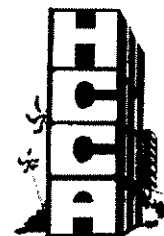




**Hawaii Council of Associations
of Apartment Owners**
DBA: Hawaii Council of Community Associations
1050 Bishop Street, #366, Honolulu, Hawaii 96813



February 11, 2017

Rep. Takashi Ohno, Chair
Rep. Isaac Choy, Vice-Chair
House Committee on Intrastate Commerce


Re: Testimony in Support of
HB239 RELATING TO CONDOMINIUMS
Hearing: Wed., February 15, 2017, 9 a.m., Conf. Rm. #429

Chair Ohno, Vice-Chair Choy and Members of the Committee:

I am Jane Sugimura, President of the Hawaii Council of Associations of Apartment Owners (HCAAO dba HCCA). This organization represents the interests of condominium and community association members.

HCAAO strongly supports this bill and urges that you pass it out. It has been brought to our attention that some owners have been notified by their Boards that a proxy with no boxes checked or 2 boxes checked will default to the Board of Directors. We feel that such a proxy is defective based on inadvertence or oversight and that the default should not be to the Board of Directors but for quorum purposes only.

If you have any questions, please feel free to contact me. Thank you for the opportunity to testify on this matter.


Jane Sugimura
President

IACtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 13, 2017 12:21 PM
To: IACtestimony
Cc: richard.emery@associa.us
Subject: Submitted testimony for HB239 on Feb 15, 2017 09:00AM

HB239

Submitted on: 2/13/2017

Testimony for IAC on Feb 15, 2017 09:00AM in Conference Room 429

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

Comments: Proxies can be used for wrong purposes and this Bill prevents their misuse.

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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IACtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 13, 2017 12:58 PM
To: IACtestimony
Cc: steveghi@gmail.com
Subject: Submitted testimony for HB239 on Feb 15, 2017 09:00AM

HB239

Submitted on: 2/13/2017

Testimony for IAC on Feb 15, 2017 09:00AM in Conference Room 429

Submitted By	Organization	Testifier Position	Present at Hearing
Steve Glanstein	Hawaii State Association of Parliamentarians	Comments Only	No

Comments: Aloha, HB239 contains the following language, "If it is a standard proxy form authorized by the association and is returned with no box checked or more than one box checked, be deemed defective and be counted for quorum purposes only." I suggest that the words, "be deemed defective and" be amended since the use of a proxy for quorum purposes only is NOT a defective proxy; it is a directed proxy that can only be used to establish quorum. Quorum only proxies usually act as a "no" for elections and adopting main motions at the meeting due to the commonly used majority present rule. More precise language might be, "If it is a standard proxy form authorized by the association and is returned with no box checked or more than one box checked, unless otherwise defective, shall be used for quorum purposes only." Finally, if the legislature wishes to remain involved with the proxy forms for Condominium Associations and Planned Community Associations, we suggest that this language also be inserted into the Planned Community Association Act, HRS §421J-4 so the proxy forms are identical. This will help to avoid re-creating issues with differences between Condominiums and Planned Community Associations.

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IACtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 13, 2017 9:47 PM
To: IACtestimony
Cc: lila.mower@gmail.com
Subject: *Submitted testimony for HB239 on Feb 15, 2017 09:00AM*

LATE

HB239

Submitted on: 2/13/2017

Testimony for IAC on Feb 15, 2017 09:00AM in Conference Room 429

Submitted By	Organization	Testifier Position	Present at Hearing
Lila Mower	Hui `Oia`i`o	Support	No

Comments:

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February 14, 2017

VIA WEB TRANSMITTAL

Hearing Date: Wednesday, February 15, 2016

Time: 9:00 a.m.

