

STAND. COM. REP. NO.

1049

Honolulu, Hawaii

MAR 03, 2023

RE: H.B. No. 11
H.D. 2

Honorable Scott K. Saiki
Speaker, House of Representatives
Thirty-Second State Legislature
Regular Session of 2023
State of Hawaii

Sir:

Your Committee on Consumer Protection & Commerce, to which was referred H.B. No. 11, H.D. 1, entitled:

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

begs leave to report as follows:

The purpose of this measure is to:

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

Your Committee received testimony in support of this measure from Hilton Grand Vacations, ARDA Hawai'i, Marriott Vacations Worldwide Corporation, 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 existing disclosure statement requirements for a time share plan were initially adopted in 1980. At that time, most time share plans were confined to a single site and listing the encumbrances was a simple addition to the disclosure statement. In contrast, modern time share plans frequently involve hundreds of units at dozens of sites. Your Committee further finds that the information currently required in a disclosure statement is a burden to consumers, due to the overwhelming number of encumbrances that are listed in a disclosure statement. Your Committee is concerned that if a disclosure statement becomes too long, consumers may not thoroughly review the disclosure statement, or may not read it at all. This measure is intended to reduce the burden on consumers and enhance the efficiency of reviewing disclosure statements and filings for time share plans by updating disclosure statement requirements to include only key information.

Your Committee has amended this measure by:

- (1) Specifying, for purposes of the public disclosure statement of a time share plan, that:
 - (A) A brief description of pertinent provisions of condominium project instruments must be included if the purchaser will own an undivided interest in a fee simple or leasehold condominium unit;
 - (B) The Director of Commerce and Consumer Affairs may require the disclosure of any nonmaterial lien, title defect, or encumbrance impacting a purchaser's utilization of the property; and
 - (C) The developer must include a statement on the website used to disclose nonmaterial liens, title defects, and encumbrances, that states the developer has determined the liens, title defects, and encumbrances on the website are not expected to directly, substantially, and adversely impact utilization of the property by a purchaser;



- (2) Allowing, rather than requiring, a consultant to accept a certification by a developer in lieu of reviewing copies of all encumbrances on title;
- (3) Clarifying the required contents in the certification to the consultant;
- (4) Requiring the Director of Commerce and Consumer Affairs to include in the annual report to the Legislature regarding time share plans the frequency and circumstances under which a developer's certification was accepted or when it was determined that further review was necessary and the justifications for further review; and
- (5) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 11, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 11, H.D. 2.

Respectfully submitted on
behalf of the members of the
Committee on Consumer
Protection & Commerce,


MARK M. NAKASHIMA, Chair



State of Hawaii
House of Representatives
The Thirty-second Legislature

HSCR 1049

Record of Votes of the Committee on Consumer Protection & Commerce

Bill/Resolution No.: HB 11 HD1	Committee Referral: TOU, CPC	Date: 03-01-23		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
CPC Members	Ayes	Ayes (WR)	Nays	Excused
1. NAKASHIMA, Mark M. (C)	/			
2. SAYAMA, Jackson D. (VC)	/			
3. AMATO, Terez	/			
4. BELATTI, Della Au	/			
5. HASHEM, Mark J.	/			
6. HUSSEY-BURDICK, Natalia				/
7. GATES, Cedric Asuega				/
8. LOWEN, Nicole E.	/			
9. ONISHI, Richard H.K.	/			
10. TAM, Adrian K.		/		
11. PIERICK, Elijah	/			
TOTAL (11)	8	1		2
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <div style="text-align: center; font-size: small;">committee acronym(s)</div>				
Vice Chair's or designee's signature:				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				