



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

March 10, 2019

Honorable Rep. Roy M. Takumi, Chair  
Honorable Rep. Linda Ichiyama, Vice-Chair  
House Committee on Consumer Protection and Commerce (CPC)  
Hawaii State Capitol, Room 329  
415 South Beretania Street  
Honolulu, HI 96813

**RE: Testimony with COMMENTS on SB 725 SD1; Hearing: March 12, 2019 at 2:00 p.m. in House conference room 329; sent via Internet**

Dear Rep. Takumi, Chairman; Rep. Linda Ichiyama, Vice-Chair; Committee Members

Thank you for the opportunity to provide testimony on this bill. Unfortunately, I had a prior obligation in Lihue, Kauai today so am unable to appear in person.

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 parliamentary practice in 1983 (over 1,700 meetings in 35 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 with COMMENTS on SB725 SD1.

SB725 SD1 includes the statement that in the event of a contested election, proxies, tally sheets, ballots, check-in lists, and certificates of election may not be destroyed, “until the contested election is resolved.”

**This will create uncertainty in the condominium community due to the lack of a definitive time period of “a contested election.”**

There are time limits for contesting certain election results in the current edition of Robert's Rules of Order Newly Revised ("Robert's Rules"). The time limit is generally a quarterly time period for any recount.

Based on the bill as written, a simple written contest by any aggrieved owner would trigger off the unlimited maintenance of the proxies, tally sheets, ballots, check-in lists, and certificates of election. In some cases, this includes hundreds of proxies and ballots.

Voting and elections need to have some finality. It is critical for owners to quickly know the composition of their Board, to know whether critical motions were adopted or rejected, and for associations to be able to conduct their business without an uncontrolled fear of post-meeting challenges.

**We suggest that an absolute 90 day or 120 day period as a compromise be used with an exception for litigation that is filed within that same time period.**

**Should the Committee desire to improve this bill further, consider an absolute limitation of 120 days for filing any voting challenge, thus imposing an obligation on all parties to quickly resolve any voting issues.**

Should litigation be filed within the prescribed time period, then wording could be included to mandate that the documents must be preserved until the conclusion of the lawsuit or arbitration, including any appeals arising out of the lawsuit or arbitration or such other periods as may be ordered by a court or arbitrator.

**Conclusion:**

We ask that you approve the legislation with the comments previously provided.

If you require any additional information, your call is most welcome. I may be contacted via phone: 423-6766 or by e-mail: [Steveghi@gmail.com](mailto:Steveghi@gmail.com). Thank you for the opportunity to present this testimony.

Sincerely,

Steve Glanstein, Professional Registered Parliamentarian  
Chair, HSAP Legislative Committee  
SG:tbs

**SB-725-SD-1**

Submitted on: 3/9/2019 11:04:44 AM

Testimony for CPC on 3/12/2019 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Richard Emery	Associa	Support	Yes

Comments:

Most management companies maintain records for a year or longer. The additional time is reasonable.

**SB-725-SD-1**

Submitted on: 3/11/2019 9:54:33 AM

Testimony for CPC on 3/12/2019 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jane Sugimura	HI Council of Assoc. of Apt. Owners	Support	No

Comments:

We join in and support the testimony of HAWAII State Association of Parliamentarians

**SB-725-SD-1**

Submitted on: 3/11/2019 12:24:26 PM

Testimony for CPC on 3/12/2019 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Clarke Farden	KEKUILANI VILLAS AOAO	Support	No

Comments:

Dear Representative Takumi, Chair, Representative Ichiyama, Vice Chair, and Members of the Committee:

I support the intent of S.B. 725, S.D.1. However, as drafted, it might create confusion. The statement that in the event of a contested election, proxies, tally sheets, ballots, check-in lists, and certificates of election may not be destroyed “until the contested election is resolved” may create uncertainty because there is no definition of “contested election” and it may not always be clear when a contested election has been resolved. For example, it is foreseeable that the day after an election an owner will allege procedural irregularities in the election process or problems with the vote count, but never follow through with any action, leaving the association uncertain as to whether the dispute has been resolved. In that case, the association may, in an abundance of caution, be forced to retain the records for years, or if documents are destroyed, the ambiguities in S.B. 725, S.D.1 may lead to litigation, wasted judicial resources, and undesirable outcomes. It would be better to state that in the event of a contested election, the documents shall be retained for a specified period of time and may be destroyed after that time period unless a lawsuit or demand for arbitration has been filed, in which case the documents shall not be destroyed until the conclusion of the lawsuit or arbitration, including any appeals arising out of the lawsuit or arbitration or such longer periods as may be ordered by the court or arbitrator.

Respectfully submitted,

Clarke Farden

**SB-725-SD-1**

Submitted on: 3/8/2019 3:56:38 PM

Testimony for CPC on 3/12/2019 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kekoa Giron	Individual	Support	No

Comments:

**SB-725-SD-1**

Submitted on: 3/8/2019 4:12:34 PM

Testimony for CPC on 3/12/2019 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Naomie Ramos	Individual	Support	No

Comments:

**SB-725-SD-1**

Submitted on: 3/10/2019 3:12:06 PM

Testimony for CPC on 3/12/2019 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Anne Anderson	Individual	Support	No

Comments:

Dear Representative Takumi, Chair, Representative Ichiyama, Vice Chair, and Members of the Committee:

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Respectfully submitted,

M. Anne Anderson



**SB-725-SD-1**

Submitted on: 3/11/2019 7:59:11 AM

Testimony for CPC on 3/12/2019 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Mark R. Hagadone, Ph.D., FACFE	Individual	Support	No

Comments:

I am in favor of extending the ballot retention time from 30 to 90 days.