Place: Conference Room 429
State Capitol

Committee on Intrastate Commerce
House of Representatives, the 29th Legislature
Regular Session of 2017

Re: Community Associations Institute's Comments on HB239

Dear Chair Ohno, Vice Chair Choy and Committee members:

I am the Vice Chair of the Community Associations Legislative Action Committee ("CAI"). CAI respectfully provides the following comments for HB239 for your consideration.

A defective ballot usually shall be set side and will not be counted as vote at all. To fulfill the legislative intent of HB239, we recommend the proposed ambiguous language amending HRS § 514B-123 be revised to delete "be deemed defective and" and simply states:

"If it is a standard proxy form authorized by the association and is returned with no box checked or more than one box checked, be counted for quorum purposes only."

To avoid potential confusion among property managers and Board directors, the legislators may consider proposing a similar amendment to HRS § 421J-4 to make the

House Committee on Intrastate Commerce

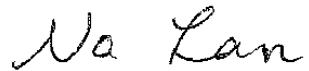
February 14, 2017

Page 2

proxy rules for planned community association consistent with condominium associations.

Sincerely yours,

CAI LAC Hawaii

A handwritten signature in cursive script that reads "Na Lan".

By Na Lan
Its Vice Chair

LATE

**ONE KALAKAUA SENIOR LIVING ASSOCIATION
PROXY**

Note: Please check only one of the following boxes. If no proxy holder is designated, or if no box is checked, or if more than one box is checked, the proxy shall be given to the Board of Directors as a whole. If you are not present at the meeting, this proxy designates your proxy holder as your substitute for any proxies assigned to you unless you designate another substitute in writing subsequent to this proxy.

The undersigned, being the owner(s) of the apartment(s) shown below, does hereby constitute and appoint

- The Board as a whole, to be voted on the basis of the preference of a majority of the Directors present at the meeting, or
- The Directors present at the meeting and the vote to be shared with each Director receiving an equal percentage, or
- _____ The individual whose name is printed on this line (to be used for quorum if absent and if the individual has not assigned his proxy)

as the undersigned's attorney and agent, with full power of substitution, to act in the undersigned's name, place, and stead, and to vote the undersigned's proxy at the March 25, 2015 Annual Association meeting to be held Onsite at 2:00 p.m. (registration begins at 1:15 p.m.), and at any and all adjournments thereof, for the transaction of any and all business that may properly come before the meeting, including the election or re-election of directors, according to the proportional interest in the common elements that the undersigned would be entitled to vote if then personally present, hereby revoking any proxy or proxies heretofore given, and ratifying and confirming all that said attorney and agent may do by virtue hereof, or

For quorum purposes only.

This proxy is valid only for the meeting cited above and any and all adjournments thereof. If I/we attend the meeting in person, I/we may request a ballot to vote in person thereby voiding this proxy (if not previously exercised). Receipt of notice of said meeting is hereby acknowledged.

PRINTED NAME(S) OF OWNER(S) [REQUIRED BY LAW]:

SIGNATURE(S) OF OWNER(S) [REQUIRED BY LAW]:

UNIT NO(S) _____
[REQUIRED BY LAW]

DATE SIGNED: _____
[REQUIRED BY LAW] Do not post date.

Sign and print your name as it appears in the Association's records, and provide your unit number(s) and the date. Persons signing in a representative capacity (personal representatives, executors, administrators, trustees, guardians, conservators, partners, members of a member-managed LLC, managers of a manager-managed LLC, and corporate officers) are to add their titles and, if requested, are to submit evidence of their authority to act in that capacity.

For this proxy to be valid, the proxy must be received by the Association's Managing Agent or Secretary no later than 4:30 p.m., on March 23, 2015. Proxies may be faxed to (808) 593-6333.

IF NOT PROVIDED PRIOR TO OR TOGETHER WITH THE NOTICE OF MEETING, I-WISH TO OBTAIN A COPY OF THE ANNUAL AUDIT REPORT IF ACCOMPLISHED.

