



P.O. Box 976
Honolulu, Hawaii 96808

February 22, 2025

Honorable David A. Tarnas
Honorable Mahina Poepoe
Committee on Judiciary & Hawaiian Affairs
415 South Beretania Street
Honolulu, Hawaii 96813

Re: **HB 70 HD1 SUPPORT**

Dear Chair Tarnas, Vice Chair Poepoe and Committee Members:

CAI supports HB 70 HD1. HB 70 HD1 will protect consumers by excluding the defense of good faith for an association if its board adopts a budget that omits the required detailed budget summary. HB 70 HD1 also clarifies standing requirements and the burden of proving substantial compliance.

Financial transparency is fundamental. The requirement of a budget summary is an important tool to enable owners to easily understand the financial condition of the Association.

The items to be included in the summary are expressed in Hawaii Revised Statutes ("HRS") §514B-148(a)(1-8). Those items must be determined through the budgeting process, so the burden of including a substantially compliant summary is light.

This is particularly so since most of those items reference objective matters (e.g., disclose "cash or accrual" budgeting) and the estimated amounts to be included are to be derived from the work of experts. Association directors are entitled to reasonably rely upon experts. HRS §514B-106 provides, in relevant part, that:

In the performance of their duties, officers and members of the board shall owe the association a fiduciary duty and exercise the degree of care and loyalty required of an officer or director of a corporation organized under chapter 414D.

The general standards for directors are detailed in HRS §414D-149. That section provides, in relevant part, that:

(b) In discharging the director's duties, a director is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by: ***

(2) Legal counsel, public accountants, or other persons as to matters the director reasonably believes are within the person's professional or expert competence[.]¹

HB 70 HD1 provides that "The association shall have the burden of proving substantial compliance with this section", which is in accord with an association's existing burden under current law. HRS §514B-148(g) presently provides, in relevant part, that:

In any proceeding to enforce compliance, a board that has not prepared an annual operating budget and reserve study shall have the burden of proving it has complied with this section.

HB 70 HD1 will enforce budget discipline in a manner that remains consistent with self-governance. Please pass HB 70 HD1.

CAI Legislative Action Committee, by


Its Chair

¹ §414D-149 **General standards for directors.** (a) A director shall discharge the director's duties as a director, including the director's duties as a member of a committee:

- (1) In good faith;
- (2) In a manner that is consistent with the director's duty of loyalty to the corporation;
- (3) With the care an ordinarily prudent person in a like position would exercise under similar circumstances; and
- (4) In a manner the director reasonably believes to be in the best interests of the corporation.

(b) In discharging the director's duties, a director is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

- (1) One or more officers or employees of the corporation whom the director reasonably believes to be reliable and competent in the matters presented;
- (2) Legal counsel, public accountants, or other persons as to matters the director reasonably believes are within the person's professional or expert competence; or
- (3) A committee of the board of which the director is not a member, as to matters within its jurisdiction, if the director reasonably believes the committee merits confidence.

(c) A director is not acting in good faith if the director has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (b) unwarranted.

(d) A director is not liable to the corporation, any member, or any other person for any action taken or not taken as a director, if the director acted in compliance with this section.

(e) A director shall not be deemed to be a trustee with respect to the corporation or with respect to any property held or administered by the corporation, including without limit, property that may be subject to restrictions imposed by the donor or transferor of the property.

(f) Any person who serves as a director to the corporation without remuneration or expectation of remuneration shall not be liable for damage, injury, or loss caused by or resulting from the person's performance of, or failure to perform duties of, the position to which the person was elected or appointed, unless the person was grossly negligent in the performance of, or failure to perform, such duties. For purposes of this section, remuneration does not include payment of reasonable expenses and indemnification or insurance for actions as a director as allowed by sections 414D-159 to 414D-167.

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February 22, 2025

Honorable David A. Tarnas
Honorable Mahina Poepoe
Committee on Judiciary and Hawaiian Affairs
415 South Beretania Street
Honolulu, HI 96813

HB70 Support

Dear Committee,

My name is Richard Emery and a thirty-year condominium industry veteran. I am a CAI Reserve Specialist (RS), reviewed or performed hundreds of Hawaii condominium reserve studies, participated on CAI's national task force for reserve study public policy, and currently serve as an expert in numerous disputes or litigation related to condominium budget and reserve studies. Let's remember that the national definition is of a reserve study – A budgeting tool not based on any professional review. It is simply a planning document to give an association a best chance to accumulate reserve funds as building components come due and need repair or replacement. The underlying data can change every year as components age.

