

Testimony of the Hawai'i Real Estate Commission

**Before the
House Committee on Consumer Protection & Commerce
Wednesday, April 2, 2025
2:00 p.m.
Conference Room 329 and Videoconference**

**On the following measure:
S.B. 1046, S.D. 1, RELATING TO CONDOMINIUMS**

Chair Matayoshi and Members of the Committee:

My name is Derrick Yamane, and I am the Chairperson of the Hawai'i Real Estate Commission (Commission). The Commission offers comments on this bill.

The purpose of this bill is to require certain managing agents to notify each unit owner and the Commission when a condominium association that the agent manages fails to meet budget and replacement reserves reporting requirements.

The Commission believes that the proposed mandatory notification requirement on page 7, lines 6-15, for condominium unit owners to stay informed about potential financial issues may have merit, but also expresses concerns that this bill could potentially impact existing contracts between certain condominium associations and managing agents. To limit possible unintended consequences, the Commission respectfully recommends consideration be given to Act 43, SLH 2024, which appropriated \$200,000 from State general revenues and \$150,000 from the Condominium Education Trust Fund, for the Legislative Reference Bureau (LRB) to study how other jurisdictions handle issues regarding condominiums. The scope of the LRB study particularly examines the strengths and weaknesses of other states' approaches to governmental regulation and enforcement of condominium operations and governance. Upon completion of the study, a Condominium Property Regime (CPM) Task Force, established by Act 189, SLH 2023, is tasked with submitting to the Legislature a final report of its findings on issues regarding condominiums, including any recommended legislation, no later than June 30, 2026.

Thank you for the opportunity to testify on this bill.

SB-1046-SD-1

Submitted on: 3/31/2025 11:58:15 AM

Testimony for CPC on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
JANE SUGIMURA	HAWAII COUNCIL OF COMMUNITY ASSOCIATIONS	Oppose	In Person

Comments:

Hawaii Council of Community Associations requests SB1046 SD1 to be derred.

As stated in the testimony of Phil Nerny, Richard Emery and Lynne Matsusow and others in opposition, this bill create an adversarial relationship between the board and their contracted management company. And how does this bill impact the over a hundred self managed condominiums?

Thank you for allowing the submission of this testimony.

Jane Sugimura, President - Hawaii Council of Community Associations.

HAWAII LEGISLATIVE
ACTION COMMITTEE


community
ASSOCIATIONS INSTITUTE

P.O. Box 976
Honolulu, Hawaii 96808

March 31, 2025

Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair
Committee on Commerce and Consumer Protection
415 South Beretania Street
Honolulu, HI 96813

SB 1046 Comments

Dear Committee,

My name is Richard Emery, and I am a thirty-year condominium industry veteran. I am testifying on behalf of CAI. I also am a CAI Reserve Specialist (RS), reviewed or performed hundreds of Hawaii condominium reserve studies, participated in CAI's national task force for reserve study public policy, and currently serve as an expert in numerous disputes or litigation related to condominium budget and reserve studies.

CAI supports in the alternative SB253 that takes away a Board's good faith exemption if specific disclosures are not made as defined in HRS 514B-148. This disclosure identifies important budget and reserve study information for owners and potential buyers.

HB 1046 seems to suggest that all associations use services from a Managing Agent when in fact approximately 20% are self-managed. Furthermore, the real estate commission does not enforce condominium budget and reserve study issues. Budgets are budgets and variances are to be expected. Reserve Studies are simply a tool to forecast future financial needs based on fluctuating data and change every year. CAI opposes SB 1046. SB 253 imposes penalties for budget and reserve study noncompliance.

Richard Emery, RS-8
Principal Broker
On Behalf of CAI

SB-1046-SD-1

Submitted on: 3/31/2025 9:53:35 PM

Testimony for CPC on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Mike Golojuch, Sr.	Palehua Townhouse Association	Oppose	Written Testimony Only

Comments:

Our association opposes SB1046. Please defer this bill.

