



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

January 28, 2016

Honorable Rep. Angus L.K. McKelvey, Chair  
House Committee on Consumer Protection & Commerce  
Hawaii State Capitol, Room 326  
415 South Beretania Street  
Honolulu, HI 96813

Honorable Rep. Justin H. Woodson, Vice Chair  
House Committee on Consumer Protection & Commerce  
Hawaii State Capitol, Room 305  
415 South Beretania Street  
Honolulu, HI 96813

**RE: Testimony IN FAVOR WITH AMENDMENTS regarding HB1541; Hearing Date February 1, 2016 at 2:00 p.m.; sent via Internet**

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

Thank you for the opportunity to provide testimony on this bill 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 related to Hawaii's Planned Community Associations. The bill proposes to permit homeowners to have a larger medium (full page instead of only 100 words) for communicating their interests to other owners in running for the board.

This makes the proxy statute for Planned Community Associations match **in part** the proxy statute for condominium associations. This is significant because many stakeholders worked together in drafting the condominium statutes, Chapter 514B, so that it would provide owners with more alternatives in the proxy representation and election process.

HSAP also suggests that the proxy rules for Planned Community Associations be improved slightly by adding the following amendments:

1. Provide flexibility to homeowners who use their own proxy form, to match the relaxed requirements for unit owners in condominium associations, permitted by HRS §514B-123(d)(3).
2. Permit proxies that name the board of directors as an entity to be decided based upon the majority of the directors **who come to the meeting**, rather than all of the directors, to match the requirements in condominium associations, permitted by HRS §514B-123(d)(3)(C).

3. Clarify that a board of directors that **intends** to use proxies rather than actually **uses** them must post notice; consequently reduce the posting time limit from 30 to 21 days, to match the requirements in condominium associations, prescribed in HRS §514B-123(h)(1).
4. Permit homeowners to request association funds for proxies to either (a) serve on the board **or** (b) for another reason, rather than requiring **both** reasons, to match similar flexibility provided by HRS §514B-123(h)(1).
5. Prohibit a managing agent or resident manager, or their employees, from soliciting any proxies from any unit owner of the association that retains the managing agent or employs the resident manager and using them at an association meeting, to match a similar prohibition in HRS §514B-123(i).

Suggested wording is below with proposed changes using Ramseyer format, highlighted and bolded:

§421J-4 Proxies. (a) A proxy shall be in writing and shall be valid for only a specified meeting of the association and any adjournments of that meeting.

(b) A member of the association may give a proxy to any person or the board of directors as an entity, and the proxy may be limited as indicated by the member. No proxy shall be irrevocable unless:

(1) The proxy is coupled with a financial interest in the unit; or

(2) The proxy is held pursuant to a first mortgage of record encumbering a unit or an agreement of sale affecting a unit.

(c) To be valid, a proxy shall:

(1) Be delivered to the secretary of the association or the managing agent, if any, no later than 4:30 p.m. on the second business day prior to the date of the meeting to which it pertains;

(2) Contain at least the name of the association, the date of the meeting of the association, the printed name and signature of the person or persons giving the proxy, the unit or units for which the proxy is given, and the date that the proxy is given; and

(3) **If it is a standard proxy form authorized by the association, [C]**contain boxes wherein the owner has indicated that the proxy is given:

(A) For quorum purposes only;

(B) To the individual whose name is printed on a line next to this box;

(C) To the board of directors as a whole and that the vote be made on the basis of the preference of the majority of the **[board] directors present at the meeting**; or

(D) To those directors present at the meeting and the vote to be shared with each board member receiving an equal percentage.

(d) Any board of directors that **[uses] intends to use** association funds to distribute proxies that include the election of directors shall first post notice of its intent to distribute proxies in prominent locations within the project at least **[thirty] twenty one** days prior to its distribution of proxies; provided that if the board receives within seven days of the posted notice a request by any owner for nomination to the board accompanied by a statement, the board shall mail to all owners either:

(1) A proxy form containing the names of all owners who have requested nomination to the board accompanied by their statements; or

(2) A proxy form containing no names, but accompanied by a list of names of all owners who have requested nomination to the board and their statements.

The statement **[ shall not exceed one hundred words,] , which shall be limited to black text on white paper, shall not exceed one single-sided eight and one-half inches by eleven inch page**, indicating the owner's qualifications to serve on the board **[and] or** reasons for wanting to receive proxies.

(e) Nothing in this section shall affect the holder of any proxy under a first mortgage of record encumbering an apartment or under an agreement of sale affecting an apartment.

(f) Nothing in this section shall prohibit the use of proxies for filling vacancies that occur after the notice of the annual meeting has been distributed.

**(g) No managing agent or resident manager, or their employees, shall solicit, for use by the managing agent or resident manager, any proxies from any member of the association that retains the managing agent or employs the resident manager, nor shall the managing agent or resident manager cast any proxy vote at any association meeting except for the purpose of establishing a quorum.**

We believe this bill with its amendments will do the following:

1. Promote more communications from prospective board candidates or proxyholders to their owners.
2. Reduce management errors by using a standardized condominium and Planned Community Association proxy form.

3. It will ensure that management companies and Planned Community Association employees are not soliciting proxies or voting those proxies at association meetings that employ their services.

