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Testimony of the Department of Commerce and Consumer Affairs

Before the
Senate Committee on Commerce and Consumer Protection
Tuesday, April 4, 2023
10:16 a.m.

Via Videoconference and Conference Room 229

S.C.R. 48, Proposed Draft S.D. 1, REQUESTING THAT THE DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS DETERMINE THE APPROPRIATE SCOPE OF A STUDY ANALYZING WHETHER IMPLEMENTATION IN THIS STATE OF LAWS SIMILAR TO CAPTIVE INSURANCE LAWS OF MASSACHUSETTS WOULD ADDRESS THIS STATE'S RESIDENTIAL CONDIMINIUM PROPERTY INSURANCE NEEDS.

Chair Keohokalole and Members of the Committee:

My name is Nadine Ando and I am the Director Nominee for the Department of Commerce and Consumer Affairs (DCCA or Department).

The purpose of this concurrent resolution is to request that the DCCA compile pertinent data to determine the appropriate scope of a study analyzing whether implementation of laws similar to captive insurance laws in Massachusetts would address the State of Hawaii's residential property insurance needs. The Department supports this concurrent resolution and offers comments only with regard to the time frame for collection and compilation of the data for the interim report.

The measure requires compilation and analysis of data by both the Department's Insurance Division and Hawaii Real Estate Commission (Commission). Both are prepared to obtain the information needed as requested in the measure and have

already begun the process to secure the information. The Commission has the ability to contact and collect data from condominium associations registered with the Commission, and it will undertake its best efforts to survey those associations to obtain the information set forth in the measure within the time period provided. However, as the Commission cannot control the response time from condominium associations, the Commission respectfully requests a longer period of time to compile and prepare the interim report provided for in the measure.

Thank you for the opportunity to testify on this measure.

SCR-48

Submitted on: 4/2/2023 3:33:25 PM

Testimony for CPN on 4/4/2023 10:16:00 AM

Submitted By	Organization	Testifier Position	Testify
Jane Sugimura	Testifying for Hawaii Council of Association of Apt. Owners	Support	Written Testimony Only

Comments:

HCCA supports SCR 48, SD1 in the hope that this resolution will provide assistance to condominiums facing increased insurance premiums as a result of certain unfunded government mandates.

Hui 'Oia'i'o

Senate
Committee on Commerce and Consumer Protection
Tuesday, April 4, 2023
10:16 a.m.

To: Chair Jarrett Keohokalole
Re: SCR 48 Proposed SD 1

Aloha Chair Keohokalole, Vice-Chair Fukunaga, and Members of the Committee,

I am Lila Mower, the leader of Hui 'Oia'i'o, a coalition of property owners--mostly seniors--from over 150 common-interest associations including condominium associations, planned community associations, and a few cooperative housing corporations throughout Hawaii, and served as an officer on three condominium associations' boards.

It was not just the requirements of the City and County of Honolulu's (CCH) ordinances 19-4 and 22-2 that contributed to rises in insurance premium costs, increased insurance deductibles to offset those premiums' costs, and changes in subrogation clauses to alleviate associations' liabilities.

Seminars offered by local insurance experts prior to the 2017 Marco Polo fire raised concerns about the "hardening" insurance market which was attributed to escalating natural disasters—hurricanes, fires, floods--that occurred throughout the nation.

In 2018, local insurance expert Surita "Sue" Savio spoke at a DCCA-hosted education seminar, Condorama¹, of rising insurance costs due to increased claims and reiterated her concerns that Hawaii had more Directors and Officers' insurance claims "than anyone else... we beat them [other states] all." She also mentioned that those premiums had increased by "25 to 60 percent."

The tragic collapse of Champlain Towers South on June 24, 2021, also affected condominium association insurance premiums, and, nearly a year later, the incident's \$1.02 billion settlement was called a "harbinger of premium hikes that could reverberate across the industry."²

Therefore, a survey that is limited to the 309 condominium associations affected by those CCH ordinances as proposed in SD 1 may not be reflective of the State's approximately 1800 registered condominium associations that have been impacted by increased insurance costs.