SB-1046-SD-1

Submitted on: 4/1/2025 8:06:43 AM

Testimony for CPC on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Mark McKellar	Law Offices of Mark K. McKellar, LLC	Oppose	Written Testimony Only

Comments:

Dear Representative Matayoshi, Chair, Representative Chun, Vice Chair, and Members of the Committee:

I oppose S.B. 1046 SD1 (“SB 1046”) for the reasons stated below.

SB 1046 adds a new subsection (h) to HRS Section 514B-148 which requires a managing agent whose client is a condominium association to provide written notice to each unit owner in the association and the real estate commission if the association being managed by the managing agent fails to comply with HRS Section 514B-148. While certainly, every association should comply with HRS Section 514B-148, pitting managing agents against associations is not the way to obtain compliance. This bill will do much more harm than good for the reasons discussed below.

First, any bill that pits an agent against the principal will undoubtedly erode the relationship between the two and make it harder for them to work together to achieve their goals.

Second, this bill will likely prevent boards from seeking professional assistance from managing agents if they discover an error in the budget or reserves for fear that if they seek such assistance, the managing agents will feel duty bound to immediately write to all owners and the real estate commission about the matter before offering the requested assistance.

Third, this bill fails to explain how a managing agent is to make the determination of noncompliance with HRS Section 514B-148. Is it required to hire its own independent expert to review the budget and reserves? Many managing agents may conclude that they must do so to fulfill their duties. This will drive up costs because managing agents will pass on such costs to associations.

Fourth, what if the board is, in good faith, relying upon the advice of a qualified reserve specialist but the managing agent disagrees with the reserve specialist? Will the managing agent be required to report the association in these instances? It is certainly possible that if this bill becomes law, to avoid potential liability, managing agents will send letters to all owners and the real estate commission with boiler plate notices of potential failures to comply with the statute, rendering the statute meaningless.

Fifth, this bill fails to address situations where noncompliance with minimal reserve levels is due to unforeseen circumstances such as unforeseen skyrocketing insurance premiums or unexpected repair expenses after a fire or hurricane.

Sixth, this bill does not address what the real estate commission must do with such information.

Seventh, it is unclear whether every violation, including minor or minuscule violations, or only substantial violations, must be reported. A report sent to all owners that the association is not in compliance with HRS Section 514B-148 may cause wide-spread alarm not only among owners, but among lenders who may refuse to lend on apartments in the project even though the violation was minor.

For the reasons discussed herein, please defer this bill.

Respectfully submitted,

Mark McKellar

TESTIMONY IN SUPPORT OF SB1046 SD1

For: The Committee on Consumer Protection & Commerce

DATE: Wednesday, April 2, 2025
TIME: 2:00 PM
PLACE: VIA VIDEOCONFERENCE
Conference Room 329
State Capitol
415 South Beretania Street

Aloha Chair Matayoshi, Vice Chair Chun, and Members of the Committee,

My name is Gregory Misakian and I have been advocating for the rights of condominium owners in Hawaii since 2021, when I realized how much misconduct and corruption there is within many condominium associations throughout Hawaii, in addition to misconduct and corruption within numerous large management companies that manage and oversee condominium associations.

I currently serve as the 1st Vice President of the Kokua Council and was President for most of 2024. The Kokua Council advocates for our kupuna and lesser advantaged. I also serve as a Director on the Board of the Hawaii Alliance for Retired Americans (HARA), in addition to serving on the Waikiki Neighborhood Board, where we have advocated for better consumer protection laws for condominium owners in a resolution adopted in 2023 (also adopted by other Neighborhood Boards).

As many as 1/3 of the population of Hawaii lives in condominiums, including many legislators and their friends and families. It has been shown with evidence to support, including many news stories and a great deal of testimony, that condominium owners are being subjected to abusive and predatory practices, often at the direction of the condominium association's President and Board, with management company agents and association attorneys being willful participants.

