

Honolulu, Hawaii

FEB 28 , 2020

RE: H.B. No. 2161
H.D. 2

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

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 2161, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO CONDOMINIUMS,"

begs leave to report as follows:

The purpose of this measure is to:

- (1) Clarify 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) Clarify the definition of "tenant" as it relates to those qualified to serve as a member of the board in the event a unit is owned by a corporation, partnership, or limited liability company;
- (3) Clarify that no association, board of directors, association director, officer, attorney, or other association representative shall be liable for damages for libel, slander, or other defamation of character of any person for any action taken with respect to the distribution of any statement submitted by an owner for



purposes of determining qualifications to serve on the board or soliciting proxies; and

- (4) Clarify 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 Association of Parliamentarians; Associa; Law Offices of Mark K. McKellar, LLC; and six individuals. Your Committee received testimony in opposition to this measure from the Hawaii Council of Community Associations, Hawaii Association for Justice, Citizens' Caucus, and eleven individuals. Your Committee received comments on this measure from the Community Associations Institute and one individual.

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) Deleting the provisions that:
 - (A) Clarify the definition of "tenant" as it relates to those qualified to serve as a member of the board in the event a unit is owned by a corporation, partnership, or limited liability company; and
 - (B) Clarify that no association, board of directors, association director, officer, attorney, or other association representative shall be liable for damages for libel, slander, or other defamation of character of any person for any action taken with respect to the distribution of any statement submitted by an owner for purposes of determining qualifications to serve on the board or soliciting proxies;
- (2) Changing the effective date to July 1, 2050, to encourage further discussion; and



- (3) 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 Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2161, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2161, H.D. 2.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary,



CHRIS LEE, Chair



State of Hawaii
House of Representatives
The THIRTIETH Legislature

HOCR 1019-20

Record of Votes of the Committee on Judiciary

Bill/Resolution No.: HB 2161 HDI	Committee Referral: CPC, JUD	Date: 2/28/20		
<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)				
JUD Members	Ayes	Ayes (WR)	Nays	Excused
1. LEE, Chris (C)	/			
2. SAN BUENAVENTURA, Joy A. (VC)	/			
3. BROWER, Tom	/			
4. CREAGAN, Richard P.	/			
5. LOWEN, Nicole E.	/			
6. McKELVEY, Angus L.K.	/			
7. NAKASHIMA, Mark M.				/
8. PERRUSO, Amy A.	/			
9. SAY, Calvin K.Y.				/
10. TAKAYAMA, Gregg	/			
11. YAMANE, Ryan I.	/			
12. THIELEN, Cynthia				/
TOTAL (12)	9			3
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. committee acronym(s)				
Vice Chair's or designee's signature: _____				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				