

HB 2482 HD1

Measure Title: RELATING TO CONDOMINIUMS.

Report Title: Condominiums; Clarifying Amendments

Description: Makes technical nonsubstantive amendments to the condominium law. Effective July 1, 2112. (HB2482 HD1)

Companion:

Package: None

Current Referral: CPN

Introducer(s): MCKELVEY (Introduced by request of another party)



P.O. Box 976
Honolulu, Hawaii 96808

March 15, 2014

Honorable Rosalyn H. Baker
Honorable Brian T. Tanaguchi
Commerce and Consumer Protection
415 South Beretania Street
Honolulu, Hawaii 96813

Re: **HB 2482 H.D. 1/Supporting Proposed Amendments**

Dear Chair Baker, Vice-Chairs Tanaguchi and Committee Members:

I am the Chair of the Community Associations Institute's Legislative Action Committee ("CAI"). CAI, which represents the association industry in this State, **supports HB 2482 H.D. 1 with the amendment and clarification proposed by** (1) Hawaii State Association of Parliamentarians and (2) Hawaii Council of Associations of Apartment Owners as contained in Mr. Glanstein's letter to this Committee dated March 14, 2014. (See enclosed copy of Mr. Glanstein's letter.)

The clarifications to (a) §514B-106(b), HRS regarding the filling of vacated board member seats, (b) the definition of "cumulative voting" and (c) the voting requirements, are all in the best interests of condominium associations.

Therefore, CAI respectfully requests that HB 2482, HD 1 be passed with the amendments and clarifications proposed. Thank you.

Very truly yours,

Christian P. Porter



HAWAII STATE ASSOCIATION OF PARLIAMENTARIANS
LEGISLATIVE COMMITTEE
P. O. BOX 29213
HONOLULU, HAWAII 96820-1613
E-MAIL: HSAP.LC@GMAIL.COM

March 14, 2014

Honorable Senator Rosalyn H. Baker, Chair
Honorable Senator Brian T. Taniguchi, Vice Chair
Senate Committee on Commerce and Consumer Protection (CPN)
Hawaii State Capitol, Room 229
415 South Beretania Street
Honolulu, HI 96813

RE: Testimony and COMMENTS in SUPPORT of HB2482 HD1; Hearing Date March 18, 2014 at 9:00 a.m.; sent via Internet

Aloha Chair Baker, Vice-Chair Taniguchi, and Committee members,

Thank you for the opportunity to provide testimony in support of this bill.

The Hawaii State Association of Parliamentarians ("HSAP") has been providing professional parliamentary expertise to Hawaii since 1964. HSAP agrees with the intent and purpose of HB2482 HD1.

We ask for additional clarifications in accordance with the intent and purpose of the bill.

We have reached consensus with the Hawaii Chapter of the Community Associations Institute (CAI) and the Hawaii Council of Associations of Apartment Owners (HCAAO aka HCCA) to support this bill and recommend additional clarifications in accordance with its intent and purpose.

Chapter 514B was enacted in 2004 (Act 164). Since its enactment, there has been time for many of the stakeholders to experience the Chapter's effects on numerous associations. The technical corrections in the current bill and the additional changes recommended represent part of that experience.

- 1. Clarification of Hawaii Revised Statute Section 514B-106(b)** to confirm that directors that are appointed to fill vacancies by the Board **must** stand for election at the next annual meeting or a duly noticed special meeting as described in the amendment:

"(b) . . . and provided further that notwithstanding anything to the contrary in the declaration or bylaws, the board may only fill vacancies in its membership to serve until the next annual or duly noticed special association meeting, provided that the notice of the special meeting shall include notice of the election to fill said vacancy and that the meeting date shall be set on a date that allows sufficient time for owners to declare their intentions to run for election and to solicit proxies for that purpose"

(Proposed amendments above are in bold and underscored.)