While I support SB1046 SD1 and its intentions, owners still have the burden to go to court for enforcement, which can be very costly. The only real solution to address serious issues within condominium associations and their proper management, is to have enforcement of the laws that you enact.

I ask that you please read and support **HB890** and **SB1265** (companion bill) for an **Ombudsman's Office for Condominium Associations**.

HB890 - RELATING TO CONDOMINIUM ASSOCIATIONS. (Ombudsman)

SB1265 - RELATING TO CONDOMINIUM ASSOCIATIONS. (Ombudsman)

And also:

HB1209 - RELATING TO CONDOMINIUM ASSOCIATIONS (Attorneys' Fees)

HB1311 - RELATING TO CONDOMINIUM PROXY VOTING

HB1312 - RELATING TO ASSOCIATION MANAGERS

HB1313 - RELATING TO BOARD MEMBERS

HB1315 - RELATING TO PARLIAMENTARIANS

HB1447 - RELATING TO MANAGING AGENTS

SB1623 - RELATING TO MANAGING AGENTS

Sadly, as often is the case at the legislature where some work for campaign donations before they work for the people of Hawaii, none of these bills were scheduled for hearings. It is not too late to take what is in these bills and amend some of the bills the Committee Chairs chose, which mostly do not provide the best solutions or enforceable solutions without condominium owners having to go to court. The #1 goal is to help condominium owners so they do not have to go to court, and have a place to go where they are treated fairly, and where efficient and timely resolutions to issues and concerns can be administered (**i.e., the Ombudsman's Office for Condominium Associations**).

What is clear when you read testimony submitted, is that many in opposition come out of the woodwork when they see a good bill for condominium owners. The phrase is an old one, but I think most of you know it. These people are mostly attorneys who often sue condominium owners, and are the last people that you

should ever listen to when making important decisions on bills meant to help condominium owners.

Others claim to be an “expert” with what they tell you and are seen at the top of the testimony list getting top billing, yet there is never full disclosure regarding what they tell you, including that Mr. Richard Emery is on the Real Estate Commission and also works for Associa Hawaii, a management company who has been in the news for operating unlicensed for over three months in 2023, and has many complaints filed against it at the DCCA/RICO. And prior to being renamed Associa Hawaii (its DBA name, as it is registered as Certified Management Inc.), the company was “Certified Hawaii” and was previously owned by Mr. Emery. Also in the news in 2014 was a story about the CEO of Certified Hawaii embezzling money and getting jail time.

And just so you know how bad things are - at my condominium association, where I served as the Treasurer and had uncovered serious misconduct and malfeasance and was requesting a forensic audit, I was unable to get the rogue Board to form a Budget Committee and complete the budget. They deferred this for months, and then formed their own committee without me, secretly creating a budget that was late, inaccurate, and did not provide for numerous things that should have been budgeted for. Due to it being so late, the maintenance fee increase could not be applied for two months into the year, ultimately reducing the budgeted amount to be collected. My request for a forensic audit was also ignored, and the 2023 Annual Financial Audit Report was in violation of State law HRS 514B-150, for not being presented to the owners within a specified time period. I also recently found out that our CPA/Auditor is the same one that was previously used at the Makaha Surfside, where there was a confirmed embezzlement of over \$330,000.

The people of Hawaii are counting on you to help them, and I respectfully ask all on the committee and all legislators to please pass SB1046 SD1, and in 2026, to please support and schedule hearings for the other bills listed, including the most important ones that would establish an Ombudsman’s Office for Condominium Associations.

Mahalo,
Gregory Misakian

SB-1046-SD-1

Submitted on: 3/31/2025 2:37:28 PM

Testimony for CPC on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
lynne matusow	Individual	Oppose	Written Testimony Only

Comments:

As the owner occupant of a condominium and board member I oppose this bill as it may place condominium associations and their managing agents in adversarial positions which may lead to litigation. Litigation leads to expenses which we can ill afford in these itmes of rising expenses, including insurance. Litigation also leads to insurance companies raising premium or cancelling the policy. Please defer this bill.

