

STAND. COM. REP. NO.

1886

Honolulu, Hawaii

APR 03 , 2023

RE: S.B. No. 797
S.D. 1
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 S.B. No. 797, S.D. 1, 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 the public disclosure statement of a time share plan include:
 - (A) A list of primary plan documents;
 - (B) A brief description of pertinent provisions of condominium project instruments, if the purchaser will be a direct owner of a condominium unit;
 - (C) Notice of material liens, title defects, or encumbrances on or affecting the title to the units or plan and any other lien, title defect, or encumbrance impacting a purchaser's utilization of the property, as the Director of Commerce and Consumer Affairs may require; and



- (D) Notice of any other liens, title defects, or encumbrances, either as a list or by reference to a website; and
- (2) Require the contracted private consultant to accept a certification from the developer that:
 - (A) The time share interest being sold is free and clear of blanket liens or other material encumbrances that may materially and adversely impact utilization of the property; or
 - (B) Identifies the blanket liens or other material encumbrances and specifies the manner in which those encumbrances will be addressed or their impact to the purchaser.

Your Committee received testimony in support of this measure from Marriott Vacations Worldwide Corporation, American Resort Development Association - Hawaii, and one individual. 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) Reinserting the definition for "supplementary plan documents" in prior versions of the measure, which



clarifies when documents that are not explicitly listed within the definition of "primary plan documents" would constitute and be deemed to be primary plan documents that are subject to disclosure;

- (2) Clarifying that the developer certification to the contracted private consultant states that the developer has reviewed all encumbrances on title and has determined that the time share interest being sold is free and clear of blanket liens or other material encumbrances that may directly, substantially, and adversely impact utilization of the property by a purchaser; and
- (3) 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 S.B. No. 797, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 797, S.D. 1, H.D. 2.

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



MARK M. NAKASHIMA, Chair



Record of Votes of the Committee on Consumer Protection & Commerce

Bill/Resolution No.: SB 797 SDI HD1	Committee Referral: TOU, CPC	Date: 03-28-23		
<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)	9			2
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
If joint referral, _____ did not support recommendation. committee acronym(s)				
Vice Chair's or designee's signature: <u><i>[Signature]</i></u>				
Distribution: Original (White) - Committee Duplicate (Yellow) - Chief Clerk's Office Duplicate (Pink) - HMSO				