I would be the first to admit that I have seen poor work product by some associations recognizing on the other hand many do a stellar job. That being said, a properly prepared reserve study is invaluable to an association. A reserve study can be hundreds of pages in length that the untrained eye will not understand its implications.

As the condominium industry is so broad it becomes impossible to set mandatory identical standards. In 2023 the legislature passed Act 199 that was signed into law mandating a budget summary that brings to the forefront the true status of their condominium's reserves. It is my belief that the industry itself will be forced to correct itself if the information is clearly disclosed. Unfortunately some associations look to an easy way to comply and use the summary to vaguely refer back to the original document. Disclosure is important. The best solution is to force boards and managing agent to comply with the intent of Act 199 by taking away their good faith exemption if they do not comply. I support HB 70.

Richard Emery, RS-8
Principal Broker

HB-70-HD-1

Submitted on: 2/22/2025 3:54:22 PM

Testimony for JHA on 2/25/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Idor Harris	Honolulu Tower	Oppose	Written Testimony Only

Comments:

Honolulu Tower is a 396 unit high rise located at Beretania and Maunakea Streets. On Feb. 3, 2025 the Board of Directors of the Association of Apartment Owners of Honolulu Tower unanimously voted to oppose HB70 and asks that you defer this measure.

Section 2, subsection 1 of the measure (amending subsection (d)): “The defense of good faith shall be unavailable to an association whenever its board adopts a budget that omits the summary required by subsection (a).” This sentence may cause disputes and litigation in the event that an association includes a summary with a budget as specified in HRS Section 514B- 148(a), but an owner contends that the summary does not strictly comply with all of the requirements.

^[1]_{SEP:}To avoid potential problems and litigation, the second sentence of subsection (d) should read: “The defense of good faith shall be unavailable to an association whenever its board adopts a budget that completely omits the summary required by subsection (a).”

^[1]_{SEP:}Second sentence in Section 2, subsection 2 of the measure (amending subsection (g)) should be deleted: “The association shall have the burden of proving substantial compliance with this section in any such action.” When a plaintiff brings an action, that party has the burden of proof. It is inconsistent with general principles of law to allow a plaintiff to file an action without any burden of proof. If an owner brings an action, the owner should be required to prove that the association failed to meet the requirements of Section 514B-148(a). The statute may expose associations to costly frivolous litigation over whether they complied with Section 514B-148(a).

Idor Harris

Resident Manager

HB-70-HD-1

Submitted on: 2/23/2025 7:54:33 AM

Testimony for JHA on 2/25/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Mike Golojuch, Sr.	Palehua Townhouse Association	Oppose	Written Testimony Only

Comments:

We oppose HB70 as written. Please defer this bill.

Mike Golojuch, Sr., President

HB-70-HD-1

Submitted on: 2/23/2025 10:10:10 AM

Testimony for JHA on 2/25/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Mark McKellar	Law Offices of Mark K. McKellar, LLC	Oppose	Written Testimony Only

Comments:

Dear Representative Tarnas, Chair, Representative Poepoe, Vice Chair, and Members of the Committee:

I OPPOSE H.B. No. 70, H.D.1.

First, I oppose the proposed sentence in Section 2, subsection 1 of the measure (amending subsection (d)) which reads: “The defense of good faith shall be unavailable to an association whenever its board adopts a budget that omits the summary required by subsection (a).” This sentence may cause disputes and litigation in the event that an association includes a summary with a budget as specified in HRS Section 514B-148(a), but an owner contends that the summary does not strictly comply with the comprehensive list of requirements for the summary as set forth in the statute. Given the level of detail in the specifications contained in Section 514B-148(a), an Association can easily inadvertently omit information from the summary, or information in the summary may turn out to be inaccurate or incomplete. For example, Section 514B-148(a)(6)(B) requires the disclosure of any component of association property omitted from the reserve study and the basis for the omission. If a component is inadvertently omitted from the summary and the omission is not disclosed, an owner could argue that the association breached its duty to submit a summary meeting the requirements of Section 514B-148(a).

To avoid potential problems and litigation, the second sentence of subsection (d) should read: “The defense of good faith shall be unavailable to an association whenever its board adopts a budget that completely omits the summary required by subsection (a).”

Second, the new subsection (g) provides that “[a]ny unit owner shall have standing to bring an action alleging a violation of this section against an association that the unit owner is a member of, and may seek an injunction to enforce compliance with this section by the association’s board. The association shall have the burden of proving substantial compliance with this section

in any such action.” The last sentence which shifts the burden of proof on the association should be deleted.

