

Honolulu, Hawaii

MAR 30 2017

RE: H.B. No. 239
H.D. 2
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2017
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Health, to which was referred H.B. No. 239, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO CONDOMINIUMS,"

begs leave to report as follows:

The purpose and intent of this measure is to clarify that when a standard proxy form is returned with no boxes checked or more than one box checked, the proxy shall be deemed defective and counted for quorum purposes only.

Your Committee received testimony in support of this measure from the Hawai'i State Association of Parliamentarians, Associa, and four individuals. Your Committee received comments on this measure from the Hawaii Council of Associations of Apartment Owners and one individual.

Your Committee finds that existing law on voting pursuant to a proxy at a meeting of a condominium association specifies that a standard proxy form must contain boxes for a condominium owner to check and indicate how a proxy is given. Proxy forms may sometimes be returned to an association's secretary or managing agent with more than one box checked, or with nothing marked on the proxy form, which may lead to confusion over how the proxy should be counted. This measure attempts to clarify how such proxies should be counted.



Your Committee has heard testimony that this measure requires all proxies to be a standard proxy form authorized by an association, which will have the effect of preventing owners from using their own form of proxies. This measure also specifies that a proxy with no box checked or more than one box checked shall be deemed "defective" and counted for quorum purposes only. However, your Committee notes that if a proxy is defective, it should not be counted at all.

Your Committee notes that the companion to this measure, S.B. No. 392, S.D. 1 (Regular Session of 2017), which was previously passed by the Senate, is a substantially similar measure that also clarifies how a proxy should be counted. Your Committee concludes that the language in S.B. No. 392, S.D. 1, is preferable because it does not contain language that inadvertently prevents owners from using their own proxy forms, but clarifies that if a proxy is a standard proxy form authorized by an association, the proxy must comply with certain additional requirements. S.B. No. 392, S.D. 1, also clearly indicates that a standard proxy form authorized by an association must contain a box, separate from the boxes that indicate how a proxy is given, indicating that an owner wishes to obtain a copy of an association's annual audit report.

Accordingly, your Committee has amended this measure by deleting its contents and inserting the contents of S.B. No. 392, S.D. 1, a substantially similar measure, which:

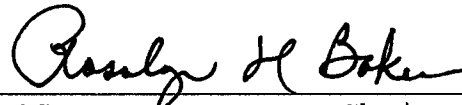
- (1) Specifies that when a proxy is a standard proxy form authorized by an association, the proxy shall contain boxes to indicate how a proxy is given; provided that if the proxy is returned with no box or more than one box checked, relating to how an owner may indicate a proxy is given, the proxy shall be counted for quorum purposes only; and
- (2) Clarifies that a standard proxy form authorized by an association shall also contain a separate box regarding an association's annual audit report.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Health that is attached to this report, your Committee is in accord with the



intent and purpose of H.B. No. 239, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 239, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committee on Commerce, Consumer
Protection, and Health,



ROSALYN H. BAKER, Chair



