

STAND. COM. REP. NO.

560

Honolulu, Hawaii

MAR 02 2017

RE: S.B. No. 393

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. 393 entitled:

"A BILL FOR AN ACT RELATING TO CONDOMINIUMS,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Clarify that in cases where the removal or replacement of a director elected by a class of unit owners is authorized, such removal or replacement may only be by a majority of only the members of that class; and
- (2) Specify that, for an election in a mixed-use condominium project where directors are elected by different classes of owners, an association may cast the vote or votes allocated to any nonresidential unit owned by the association where those eligible to vote in the election are limited to owners of one or more nonresidential units, including the nonresidential unit owned by the association.

Your Committee received testimony in support of this measure from the Hawai'i State Association of Parliamentarians, Associa, and two individuals. Your Committee received testimony in opposition to this measure from Hui 'Oia'i'o and two individuals.



Your Committee finds that existing condominium law permits different classes of directors in mixed-use projects. Existing law also provides for the removal of directors by a majority of the unit owners. This measure clarifies that the removal or replacement of a director elected by a class of unit owners shall only be by a majority of the members of that class. Your Committee notes that this clarification is similar to language regarding removal of directors in the Hawaii Business Corporations Act and Hawaii Nonprofit Corporations Act. Your Committee also notes that this measure does not give a condominium board a weighted vote to remove directors. Rather, this measure simply provides that if a director is elected by a class of unit owners, then the director may be removed or replaced only by a vote of a majority of the common interest represented by that class.

Your Committee further finds that existing law specifies that no votes allocated to a unit owned by a condominium association may be cast for the election or reelection of directors. However, this prohibition may be an issue for mixed-use condominium projects where directors are elected by different classes of owners. For example, in a mixed-use project that contains residential and commercial units, the board of directors may be comprised of directors elected by residential unit owners and directors elected by commercial unit owners. A condominium association that owns the single commercial unit in a mixed-use project would therefore be unable to elect or reelection the directors needed to represent that commercial unit.

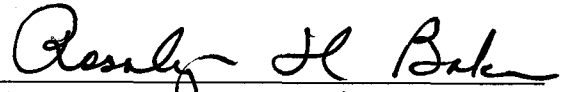
Accordingly, this measure makes an exception for votes cast for nonresidential units owned by an association to ensure that elections may be held and directors may be elected. Your Committee notes that this is a very narrow exception and has no effect on directors elected by owners of residential units. This exception simply allows a condominium board to cast the vote allocated to a nonresidential unit owned by the association in elections where the only persons eligible to vote are owners of nonresidential units and the association owns one or more of those nonresidential units.

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. 393 and recommends that it pass Second Reading 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.:* SB393	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 checked="" type="checkbox"/> Pass, unamended 2312 <input 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