When a plaintiff brings an action, that party has the burden of proof. In some instances, the burden of proof may shift to the defendant, for example, after the plaintiff makes a prima facie showing of certain facts. However, it is inconsistent with general principles of law to allow an owner to file an action without any burden of proof. There is no justification for shifting the burden of proof to an association. If an owner brings an action, the owner should be required to prove that the association failed to meet the requirements of Section 514B-148(a). The statute may expose associations to costly frivolous litigation over whether they complied with Section 514B-148(a).

Respectfully submitted,

Mark McKellar

Dear Representative Tarnas, Chair, Representative Poepoe, Vice Chair, and Members of the Committee:

I OPPOSE H.B. No. 70, H.D.1.

First, I oppose the proposed sentence in Section 2, subsection 1 of the measure (amending subsection (d)) which reads: “The defense of good faith shall be unavailable to an association whenever its board adopts a budget that omits the summary required by subsection (a).” This sentence may cause disputes and litigation in the event that an association includes a summary with a budget as specified in HRS Section 514B-148(a), but an owner contends that the summary does not strictly comply with the comprehensive list of requirements for the summary as set forth in the statute. Given the level of detail in the specifications contained in Section 514B-148(a), an Association can easily inadvertently omit information from the summary, or information in the summary may turn out to be inaccurate or incomplete. For example, Section 514B-148(a)(6)(B) requires the disclosure of any component of association property omitted from the reserve study and the basis for the omission. If a component is inadvertently omitted from the summary and the omission is not disclosed, an owner could argue that the association breached its duty to submit a summary meeting the requirements of Section 514B-148(a).

To avoid potential problems and litigation, the second sentence of subsection (d) should read: “The defense of good faith shall be unavailable to an association whenever its board adopts a budget that completely omits the summary required by subsection (a).”

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When a plaintiff brings an action, that party has the burden of proof. In some instances, the burden of proof may shift to the defendant, for example, after the plaintiff makes a prima facie showing of certain facts. However, it is inconsistent with general principles of law to allow an owner to file an action without any burden of proof. There is no justification for shifting the burden of proof to an association. If an owner brings an action, the owner should be required to prove that the association failed to meet the requirements of Section 514B-148(a). The statute may expose associations to costly frivolous litigation over whether they complied with Section 514B-148(a).

Respectfully submitted,

Reyna Murakami
AOUO President
Mariner’s Village 1

HB-70-HD-1

Submitted on: 2/21/2025 2:41:23 PM

Testimony for JHA on 2/25/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Michael Ayson	Individual	Support	Written Testimony Only

Comments:

I support this bill.

HB-70-HD-1

Submitted on: 2/22/2025 3:49:51 PM

Testimony for JHA on 2/25/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
lynne matusow	Individual	Oppose	Written Testimony Only

Comments:

I am an owner occupant and board member of the Honolulu condominium, I am also a member of CAI. In reading testimony from the prior committee, I learned that CAI supports this bill. They never informed me or consulted me. I disagree with their position, oppose the bill, and ask that you defer it.

As you are well aware, there are litigious condo owners. They are attracted by gray areas. For example, Section 2, subsection 1 of the measure (amending subsection (d)): “The defense of good faith shall be unavailable to an association whenever its board adopts a budget that omits the summary required by subsection (a).” This sentence may cause disputes and litigation in the event that an association includes a summary with a budget as specified in HRS Section 514B-148(a), but an owner contends that the summary does not strictly comply with all of the requirements.

This bill is also inconsistent with the general principles of law, in that it allows a plaintiff to file an action without any burden of proof. If an owner brings an action, the owner should be required to prove that the association failed to meet the requirements of Section 514B-148(a). The statute may expose associations to costly frivolous litigation over whether they complied with Section 514B-148(a).

We already have a self appointed “king” wearing a crown rampaging through the federal government. Hawaii should not follow his example by contravening general principles of law.

Please defer this bill.

HB-70-HD-1

Submitted on: 2/22/2025 5:42:11 PM

Testimony for JHA on 2/25/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Joe M Taylor	Individual	Oppose	Written Testimony Only

Comments:

Dear Representative Tarnas, Chair, Representative Poepoe, Vice Chair, and Members of the Committee:

I OPPOSE H.B. No. 70, H.D.1.

