

STAND. COM. REP. NO.

699

Honolulu, Hawaii

MAR 03 2017

RE: S.B. No. 392
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 S.B. No. 392 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
shall be counted for quorum purposes only.

Your Committee received testimony in support of this measure
from Associa, Hawaii Council of Associations of Apartment Owners,
Hui 'Oia'i'o, and three individuals. Your Committee received
testimony in opposition to this measure from Hawaiian Properties,
Ltd.; and two individuals. Your Committee received comments on
this measure from the Hawaii State Association of Parliamentarians
and Hawaii Chapter of the Community Associations Institute
Legislative Action Committee.

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 proxies should be counted, when the proxies are returned with no boxes checked or more than one box checked.

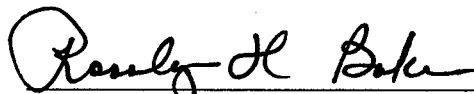
However, your Committee has heard testimony that existing statutory language on voting pursuant to a proxy also requires a standardized proxy form to contain a box indicating that an owner wishes to obtain a copy of an association's annual audit report. According to testimony received by your Committee, this measure, as currently written, could be construed to deem a proxy defective any time an owner checks the audit box on a proxy form, in addition to a box that indicates how an owner would like the owner's proxy to be given. Amendments to this measure are therefore needed to address these concerns.

Your Committee has amended this measure by:

- (1) Clarifying that when a standard proxy form is authorized by an association, and the proxy is returned with no box or more than one box checked that relates to how an owner may indicate a proxy is given, the proxy shall be counted for quorum purposes only; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

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 S.B. No. 392, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 392, 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



The Senate
Twenty-Ninth Legislature
State of Hawai'i

Record of Votes
Committee on Commerce, Consumer Protection, and Health
CPH

Bill / Resolution No.:* SB392	Committee Referral: CPH	Date: 2/23/17		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	✓			
NISHIHARA, Clarence K. (VC)				✓
CHANG, Stanley	✓			
ESPERO, Will	✓			
IHARA, Jr., Les	✓			
KIDANI, Michelle N.				✓
RUDERMAN, Russell E.				✓
TOTAL	4	0	0	3
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes