

HB239 HD2

Measure Title: RELATING TO CONDOMINIUMS.

Report Title: Condominiums; Associations; Meetings; Voting; Proxies

Description: Clarifies that when a standard proxy form is returned with no proxy or voting boxes checked or more than one proxy or voting box checked, the proxy shall be counted for quorum purposes only. Exempts box requesting an annual audit report from determining validity of proxy. (HB239 HD2)

Companion:

Package: None

Current Referral: CPH

Introducer(s): MCKELVEY

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, March 12, 2017 10:58 PM
To: CPH Testimony
Cc: jsugimura@bendetfidell.com
Subject: Submitted testimony for HB239 on Mar 14, 2017 09:00AM

HB239

Submitted on: 3/12/2017

Testimony for CPH on Mar 14, 2017 09:00AM in Conference Room 229

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

Comments: We join in and incorporate by reference Steve Glanstein's testimony asking that you replace the language in HB239 HD2 with the language in SB392 SD1.

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

March 11, 2017

Hon. Sen. Rosalyn H. Baker, Chair
Hon. Sen. Clarence K. Nishihara, 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 in SUPPORT of HB239 HD2 WITH PROPOSED AMENDMENTS;
Hearing Date: March 14, 2017 at 9:00 a.m. in Senate conference room 229; sent
via Internet**

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

Thank you for the opportunity to provide testimony on this bill.

The Hawaii State Association of Parliamentarians ("HSAP") has been providing professional parliamentary expertise to Hawaii since 1964.

I am the chair of the HSAP Legislative Committee. I'm also an experienced Professional Registered Parliamentarian who has worked with condominium and community associations every year since I began my practice in 1983 (over 1,500 meetings in 33 years). I was also a member of the Blue Ribbon Recodification Advisory Committee that presented the recodification of Chapter 514B to the legislature in 2004.

This testimony is provided as part of HSAP's effort to assist the community based upon our collective experiences with the bylaws and meetings of numerous condominiums, cooperatives, and Planned Community Associations.

**This testimony is presented in SUPPORT of HB239 HD2 with AMENDMENTS
previously made by CPH in companion bill SB392 HD1.**

HB239 HD2 proposed a change to HRS §514B-123(d)(3) which strikes the words "If it is" and replaces those words with "Be" to require that all proxies be a standard proxy form authorized by the association. This will have the effect of preventing owners from using their own form of proxies which do not need to contain the four boxes.

The reference to a proxy with no box checked or more than one box checked being "defective" should be deleted because if a proxy is defective, it should not be counted at all.

The wording should be corrected to clarify that the additional requirement for the check box for the audit report relates to the standard proxy issued by the association rather than a private one.

We concur with the changes made in SB392 HD1 to resolve these issues and agree with the testimony of Anne Anderson, Esq. on this bill.

We ask that you improve HB239 HD2 to match the wording in SB392 SD1.

If you require any additional information, your call is most welcome. I may be contacted via phone: 423-6766 or by e-mail: hsap.lc@gmail.com. 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
Sent: Friday, March 10, 2017 3:06 PM
To: CPH Testimony
Cc: richard.emery@associa.us
Subject: *Submitted testimony for HB239 on Mar 14, 2017 09:00AM*

HB239

Submitted on: 3/10/2017

Testimony for CPH on Mar 14, 2017 09:00AM in Conference Room 229

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

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Friday, March 10, 2017 2:51 PM
To: CPH Testimony
Cc: aanderson@alf-hawaii.com
Subject: Submitted testimony for HB239 on Mar 14, 2017 09:00AM

HB239

Submitted on: 3/10/2017

Testimony for CPH on Mar 14, 2017 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Anne Anderson	Individual	Comments Only	No

Comments: The change to HRS Section 514B-123(d)(3) which strikes the words “If it is” and replaces those words with “Be” will require that all proxies be a standard proxy form authorized by the association. This will have the effect of preventing owners from using their own form of proxies which do not need to contain the four boxes. The reference to a proxy with no box checked or more than one box checked being “defective” should be deleted because if a proxy is defective, it should not be counted at all. These issues can be addressed by making the same changes to this bill as the Committee made to S.B. 392. S.D.1. Sincerely, M. Anne Anderson

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From: mailinglist@capitol.hawaii.gov
Sent: Sunday, March 12, 2017 2:35 PM
To: CPH Testimony
Cc: sawonglaw@hawaii.rr.com
Subject: Submitted testimony for HB239 on Mar 14, 2017 09:00AM

HB239

Submitted on: 3/12/2017

Testimony for CPH on Mar 14, 2017 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Sandie Wong	Individual	Support	No

Comments: I support HB239, HD2 and request that the Committee pass out unamended. Thank you.

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Committee on Consumer Protection & Commerce
Hearing, Tuesday, Mar 14, 2017, 9:00 a.m.
Conference Room 229

TESTIMONY IN **SUPPORT with AMENDMENT**
HB 239, H.D. 2, RELATING TO CONDOMINIUMS

Senator Rosalyn H. Baker, Chair
Senator Clarence K. Nishihara, Vice Chair
Members of the Committee on Consumer Protection & Health

Aloha mai, kākou

Good afternoon. I am writing in support of HB239, HD2, that clarifies that when a standard proxy form is returned with no proxy or voting boxes checked or more than one proxy or voting box checked, the proxy shall be counted for quorum purposes only, but **wish to offer an amendment to preserve the rights of homeowners to develop their own proxy form as is currently authorized by HRS 514B-123(d).**

HB 239, H.D. 2, changes HRS 514B-123(d)(3) to delete the words “If it is” and insert “Be” a standard proxy form authorized by the association, and contain boxes wherein the owner has indicated that the proxy is given:.....” By deleting the words, “If it is” and inserting “Be”, the option for homeowners to develop their own proxy form is eliminated. We do not believe that that is the intended purpose of this legislation. Thus, we recommend, returning to the words “If it is” .

If you are not inclined to do that and feel that the proxy form must be standard for everyone’s use, then I ask that you amend HB No 239 HD2, Section 2, to amend HRS 514B-123(d)(3) to add the following underscored words so that it reads: “Be a standard proxy form authorized by the association, and contain boxes listed **in the following order** 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 as a whole and that the vote is to be made on the basis of the preference of the majority of the directors present at the meeting; or (d) To those directors present at the meeting with the vote to be shared with each director receiving an equal percentage.

On ballots, options that are listed first are often the ones chosen by those making selections. Take for example, political elections where the names on ballots are listed in alphabetical order. By inserting “in the following order” homeowners may be inclined to first name another homeowner as their proxy holder, rather than the Board of Directors.

This is a small change that I am requesting, but the impact is great for Homeowners. Thus, please adopt my proposed amendment.

I am hoping to be at the hearing so that I can explain, by example, the difference a homeowner’s proxy has made in a recent election held at my condominium, a 720 unit complex.

Mahalo for your consideration.

MARILYN L. KHAN
Condominium Apartment Homeowner

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 13, 2017 7:51 AM
To: CPH Testimony
Cc: lila.mower@gmail.com
Subject: Submitted testimony for HB239 on Mar 14, 2017 09:00AM

HB239

Submitted on: 3/13/2017

Testimony for CPH on Mar 14, 2017 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Lila Mower	Individual	Support	No

Comments: But I am opposed to the restriction that limits valid proxies to only those authorized by the association. I also recommend that any association authorized proxy form enumerate the 4 choices in the same order as currently listed in HRS514B-123(3): (A) For quorum purposes only; (B) To the individual whose name is printed on a line next to this box; (C) To the board as a whole and that the vote is to be made on the basis of the preference of the majority of the directors present at the meeting; or (D) To those directors present at the meeting with the vote to be shared with each director receiving an equal percentage. Mahalo.

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Richard J. Port
1600 Ala Moana Blvd. #3100
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Tel 808-941-9624
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Measure: HB 239 HD 2 Relating to Condominiums
Date and Time of Hearing: 9:00 a.m. Tuesday, March 14, 2017
Committee: Committee on Commerce, Consumer Protection & Health

Aloha Senator Baker and members of your Committee.

Thank you for the opportunity to testify in support of HB 239 HD 2. This bill will clarify an ambiguity in our current HRS 514 B Condominium Law.

The bill provides that if a proxy form is submitted for a condominium association meeting with no boxes checked or two boxes checked on the Proxy form, the Proxy will be counted for Quorum purposes only.

I appreciate your Committee's inclusion of HB239 HD 2 on today's agenda and I support the Bill.

Sincerely,

Richard Port