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.

We ask that the committee approve this bill with the proposed amendments.

Sincerely,

Steve Glanstein, Professional Registered Parliamentarian  
Chair, HSAP Legislative Committee  
cc: Rep. Cindy Evans

SG:tbs/Attachment

From: mailinglist@capitol.hawaii.gov  
Sent: Thursday, January 28, 2016 11:42 AM  
To: CPCtestimony  
Cc: richard@hawaiifirst.com  
Subject: Submitted testimony for HB1541 on Feb 1, 2016 14:00PM

**HB1541**

Submitted on: 1/28/2016

Testimony for CPC on Feb 1, 2016 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Richard Emery	HawaiiFirst, Inc.	Support	Yes

Comments: I am VP of Government Affairs for Associa, America's largest association management company representing approximately 550 associations in Hawaii. This Bill appropriately brings the rights of owners to distribute information in line with the current condominium statute. Allowing for a single page eliminates the confusion of word counting such as how to count a phone number, date, or signature and promotes more effective owner communication without harm or cost. The National Association of Parliamentarians has suggested additional amendments that we also support as these amendments further promote better association governance.

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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January 28, 2016

VIA WEB TRANSMITTAL

Hearing Date: Monday, February 1, 2016

Time: 2:00 p.m.

Place: Conference Room 325

Committee on Consumer Protection & Commerce  
House of Representatives, the 28<sup>th</sup> Legislature  
Regular Session of 2016

Re: Community Associations Institute's Testimony on HB 1541

Dear Chair McKelvey, Vice Chair Woodson and Committee members:

I am the Vice Chair of the Community Associations Legislative Action Committee ("CAI"). CAI supports HB1541 in general, as the proposed amendment to HRS § 421J-4(d) mirrors a portion of the statutory language on proxy form as provided in HRS § 514B-123(h)(1). Further, CAI agrees with the testimony in favor with proposed amendments submitted by Mr. Steven Glanstein.

Sincerely yours,

Na Lan, Vice Chair of CAI LAC Hawaii

From: mailinglist@capitol.hawaii.gov  
Sent: Thursday, January 28, 2016 9:46 PM  
To: CPCtestimony  
Cc: mjgolo@email.phoenix.edu  
Subject: Submitted testimony for HB1541 on Feb 1, 2016 14:00PM

**HB1541**

Submitted on: 1/28/2016

Testimony for CPC on Feb 1, 2016 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Mike Golojuch	Palehua Townhouse Association	Support	No

Comments: As the President of Palehua Townhouse Association and a member and past board member for the Palehua Community Association, I support this bill. It gives more of an even playing field for those who are not current board members.

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From: mailinglist@capitol.hawaii.gov  
Sent: Friday, January 29, 2016 12:18 PM  
To: CPCtestimony  
Cc: albertd@hawaiianprop.com  
Subject: Submitted testimony for HB1541 on Feb 1, 2016 14:00PM

**HB1541**

Submitted on: 1/29/2016

Testimony for CPC on Feb 1, 2016 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Al Denys	Individual	Support	No

Comments: Aloha Chair McKelvey, Vice Chair Woodson & Committee Members, I support HB 1541 as proposed amendment for HRS 421J-4(d) as it mirrors the statutory language on proxies provided in HRS 514B-123(h)(1) which will alleviate proxy issues. Again I support HB 1541. Mahalo. warmest aloha, Al Denys

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From: mailinglist@capitol.hawaii.gov  
Sent: Friday, January 29, 2016 1:32 PM  
To: CPCtestimony  
Cc: kpterra@gmail.com  
Subject: Submitted testimony for HB1541 on Feb 1, 2016 14:00PM

**HB1541**

Submitted on: 1/29/2016

Testimony for CPC on Feb 1, 2016 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kelly Pomeroy	Individual	Support	No

Comments: I don't understand what interest the State has in so severely limiting the content of proxy solicitation statements to be sent out by a homeowners association. If the HOA is willing to reproduce a full-page submittal from each candidate and pay the postage to mail it to all members, why should it not be allowed to do so?

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**LATE**

woodson2-Shingai

From: mailinglist@capitol.hawaii.gov  
Sent: Sunday, January 31, 2016 4:43 PM  
To: CPCtestimony  
Cc: john-a-morris@juno.com  
Subject: Submitted testimony for HB1541 on Feb 1, 2016 14:00PM

**HB1541**

Submitted on: 1/31/2016

Testimony for CPC on Feb 1, 2016 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
John Morris	Individual	Support	No

Comments: HB 1541 makes a lot of sense. The old condominium law used to limit owners who wished to serve on their board or solicit proxies to send out -- at association expense -- a statement of 100 words or less. In many cases, the statement was provided to the association on an 8.5 x 11 inch page, anyway, and was often sent out on that page. The new condominium law was changed to permit owners to send out requests for proxies or to serve on the board on an 8.5x11 inch page. This was done on the basis that: 1) members of an association should be encouraged to participate in association affairs and 2) giving owners sufficient room to state their qualifications for the board or reasons for wanting to receive proxies made sense. The same is true of planned community association members, so HB 1541 is a worthwhile change to the law.

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