



**HAWAII STATE ASSOCIATION OF PARLIAMENTARIANS
LEGISLATIVE COMMITTEE
P. O. Box 29213
HONOLULU, HAWAII 96820-1613
E-MAIL: STEVEGHI@GMAIL.COM**

March 24, 2021

Honorable Senator Rosalyn H. Baker, Chair
Honorable Senator Stanley Chang, Vice-Chair
Senate Committee on Commerce and Consumer Protection (CPN)
Hawaii State Capitol, Room 230
415 South Beretania Street
Honolulu, HI 96813

RE: Testimony in SUPPORT of HB599 HD1 with amendments; Hearing Date: March 25, 2021 at 9:30 a.m. in Senate Conf. conference room 229/videoconference; sent via Internet

Aloha Chair Baker, Vice-Chair Chang, and Committee members,

Thank you for the opportunity to provide testimony on this bill.

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 (more than 1,800 meetings in 38 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 in SUPPORT of HB599 HD1 with minor technical amendments.

Summary of Bill:

This Bill briefly proposes to do the following:

- (a) Clarifies that planned community associations may conduct meetings remotely consistent with the Hawaii Nonprofit Corporations Act (Chapter 414D); and
- (b) Authorizes condominium associations to conduct electronic meetings and electronic, machine, or mail voting in a state of emergency or local state of emergency, or any meeting noticed during such emergencies and for which the applicable emergency has since expired (Chapter 514B).

(a) Clarifies that planned community associations may conduct meetings remotely consistent with the Hawaii Nonprofit Corporations Act.

We support this change with some minor technical amendments. If the first paragraph, we would suggest clarification of meetings since planned community associations can have both regular and annual meetings.

"~~§421J-3.5 Notice required; regular annual and special meetings.~~ (a) Not less than fourteen days in advance of any regular, annual, meeting or special meeting of an association, the secretary or other officer specified in the bylaws shall give written notice of the meeting to each member of the association as provided in the bylaws of the association or by two or more of the following means: [...]"

(b) Authorizes condominium associations to conduct electronic meetings and electronic, machine, or mail voting in a state of emergency or local state of emergency, or any meeting noticed during such emergencies and for which the applicable emergency has since expired (Chapter 514B).

This section needs a few minor technical amendments to ensure clarity. They have been provided by Ms. Anne Anderson, Esq. and we ask that they be included in the Bill.

We ask that the Committee approve this Bill with the suggested amendments.

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

Sincerely,

Steve Glanstein

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

HAWAII LEGISLATIVE
ACTION COMMITTEE


community
ASSOCIATIONS INSTITUTE

P.O. Box 976
Honolulu, Hawaii 96808

March 20, 2021

Honorable Rosalyn Baker, Chair
Honorable Stanley Chang, Vice Chair
Committee on Commerce and Consumer Protection
415 South Beretania Street
Honolulu, Hawaii 96813

Re: HB 599 HD1 SUPPORT

Dear Chair Baker, Vice Chair Chang and Committee Members:

The need for common interest communities to have flexibility regarding meetings is evident in light of the current pandemic. The Community Associations Institute ("CAI") supports HB 599 HD1.

SB 784 SD1 was received by the House on or about February 22, 2021. That bill addresses the same subject matter as HB 599 HD1 and has substantial merit.

A number of stakeholders exchanged views about the various bills seeking to provide flexibility regarding meetings shortly before the February 25, 2021 hearing on HB 599. HB 599 HD1 reflects input provided as a result of that exchange.

CAI supports HB 599 HD1.

Very truly yours,

Philip Nerney

Philip Nerney

HB-599-HD-1

Submitted on: 3/20/2021 8:39:57 AM

Testimony for CPN on 3/25/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Mike Golojuch, Sr.	Testifying for Palehua Townhouse Association	Support	No

Comments:

We strongly support HB599. Electronic meetings are another way for all owners to participate if face-to-face meetings are not possible. Please pass this bill. Thank you.

Mike Golojuch, Sr., President

Palehua Townhouse Association

HB-599-HD-1

Submitted on: 3/20/2021 10:20:39 AM

Testimony for CPN on 3/25/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Richard Emery	Testifying for Associa	Support	No

Comments:

We have learned a lot from the pandemic. This Bill is reasonable and necessary. STRONG SUPPORT.