2. Clarification of Cumulative Voting:

We believe that as a matter of policy, cumulative voting should be clarified as a method for minority representation notwithstanding the majority present that exists in many bylaws, and that no board should be able to "forum shop" for a legal opinion in order to affect the outcome of an election. Accordingly, we suggest a new section clarifying cumulative voting as follows:

§514B- Voting for elections; cumulative voting. (a) If the bylaws provide for cumulative voting for an election at a meeting, each unit owner present in person or represented by proxy shall have a number of votes equal to their voting percentage multiplied by the number of positions to be filled at the election.

(b) Each unit owner shall be entitled to cumulate the votes of the unit owner and to give all of the votes to one nominee or to distribute the votes among any or all of the nominees.

(c) The nominee(s) receiving the highest number of votes on the foregoing basis, up to the total number of positions to be filled shall be deemed elected and shall be given the longest term.

(d) This section shall not prevent the filling of vacancies in the board of directors in accordance with this chapter and with the association's governing documents.

3. Clarification of Voting Requirement:

Finally, we suggest a revision to Section 7 at page 5, line 16 of the bill. **The word "all" should be deleted** so that the phrase reads: ". . . vote of a majority of the unit owners . . ." which would be consistent with the definition of "[M]ajority" or "majority of the unit owners" in Section 1 of this bill.

We request that you pass this bill out of committee with the above corrections.

If you require any additional information, your call is most welcome. I may be contacted via phone: 423-6766 or by e-mail: hsap.lc@gmail.com. Thank you for the opportunity to present this testimony.

Sincerely,

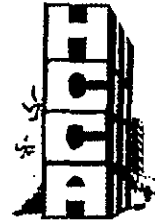
Steve Glanstein

Digitally signed by Steve Glanstein
DN: cn=Steve Glanstein, o, ou, email=Steveghi@gmail.com, c=US
Location: Honolulu, HI
Date: 2014.03.15 00:30:07 -10'00'

Steve Glanstein, Professional Registered Parliamentarian
Chair, HSAP Legislative Committee



**Hawaii Council of Associations
of Apartment Owners**
DBA: Hawaii Council of Community Associations
1050 Bishop Street, #366, Honolulu, Hawaii 96813



March 14, 2014

Sen. Rosalyn H. Baker, Chair
Sen. Brian T. Taniguchi, Vice-Chair
Senate Committee on Commerce and Consumer Protection

Re: HB2482, HD1 RELATING TO CONDOMINIUMS
Hearing: Tues., March 18, 2014, 9 a.m., Conf. Rm. #229

Chair Baker, Vice-Chair Taniguchi and Members of the Committee:

I am Jane Sugimura, President of the Hawaii Council of Associations of Apartment Owners (HCAAO dba HCCA).

HCAAO agrees with the intent and purpose of the HB 2482, HD1 and supports passage of this bill. However, we ask that three additional clarifications be included as follows:

Clarification of Hawaii Revised Statute Section 514B-106(b) to confirm that directors that are appointed to fill vacancies on the Board must stand for election at the next annual meeting or a duly noticed special meeting as described in the amendment:


“(b) . . . and provided further that **notwithstanding anything to the contrary in the declaration or bylaws**, the board may **only** fill vacancies in its membership to serve until the next annual or **duly noticed** special association meeting, **provided that the notice of the special meeting shall include notice of the election to fill said vacancy and that the meeting date shall be set on a date that allows sufficient time for owners to declare their intentions to run for election and to solicit proxies for that purpose**” (Proposed amendments are in bold and underscored.)

Clarification of Cumulative Voting: We believe that as a matter of policy, cumulative voting should be clarified as a method for minority representation notwithstanding the majority present that exists in many bylaws, and that no board should be able to “forum shop” for a legal opinion in order to affect the outcome of an election. Accordingly, we suggest a new section clarifying cumulative voting as follows:

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Clarification of Voting Requirement: Finally, we suggest a revision to Section 7 at page 5, line 16 of the bill. The word “all” should be deleted so that the phrase reads: “. . . vote of a majority of the unit owners . . .” which would be consistent with the definition of “[M]ajority” or “majority of the unit owners” in Section 1 of this bill.

Thank you for the opportunity to testify on this matter.


Jane Sugimura
President