is to protect persons from the harmful effects of secondhand

smoke, it would be better to add a new subsection (f) to HRS Section 514B-105 that expressly authorizes condominium associations to adopt rules and regulations prohibiting smoking throughout the entire project, including the common elements, limited common elements, and condominium units by all persons, whether they be owners, tenants, guests, or invitees. The new section should provide that notwithstanding any other provision in Chapter 514B or an association's declaration or bylaws, an association, by and through its board, may adopt rules and regulations prohibiting smoking in all or any portion of the condominium project including the common elements, limited common elements, and condominium units.

For the reasons stated herein, I support S.B. 269, but suggest that it be amended as stated above.

Respectfully submitted,

M. Anne Anderson

SB-269

Submitted on: 2/14/2019 1:12:58 PM

Testimony for CPH on 2/15/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
JOY SCHOENECKER	Individual	Comments	No

Comments:

Neutral, but opposet first part of bill that allows for different rules for owners and renters in the same building.

SB-269

Submitted on: 2/14/2019 3:05:21 PM

Testimony for CPH on 2/15/2019 9:30:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Mike Golojuch	Individual	Oppose	No

Comments:

Although I do not condone smoking, I oppose this bill.

Mike Golojuch

SB-269

Submitted on: 2/14/2019 4:11:43 PM

Testimony for CPH on 2/15/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Cindy Nettles	Individual	Oppose	No

Comments:

My home is not a public space. This bill is outragous and wrong.