

HB-2243-HD-1

Submitted on: 2/28/2022 12:29:08 PM

Testimony for FIN on 3/2/2022 1:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Mike Golojuch, Sr.	Palehua Townhouse Association	Support	No

Comments:

Our Association supports HB2243. Approval of this bill will help with necessary structural and safety repairs, which should stabilize insurance rates not raise them. Please pass and change the effective date to July 1, 2022.

Mike Golojuch, Sr., President, Palehua Townhouse Association

TESTIMONY OF ALISON UEOKA

COMMITTEE ON FINANCE
Representative Sylvia Luke, Chair
Representative Kyle T. Yamashita, Vice Chair

Wednesday, March 2, 2022
1:00 p.m.

HB 2243, HD1

Chair Luke, Vice Chair Yamashita, and members of the Committee on Finance, my name is Alison Ueoka, President of the Hawaii Insurers Council. The Hawaii Insurers Council is a non-profit trade association of property and casualty insurance companies licensed to do business in Hawaii. Member companies underwrite approximately forty percent of all property and casualty insurance premiums in the state.

Hawaii Insurers Council support efforts to encourage the prompt maintenance and repair of condominium buildings in Hawaii. Many condominiums have been built in the 1970's and 1980's and now require major repairs to keep the buildings operational. These changes are often structural as we live in an island state surrounded by salt water. Pipes in buildings do not last forever and many have exceeded their lifespan but have not been replaced. Compounded by interior sprinkler requirements or the equally or more expensive fire life safety requirements, many in condominiums are not keeping up with the necessary repairs and maintenance because of cost.

Continued losses in this area mostly due to water losses from failed pipes in buildings have caused the market for condo building insurance to stagnate and insurers are reluctant to enter the market. The way condo associations operate and how decisions are made is a flawed system that relies upon the very owners who must pay for these repairs and maintenance to make the decision to increase every owner's costs. Many times, Boards are unable to increase their maintenance fees to an appropriate level

because they cannot get the requisite number of votes. Even then, Boards are and have been thrown out by a new Board who refuses to approve increases to maintenance fees even though they may be sorely needed. Most buildings here are in need of repair or replacement and are not on schedule. The process in which to make these big decisions, get estimates, have the Board or membership vote on financing and then to get the project started takes years. In the meantime, losses continue as components in the buildings fail.

The property insurance market is changing worldwide as we are experiencing the adverse impact of climate change. In addition, aging properties and properties that are not hardened against increasing weather events will have to pay more to insure themselves. Increasing losses impact reinsurers who provide insurance for insurance companies. Reinsurers provide worldwide coverage for insurers and a hardening market directly impacts what insurers must charge for their products.

We hope that measures such as these encourage those who own units in condominiums to make the appropriate investment to maintain their units.

Thank you for the opportunity to testify.

HB-2243-HD-1

Submitted on: 3/1/2022 12:41:19 PM

Testimony for FIN on 3/2/2022 1:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Richard Emery	Community Associations Institute	Support	No

Comments:

I am testifying on behalf of Community Associations Institute. CAI supports all measures to improve maintenance and safety of condominiums. We support this measure with amendments.

We suggest that the following sentence be **deleted** as it creates numerous potential liability issues. **"The association or the association's designated agency shall be responsible for the maintenance of buildings and structures"**. The deletion of this sentence does not impact the requirement to maintain the building but as we know often associations employ agents with differing obligations and scopes of work in the contract. In the end, any facts should determine liability. This sentence is problematic and creates unintended consequences..

HB-2243-HD-1

Submitted on: 2/28/2022 2:39:00 PM

Testimony for FIN on 3/2/2022 1:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Marcia Kimura	Individual	Support	No

Comments:

I support this measure, but feel that adequate advance notice (when possible) of request for entrance into units must be submitted to owners, along with the assurance that if entrance into units requires the services of a locksmith when the owner is away, the charges for the locksmith's services will be assumed by the association.

HB-2243-HD-1

Submitted on: 2/28/2022 4:51:19 PM

Testimony for FIN on 3/2/2022 1:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
R Laree McGuire	Individual	Support	No

Comments:

I support with an amendment. The Bill, as drafted, is overbroad because by asserting that "the association or the association's designated agency shall be responsible for the maintenance of buildings and structures", it in effect transfers the responsibility to maintain the individual units from the owners to the association even though the units are neither common elements nor limited common elements. As such, I would delete the third sentence of section (c).

Respectfully submitted.

HB-2243-HD-1

Submitted on: 2/28/2022 6:58:52 PM

Testimony for FIN on 3/2/2022 1:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Lourdes Scheibert	Individual	Oppose	No

Comments:

House of Representatives

Committee on Finance

Thursday, March 2, 2022 1:00 p.m.

To: Chair Rep. Sylvia Luke

Re: HB2243 HD1:

Amended this measure by changing the effective date to January 1, 2050, to encourage further discussion.

HB2243: Relating to Condominium Associations: Condominiums; Maintenance; County Building Codes; Inspections (\$): Requires buildings and structures to be maintained in a safe and sanitary condition. Requires condominium associations or their designated agents to be responsible for the maintenance of the buildings and structures. Authorizes county building officials to require a building or structure to be reinspected.

