

**SB-2418**

Submitted on: 2/16/2020 4:17:17 PM

Testimony for CPH on 2/20/2020 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jane Sugimura	Testifying for Hawaii Council for Assoc. of Apt. Owners	Oppose	No

Comments:

This bill is unnecessary. Managing agents already confirm the eligibility of persons running for board elections.

**SB-2418**

Submitted on: 2/16/2020 1:30:06 PM

Testimony for CPH on 2/20/2020 9:00:00 AM

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

Comments:

Not all associations are managed by a Managing Agent. Managing Agents currently make efforts to validate candidates and proxies. The Managing Agent should not be in the position to deny a candidate or a proxy (the owner's fundamental democratic rights) as their are rules within Roberts Rules to address proxy and candidacy questions. Candidates are nominated at the meeting.

HAWAII LEGISLATIVE  
ACTION COMMITTEE

  
**community**  
ASSOCIATIONS INSTITUTE

February 18, 2020

Honorable Rosalyn H. Baker  
Honorable Stanley Chang  
Committee on Commerce, Consumer Protection, and Health  
415 South Beretania Street  
Honolulu, Hawaii 96813

Re: SB2418/OPPOSITION

Dear Chair Baker, Vice Chair Chang and Committee Members:

The Community Associations Institute, Legislative Action Committee ("CAI LAC") hereby submits this testimony in opposition to SB2418.

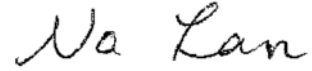
CAI LAC believes that the eligibility of a member who runs for Association's board of directors and the proxy validity have been adequately addressed and safeguarded by the existing statutory provisions HRS §514B-107 and HRS §514B-123.

CAI LAC is concerned that the proposed amendment to Chapter 514B is not only unnecessary but will also lead to confusions and potential increased litigation arising from misinterpretation of the proposed new law. There are Associations who are self-managed without managing agents. The existing law clearly mandates the Associations for compliance on this issue, SB2418 is problematic in that it is unclear as to whether it intended to shift the responsibility or burden to a principal's agent or it merely intended to invite lawsuits against managing agents, which usually have indemnification agreements with the Associations where the Association will need to defend and indemnify managing agents for claims and liabilities arising from their work under the property management agreements. Also, the term "uniform and objective standards and criteria" is ambiguous.

CAI LAC represents the condominium and community associations industry, and respectfully request the Committee to reject or defer SB2418. Thank you for the opportunity to testify.

Honorable Rosalyn H. Baker  
Honorable Stanley Chang  
Committee on Commerce, Consumer Protection, and Health  
February 10, 2020  
Page 2

Very truly yours,

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

Na Lan

The Senate  
Committee on Commerce, Consumer Protection, and Health  
Thursday, February 20, 2020  
9 a.m.  
Conference Room 229

To: Chair Baker  
Re: SB2418, relating to condominiums

Aloha Chair Baker, Vice-Chair Chang, and Members of the Committee,

I am Lila Mower, president of Kokua Council, one of Hawaii's oldest advocacy groups. Kokua Council is concerned about policies and practices which can impact the well-being of seniors and our community.

Kokua Council hosts an annual Policy and Legislative Priorities Community Meeting attended by representatives from over 50 organizations\* to present their priorities. At the end of the 2019 annual meeting, a poll of participants indicated strong support for the protection of condo owners' rights.

I am also the leader of Hui 'Oia'i'o, informally known as "COCO," a coalition of over 300 property owners--mostly seniors--from over 150 common-interest associations, and I write this testimony on behalf of this coalition.

**Hui `Oia`i`o does not support this measure** although we support the intent of the measure to protect election integrity.

As legislators, it is your duty to protect the rights of the citizens of our great State and your moral duty to protect the least in our society. Homeowners associations have become significant in the lives of a large percentage of Hawaii residents, in some cases substituting as de facto municipal service institutions. Thus, promoting the democratic character of such associations should be a principal policy goal of all legislators.

In a representative democracy, elections play the most important role in shaping the destiny of the people, and the people, while exercising their franchise, constitute the real source of power in the elections as they make their choice and elect only those in whom they have faith.

Thus, everything hinges on the integrity of electoral process.

To help protect that integrity in homeowners associations, an election facilitator (this may be but is not always its managing agent) should verify the eligibility of candidates who claim to represent the ownership of units held by non-human entities such as LLCs, partnerships, corporations, and estate trusts.

Election facilitators should also authenticate the authority of the parties who sign proxies for such non-human entities.

Without such verification or authentication, legitimate owners are disenfranchised and choices that should be those of legitimate owners can be made by people who have no responsibility to represent the will of legitimate owners.

When the election facilitator is a managing agent and paid “transfer fees” which are currently in the range of \$300 to \$400 per sales transaction, they should be required to do more than change the name of the owner and the owner’s mailing address in their records.

In Hawaii and during 2018 alone, those “transfer fees” swelled between \$2.6 to \$3.4 million (8606 condo units sales).

For those large sums, managing agents should provide assurance to the associations they serve that candidates have been verified for eligibility and proxy-signers have been authenticated to prove that they have the authority to act on behalf of that condo unit’s owner.

Without these checks, the electoral process is flawed, legitimate owners may be disenfranchised, and those associations lack the protection of a democratic process.