First, I oppose the proposed sentence in Section 2, subsection 1 of the measure (amending subsection (d)) which reads: “The defense of good faith shall be unavailable to an association whenever its board adopts a budget that omits the summary required by subsection (a).” This sentence may cause disputes and litigation in the event that an association includes a summary with a budget as specified in HRS Section 514B-148(a), but an owner contends that the summary does not strictly comply with the comprehensive list of requirements for the summary as set forth in the statute. Given the level of detail in the specifications contained in Section 514B-148(a), an Association can easily inadvertently omit information from the summary, or information in the summary may turn out to be inaccurate or incomplete. For example, Section 514B-148(a)(6)(B) requires the disclosure of any component of association property omitted from the reserve study and the basis for the omission. If a component is inadvertently omitted from the summary and the omission is not disclosed, an owner could argue that the association breached its duty to submit a summary meeting the requirements of Section 514B-148(a).

To avoid potential problems and litigation, the second sentence of subsection (d) should read: “The defense of good faith shall be unavailable to an association whenever its board adopts a budget that completely omits the summary required by subsection (a).”

Second, the new subsection (g) provides that “[a]ny unit owner shall have standing to bring an action alleging a violation of this section against an association that the unit owner is a member of, and may seek an injunction to enforce compliance with this section by the association’s board. The association shall have the burden of proving substantial compliance with this section

in any such action.” The last sentence which shifts the burden of proof on the association should be deleted.

When a plaintiff brings an action, that party has the burden of proof. In some instances, the burden of proof may shift to the defendant, for example, after the plaintiff makes a prima facie showing of certain facts. However, it is inconsistent with general principles of law to allow an owner to file an action without any burden of proof. There is no justification for shifting the burden of proof to an association. If an owner brings an action, the owner should be required to prove that the association failed to meet the requirements of Section 514B-148(a). The statute may expose associations to costly frivolous litigation over whether they complied with Section 514B-148(a).

Respectfully submitted,
joe Taylor

HB-70-HD-1

Submitted on: 2/22/2025 5:43:41 PM

Testimony for JHA on 2/25/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
mary freeman	Individual	Oppose	Written Testimony Only

Comments:

Dear Representative Tarnas, Chair, Representative Poepoe, Vice Chair, and Members of the Committee:

I OPPOSE H.B. No. 70, H.D.1.

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When a plaintiff brings an action, that party has the burden of proof. In some instances, the burden of proof may shift to the defendant, for example, after the plaintiff makes a prima facie showing of certain facts. However, it is inconsistent with general principles of law to allow an owner to file an action without any burden of proof. There is no justification for shifting the burden of proof to an association. If an owner brings an action, the owner should be required to prove that the association failed to meet the requirements of Section 514B-148(a). The statute may expose associations to costly frivolous litigation over whether they complied with Section 514B-148(a).

Respectfully submitted,

Mary Freeman

Ewa Beach

HB-70-HD-1

Submitted on: 2/22/2025 5:47:02 PM

Testimony for JHA on 2/25/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Anne Anderson	Individual	Oppose	Written Testimony Only

Comments:

Dear Representative Tarnas, Chair, Representative Poepoe, Vice Chair, and Members of the Committee:

I OPPOSE H.B. No. 70, H.D.1.

First, I oppose the proposed sentence in Section 2, subsection 1 of the measure (amending subsection (d)) which reads: “The defense of good faith shall be unavailable to an association whenever its board adopts a budget that omits the summary required by subsection (a).” This sentence may cause disputes and litigation in the event that an association includes a summary with a budget as specified in HRS Section 514B-148(a), but an owner contends that the summary does not strictly comply with the comprehensive list of requirements for the summary as set forth in the statute. Given the level of detail in the specifications contained in Section 514B-148(a), an Association can easily inadvertently omit information from the summary, or information in the summary may turn out to be inaccurate or incomplete. For example, Section 514B-148(a)(6)(B) requires the disclosure of any component of association property omitted from the reserve study and the basis for the omission. If a component is inadvertently omitted from the summary and the omission is not disclosed, an owner could argue that the association breached its duty to submit a summary meeting the requirements of Section 514B-148(a).

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When a plaintiff brings an action, that party has the burden of proof. In some instances, the burden of proof may shift to the defendant, for example, after the plaintiff makes a prima facie showing of certain facts. However, it is inconsistent with general principles of law to allow an owner to file an action without any burden of proof. There is no justification for shifting the burden of proof to an association. If an owner brings an action, the owner should be required to

prove that the association failed to meet the requirements of Section 514B-148(a). The statute may expose associations to costly frivolous litigation over whether they complied with Section 514B-148(a).