HB-599-HD-1

Submitted on: 3/22/2021 8:01:29 AM

Testimony for CPN on 3/25/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Resident Manager	Testifying for Honolulu Tower AOAO	Support	No

Comments:

Honolulu Tower is a 40 story, 396 unit condominium at the corner of Maunakea and Beretania Streets. It was constructed in 1982.

The Board of Directors met on February 1, 2021 and voted its unanimous support for this bill. We need a way to meet. When most bylaws were written the internet, videoconferencing, zoom, webex, etc., did not exist. This bill will solve the problem we are all facing.

Thank you for your consideration of this matter.

Board of Directors AOAOof Honolulu Tower

HB-599-HD-1

Submitted on: 3/22/2021 8:02:53 AM

Testimony for CPN on 3/25/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Atlanta Dove	Testifying for Honolulu Tower AOAO	Support	No

Comments:

Honolulu Tower is a 40 story, 396 unit condominium at the corner of Maunakea and Beretania Streets. It was constructed in 1982.

The Board of Directors met on February 1, 2021 and voted its unanimous support for this bill. We need a way to meet. When most bylaws were written the internet, videoconferencing, zoom, webex, etc., did not exist. This bill will solve the problem we are all facing.

Thank you for your consideration of this matter.

Board of Directors AOAOof Honolulu Tower

HB-599-HD-1

Submitted on: 3/24/2021 9:33:46 AM

Testimony for CPN on 3/25/2021 9:30:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Jane Sugimura	Testifying for Hawaii Council for Assoc. of Apt. Owners	Support	No

Comments:

HCCA supports passage of HB599 as written.

HB-599-HD-1

Submitted on: 3/19/2021 7:16:25 PM

Testimony for CPN on 3/25/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
lynne matusow	Individual	Support	No

Comments:

I serve on the board of a Honolulu high rise condominium. Fortunately, we were able to hold our 2020 annual meeting because it was scheduled before the lockdown. When many of the condo laws were written zoom, webex, internet connections, etc. did not exist. Many condos have been disadvantaged with the covid restrictions,. This bill will enable us to conduct business in.pandmeics and other emergency situations and needs to be approved as soon as possible.

I do however object to internet voting.It is not safe, as the SolarWinds and Microsoft hacking scandals have shown us. I ask that you delete all references to electronic voting.

HB-599-HD-1

Submitted on: 3/23/2021 1:44:21 PM

Testimony for CPN on 3/25/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
R Laree McGuire	Individual	Support	No

Comments:

I respectfully support HB 599, HD 1 and join in testimony filed by CAI/LAC on March 20, 2021.

Thank you for the opportunity to testify.

March 24, 2021

Dear Chair Baker, Vice Chair Chang, and Members of the Committee:

I support H.B. 599 H.D.1.

COVID-19 restrictions and social distancing requirements have made it difficult, if not impossible, for many associations to hold annual meetings. This bill will clarify that planned community associations may hold meetings remotely as permitted by HRS Chapter 414D. It will make it possible for condominium associations to hold electronic meetings and to use electronic, machine, or mail voting for annual and special association meetings during any period in which there is a state of emergency or local state of emergency declared pursuant to HRS Chapter 127A. It will also allow condominium associations to hold electronic meetings and to use electronic, machine, or mail voting for annual and special association meetings when there is no state of emergency, when allowed by the association's declaration or bylaws.

While I support H.B. 599 H.D.1, it does need to be tweaked before adopted.

First, the bill needs to be amended to address the conflict between HRS Section 514B-121(b) and the new subsection (e). HRS 514B-121(b) states that it applies notwithstanding any other provision of HRS Chapter 514B and the new HRS Section 514B-121(e) states that it applies notwithstanding anything to the contrary in subsection (b). In other words, they both say that they apply notwithstanding each other, which creates a conflict. One way to address the conflict is to include in Section 2 a change to HRS Section 514B-121(b). Language for consideration is as follows:

"(b) Notwithstanding any other provision of this chapter, other than subsection (e), or the declaration or bylaws of a condominium to the contrary, at any association meeting the board may direct the use of an electronic voting device regardless of whether a secret ballot is used or required. Except as provided in subsection (e), such [Such] use shall be subject to the following:

- (1) The electronic voting device and all associated equipment shall be isolated from any connection to an external network, including the Internet;
- (2) The board shall establish reasonable procedures to provide for the secrecy and integrity of the unit owners' votes, including but not limited to procedures that ensure the availability of a printed audit trail containing:
 - (A) The reference number of the electronic voting device;
 - (B) Each common interest voted; and
 - (C) The vote that was tabulated;
- (3) A copy of the printed audit trail shall be available to owners after the meeting in the same manner provided by sections 514B-154 and 514B-154.5; and
- (4) A copy of the procedures established pursuant to paragraph (2) shall be available at no charge to any owner and a copy shall be available at any meeting at which the association uses an electronic voting device.

To the extent of any conflict between this subsection (b) and subsection (e) below, subsection (e) shall control."

Second, Section 2 needs to be modified to make it clear that only the relevant subsections of HRS Section 514B-121 are being amended. As currently written, it states that the entire section is being amended as shown in the new subsection (e) which will have the unintended effect of deleting the remainder of Section 514B-121.

Third, Section 1 needs to be slightly tweaked to amend the first paragraph of Section 421J-3.5(a) to make it clear that it applies to any "regular, annual, or special meeting" of an association. It current states that it applies to any "regular annual or special meeting". There can be "regular" meetings that are not "annual" meetings. Suggested language is as follows:

"[§421J-3.5 Notice required; regular, annual, and special meetings.]"

(a) Not less than fourteen days in advance of any regular, annual, [meeting] or special meeting of an association, the secretary or other officer specified in the bylaws shall give written notice of the meeting to each member of the association as provided in the bylaws of the association or by two or more of the following means:

...

Thank you for the opportunity to submit testimony on this very important bill.

Sincerely,



M. Anne Anderson

HB-599-HD-1

Submitted on: 3/24/2021 8:58:56 AM

Testimony for CPN on 3/25/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Paul A. Ireland Koftinow	Individual	Support	No

Comments:

Dear Chair Baker, Vice Chair Chang, and Members of the Committee:

I support H.B. 599 H.D.1. I am an owner and resident of a condominium unit in Hawaii. I am also an attorney who practices community association law in Hawaii.

COVID-19 restrictions and social distancing requirements have made it difficult, if not impossible, for many associations to hold annual meetings. This bill will clarify that planned community associations may hold meetings remotely as permitted by HRS Chapter 414D. It will make it possible for condominium associations to hold electronic meetings and to use electronic, machine, or mail voting for annual and special association meetings during any period in which there is a state of emergency or local state of emergency declared pursuant to HRS Chapter 127A. It will also allow condominium associations to hold electronic meetings and to use electronic, machine, or mail voting for annual and special association meetings when there is no state of emergency, when allowed by the association's declaration or bylaws.

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"(b) Notwithstanding any other provision of this chapter, *other than subsection (e)*, or the declaration or bylaws of a condominium to the contrary, at any association meeting the board may direct the use of an electronic voting device regardless of whether a secret ballot is used or required. *Except as provided in subsection (e)*, *such* use shall be subject to the following:

- (1) The electronic voting device and all associated equipment shall be isolated

from any connection to an external network, including the Internet;

(2) The board shall establish reasonable procedures to provide for the secrecy and integrity of the unit owners' votes, including but not limited to procedures that ensure the availability of a printed audit trail containing:

- (A) The reference number of the electronic voting device;
- (B) Each common interest voted; and
- (C) The vote that was tabulated;

(3) A copy of the printed audit trail shall be available to owners after the meeting in the same manner provided by sections 514B-154 and 514B-154.5; and

(4) A copy of the procedures established pursuant to paragraph (2) shall be available at no charge to any owner and a copy shall be available at any meeting at which the association uses an electronic voting device.

To the extent of any conflict between this subsection (b) and subsection (e) below, subsection (e) shall control.

Second, Section 2 needs to be modified to make it clear that only the relevant subsections of HRS Section 514B-121 are being amended. As currently written, it states that the entire section is being amended as shown in the new subsection (e) which will have the unintended effect of deleting the remainder of Section 514B-121.

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"[§421J-3.5 Notice required; regular, annual, and special meetings.] (a) Not less than fourteen days in advance of any regular, annual, [meeting] or special meeting of an association, the secretary or other officer specified in the bylaws shall give written notice of the meeting to each member of the association as provided in the bylaws of the association or by two or more of the following means: ...

Thank you for the opportunity to submit testimony on this very important bill.

Sincerely,

Paul A. Ireland Koftinow

March 24, 2021

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...

Thank you for the opportunity to submit testimony on this very important bill.

Sincerely,

Lance S. Fujisaki