Mahalo,

Lila Mower

\*The organizations include AARP - Advocacy Director, Altres Home Care, Alzheimer's Association, Arcadia Family Of Companies, Caring Across Generations, Catholic Charities, Child And Family Services, Common Cause Hawaii, Community Alliance On Prisons (CAP), Condo 411, Drug Policy Forum, Elderly Affairs Division, City and County Of Honolulu (EAD), Executive Office On Aging (State Of Hawaii), Faith Action (fka Faith Action For Community Equity), Foster Grandparent Program, Grassroot Institute Of Hawaii, Hawaii Disability & Communication (DCAB), Hawaii Alliance Of Non-Profits (HANO), Hawaii Appleseed Center For Law And Economic Justice, Hawaii Alliance Of Retired Americans (HARA), Hawaii Community Foundation, Hawaii Family Caregiver's Coalition (HFCC), Hawaii Disability Rights Center, Hawaii Long Term Care Ombudsman, Hawaii Meals On Wheels, Helping Hands Hawaii, Hui `Oia`i`o, Institute For Human Services (IHS), KAHEA, Kokua Kalihi Valley, Kupuna Caucus, Kupuna Education Center at KCC, Lanakila Meals On Wheels, League Of Women Voters, Manoa Cottage Care Home, Mediation Center Of The Pacific, National Alliance On Mental Illness (NAMI), Native Hawaiian Legal Group, Osher Lifelong Learning Institute, Pacific Alliance To Stop Slavery (PASS), Partners In Care, Phocused, Policy Advisory Board For Elderly Affairs (PABEA), Pono Action, Project Dana, Public Health Nursing, Sierra Club, Senior Companion Program, Times Pharmacy, UH Center On Aging, and the State of Hawaii Governor's Coordinator on Homelessness.

**SB-2418**

Submitted on: 2/14/2020 4:36:47 PM

Testimony for CPH on 2/20/2020 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
lynne matusow	Individual	Oppose	No

Comments:

cThis bill appears to be a solution in search of a problem. It is totally unnecessary. It also appears unworkable. Candidates for board membership are often nominated at the annual meeting. It is unreasonable to expect that verification can be completed, in a remote location from the managing agents premises, in the short time from nomination to voting.

At times candidates can be from partnerships or other entities that are entitled to hold board positions.

The same holds true if there are mid term vacancies on the board and hte board is filling htem at a board meeting.

Lynne Matusow

**SB-2418**

Submitted on: 2/18/2020 12:36:00 PM

Testimony for CPH on 2/20/2020 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Leimomi Khan	Individual	Oppose	No

Comments:

Urge you to not support SB2418, especiall that provision that states, "In fulfilling responsibilities under this section, the managing agent shall adhere to uniform and objective standards and criteria, as approved by the association's board of directors." 1) The latter is a conflict of interest since many of such directors run for re-election and could skew standards and criteria to favor them; 2) Our experience with our property management company is that they have sometimes themselves made errors.

On the other hand, I would favor this measure if it were amended to require that the Board of Directors seek input of homeowners on the Nomination and Election rules and require approval of such rules by a majority of homeowners. At least, there would be some balance of homeowners interests in the Nominations and Elections rules.



**SB-2418**

Submitted on: 2/18/2020 2:16:54 PM

Testimony for CPH on 2/20/2020 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Barbara J. Service	Individual	Support	No

Comments:

**SB-2418**

Submitted on: 2/18/2020 7:48:45 PM

Testimony for CPH on 2/20/2020 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
R Laree McGuire	Individual	Oppose	No

Comments:

**SB-2418**

Submitted on: 2/18/2020 8:56:50 PM

Testimony for CPH on 2/20/2020 9:00:00 AM

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

Comments:

Aloha All: Regarding SB2418

I have spent 34 years in a condo complex in Waianae, the Makaha Surfside. When I moved in the monthly fee for my place was \$180 to the Association, and, now is \$1,025. I have paid far more in fees than the purchase price of the condo and the mortgage. Built in 1973 and opened in 1974, the complex has been mismanaged for most of that time. I have spent more than a decade on its Board of Directors, and after suspicious elections, audited the Proxies in the office of Hawaiian Properties in 2018 and 2019. The first election was wrongfully rigged by the Property Manager, and the 2nd one outright stolen, in my opinion. For instance although I had 74 owners Proxies, and our so called four 'Officers' had just 10 Proxies between them, the Property Manager, who lacked authority to do so, awarded 62 Proxies (for Board as a whole) to our President, who had only 1 from an owner, and, another 9 (marked to be divided evenly between Board members present at the meeting). This was outrageous election fraud, and, there is no state agency designated to overturn fraudulent elections. Giving the 'Managing Agent authority is something of a bad joke since they are NOT licensed Condo Managers. And, are not held accountable for easy to prove fraud. Please vote this misguided bill down.

If Legislators believe that owners of condo properties should be able to vote, then pass a bill which specifies they may vote by mail, Online, or even by phone to a 3rd party vendor that specializes in that (like in Massachusetts). Election fraud is permitted in Hawaii, with no consequences on the perpetrators.

Dale A. Head (808) 696-4589 sunnymakaha@yahoo.com

PS - I inquired of the state Regulated Industries Complaint Office about yanknig the license of Property Management companies that perpetrate election fraud in Home Owners Associations, and was told that would require a "Court Order". The state should be proactive, investigate electkon fraud, and sue the perpetrators in Civil Court.

**SB-2418**

Submitted on: 2/18/2020 10:46:39 PM

Testimony for CPH on 2/20/2020 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Marcia Kimura	Individual	Oppose	No

## Comments:

This measure as currently worded, inadequately provides for proper qualifying of ownership entities to participate in the association electoral procedures, and most association managers cannot be relied on to ensure the qualifications.