

HB1541 HD1

Measure Title: RELATING TO PLANNED COMMUNITY ASSOCIATIONS.
Report Title: Planned Community Associations; Proxy Statements
Description: Amends various proxy statement requirements for planned community associations to conform to requirements for other, similar statements. (HB1541 HD1)
Companion:
Package: None
Current Referral: CPH
Introducer(s): EVANS



HAWAII STATE ASSOCIATION OF PARLIAMENTARIANS
LEGISLATIVE COMMITTEE
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March 23, 2016

Honorable Senator Rosalyn H. Baker, Chair
Honorable Senator Michelle N. Kidani, Vice-Chair
Senate Committee on Commerce, Consumer Protection, and Health (CPH)
Hawaii State Capitol, Room 230
415 South Beretania Street
Honolulu, HI 96813

RE: Testimony supporting HB1541 HD1; Hearing Date: March 29, 2016 at 9:00 a.m. in Senate conference room 229; sent via Internet

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

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

HSAP is in favor of this bill.

The bill provides one of several needed solutions to proxy issues relating to Hawaii's Planned Community Associations.

The bill proposes to make the proxy statute for Planned Community Associations similar to the proxy statute for condominium associations. This is significant because many stakeholders worked together in drafting the condominium statutes, Chapter 514B, so that owners would have more alternatives in the proxy representation and election process. This bill supports that process.

Specifically, we believe HB1541 HD1 will accomplish the following:

1. Promote more communications from prospective board candidates to all owners when proxies are used for elections of directors.
2. Reduce management errors by standardizing the Planned Community Association proxy form to match the current condominium standard.
3. Prohibit management companies and Planned Community Association employees from soliciting or voting proxies at association meetings for the same association that employs their services.

If the bill is to become law, we suggest that you provide an effective date no earlier than September 1, 2016 in order to provide a transition for existing Planned Community Associations with meetings beginning in September.

We ask that the committee approve this bill with an appropriate effective date.

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

Sincerely,

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

From: mailinglist@capitol.hawaii.gov
To: [CPH Testimony](#)
Cc: mikegolojuch808@gmail.com
Subject: Submitted testimony for HB1541 on Mar 29, 2016 09:00AM
Date: Sunday, March 20, 2016 11:06:55 PM

HB1541

Submitted on: 3/20/2016

Testimony for CPH on Mar 29, 2016 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Mike Golojuch	Palehua Townhouse Association	Support	No

Comments: Our association supports this bill. Mike Golojuch, President

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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From: mailinglist@capitol.hawaii.gov
To: [CPH Testimony](#)
Cc: jsugimura@bendetfidell.com
Subject: Submitted testimony for HB1541 on Mar 29, 2016 09:00AM
Date: Wednesday, March 23, 2016 11:40:09 AM

HB1541

Submitted on: 3/23/2016

Testimony for CPH on Mar 29, 2016 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Jane Sugimura	HI Council of Assoc. of Apt. Owners a	Support	No

Comments: HCAAO concurs with the position of the Hawaii State Association of Parliamentarians. Thank you.

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From: mailinglist@capitol.hawaii.gov
To: [CPH Testimony](#)
Cc: richard.emery@associa.us
Subject: Submitted testimony for HB1541 on Mar 29, 2016 09:00AM
Date: Wednesday, March 23, 2016 10:00:30 AM

HB1541

Submitted on: 3/23/2016

Testimony for CPH on Mar 29, 2016 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Richard Emery	Associa	Support	Yes

Comments: This Bill provides the same rights to owners in homeowner associations currently enjoyed by condo owners. It is an important right.

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From: [Sharon Moore](#)
To: [CPH Testimony](#)
Subject: HB1541HD1 Testimony SUPPORT; Hearing Date: 3/29/2016 9:00 a.m. Room 229
Date: Wednesday, March 23, 2016 9:53:11 PM

Gentlemen,

I am writing to let you know that I will be attending the Hearing on March 29th at 9am in support of HB1541HD1.

I have been honored in serving as Board President of a 450+ unit complex for approximately 6 years. Unfortunately, I personally experienced the drama of a resident manager and the harm that was caused by the misuse of the power.

In addition, I personally own a property where the resident manager solicits and controls the board with the solicitation of proxies.

I have been a licensed real estate professional since 1985 and look forward to testifying if possible.

Thanking you in advance.

Sharon N. Moore, RA RS - 37573
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The Honorable Senator Rosalyn H. Baker, Chair
Committee on Commerce, Consumer Protection, and Health

RE: **House Bill 1541, HD1, Relating to Planned Community Associations**

My name is Richard Ekimoto. I am an attorney that has represented condominium and planned community associations in Hawaii for over 30 years. I am also one of the people that helped draft portions of what has become Hawaii Revised Statutes (“HRS”) Chapter 414J. I am in opposition to several provisions contained in HB 1541, HD1.

I understand that the intent of HB 1541 is to change the provisions of the Planned Community Association statute to conform to the Condominium Property Act. There are a couple of problems with that approach. *First*, amending the two statutes so that they have the same provisions does not make sense because condominium associations and planned community associations are different. In fact, the two statutes have been different from the beginning, in part because of these differences. Many planned community associations consist of thousands of homes, the largest of which is approximately 16,000 homes. In addition, many planned community associations (and a large majority of the lots within planned community associations in the State of Hawaii) have relatively small assessments for their owners – often \$20 to \$40 per lot per month. Given this fact, the proportionate cost of printing and mailing several one page statements vs. several 100 word statements is significant.

Second, automatically deciding to change the Planned Community Association law to conform with the Condominium Property Act is a formulistic approach to legislation. Even if the two statutes should have the same provisions, it doesn’t consider the possibility that the condominium statute should change. More importantly, it doesn’t consider the possibility that both statutes should change. Requiring community associations (whether a condominium or planned community) to mail out candidate statements is a costly and outdated way of getting information to members. It would make much more sense to allow associations to provide this information to its members by providing a link to a cloud server or website rather than increasing the cost of providing this information. The notice could be sent by mail with a short statement how the member can get the candidate statement online. It is the association members that ultimately pay for the cost of mailing materials to the members and the legislature should not be mandating expensive and outdated methods of operating the association.

Finally, I’d like to share my views about the proposed addition of HRS Section 421J-4(g). I’ve been concerned that the similar provision in the condominium statute was never well thought out. I find it strange that the legislature would effectively disenfranchise owners of a community association just because they work for the association or the managing agent that manages the association. As drafted, it would prevent employees of the managing agent or the association from trying to get on the board or seek proxies for the association. I’ve always thought that the owners at the project should be making the decision about who they should give their proxies to, not the legislature. This is especially the case since the statute makes no distinction between the President and a janitor of the management company (even though the janitor probably has no say in how the association is managed). Doesn’t that janitor have a right to serve on his association board?

For these reasons, I oppose the provisions of HB 1541, HD1.

Very truly yours,

Richard S. Ekimoto