

Testimony of the Real Estate Commission

**Before the
House Committee on Finance
Tuesday, February 23, 2021
2:00 p.m.
Via Videoconference**

**On the following measure:
H.B. 47, H.D. 1, RELATING TO CONDOMINIUMS**

Chair Luke and Members of the Committee:

My name is Carole Richelieu, Senior Condominium Specialist, testifying for Michael Pang, Chairperson of the Real Estate Commission (Commission). The Commission opposes this bill.

The purpose of this bill is to exclude a homeowner-developer from the annual requirement to file a developer's report and pay a fee if the homeowner's development consists of not more than two units, one in which the developer resides and one for which the initial sale of the other unit has been completed.

Hawaii Revised Statutes section 514B-58 is a consumer protection provision that requires the developer to annually file a developer's report. Filing on an annual basis allows the developer to timely update the report with any material changes¹ to the development, and it protects the developer from accusations of fraud and omission in a later sale (or, if the sale is by surviving beneficiaries, the time and expense of filing an amendment or amending the developer's public report). The annual filing requirement also protects buyers by requiring the developer to disclose material modifications to the condominium and by avoiding the delay or termination of a purchase transaction because the developer has failed to keep the disclosure documents up-to-date.

Thank you for the opportunity to testify on this bill.

¹ Commission staff has observed a number of instances where, at the time of sale by the developer or the developer's beneficiaries, developers have forgotten about non-visible changes to the property, such as modifications to: easement rights; view plane building restrictions; or bylaws governing commercial or pet practices, any of which may materially impact the value and usage of a unit to a buyer.

HB-47-HD-1

Submitted on: 2/20/2021 4:17:09 PM

Testimony for FIN on 2/23/2021 2:00:00 PM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Richard Emery | Associa | Support | No |

Comments:

The Bill allows a small Developer who elects to not sell a unit in a 2-unit condo and live there to eliminate unnecessary reporting. Support.

HB-47-HD-1

Submitted on: 2/21/2021 8:02:37 AM

Testimony for FIN on 2/23/2021 2:00:00 PM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Mike Golojuch, Sr. | Individual | Support | No |

Comments:

I support HB47.

HB-47-HD-1

Submitted on: 2/22/2021 11:10:13 AM

Testimony for FIN on 2/23/2021 2:00:00 PM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Richard J. Cohen | Individual | Support | No |

Comments:

Good Morning...This testimony is essentially a resubmittance of testimony originally offered on Feb.21st 2020, the day before a Finance Committee hearing for a similar bill (HB2195, 2020 House Session) was postponed due to Covid. Certain details have been appropriately updated to reflect the current bill before you today.

Good afternoon

My name is Richard J. Cohen. I have been a full time resident of North Kohala on Hawaii Island for over 20 years, and I would like to take this opportunity to submit testimony in strong support of HB 47.

As the developer/owner/ full-time resident of a unit that satisfies the requirements of this bill for over 20 years now, and with absolutely no intention of either selling the unit or moving in the foreseeable future, I wish to submit my testimony in strong support of this bill. Though still technically considered to be a "developer" according to HRS 514B passed in 2018 (having transitioned from HRS 5514A), I feel it absolutely wrong that I continue to be designated in this manner. The need for me to file an annual report and pay the associated annual fee simply to continue to live in my home just does not seem right, and therefore should be corrected. Hopefully the passing of this bill will accommodate this unfortunate situation.

Thank you all so much for your valued attention to this matter.

Respectfully submitted

Richard J. Cohen 2/22/21....Hawi, Hawaii Island

HAWAII LEGISLATIVE
ACTION COMMITTEE


community
ASSOCIATIONS INSTITUTE

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February 22, 2021

Chair Sylvia Luke
Vice Chair Ty J.K. Cullen
Committee on Finance
415 South Beretania Street
Honolulu, Hawaii 96813

Re: HB 47 HD1 SUPPORT

Dear Chair Luke, Vice-Chair Cullen and Committee Members:

The Community Associations Institute ("CAI") supports HB 47 HD1. This bill would relieve the developer of a two-unit condominium who permanently resides in one of the units from the obligation to file an annual report after the other unit is sold.

There is no obvious harm in providing such relief. There is no obvious purpose to requiring the filing of annual reports in that circumstance.

Very truly yours,

Philip Nerney

Philip Nerney