SB-1046-SD-1

Submitted on: 3/31/2025 3:18:33 PM

Testimony for CPC on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Anne Anderson	Individual	Oppose	Written Testimony Only

Comments:

Dear Representative Matayoshi, Chair, Representative Chun, Vice Chair, and Members of the Committee:

I oppose S.B. 1046 SD1 (“SB 1046”) for the reasons stated below.

SB 1046 adds a new subsection (h) to HRS Section 514B-148 which requires a managing agent whose client is a condominium association to provide written notice to each unit owner in the association and the real estate commission if the association being managed by the managing agent fails to comply with HRS Section 514B-148. While certainly, every association should comply with HRS Section 514B-148, pitting managing agents against associations is not the way to obtain compliance. This bill will do much more harm than good for the reasons discussed below.

First, any bill that pits an agent against the principal will undoubtedly erode the relationship between the two and make it harder for them to work together to achieve their goals.

Second, this bill will likely prevent boards from seeking professional assistance from managing agents if they discover an error in the budget or reserves for fear that if they seek such assistance, the managing agents will feel duty bound to immediately write to all owners and the real estate commission about the matter before offering the requested assistance.

Third, this bill fails to explain how a managing agent is to make the determination of noncompliance with HRS Section 514B-148. Is it required to hire its own independent expert to review the budget and reserves? Many managing agents may conclude that they must do so to fulfill their duties. This will drive up costs because managing agents will pass on such costs to associations.

Fourth, what if the board is, in good faith, relying upon the advice of a qualified reserve specialist but the managing agent disagrees with the reserve specialist? Will the managing agent be required to report the association in these instances? It is certainly possible that if this bill becomes law, to avoid potential liability, managing agents will send letters to all owners and the real estate commission with boiler plate notices of potential failures to comply with the statute, rendering the statute meaningless.

Fifth, this bill fails to address situations where noncompliance with minimal reserve levels is due to unforeseen circumstances such as unforeseen skyrocketing insurance premiums or unexpected repair expenses after a fire or hurricane.

Sixth, this bill does not address what the real estate commission must do with such information.

Seventh, it is unclear whether every violation, including minor or minuscule violations, or only substantial violations, must be reported. A report sent to all owners that the association is not in compliance with HRS Section 514B-148 may cause wide-spread alarm not only among owners, but among lenders who may refuse to lend on apartments in the project even though the violation was minor.

For the reasons discussed herein, please defer this bill.

Respectfully submitted,

Anne Anderson

SB-1046-SD-1

Submitted on: 3/31/2025 3:23:57 PM

Testimony for CPC on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Michael Targgart	Individual	Oppose	Written Testimony Only

Comments:

Dear Representative Matayoshi, Chair, Representative Chun, Vice Chair, and Members of the Committee:

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For the reasons discussed herein, please defer this bill.

Respectfully submitted,

Michael Targgart

SB-1046-SD-1

Submitted on: 3/31/2025 3:26:09 PM

Testimony for CPC on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Laura Bearden	Individual	Oppose	Written Testimony Only

Comments:

Dear Representative Matayoshi, Chair, Representative Chun, Vice Chair, and Members of the Committee:

I oppose S.B. 1046 SD1 (“SB 1046”) for the reasons stated below.

SB 1046 adds a new subsection (h) to HRS Section 514B-148 which requires a managing agent whose client is a condominium association to provide written notice to each unit owner in the association and the real estate commission if the association being managed by the managing agent fails to comply with HRS Section 514B-148. While certainly, every association should comply with HRS Section 514B-148, pitting managing agents against associations is not the way to obtain compliance. This bill will do much more harm than good for the reasons discussed below.

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For the reasons discussed herein, please defer this bill.

Respectfully submitted,

Laura Bearden

Dear Representative Matayoshi, Chair, Representative Chun, Vice Chair, and Members of the Committee:

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alarm not only among owners, but among lenders who may refuse to lend on apartments in the project even though the violation was minor.