Respectfully submitted,

Anne Anderson

HB-70-HD-1

Submitted on: 2/22/2025 8:48:58 PM

Testimony for JHA on 2/25/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Michael Targgart	Individual	Oppose	Written Testimony Only

Comments:

BELOW:

Dear Representative Tarnas, Chair, Representative Poepoe, Vice Chair, and Members of the Committee:

I OPPOSE H.B. No. 70, H.D.1.

First, I oppose the proposed sentence in Section 2, subsection 1 of the measure (amending subsection (d)) which reads: “The defense of good faith shall be unavailable to an association whenever its board adopts a budget that omits the summary required by subsection (a).” This sentence may cause disputes and litigation in the event that an association includes a summary with a budget as specified in HRS Section 514B-148(a), but an owner contends that the summary does not strictly comply with the comprehensive list of requirements for the summary as set forth in the statute. Given the level of detail in the specifications contained in Section 514B-148(a), an Association can easily inadvertently omit information from the summary, or information in the summary may turn out to be inaccurate or incomplete. For example, Section 514B-148(a)(6)(B) requires the disclosure of any component of association property omitted from the reserve study and the basis for the omission. If a component is inadvertently omitted from the summary and the omission is not disclosed, an owner could argue that the association breached its duty to submit a summary meeting the requirements of Section 514B-148(a).

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Respectfully submitted,

michael Targgart

HB-70-HD-1

Submitted on: 2/22/2025 10:54:19 PM

Testimony for JHA on 2/25/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
John Toalson	Individual	Oppose	Written Testimony Only

Comments:

Dear Representative Tarnas, Chair, Representative Poepoe, Vice Chair, and Members of the Committee:

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prove that the association failed to meet the requirements of Section 514B-148(a). The statute may expose associations to costly frivolous litigation over whether they complied with Section 514B-148(a).

Respectfully submitted,

John Toalson

HB-70-HD-1

Submitted on: 2/23/2025 1:54:16 PM

Testimony for JHA on 2/25/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Lance S. Fujisaki	Individual	Oppose	Written Testimony Only

Comments:

Dear Representative Tarnas, Chair, Representative Poepoe, Vice Chair, and Members of the Committee:

I OPPOSE H.B. No. 70, H.D.1.

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Respectfully submitted,

Lance Fujisaki

HB-70-HD-1

Submitted on: 2/24/2025 8:10:40 AM

Testimony for JHA on 2/25/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Julie Wassel	Individual	Oppose	Written Testimony Only

Comments:

Dear Representative Tarnas, Chair, Representative Poepoe, Vice Chair, and Members of the Committee:

I OPPOSE H.B. No. 70, H.D.1.

First, I oppose the proposed sentence in Section 2, subsection 1 of the measure (amending subsection (d)) which reads: “The defense of good faith shall be unavailable to an association whenever its board adopts a budget that omits the summary required by subsection (a).” This sentence may cause disputes and litigation in the event that an association includes a summary with a budget as specified in HRS Section 514B-148(a), but an owner contends that the summary does not strictly comply with the comprehensive list of requirements for the summary as set forth in the statute. Given the level of detail in the specifications contained in Section 514B-148(a), an Association can easily inadvertently omit information from the summary, or information in the summary may turn out to be inaccurate or incomplete. For example, Section 514B-148(a)(6)(B) requires the disclosure of any component of association property omitted from the reserve study and the basis for the omission. If a component is inadvertently omitted from the summary and the omission is not disclosed, an owner could argue that the association breached its duty to submit a summary meeting the requirements of Section 514B-148(a).

To avoid potential problems and litigation, the second sentence of subsection (d) should read: “The defense of good faith shall be unavailable to an association whenever its board adopts a budget that completely omits the summary required by subsection (a).”

Second, the new subsection (g) provides that “[a]ny unit owner shall have standing to bring an action alleging a violation of this section against an association that the unit owner is a member of, and may seek an injunction to enforce compliance with this section by the association’s board. The association shall have the burden of proving substantial compliance with this section

in any such action.” The last sentence which shifts the burden of proof on the association should be deleted.

When a plaintiff brings an action, that party has the burden of proof. In some instances, the burden of proof may shift to the defendant, for example, after the plaintiff makes a prima facie showing of certain facts. However, it is inconsistent with general principles of law to allow an owner to file an action without any burden of proof. There is no justification for shifting the burden of proof to an association. If an owner brings an action, the owner should be required to prove that the association failed to meet the requirements of Section 514B-148(a). The statute may expose associations to costly frivolous litigation over whether they complied with Section 514B-148(a).

