

STAND. COM. REP. NO.

3674

Honolulu, Hawaii

APR 05 2024

RE: H.B. No. 2316
H.D. 1
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Second State Legislature
Regular Session of 2024
State of Hawaii

Sir:

Your Committee on Commerce and Consumer Protection, to which was referred H.B. No. 2316, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO CONDOMINIUMS,"

begs leave to report as follows:

The purpose and intent of this measure is to clarify the cumulative voting requirements for condominium association meetings. Specifically, this measure clarifies that:

- (1) In condominium elections, cumulative voting rights apply to all candidates regardless of whether they are nominated; and
- (2) Individual votes are used in cumulative voting.

Your Committee received testimony in support of this measure from the Hawai'i State Association of Parliamentarians; Palehua Townhouse Association; Hawaii First Realty LLC; Honolulu Tower AOAO; Law Offices of Mark K. McKellar, LLLC; and fourteen individuals.

Your Committee received testimony in opposition to this measure from one individual.



Your Committee received comments on this measure from one individual.

Your Committee finds that under the existing law governing cumulative voting in condominium association elections, cumulative voting is authorized only for nominated persons, to the exclusion of write-in candidates. Therefore, this measure expands the authorization for cumulative voting to include write-in candidates to ensure that every vote in a condominium election can be distributed among candidates as the voter sees fit, regardless of nomination status.

Your Committee notes testimony raising concerns that under existing law, the statutory cumulative voting requirements apply to cumulative voting only if the association's bylaws provide for cumulative voting for an election at a meeting, allowing some associations to circumvent the statutory restrictions. Your Committee further notes testimony requesting for clarification in statute allowing cumulative voting to be used when write-in candidates are selected by an owner. Therefore, amendments to this measure are necessary to address these concerns.

Accordingly, your Committee has amended this measure by:

- (1) Inserting language clarifying that if an election is to be held by cumulative voting pursuant to the bylaws, rather than if the bylaws provide for cumulative voting for an election at a meeting, each unit owner present in person or represented by proxy shall have a number of votes equal to the unit owner's voting percentage multiplied by the number of positions to be filled at the election; and
- (2) Inserting a definition of the term "candidate" to mean a nominee or write-in candidate.

As affirmed by the record of votes of the members of your Committee on Commerce and Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2316, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2316, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.



Respectfully submitted on
behalf of the members of the
Committee on Commerce and
Consumer Protection,



JAKETT KEOHOKALOLE, Chair



The Senate
 Thirty-Second Legislature
 State of Hawai'i

Record of Votes
Committee on Commerce and Consumer Protection
CPN

Bill / Resolution No.:* HB2316 HD1	Committee Referral: CPN	Date: 3/28/24
--	-----------------------------------	-------------------------

The Committee is reconsidering its previous decision on this measure.
 If so, then the previous decision was to: _____

The Recommendation is:

Pass, unamended 2312
 Pass, with amendments 2311
 Hold 2310
 Recommit 2313

Members	Aye	Aye (WR)	Nay	Excused
KEOHOKALOOLE, Jarrett (C)	✓			
FUKUNAGA, Carol (VC)	✓			
MCKELVEY, Angus L.K.	✓			
RICHARDS, III, Herbert M. "Tim"				✓
AWA, Brenton			✓	
TOTAL	3		1	1

Recommendation:
 Adopted
 Not Adopted

Chair's or Designee's Signature:
Carol Fukunaga

Distribution:
 Original Yellow Pink Goldenrod
 File with Committee Report Clerk's Office Drafting Agency Committee File Copy

***Only one measure per Record of Votes**