Aloha Chair Luke, Vice-Chair Yamashita, and Members of the Committee,

I oppose HB2243 HD1. Amending this measure by changing the effective date to January 1, 2050 to encourage further discussion is the same as “kicking the can down the road.”

The 10 testimonies submitted in opposition to HB2243 clearly demonstrate the lack of education with the City & County’s Building safety codes 3401.2 Maintenance. The Real Estate Commission as the trustee for the Condominium Education Trust Fund (CETF) and its vendor, Community Association Institute (CAI) has failed to teach the codes along with another important function of the C&C County building codes for permitting new structures or change of use to the common area.

My condominium Declaration dated 11/13/1968 reads:

b. Observance of laws. Keep all common elements in a strictly clean and sanitary condition, and observe and perform all laws, ordinances, rules and regulations now or hereafter made by

any governmental authority for the time being applicable to the common elements or the use thereof;

Yet, the testimonies supporting HB2243 and in particular Hawaii Council of Associations of Apartment Owners. **HCCA writes, “ supports the intent and purpose of the bill to ensure the structural integrity of residential buildings and asks that the this bill be passed out with the amendments proposed by CAI.” Why does CAI need 50 years to discuss the law?**

The following are my opinions that explains why DCCA/REC and CAI has failed. I have hopes that the Committee on Finance will reconsider and pass this measure as it was intended without the amendment.

Opinion

The 2018 City & County ordinance regarding the installation of fire sprinkler safety systems identified 323 high-rise properties including 38,747 condominium units, most of which are finding it impossible to comply.

What happened and how did we get here?

The DCCA’s Real Estate Commission oversees the condominium education trust fund that condominium owners are mandated to financially support. REC also oversees the real estate broker’s license held by each Property Management Company. A single broker’s license allows hundreds of on-site property managers to manage associations’ daily operations, including maintenance. But these on-site property managers themselves are not required to be licensed by DCCA.

DCCA has an agreement with CAI-Hawaii to provide education to those in the condo-industry and condominium owners and advertises that HCCA (Hawaii Council of Associations of Apartment Owners) offers classes, too.

But the condominium industry fails to teach an important Building Code: City & County Building code 3401.2, *“Maintenance Buildings and structures, and parts thereof, shall be maintained in a safe and sanitary condition. Devices or safeguards which are required by this code shall be maintained in conformance with the code edition under which installed. The owner or the owner’s designated agent shall be responsible for the maintenance of buildings and structures. To determine compliance with this subsection, the building official shall have the authority to require a building or structure to be reinspected. The requirements of this chapter shall not provide the basis for removal or abrogation of fire protection and safety systems and devices in existing buildings and structures.”*

This International Building Code 3401 has been adopted by all counties and applies to building structures and single-family homes, including condominium units, in Hawaii.

In the Honolulu Star-Advertiser article, “Condo Towers seek more time to comply with fire safety codes,” Douglas Buhr, President of Douglas Engineering Pacific, Inc. was quoted, “Most

of my clients have delayed (repairs) or maintenance that they've kicked down the road...90% of it is stuff they should be doing anyway..."

This is often referred to as "kicking the can down the road for the next generation," burdening current owners with the cost of correcting neglected maintenance and the cost of installing required fire safety systems. While impacted owners may not be able to pay these immediately, if multiple projects can be consolidated and then phased by professionals--and not the untrained board—with the approval of HFD, compliance may be both possible and less financially onerous.

It is the Association's responsibility to inform Owners as soon as possible of assessments, and both should consider the benefits of a bank loan to amortize their financial obligations over time.

It is the Owner's responsibility to attend their association and board meetings to keep informed, and to contact the board president who accepted the position of leadership and their paid property management or on-site management for answers to questions, rather than contact volunteer board directors who may not have the knowledge or expertise to answer.

The Legislature introduced measure HB2243 to include this safety code in Condominium Law HRS514B, with the support of House Speaker Scott Saiki and the Committee on Commerce and Consumer Protection. Please support this and other related building inspection measures so that the can is not once again kicked down the road in the faulty expectation that time will make matters better.

Lourdes Scheibert

Condominium Owner

HB-2243-HD-1

Submitted on: 3/1/2022 10:19:57 AM

Testimony for FIN on 3/2/2022 1:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Jeff Sadino	Individual	Comments	No

Comments:

I am offering **COMMENTS** on HB2243 HD1.

Buildings should follow building codes. This is common sense.

Why there is opposition to the intent of this common sense Bill, especially from Property Managers & Association attorneys who are supposed to be acting in the best interest of the Associations, is yet one more example of why Owners are so exasperated at trying to solve problems with the industry advocates.

I support the intent of the law, but would offer a slightly different wording to address some of the easy-to-fix concerns raised in previous testimony:

All buildings and structures that are designated as common elements shall be maintained in conformance with the county building code. All devices and safeguards as required by the applicable county building code shall be maintained in conformance with the code. The association or the association's designated agency shall be responsible for the maintenance of the buildings, structures, devices, and safeguards. The appropriate county building official shall have the authority to require a building or structure to be reinspected. Previously existing buildings, structures, devices, and safeguards that do not pose a reasonably present danger to life or property shall be exempt.

Thank you for the opportunity to testify,

Jeff Sadino

RE: Committee on Finance

March 2, 2022