Respectfully submitted,

Julie Wassel

HB-70-HD-1

Submitted on: 2/24/2025 8:11:19 AM

Testimony for JHA on 2/25/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Paul A. Ireland Kofinow	Individual	Oppose	Written Testimony Only

Comments:

Dear Representative Tarnas, Chair, Representative Poepoe, Vice Chair, and Members of the Committee:

I OPPOSE H.B. No. 70, H.D.1.

First, I oppose the proposed sentence in Section 2, subsection 1 of the measure (amending subsection (d)) which reads: “The defense of good faith shall be unavailable to an association whenever its board adopts a budget that omits the summary required by subsection (a).” This sentence may cause disputes and litigation in the event that an association includes a summary with a budget as specified in HRS Section 514B-148(a), but an owner contends that the summary does not strictly comply with the comprehensive list of requirements for the summary as set forth in the statute. Given the level of detail in the specifications contained in Section 514B-148(a), an Association can easily inadvertently omit information from the summary, or information in the summary may turn out to be inaccurate or incomplete. For example, Section 514B-148(a)(6)(B) requires the disclosure of any component of association property omitted from the reserve study and the basis for the omission. If a component is inadvertently omitted from the summary and the omission is not disclosed, an owner could argue that the association breached its duty to submit a summary meeting the requirements of Section 514B-148(a).

To avoid potential problems and litigation, the second sentence of subsection (d) should read: “The defense of good faith shall be unavailable to an association whenever its board adopts a budget that completely omits the summary required by subsection (a).”

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When a plaintiff brings an action, that party has the burden of proof. In some instances, the burden of proof may shift to the defendant, for example, after the plaintiff makes a prima facie showing of certain facts. However, it is inconsistent with general principles of law to allow an owner to file an action without any burden of proof. There is no justification for shifting the burden of proof to an association. If an owner brings an action, the owner should be required to

prove that the association failed to meet the requirements of Section 514B-148(a). The statute may expose associations to costly frivolous litigation over whether they complied with Section 514B-148(a).

Respectfully submitted,

Paul A. Ireland Koftinow

HB-70-HD-1

Submitted on: 2/24/2025 9:51:32 AM

Testimony for JHA on 2/25/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Rachel Glanstein	Individual	Oppose	Written Testimony Only

Comments:

Dear Representative Tarnas, Chair, Representative Poepoe, Vice Chair, and Members of the Committee:

I OPPOSE H.B. No. 70, H.D.1.

First, I oppose the proposed sentence in Section 2, subsection 1 of the measure (amending subsection (d)) which reads: “The defense of good faith shall be unavailable to an association whenever its board adopts a budget that omits the summary required by subsection (a).” This sentence may cause disputes and litigation in the event that an association includes a summary with a budget as specified in HRS Section 514B-148(a), but an owner contends that the summary does not strictly comply with the comprehensive list of requirements for the summary as set forth in the statute. Given the level of detail in the specifications contained in Section 514B-148(a), an Association can easily inadvertently omit information from the summary, or information in the summary may turn out to be inaccurate or incomplete. For example, Section 514B-148(a)(6)(B) requires the disclosure of any component of association property omitted from the reserve study and the basis for the omission. If a component is inadvertently omitted from the summary and the omission is not disclosed, an owner could argue that the association breached its duty to submit a summary meeting the requirements of Section 514B-148(a).

To avoid potential problems and litigation, the second sentence of subsection (d) should read: “The defense of good faith shall be unavailable to an association whenever its board adopts a budget that completely omits the summary required by subsection (a).”

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in any such action.” The last sentence which shifts the burden of proof on the association should be deleted.

When a plaintiff brings an action, that party has the burden of proof. In some instances, the burden of proof may shift to the defendant, for example, after the plaintiff makes a prima facie showing of certain facts. However, it is inconsistent with general principles of law to allow an owner to file an action without any burden of proof. There is no justification for shifting the burden of proof to an association. If an owner brings an action, the owner should be required to prove that the association failed to meet the requirements of Section 514B-148(a). The statute may expose associations to costly frivolous litigation over whether they complied with Section 514B-148(a).

It's already difficult enough to get owners to serve on the board. AOA Lakeview Sands hasn't had a full board of 5 owners in a long time. We usually have to function with only 3 or 4 of the seats filled. We need to encourage owners to serve not scare them from trying.

