



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

March 15, 2014

Honorable Rep. Angus L. K. McKelvey, Chairman
Honorable Rep. Derek S. K. Kawakami, Vice Chair
Consumer Protection and Commerce Committee
Conference Room 325
State Capitol
415 South Beretania Street
Honolulu, HI 96813

RE: Testimony in SUPPORT including COMMENTS regarding SB3127 SD1; Hearing Date March 17, 2014 at 2:10 p.m.; sent via Internet

Aloha Chair McKelvey, Vice-Chair Kawakami, and Committee members,

Thank you for the opportunity to provide testimony on this bill on behalf of the Hawaii State Association of Parliamentarians ("HSAP").

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 SB3127 HD1.

We have reached consensus with the Hawaii Chapter of the Community Associations Institute (CAI) to support this bill in its current form.

Previous testimony has been submitted on the companion bill HB2656.

I will address the larger issues presented by this bill below:

A. Section 1 -- Association Meetings; Failure to obtain a quorum

The bylaws of many condominium associations provide for annual meetings. At these meetings, reports are provided, directors are usually elected, a tax resolution is adopted, and there may be borrowing or expense related resolutions.

There are a few considerations associated with annual meetings that lead to the requirement for associations to have functioning annual meetings:

1. Many developers have handicapped associations through the use of boiler plate bylaws with unrealistic quorum amounts and voting procedures for official association action. This has caused difficulty in conducting business at annual meetings.
2. A few boards have simply decided that the effort and expense of continuing an annual meeting in order to obtain a quorum cannot be financially justified.

3. A few boards have used the failure to obtain a quorum as a mechanism to continue their term in office.¹
4. There is a risk that the Internal Revenue Service will impose taxes on a condominium association for failure to formally adopt what is known as a rollover resolution.

The wording in the current bill should help to resolve these problems in the condominium community.

B. Section 2 -- Relating to Managing Agents

The proposed wording provides a rational threshold for a majority of the unit owners to demand the replacement of a managing agent.

A condominium association meeting is **not a plebiscite** where the members at the meeting decide every element of the management agreement.

However, a majority of the unit owners currently has the power to completely remove the board of directors and replace them at an association meeting. Therefore, it makes sense to use the same threshold of a majority of the unit owners to have the authority to order the board to replace the managing agent. **We request that the committee include a statement in the committee report that this same threshold is desired.**

SB3127 SD1 as drafted would override certain bylaws which have made it almost impossible for certain association boards or their owners to replace a management company.

We believe this balances (a) the board's responsibility for hiring a proper managing agent with (b) the association's right to exercise veto power in a way that doesn't become micro-management.

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 18:22:04 -10'00'

Steve Glanstein, Professional Registered Parliamentarian
Chair, HSAP Legislative Committee
SG:tbs/Attachment

¹This can backfire for the same board because a no quorum meeting would provide that more positions are up for election in a subsequent year, making a complete takeover by a temporary majority at the next annual meeting more likely.



P.O. Box 976
Honolulu, Hawaii 96808

March 15, 2014

Honorable Angus L.K. McKelvey, Chair
Honorable Derek S.K. Kawakami, Vice Chair
Consumer Protection and Commerce
415 South Beretania Street
Honolulu, Hawaii 96813

Re: **SB 3127/ SUPPORT**

Dear Chair McKelvey, Vice-Chair Kawakami 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 SB 3127, SD1.** The current version of the Bill has the input from various sectors of the association industry and has wide support from Boards, Managing Agents, Owners, Association attorneys and Parliamentarians.

Annual Meeting Quorums must be lowered to prevent "rollover Boards". This Bill addresses the issue of many condominium associations being unable to conduct annual ownership meetings because of the "quorum requirements." The two most important issues that typically need to be addressed at these annual meetings are the election of directors and adopting the "tax rollover" resolution so that association can maintain its non-profit status. This Bill provides a mechanism so that this will happen on an annual basis and not allow for "rollover boards" (*i.e.*, boards that continue without elections).

Managing Agent Contracts should be left to the Board to decide. The other issue addressed by this Bill focuses on giving association boards the power to terminate and enter into management company contracts. Not all condominium associations have this provision in their governing documents and many times there is a requirement of ownership approval of such termination or retention. This requirement is an unnecessary "hurdle" for the boards as they are mandated to administer the association's property and manage those that are hired to handle the day-to-day functions of the association. It is only logical that all condominium boards have the right to hire and terminate all contractors, employees and agents, including managing agents. The Bill does this.

The amendments also provide a "safety net" or voice to the owners in the event that a majority of unit owners disagrees with the board's retention of a managing agent.

Honorable Angus L.K. McKelvey, Chair
Honorable Derek S.K. Kawakami, Vice Chair
March 15, 2014
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Thank you for your time and consideration, and we respectfully request the Committee pass **SB 3127 SD1**. Thank you.

Very truly yours,

A handwritten signature in black ink, appearing to read 'C. Porter', with a long horizontal flourish extending to the right.

Christian P. Porter

kawakami3-Benigno

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 11, 2014 9:17 AM
To: CPCtestimony
Cc: Alan@AssociaHawaii.com
Subject: Submitted testimony for SB3127 on Mar 17, 2014 14:10PM

SB3127

Submitted on: 3/11/2014

Testimony for CPC on Mar 17, 2014 14:10PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Alan Takumi	Individual	Support	No

Comments: I am a community association manager and have had many associations having to continue annual meetings several times due to the difficulty of making quorum and it increases the cost to the membership to do so. I think it's very reasonable to reduce the quorum requirements if the meeting is continued for lack of quorum. I also approve giving the board the authority to change managing agents. After all the managing agent is just another contractor/vendor and the board has the authority to change any other contractors/vendors.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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kawakami3-Benigno

From: mailinglist@capitol.hawaii.gov
Sent: Friday, March 14, 2014 11:31 AM
To: CPCtestimony
Cc: lhirohat@gmail.com
Subject: Submitted testimony for SB3127 on Mar 17, 2014 14:10PM

SB3127

Submitted on: 3/14/2014

Testimony for CPC on Mar 17, 2014 14:10PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Laurie Hirohata	Individual	Oppose	No

Comments: Although I support the first amendment related to quoroms, I do not see the necessity for the second amendment regarding voting to terminate a managing agent. The amended language allows the owners to vote, but the vote is then given to the Condo Board for the final decision- making. This process does not seem to be too different from the existing process. Furthermore, how will this remedy the situation where the Board or several of its members are partnering with the managing agent in unethical and possibly illegal activities? If the Board and Managing Agent are benefitting from these activities, why would the Board decide to terminate the managing agent? So, the condo owners could have a majority vote to terminate the Managing Agent and the Board could ignore the owners' vote.

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