A possible solution to address the DCCA Insurance Commissioner's concern that a survey of Hawaii's condominium associations may be "beyond the capacity of the Insurance Division's

¹ <https://www.youtube.com/watch?v=8wOM10cgYS0&t=353s>

² <https://therealdeal.com/miami/2022/06/07/1b-surfside-deal-signals-condo-association-construction-insurance-premium-hikes/>

Hui 'Oia'i'o

staff,” is to have the DCCA Real Estate Branch amend their biennial condominium association registration form to require each registered association to report, perhaps by filling a simple matrix, the types, quantities, causes of insurance claims, and any other desired parameters during a particular reporting period to study that association and all registered associations for the purpose of determining the State’s condominium insurance needs.

It is true that Hawaii’s condominium owners need relief from expenses rising beyond our control. But rather than looking at merely relieving the symptoms (e.g., rising insurance premiums), robust efforts to address the problems that cause these symptoms should be made.

These long overdue efforts include:

- mandating the education of association boards and management to mitigate deferred maintenance and prevent underfunded reserves, and to prohibit the arbitrary circumvention or uneven application of rules and laws,
- improving dispute resolution, and
- providing easier access to associations’ essential governing documents and disclosures.

Mahalo for the opportunity to testify.

SCR-48

Submitted on: 4/1/2023 1:48:29 PM

Testimony for CPN on 4/4/2023 10:16:00 AM

Submitted By	Organization	Testifier Position	Testify
Barbara J. Service	Individual	Support	Written Testimony Only

Comments:

Aloha!

Please pass this bill. Hawaii's condo owners are entitled to all the help they can get to keep insurance fees from going through the roof.

Mahalo for allowing me to testify!

Barbara J. Service. MSW

Child Welfare Supervisor (ret.)

Kupuna Advocate

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SCR-48

Submitted on: 4/1/2023 12:13:06 PM

Testimony for CPN on 4/4/2023 10:16:00 AM

Submitted By	Organization	Testifier Position	Testify
Richard Emery	Individual	Support	Written Testimony Only

Comments:

Future insurance costs will become a problem and this is a good first move.

SCR-48

Submitted on: 4/1/2023 8:20:41 PM

Testimony for CPN on 4/4/2023 10:16:00 AM

Submitted By	Organization	Testifier Position	Testify
R Laree McGuire	Individual	Support	Written Testimony Only

Comments:

Aloha,

I am in strong support of this resolution and request that the Legislature continue to investigate all measures available to assist associations in resolving the ongoing escalating insurance costs.

Mahalo for the opportunity to testify.

SCR-48

Submitted on: 4/2/2023 1:53:09 PM

Testimony for CPN on 4/4/2023 10:16:00 AM

Submitted By	Organization	Testifier Position	Testify
Jeff Sadino	Individual	Comments	Written Testimony Only

Comments:

I offer COMMENTS on SCR 48 / SR 43 Proposed SD1.

This Resolution assumes it is a known fact that the “skyrocketing insurance premiums” that condominiums are facing are a result of those buildings not having sprinkler systems or other life-safety systems. This should be confirmed before it is assumed to be a known fact. Also, while this may be one source of skyrocketing insurance premiums, I also believe another source are the out-sized number of lawsuits against condominiums, particularly for Board Members breaching their fiduciary duties.

As one example, this year, the insurance premium at my association **increased almost 100%**, from \$50,000 to \$96,000. This is after my condominium settled a lawsuit in 2022. This seems like direct causation. Also note that my building is exempt from the life-safety requirements.

At a previous CPN Informational Hearing, the Real Estate Commission did not immediately have information about how many Directors & Officers claims there are or their contribution to rising insurance prices and instead referred the question to the Insurance Division. Since this SCR directs the Insurance Division to lead the study, it makes sense for it to include an analysis of D&O claims in their report to the Legislature.

Thank you for the opportunity to provide testimony,

Jeff Sadino

SCR-48

Submitted on: 4/2/2023 9:30:54 PM

Testimony for CPN on 4/4/2023 10:16:00 AM

Submitted By	Organization	Testifier Position	Testify
Philip Nerney	Individual	Support	Written Testimony Only

Comments:

Support

SCR-48

Submitted on: 4/3/2023 10:03:22 AM

Testimony for CPN on 4/4/2023 10:16:00 AM

Submitted By	Organization	Testifier Position	Testify
Dale A. Head	Individual	Support	Written Testimony Only

Comments:

Aloha: This Bill may possibly slow insurance premium inflation, and is therefore 'consumer friendly'. Please pass this Resolution (SCR48)

Respectfully, Dale A. Head