Date Received _____ by Managing Agent/Board Secretary

Richard J. Port
1600 Ala Moana Blvd. #3100
Honolulu, Hawaii 96815
Tel 808-941-9624
e-mail: portr001@hawaii.rr.com

Measure: HB 239 Relating to Condominiums

Date and Time of Hearing: Wednesday, February 15, 2017 9:00 a.m.

Committee: Committee on Intrastate Commerce

Aloha Rep. Ohno,

I am testifying in strong support of HB239. Currently some Boards and Management Companies are allowing the proxies of Owners who have assigned their proxies to two different persons or entities as well as proxies given to no one to be used by board members to vote for their own re-election.

I believe you will be receiving examples of proxies from other testifiers which will show that the proxies which previously had always been treated as spoiled ballots are now being used by board members to re-elect themselves. I do have copies of such proxies if others do not provide them to you.

The passage of HB 239 will cure this problem by allowing these spoiled proxies to be used only for quorum purposes. Please approve HB 239 as is.

Richard Port

Sandra-Ann Y.H. Wong

Attorney at Law, a Law Corporation

1050 Bishop Street, #514

Honolulu, Hawaii 96813

TESTIMONY IN SUPPORT OF HB 239
Before the Committee on Intrastate Commerce
on Wednesday, February 15, 2017 at 9a.m.
in Conference Room 429

Aloha Chair Ohno, Vice Chair Choy, and members of the Committee:

I am writing in **support of HB239**.

I have been a condominium owner and resident in Hawaii for the last 25 years and I have served both past and present on my condominium boards.

I support HB239 relating to defective standard proxy forms. If a standard proxy form is defective, it should only be used for quorum purposes.

Thank you for the opportunity to provide testimony in Support of HB239.

IACtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 13, 2017 10:18 PM
To: IACtestimony
Cc: lourdes10@me.com
Subject: Submitted testimony for HB239 on Feb 15, 2017 09:00AM



HB239

Submitted on: 2/13/2017

Testimony for IAC on Feb 15, 2017 09:00AM in Conference Room 429

Submitted By	Organization	Testifier Position	Present at Hearing
Lourdes Scheibert	Individual	Support	No

Comments: I support HB239. Defective proxies should be counted only for quorum only

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IACtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 14, 2017 10:26 AM
To: IACtestimony
Cc: lynnehi@aol.com
Subject: Submitted testimony for HB239 on Feb 15, 2017 09:00AM

LATE

LATE

HB239

Submitted on: 2/14/2017

Testimony for IAC on Feb 15, 2017 09:00AM in Conference Room 429

Submitted By	Organization	Testifier Position	Present at Hearing
lynne matusow	Individual	Support	No

Comments: Often owners do not properly complete their proxy forms. This can result in needing redos of an annual meeting. As an owner and board member I know too well the havoc this can bring. This bill is necessary and should be supported. lynne matusow lynne matusow

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LATE

From: mailinglist@capitol.hawaii.gov
 Sent: Tuesday, February 14, 2017 9:16 AM
 To: IACtestimony
 Cc: sunnymakaha@yahoo.com
 Subject: Submitted testimony for HB239 on Feb 15, 2017 09:00AM
 Attachments: MSS Proxy 2017.pdf

HB239

Submitted on: 2/14/2017

Testimony for IAC on Feb 15, 2017 09:00AM in Conference Room 429

Submitted By	Organization	Testifier Position	Present at Hearing
Dale A. Head	Individual	Comments Only	No

Comments: Aloha: We now use a 'Directed Proxy' at Makaha Surfside which allows for an owner to write onto the Proxy which candidates running for election for their designated 'Proxy holder' to vote for. My guess is we may have people try to wrongfully invalidate proxies citing this bill, which, if it becomes 'law', would prohibit more than one box being checked. Perhaps a language adjustment would fix this potential problem? Elections should be done online as is now possible due to modern media. That should be your next bill.

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