Mahalo,

Rachel Glanstein

HB-70-HD-1

Submitted on: 2/24/2025 10:16:19 AM

Testimony for JHA on 2/25/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
christine morrison	Individual	Support	Remotely Via Zoom

Comments:

RE: HB 70 Support Bill

Dear JHA,

1. In 2025, I pay about \$15,000 in yearly fees and within 10 years it may approach over \$30,000.
2. 2025 Reserve deficit per unit is \$14,783 (\$217 a month in **double reserve fees**). My association has not done reserve studies in 8 years (former BOD statement) **and has denied my unit maintenance for years.**
3. **Association HOA Tax Scheme?** Annual meeting March 15, 2025:

EXCESS OF MEMBERSHIP INCOME OVER MEMBERSHIP EXPENSES: "Be it Resolved, that any excess of membership income over membership expenses the fiscal year ending January 31, 2025, shall be applied against the subsequent tax year member assessments as provided by IRS Ruling 70-604.

- This may include a 2024 landscape contract reduction of up to \$80,000 and an April 2024: 15- million construction defect settlement with monthly interest about \$14,000 per month?
- **For 3 years I have paid for "common element" scheduled mandated services never received and I want the excess membership income refunded to me.**

5. I have filed DCCA complaints for financial records pursuant to HRS 514 B.

Please protect homeowners, not industry special interests or lobbyists. Legislators, **PLEASE SUPPORT MY REQUEST FOR INVESTIGATION.**

Respectfully,

Ms. Morrison

TESTIMONY IN SUPPORT OF HB70 HD1

For: The Committee on Judiciary & Hawaiian Affairs (JHA)

DATE: Tuesday, February 25, 2025

TIME: 2:00 p.m.

PLACE: VIA VIDEOCONFERENCE

Conference Room 325

State Capitol

415 South Beretania Street

Aloha Chair Tarnas, Vice Chair Poepoe, and members of the Committee,

My name is Gregory Misakian and I have been advocating for the rights of condominium owners in Hawaii since 2021, when I realized how much misconduct and corruption there is within many condominium associations throughout Hawaii, in addition to misconduct and corruption within numerous large management companies that manage and oversee condominium associations.

As many as 1/3 of the population of Hawaii lives in condominiums, including many legislators and their friends and families. It has been shown with evidence to support, including many news stories and a great deal of testimony, that condominium owners are being subjected to abusive and predatory practices, often at the direction of the condominium association's President and Board, with management company agents and association attorneys being willful participants.

Simply said, no matter how many Acts that are enACTed, many Directors on condominium association boards simply don't care and do whatever they want, which often includes not ACTing like adults, and ACTions that are contrary to the governing documents and State laws. To break it down further for our esteemed legislators ... they ACT like children, but even this analogy is flawed because children ACTually ACT better.

In another life before Hawaii, I did some ACTing work on an Investigation Discovery show called “I (Almost) Got Away with It.” In Hawaii that show would have to be renamed to “I (Almost Always) Got Away with It” when speaking of misconduct and corruption at condominium associations.

While the ACT analogy and pun might seem funny, there is nothing funny about how badly many condominium associations are being managed, and the misconduct and corruption that exists.

While I support HB70 HD1 and its intentions, owners still have the burden to go to court for enforcement, which can be very costly. The only real solution to address serious issues within condominium associations and their proper management, is to have enforcement of the laws that you enACT. (And yes, it’s hard to let this go once I started the theme).

Please read and support **HB890** and **SB1265** (companion bill) for an **Ombudsman’s Office for Condominium Associations**.

HB890 - RELATING TO CONDOMINIUM ASSOCIATIONS. (Ombudsman)

SB1265 - RELATING TO CONDOMINIUM ASSOCIATIONS. (Ombudsman)

And also:

HB1209 - RELATING TO CONDOMINIUM ASSOCIATIONS. (Attorneys’ Fees)

HB1311 - RELATING TO CONDOMINIUM PROXY VOTING.

HB1312 - RELATING TO ASSOCIATION MANAGERS.

HB1313 - RELATING TO BOARD MEMBERS.

HB1315 - RELATING TO PARLIAMENTARIANS.

Sadly, as often is the case at the legislature, where some often work for campaign donations before they work for the people of Hawaii, none of these bills were scheduled. It is not too late to take what is in these bills and amend some of the bills the Committee Chairs chose, which mostly do not provide the best solutions or enforceable solutions without condominium owners having to go to court. The #1 goal is to help condominium owners so they do not have to go to court, and have a place to go where they are treated fairly, and where efficient and timely

resolutions to issues and concerns can be administered (i.e., the Ombudsman's Office for Condominium Associations).

I also ask our legislators to provide a simple breakdown of what they think this section will cost condominium owners if they attempt to enforce it?

Any unit owner shall have standing to bring an action alleging a violation of this section against an association that the unit owner is a member of, and may seek an injunction to enforce compliance with this section by the association's board. The association shall have the burden of proving substantial compliance with this section in any such action."

