

Honolulu, Hawaii

APR 08 2015

RE: H.B. No. 271
H.D. 2
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 H.B. No. 271, H.D. 2, entitled:

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

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Provide cancellation rights to persons who contract to
buy a short-term product in Hawaii; and
- (2) Allow disbursement of purchasers' funds to a developer;
provided that the developer first posts a bond or letter
of credit.

Your Committee received testimony in support of this measure
from the American Resort Development Association - Hawai'i, Wyndham
Vacation Ownership; Marriott Vacations Worldwide Corporation;
Starwood Vacation Ownership. Your Committee received comments on
this measure from the Professional and Vocational Licensing
Division of the Department of Commerce and Consumer Affairs and
Regulated Industries Complaints Office of the Department of
Commerce and Consumer Affairs.

Your Committee finds that short-term products are intended to
allow a potential time share buyer the opportunity to stay in a
time share resort on a trial basis. If the buyer decides to
proceed with a purchase, some or all of the amount paid by the



buyer for the short-term product is typically credited toward the purchase price of the time share interest. Under existing law, there is a seven-day rescission right for the sale of a time share interest, but this rescission right does not apply to sales of short-term products. This measure proposes cancellation rights for persons who contract to buy a short-term product in Hawaii.

Your Committee further finds that under existing law, when a buyer purchases a time share that is in the development stage, the purchase funds may be placed in escrow and disbursed to the developer to cover construction costs. However, if the developer defaults, due to the use of subordination clauses in the purchase contract, the buyer's rights are subordinated to the rights of the construction lender. In response to this, other states have adopted laws permitting a time share developer to use buyer deposits upon posting a bond or other financial assurance to prevent the buyer's right from being subordinate to the lender. Similarly, this measure allows disbursement of purchasers' funds to a developer if the developer first posts a bond or letter of credit.

Your Committee has heard the concerns raised by the Regulated Industries Complaints Office regarding certain provisions of this measure that give cancellation rights to purchasers of short-term products in Hawaii. Your Committee has also heard the concerns raised by the Professional and Vocational Licensing Division regarding the language in this measure that would allow developers to post a surety bond instead of requiring purchasers' funds to remain in escrow prior to closing. Furthermore, concerns have been raised about the automatic exemption from chapter 468L, Hawaii Revised Statutes, as proposed by this measure, for short-term products or for the sale of short-term products, without a more workable definition for short-term product.

Your Committee notes that this measure is a work in progress and acknowledges that further discussions are warranted to ensure adequate consumer protections regarding the sale of short-term products in Hawaii. However, while discussions on this measure continue, your Committee concludes that removing language that automatically exempts short-term products or the sale of short-term products from chapter 468L, Hawaii Revised Statutes, is appropriate until it can be shown that consumers' best interests are served by exempting short-term products from the requirements of that chapter.

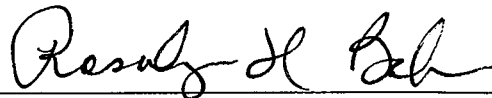


Accordingly, your Committee has amended this measure by:

- (1) Removing language that stated the offer of sale of short-term products by the developer or an affiliate of the developer would not be subject to chapter 468L, Hawaii Revised Statutes; and
- (2) 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. 271, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 271, H.D. 2, S.D. 1.

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.:* <div style="text-align: center; font-size: 1.2em;">HB271 HD2</div>	Committee Referral: <div style="text-align: center; font-size: 1.2em;">TSI, CPN</div>	Date: <div style="text-align: center; font-size: 1.2em;">4-1-15</div>		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <div style="display: flex; justify-content: space-around; align-items: flex-end;"> <div> <input type="checkbox"/> Pass, unamended 2312 </div> <div> <input checked="" type="checkbox"/> Pass, with amendments 2311 </div> <div> <input type="checkbox"/> Hold 2310 </div> <div> <input type="checkbox"/> Recommit 2313 </div> </div>				
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			2
Recommendation: <div style="display: flex; justify-content: space-around; margin-top: 10px;"> <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted </div>				
Chair's or Designee's Signature: <div style="text-align: center; margin-top: 10px; font-family: cursive; font-size: 1.2em;">Michelle N. Kidani</div>				
<div style="display: flex; justify-content: space-between; font-size: 0.8em;"> <div>Distribution:</div> <div>Original</div> <div>Yellow</div> <div>Pink</div> <div>Goldenrod</div> </div> <div style="display: flex; justify-content: space-between; font-size: 0.8em; margin-top: 5px;"> <div>File with Committee Report</div> <div>Clerk's Office</div> <div>Drafting Agency</div> <div>Committee File Copy</div> </div>				

*Only one measure per Record of Votes