For the reasons discussed herein, please defer this bill.

Respectfully submitted,

Reyna Murakami
AOUO Director
AOAO Mariner's Village 1 & AOAO Waialae Place

SB-1046-SD-1

Submitted on: 3/31/2025 4:27:37 PM

Testimony for CPC on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Joe M Taylor	Individual	Oppose	Written Testimony Only

Comments:

Dear Representative Matayoshi, Chair, Representative Chun, Vice Chair, and Members of the Committee:

I oppose S.B. 1046 SD1 (“SB 1046”) for the reasons stated below.

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For the reasons discussed herein, please defer this bill.

Respectfully submitted

jmt

SB-1046-SD-1

Submitted on: 3/31/2025 4:32:12 PM

Testimony for CPC on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Carol Walker	Individual	Oppose	Written Testimony Only

Comments:

Dear Representative Matayoshi, Chair, Representative Chun, Vice Chair, and Members of the Committee:

I oppose S.B. 1046 SD1 (“SB 1046”) for the reasons stated below.

SB 1046 adds a new subsection (h) to HRS Section 514B-148 which requires a managing agent whose client is a condominium association to provide written notice to each unit owner in the association and the real estate commission if the association being managed by the managing agent fails to comply with HRS Section 514B-148. While certainly, every association should comply with HRS Section 514B-148, pitting managing agents against associations is not the way to obtain compliance. This bill will do much more harm than good for the reasons discussed below.

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For the reasons discussed herein, please defer this bill.

Respectfully submitted,

Carol Walker

SB-1046-SD-1

Submitted on: 3/31/2025 4:33:02 PM

Testimony for CPC on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
mary freeman	Individual	Oppose	Written Testimony Only

Comments:

Dear Representative Matayoshi, Chair, Representative Chun, Vice Chair, and Members of the Committee:

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For the reasons discussed herein, please defer this bill.

Respectfully submitted,

Mary Freeman

Ewa Beach

SB-1046-SD-1

Submitted on: 3/31/2025 8:38:42 PM

Testimony for CPC on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Miri	Individual	Comments	Written Testimony Only

Comments:

Subject: Providing Comments in Strong Support of the Intent of S.B. 1046, S.D. 1 – Ensuring AOA Accountability and Financial Integrity

Aloha e Honorable Committee Chair, Vice Chair, and Members of the Committee,

I am submitting this testimony in strong support of the intent of S.B. 1046, S.D. 1, which seeks to enhance financial accountability within condominium associations and their managing agents. As a homeowner, I have personally witnessed the detrimental effects of AOA boards that operate with little oversight, mismanage funds, routinely violate laws and governing documents, and impose financial burdens on homeowners due to extremely poor governance. This bill is a necessary step to protect homeowners from these ongoing issues.

The Need for Oversight and Reform

Many Hawaii homeowners face the reality of AOA boards and managing agents failing to uphold their fiduciary duties. Common issues include:

- **Lack of financial transparency**
- **Misallocation of association funds**
- **Inadequate reserve funding, leading to unexpected special assessments and increased maintenance fees**
- **Improper and reckless spending**

These financial missteps disproportionately affect kupuna and working families, leaving them with limited recourse. Managing agents often enable these practices, prioritizing board members' interests over homeowners', resulting in depleted reserves, deferred maintenance, and financial instability for entire communities.

Why S.B. 1046, S.D. 1 Is Crucial

This bill introduces essential safeguards to address these problems by:

1. **Increasing Transparency** – Requiring managing agents to report noncompliance with budget and reserve requirements ensures financial mismanagement is identified early.

2. **Holding Managing Agents Accountable** – Mandating that managing agents report violations will incentivize proper financial oversight and adherence to fiduciary responsibilities.
3. **Protecting Homeowners** – Strengthening reporting requirements provides homeowners with the necessary tools to advocate for their financial well-being and hold AOA boards accountable.
4. **Preventing Financial Mismanagement** – Establishing clear obligations for managing agents will help prevent the cycle of financial mismanagement and emergency assessments that currently plague many condominiums in Hawaii.

