

Honolulu, Hawaii

, 2020

FEB 14

RE: H.B. No. 2161

H.D. 1

Honorable Scott K. Saiki
Speaker, House of Representatives
Thirtieth State Legislature
Regular Session of 2020
State of Hawaii

Sir:

Your Committee on Consumer Protection & Commerce, to which was referred H.B. No. 2161 entitled:

"A BILL FOR AN ACT RELATING TO CONDOMINIUMS,"

begs leave to report as follows:

The purpose of this measure is to make various clarifications to the statutory provisions governing condominiums.

Specifically, this measure clarifies:

- (1) That all condominiums may amend their declarations by the vote or written consent of owners representing at least sixty-seven percent of the common interest, unless the unit owners agree to require a higher percentage;
- (2) Who may serve on a board of directors and when a tenant of a unit is disqualified from being a member of a board;
- (3) The civil liability of associations, boards of directors, association directors, officers, agents, attorneys, or other association representatives with respect to any statement submitted by an owner for the purposes of proxies; and



- (4) Provisions concerning the installation of solar energy devices on common elements or limited common elements.

Your Committee received testimony in support of this measure from the Hawaii State Energy Office; Law Offices of Mark K. McKellar, LLLC; Associa; Community Associations Institute; Hawaii State Association of Parliamentarians; Country Club Village, Phase 2; Hawaii Council of Associations of Apartment Owners; and ten individuals. Your Committee received testimony in opposition to this measure from Kokua Council and four individuals.

Your Committee finds that a number of existing state laws concerning condominiums require clarification due to unintended consequences resulting from amendments to other sections, or provisions being subject to more than one interpretation. This measure amends the law to clarify ambiguous provisions and remove the impediments to effective governance by condominiums.

Your Committee has amended this measure by:

- (1) Requiring that the content of a statement by an owner is the sole responsibility of the owner and subject to any libel, slander, or other defamation of character charges;
- (2) Broadening the term "solar energy devices", as it relates to installation on single-family residential dwellings or townhouses, by delinking the term from the definition of "solar energy devices" in section 196-7, Hawaii Revised Statutes;
- (3) Providing that consent of owners of a condominium unit is not required regarding installation of solar energy and wind energy devices on portions of a building as it applies to the area of installation, rather than the entire building, that is reserved as a limited common element; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and



purpose of H.B. No. 2161, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2161, H.D. 1, and be referred to your Committee on Judiciary.

Respectfully submitted on
behalf of the members of the
Committee on Consumer
Protection & Commerce,



ROY M. TAKUMI, Chair



State of Hawaii
House of Representatives
The THIRTIETH Legislature

HSCR 656-20

Record of Votes of the Committee on Consumer Protection & Commerce

Bill/Resolution No.: HB 2161	Committee Referral: CPC, JUD	Date: 2/13/20		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
CPC Members	Ayes	Ayes (WR)	Nays	Excused
1. TAKUMI, Roy M. (C)	✓			
2. ICHIYAMA, Linda (VC)	✓			
3. AQUINO, Henry J.C.	✓			
4. BELATTI, Della Au	✓			
5. CABANILLA ARAKAWA, Rida	✓			
6. CACHOLA, Romy M.	✓			
7. HAR, Sharon E.	✓			
8. KONG, Sam Satoru	✓			
9. MIZUNO, John M.	✓			
10. ONISHI, Richard H.K.	✓			
11. MATSUMOTO, Lauren	✓			
TOTAL (11)	11	0	0	0
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <div style="text-align: center; font-size: small;">committee acronym(s)</div>				
Vice Chair's or designee's signature: <u><i>Linda Ichijima</i></u>				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				