**SB-725-SD-1**

Submitted on: 3/11/2019 8:28:38 AM

Testimony for CPC on 3/12/2019 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Philip L. Lahne	Individual	Support	No

Comments:

Dear Representative Takumi, Chair, Representative Ichiyama, Vice Chair, and Members of the Committee:

I support the intent of S.B. 725, S.D.1. However, as drafted, it might create confusion. The statement that in the event of a contested election, proxies, tally sheets, ballots, check-in lists, and certificates of election may not be destroyed “until the contested election is resolved” may create uncertainty because there is no definition of “contested election” and it may not always be clear when a contested election has been resolved. For example, it is foreseeable that the day after an election an owner will allege procedural irregularities in the election process or problems with the vote count, but never follow through with any action, leaving the association uncertain as to whether the dispute has been resolved. In that case, the association may, in an abundance of caution, be forced to retain the records for years, or if documents are destroyed, the ambiguities in S.B. 725, S.D.1 may lead to litigation, wasted judicial resources, and undesirable outcomes. It would be better to state that in the event of a contested election, the documents shall be retained for a specified period of time and may be destroyed after that time period unless a lawsuit or demand for arbitration has been filed, in which case the documents shall not be destroyed until the conclusion of the lawsuit or arbitration, including any appeals arising out of the lawsuit or arbitration or such longer periods as may be ordered by the court or arbitrator.

Respectfully submitted,

Philip L. Lahne

**SB-725-SD-1**

Submitted on: 3/11/2019 10:07:52 AM

Testimony for CPC on 3/12/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Paul A. Ireland Koftinow	Individual	Support	Yes

Comments:

Dear Representative Takumi, Chair, Representative Ichiyama, Vice Chair, and Members of the Committee:

I support the intent of S.B. 725, S.D.1. **However**, as drafted, it might create confusion. The statement that in the event of a contested election, proxies, tally sheets, ballots, check-in lists, and certificates of election may not be destroyed “until the contested election is resolved” may create uncertainty because there is no definition of “contested election” and it may not always be clear when a contested election has been resolved. For example, it is foreseeable that the day after an election an owner will allege procedural irregularities in the election process or problems with the vote count, but never follow through with any action, leaving the association uncertain as to whether the dispute has been resolved. In that case, the association may, in an abundance of caution, be forced to retain the records for years, or if documents are destroyed, the ambiguities in S.B. 725, S.D.1 may lead to litigation, wasted judicial resources, and undesirable outcomes.

It would be better to state that in the event of a contested election, the documents shall be retained for a specified period of time and may be destroyed after that time period unless a lawsuit or demand for arbitration has been filed, in which case the documents shall not be destroyed until the conclusion of the lawsuit or arbitration, including any appeals arising out of the lawsuit or arbitration or such longer periods as may be ordered by the court or arbitrator.

Respectfully submitted,

Paul A. Ireland Koftinow

**SB-725-SD-1**

Submitted on: 3/11/2019 11:29:45 AM

Testimony for CPC on 3/12/2019 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Dale	Individual	Support	No

Comments:

Aloha:

This is an excellent bill, which I fully support. When election documents are routinely destroyed by property management companies, without first getting a Motion passed to do so by owners at an annual condo association General Meeting, they are obliterating any 'paper trail' which might be used to uncover stolen elections, which happens.

Requiring election records retention until a dispute is resolved is appropriate. Only an audit of Proxies by interested owners can reveal irregularities.

Please pass this bill, SB725.

Respectfully, Dale A. Head sunnymakaha@yahoo.com (808) 228-8508 Text or Cell

**SB-725-SD-1**

Submitted on: 3/11/2019 1:45:27 PM

Testimony for CPC on 3/12/2019 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Lance S. Fujisaki	Individual	Support	Yes

Comments:

Dear Representative Takumi, Chair, Representative Ichiyama, Vice Chair, and Members of the Committee:

I support the intent of S.B. 725, S.D.1. However, as drafted, it might create confusion. The statement that in the event of a contested election, proxies, tally sheets, ballots, check-in lists, and certificates of election may not be destroyed “until the contested election is resolved” may create uncertainty because there is no definition of “contested election” and it may not always be clear when a contested election has been resolved. For example, it is foreseeable that the day after an election an owner will allege procedural irregularities in the election process or problems with the vote count, but never follow through with any action, leaving the association uncertain as to whether the dispute has been resolved. In that case, the association may, in an abundance of caution, be forced to retain the records for years, or if documents are destroyed, the ambiguities in S.B. 725, S.D.1 may lead to litigation, wasted judicial resources, and undesirable outcomes. It would be better to state that in the event of a contested election, the documents shall be retained for a specified period of time and may be destroyed after that time period unless a lawsuit or demand for arbitration has been filed, in which case the documents shall not be destroyed until the conclusion of the lawsuit or arbitration, including any appeals arising out of the lawsuit or arbitration or such longer periods as may be ordered by the court or arbitrator.

Respectfully submitted,

Lance Fujisaki