Additional Measures for Stronger Protections

While S.B. 1046, S.D. 1 is a vital step forward, I urge the Legislature to consider further protections, including:

- **Stronger penalties** for managing agents and AOA boards that willfully violate financial requirements.
- **The creation of an independent oversight body** (HOA Office or Ombudsman) not staffed by industry attorneys or realtors/brokers who frequently act against homeowners' interests.
- **Expanded rights for homeowners** to challenge AOA misconduct through an accessible and affordable dispute resolution process.

I strongly urge the committee to pass S.B. 1046, S.D. 1 to ensure financial integrity, transparency, and accountability within condominium associations. The financial security of thousands of Hawaii homeowners depends on it.

Thank you for your time and consideration.

Very sincerely,

Miri Yi

Homeowner, Honolulu 96818

SB-1046-SD-1

Submitted on: 3/31/2025 10:47:31 PM

Testimony for CPC on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Barbara J. Service	Individual	Support	Written Testimony Only

Comments:

Aloha chair and committee members,

Please support SB1046 SD1 to ensure that condo owners are informed of concerns re: budgets and reserve requirements. It appears that owners are frequently left out as management companies, property managers and site/resident managers make decisions without them. There are serious financial and other consequences when reserve requirements are not met. Owners need to know.

Mahalo for the opportunity to provide testimony.

Barbara J. Service MSW

Child Welfare Supervisor (ret.)

Passionate Kupuna advocate

Treasurer of an AOA

SB-1046-SD-1

Submitted on: 4/1/2025 12:04:20 AM

Testimony for CPC on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
John Toalson	Individual	Oppose	Written Testimony Only

Comments:

Dear Representative Matayoshi, Chair, Representative Chun, Vice Chair, and Members of the Committee:

I oppose S.B. 1046 SD1 ("SB 1046") for the reasons stated below.

SB 1046 adds a new subsection (h) to HRS Section 514B-148 which requires a managing agent whose client is a condominium association to provide written notice to each unit owner in the association and the real estate commission if the association being managed by the managing agent fails to comply with HRS Section 514B-148. While certainly, every association should comply with HRS Section 514B-148, pitting managing agents against associations is not the way to obtain compliance. This bill will do much more harm than good for the reasons discussed below.

First, any bill that pits an agent against the principal will undoubtedly erode the relationship between the two and make it harder for them to work together to achieve their goals.

Second, this bill will likely prevent boards from seeking professional assistance from managing agents if they discover an error in the budget or reserves for fear that if they seek such assistance, the managing agents will feel duty bound to immediately write to all owners and the real estate commission about the matter before offering the requested assistance.

Third, this bill fails to explain how a managing agent is to make the determination of noncompliance with HRS Section 514B-148. Is it required to hire its own independent expert to review the budget and reserves? Many managing agents may conclude that they must do so to fulfill their duties. This will drive up costs because managing agents will pass on such costs to associations.

Fourth, what if the board is, in good faith, relying upon the advice of a qualified reserve specialist but the managing agent disagrees with the reserve specialist? Will the managing agent be required to report the association in these instances? It is certainly possible that if this bill becomes law, to avoid potential liability, managing agents will send letters to all owners and the real estate commission with boiler plate notices of potential failures to comply with the statute, rendering the statute meaningless.

Fifth, this bill fails to address situations where noncompliance with minimal reserve levels is due to unforeseen circumstances such as unforeseen skyrocketing insurance premiums or unexpected repair expenses after a fire or hurricane.

Sixth, this bill does not address what the real estate commission must do with such information.

Seventh, it is unclear whether every violation, including minor or minuscule violations, or only substantial violations, must be reported. A report sent to all owners that the association is not in compliance with HRS Section 514B-148 may cause wide-spread alarm not only among owners, but among lenders who may refuse to lend on apartments in the project even though the violation was minor.

For the reasons discussed herein, please defer this bill.

Respectfully submitted,

John Toalson

SB-1046-SD-1

Submitted on: 4/1/2025 6:01:08 AM

Testimony for CPC on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Lance S. Fujisaki	Individual	Oppose	Written Testimony Only

Comments:

Dear Representative Matayoshi, Chair, Representative Chun, Vice Chair, and Members of the Committee:

I oppose S.B. 1046 SD1 ("SB 1046") for the reasons stated below.

SB 1046 adds a new subsection (h) to HRS Section 514B-148 which requires a managing agent whose client is a condominium association to provide written notice to each unit owner in the association and the real estate commission if the association being managed by the managing agent fails to comply with HRS Section 514B-148. While certainly, every association should comply with HRS Section 514B-148, pitting managing agents against associations is not the way to obtain compliance. This bill will do much more harm than good for the reasons discussed below.

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Third, this bill fails to explain how a managing agent is to make the determination of noncompliance with HRS Section 514B-148. Is it required to hire its own independent expert to review the budget and reserves? Many managing agents may conclude that they must do so to fulfill their duties. This will drive up costs because managing agents will pass on such costs to associations.

Fourth, what if the board is, in good faith, relying upon the advice of a qualified reserve specialist but the managing agent disagrees with the reserve specialist? Will the managing agent be required to report the association in these instances? It is certainly possible that if this bill becomes law, to avoid potential liability, managing agents will send letters to all owners and the real estate commission with boiler plate notices of potential failures to comply with the statute, rendering the statute meaningless.

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For the reasons discussed herein, please defer this bill.

Respectfully submitted,
Lance Fujisaki

SB-1046-SD-1

Submitted on: 4/1/2025 6:43:01 AM

Testimony for CPC on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Philip Nerney	Individual	Oppose	Written Testimony Only

Comments:

SB253 is preferable to SB1046.

Financial transparency is achieved by SB253, without creating a potentially adversarial relationship between principal and agent. SB1046 would adversely alter the principal/agent relationship and require the agent to make judgment calls that the principal is properly empowered to make.

**House of Representatives
The Thirty-Second Legislature
Committee on Consumer Protection and Commerce
Wednesday, April 2, 2025
2:00 p.m.**

To: Representative Scot Z. Matayoshi, Chair
Re: SB 1046 SD1, Relating to Condominiums

Aloha Chair Scot Matayoshi, Vice-Chair Cory Chun, and Members of the Committee,

Mahalo for the opportunity to testify in support of SB 1046 SD1. I reiterate parts of an earlier testimony submitted to your committee in reference to a similar measure.

The Hawaii Appleseed Center for Law and Economic Justice reported,

“Despite working hard and actively supporting our local economy, more than half of Hawai‘i’s households are living paycheck to paycheck, and are one financial hardship away from slipping into poverty.”¹

The Association of Credit and Collection (ACA International)² reported even more dire statistics based on research by PYMNTS.com:

“Sixty-five percent of consumers currently live paycheck-to-paycheck.”

The Hawaii Appleseed Center for Law and Economic Justice 2023 study, “The High Cost of Low Wages,” elaborated:

“Since low-income households spend a higher portion of their budget on basic necessities compared to high-income households, cost increases can push them even deeper into economic insecurity. One survey found that 54 percent of Hawai‘i residents spend all of their income on necessities, leaving them with little savings for unexpected costs, such as emergency room bills or vehicle repairs.”³

NASDAQ⁴ claims that the average social security income in Hawaii in 2024 was \$1854. Compare this amount to the average cost of housing for a 554 square foot one bedroom condo in Hawaii, \$2913, as calculated by Apartments.com.⁵

¹ <https://hiappleseed.org/press-releases/hawaii-low-wages-cost-of-living-strain-society-local-economy>

² <https://www.acainternational.org/news/2024-paycheck-to-paycheck-report-reveals-continuing-economic-pressures>