Will there be a state fund to subsidize the legal costs that may run into the thousands of dollars? Will you establish free legal counsel for those who can't afford it (as you want to do for illegal aliens)?

For those who don't know me, I currently serve as the 1st Vice President of the Kokua Council and was President for most of 2024. The Kokua Council advocates for our kupuna and lesser advantaged. I also serve on the Waikiki Neighborhood Board, where we have advocated for better consumer protections for condominium owners in a resolution adopted in 2023 (also adopted by other Neighborhood Boards).

The people of Hawaii are counting on you to ACT, and I respectfully ask all on the committee and all legislators to please support HB70 HD1 and the other bills listed.

Mahalo,

Gregory Misakian

HB-70-HD-1

Submitted on: 2/24/2025 10:32:43 AM

Testimony for JHA on 2/25/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Lila Mower	Individual	Support	Written Testimony Only

Comments:

I support this measure.

HB-70-HD-1

Submitted on: 2/24/2025 11:29:36 AM

Testimony for JHA on 2/25/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Laura Bearden	Individual	Oppose	Written Testimony Only

Comments:

Dear Representative Tarnas, Chair, Representative Poepoe, Vice Chair, and Members of the Committee:

I OPPOSE H.B. No. 70, H.D.1.

First, I oppose the proposed sentence in Section 2, subsection 1 of the measure (amending subsection (d)) which reads: “The defense of good faith shall be unavailable to an association whenever its board adopts a budget that omits the summary required by subsection (a).” This sentence may cause disputes and litigation in the event that an association includes a summary with a budget as specified in HRS Section 514B-148(a), but an owner contends that the summary does not strictly comply with the comprehensive list of requirements for the summary as set forth in the statute. Given the level of detail in the specifications contained in Section 514B-148(a), an Association can easily inadvertently omit information from the summary, or information in the summary may turn out to be inaccurate or incomplete. For example, Section 514B-148(a)(6)(B) requires the disclosure of any component of association property omitted from the reserve study and the basis for the omission. If a component is inadvertently omitted from the summary and the omission is not disclosed, an owner could argue that the association breached its duty to submit a summary meeting the requirements of Section 514B-148(a).

To avoid potential problems and litigation, the second sentence of subsection (d) should read: “The defense of good faith shall be unavailable to an association whenever its board adopts a budget that completely omits the summary required by subsection (a).”

Second, the new subsection (g) provides that “[a]ny unit owner shall have standing to bring an action alleging a violation of this section against an association that the unit owner is a member of, and may seek an injunction to enforce compliance with this section by the association’s board. The association shall have the burden of proving substantial compliance with this section

in any such action.” The last sentence which shifts the burden of proof on the association should be deleted.

When a plaintiff brings an action, that party has the burden of proof. In some instances, the burden of proof may shift to the defendant, for example, after the plaintiff makes a prima facie showing of certain facts. However, it is inconsistent with general principles of law to allow an owner to file an action without any burden of proof. There is no justification for shifting the burden of proof to an association. If an owner brings an action, the owner should be required to prove that the association failed to meet the requirements of Section 514B-148(a). The statute may expose associations to costly frivolous litigation over whether they complied with Section 514B-148(a).

Respectfully submitted,

Laura Bearden

Dear Representative Tarnas, Chair, Representative Poepoe, Vice Chair, and Members of the Committee:

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When a plaintiff brings an action, that party has the burden of proof. In some instances, the burden of proof may shift to the defendant, for example, after the plaintiff makes a prima facie showing of certain facts. However, it is inconsistent with general principles of law to allow an owner to file an action without any burden of proof. If an owner brings an action, the owner should be required to prove that the association failed to meet the requirements of Section 514B-148(a). The statute may expose associations to costly frivolous litigation over whether they complied with Section 514B-148(a).

Respectfully submitted,

Pamela J. Schell

HB-70-HD-1

Submitted on: 2/24/2025 1:25:26 PM

Testimony for JHA on 2/25/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Steve Glanstein	Individual	Comments	Written Testimony Only

Comments:

First, I oppose the proposed sentence in Section 2, subsection 1 of the measure (amending subsection (d)) which reads: “The defense of good faith shall be unavailable to an association whenever its board adopts a budget that omits the summary required by subsection (a).” This sentence may cause disputes and litigation in the event that an association includes a summary with a budget as specified in HRS Section 514B-148(a), but an owner contends that the summary does not strictly comply with the comprehensive list of requirements for the summary as set forth in the statute. