

Testimony of the Hawai'i Real Estate Commission

**Before the
Senate Committee on Commerce and Consumer Protection
Friday, February 14, 2025
9:30 a.m.
Conference Room 229 and Videoconference**

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

Chair Keohokalole 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 any managing agent to notify each unit owner and the Real Estate Commission when a condominium association that the agent manages fails to meet budget and replacement reserves reporting requirements.

As currently drafted, the Commission believes the amendments on page 7, lines 6-11, are unclear. If the intent of the measure is to require the managing agent to notify each unit owner of the association and the Commission when the association board fails to comply with budget and replacement reserve requirements, the Commission provides the following suggested language for clarity:

(h) Subject to any rules adopted by the commission, any managing agent whose client is an association subject to this chapter[,] shall notify in writing if the association board fails to comply with this section to:

(1) Each unit owner [~~whose~~] of the association [~~board fails to comply with this chapter~~]; and

(2) The real estate commission.

The Commission notes that contracts between condominium associations and managing agents may range from minimal services, such as solely to provide landscaping, to a large variety of responsibilities that include accounting, paying utilities, administering meetings, and other jobs necessary to keep the association operational. As such, the Commission is concerned this bill sets a mandatory notification requirement for any managing agent that contracts with a condominium association. Should the Committee move this measure forward,

the Committee may consider specifying whether this proposed notification requirement is only applicable for a managing agent whose contract involves budgetary and replacement reserve responsibilities and provide authority for the managing agent to correspond with the unit owners.

Thank you for the opportunity to testify on this bill.

HAWAII LEGISLATIVE
ACTION COMMITTEE


community
ASSOCIATIONS INSTITUTE

P.O. Box 976
Honolulu, Hawaii 96808

February 10, 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 Oppose

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

Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair
February 1, 2025
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Principal Broker
On Behalf of CAI

SB-1046

Submitted on: 2/10/2025 6:32:49 PM

Testimony for CPN on 2/14/2025 9:30:00 AM

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

Comments:

We oppose SB1046. Please defer this bill.

Mike Golojuch, Sr., President Palehua Townhouse Association



February 14, 2025

The Honorable Jarrett Keohokalole, Chair

Senate Committee on Commerce and Consumer Protection
State Capitol, Conference Room 229 & Videoconference

RE: Senate Bill 1046, Relating to Condominiums

HEARING: Friday, February 14, 2025, at 9:30 a.m.

Aloha Chair Keohokalole, Vice Chair Fukunaga, and Members of the Committee:

My name is Lyndsey Garcia, Director of Advocacy, testifying on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i and its over 11,000 members. HAR **supports** Senate Bill 1046 which requires any managing agent to notify each unit owner and the Real Estate Commission when a condominium association that the agent manages fails to meet budget and replacement reserves reporting requirements.

Requiring managing agents to notify owners when budget and replacement reserve requirements are not met can improve transparency and allow owners to stay informed about potential financial issues affecting their condominium associations.

Mahalo for the opportunity to provide testimony on this measure.

SB-1046

Submitted on: 2/10/2025 4:41:38 PM

Testimony for CPN on 2/14/2025 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Philip Nerney	Individual	Oppose	In Person

Comments:

SB 1046 would impose extracontractual obligations upon agents, adverse to the interests of their principals. That would be corrosive of the principal/agent relationship, for one thing.

Condominium boards are the relevant decision makers. The focus of legislation should relate to board action or inaction.

SB 253 is a meaningful bill that has passed this Committee. SB 253 should be preferred to SB 1046.

SB-1046

Submitted on: 2/10/2025 6:24:30 PM

Testimony for CPN on 2/14/2025 9:30:00 AM

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

Comments:

Please defer this bill.

Sincerely,

Anne Anderson

SB-1046

Submitted on: 2/10/2025 6:33:36 PM

Testimony for CPN on 2/14/2025 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Lila Mower	Individual	Support	Written Testimony Only

Comments:

SUPPORT

SB-1046

Submitted on: 2/10/2025 6:58:37 PM

Testimony for CPN on 2/14/2025 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Julie Wassel	Individual	Oppose	Written Testimony Only

Comments:

Please defer this bill.

Respectfully submitted,

Julie Wassel

SB-1046

Submitted on: 2/10/2025 7:51:25 PM

Testimony for CPN on 2/14/2025 9:30:00 AM

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. Please defer this bill.

SB-1046

Submitted on: 2/10/2025 8:20:25 PM

Testimony for CPN on 2/14/2025 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Primrose Leong-Nakamoto	Individual	Oppose	Written Testimony Only

Comments:

Please defer this bill.

Respectfully Submitted,

Primrose Leong-Nakamoto

SB-1046

Submitted on: 2/11/2025 5:54:54 AM

Testimony for CPN on 2/14/2025 9:30:00 AM

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

Comments:

Please defer this bill.

SB-1046

Submitted on: 2/11/2025 9:13:54 AM

Testimony for CPN on 2/14/2025 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Laurie Sokach	Individual	Oppose	Written Testimony Only

Comments:

Aloha,

Please defer this bill.

While I get that this bill's intention is to ensure that all condominium complexes comply with 514B-148; the way it is written the association manager is to report a client who is not in the strictest sense of the law - compliant. That is just completely wrong.

This does not work in the industry. There are many complexes that are less than 10 units, or for that matter 50 and under. Application of the black and white of the statute in these situations while they are in fact funding a reserve is counterproductive to the intent of the statute.

Realizing that there may be complexes NOT following statute at all, shouldn't those community members address their individual community within the governance already afforded them in their association governing documents?

Blanket changes in the laws for a few disgruntled owners is not the way to solve the issues in those situations. I have been seeing more and more

I urge you to be part of the solution of stopping the insanity of government overreach. Stop putting this sort of legislation forward. Stand up to your constituents and stop making the industry overregulated.

Sincerely,

Laurie Sokach AMS, PCAM

27 Year Professional Community Portfolio Manager

Kona, Hawaii

SB-1046

Submitted on: 2/11/2025 10:14:19 AM

Testimony for CPN on 2/14/2025 9:30:00 AM

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

Comments:

Please defer this measure.

LATE

SB-1046

Submitted on: 2/12/2025 5:29:52 PM

Testimony for CPN on 2/14/2025 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Raelene Tenno	Individual	Support	Written Testimony Only

Comments:

Support with suggested small amendments

Line 8 - shapter, shall notify in writing: insert the word "to" after the word "writing".

Insert a deadline for compliance. "Within 30 days of the fiscal year end".

Thank you for the opportunity to submit testimony

Raelene Tenno, Condo unit owner since 1990

LATE

SB-1046

Submitted on: 2/13/2025 8:56:25 AM

Testimony for CPN on 2/14/2025 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Gregory Misakian	Individual	Comments	Remotely Via Zoom

Comments:

SB1046 needs to fully define what a Managing Agent is, as some in our legislature and members of the public do not appear to understand this very important definition.

Per the definition seen within HRS 514B-132, my understanding and the definition that I believe Management Companies use to circumvent accountability, is that the Managing Agent is the Real Estate Broker who oversees the Management Company, and not the individual Community Managers, who are actually doing all the work, oversee the associations, and are acting as the Managing Agent (and in other States are recognized as Managing Agents).

Condominium owners and board members are directly interfacing with the Community Managers and not the Brokers, who often don't respond to emails or calls, which I know personally serving as a director on my condominium association's board.

Please amend the definition of Managing Agent to include Community Managers.

Gregory Misakian