³

https://static1.squarespace.com/static/601374ae84e51e430a1829d8/t/657a1a50e1c9500c0e09c314/1702500952437/The+High+Cost+of+Low+Wages_FINAL.pdf

⁴ <https://www.nasdaq.com/articles/heres-average-social-security-benefit-retirees-all-50-states>

⁵ <https://www.apartments.com/rent-market-trends/honolulu-hi/>

A Hawaii couple, both receiving the average social security income, would have less than \$800 gross left per month to cover other essentials such as food and health care after paying for that average one-bedroom condo.

Many condo owners and tenants have little discretionary income to spare. Some, including kupuna in their 70s and 80s, have taken on additional work to generate income to keep up with their increased living expenses.

Because of Hawaii's high cost of housing, condominium ownership is the only choice available to most of Hawaii's residents intent on pursuing the American Dream of home ownership. And condominium residency, less costly than renting a single-family dwelling, is the only choice available to many of Hawaii's tenants.

Legislators can ensure that Hawaii's residents have opportunities to keep themselves financially safe. By providing enforcement provisions, SB 1046 SD1 helps to ensure notification to owners of their budgetary and reserve obligations. With proper notification, owners may be able to prevent delinquency and its appalling consequences. And potential buyers with access to these financial documents may be alerted and better prepared for future possible financial obligations.

Mahalo for the opportunity to testify.

Dear Representative Matayoshi, Chair, Representative Chun, Vice Chair, and Members of the Committee:

I oppose S.B. 1046 SD1 ("SB 1046") for the reasons stated below.

SB 1046 adds a new subsection (h) to HRS Section 514B-148 which requires a managing agent whose client is a condominium association to provide written notice to each unit owner in the association and the real estate commission if the association being managed by the managing agent fails to comply with HRS Section 514B-148. This provision pits managing agents against associations and would undoubtedly erode the relationship between the two and make it harder for them to work together to achieve their goals.

Second, this bill could prevent boards from seeking professional assistance from managing agents if they discover an error in the budget or reserves for fear that if they seek such assistance, the managing agents will feel duty bound to immediately write to all owners and the real estate commission about the matter.

Third, this bill fails to explain how a managing agent is to make the determination of noncompliance with HRS Section 514B-148. Is it required to hire its own independent expert to review the budget and reserves? Many managing agents may conclude that they must do so to fulfill their duties. This will drive up costs because managing agents will pass on such costs to associations, which will ultimately burden the owners/members.

Fourth, what if the board is, in good faith, relying upon the advice of a qualified reserve specialist but the managing agent disagrees with the reserve specialist? Will the managing agent be required to report the association in these instances? It is certainly possible that if this bill becomes law, to avoid potential liability, managing agents will send letters to all owners and the real estate commission with boiler plate notices of potential failures to comply with the statute, rendering the statute meaningless.

Fifth, this bill fails to address situations where noncompliance with minimal reserve levels is due to unforeseen circumstances such as unforeseen skyrocketing insurance premiums or unexpected repair expenses after a fire or hurricane.

Sixth, this bill does not address what the real estate commission must do with such information.

Seventh, it is unclear whether every violation, including minor or minuscule violations, or only substantial violations, must be reported. A report sent to all owners that the association is not in compliance with HRS Section 514B-148 may cause wide-spread alarm not only among owners, but among lenders who may refuse to lend on apartments in the project even though the violation was minor.

Please defer this bill.

Respectfully submitted,

Pamela J. Schell

SB-1046-SD-1

Submitted on: 4/1/2025 11:30:11 AM

Testimony for CPC on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Paul A. Ireland Koftinow	Individual	Oppose	Written Testimony Only

Comments:

Dear Representative Matayoshi, Chair, Representative Chun, Vice Chair, and Members of the Committee:

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For the reasons discussed herein, please defer this bill.

Respectfully submitted,

Paul A. Ireland Koftinow