

Testimony of the Real Estate Commission

**Before the
Senate Committee on Commerce and Consumer Protection
Wednesday, February 3, 2021
9:30 a.m.
Via Videoconference**

**On the following measure:
S.B. 569, RELATING TO CONDOMINIUMS**

Chair Baker and Members of the Committee:

My name is Carole Richelieu, Senior Condominium Specialist, testifying for Michael Pang, the 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.

SB-569

Submitted on: 1/31/2021 4:48:21 PM

Testimony for CPN on 2/3/2021 9:30:00 AM

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

Comments:

Often in a 2-unit condominium, the Developer never sells one unit and elects to live there. The Developer annual report requirement in this case should be excluded.

HAWAII LEGISLATIVE
ACTION COMMITTEE


community
ASSOCIATIONS INSTITUTE

P.O. Box 976
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February 1, 2021

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

Re: SB 569 SUPPORT

Dear Chair Baker, Vice Chair Chang and Committee Members:

The Community Associations Institute ("CAI") supports SB 569. 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

SB-569

Submitted on: 2/1/2021 7:08:11 PM

Testimony for CPN on 2/3/2021 9:30:00 AM

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

Comments:

Highly support.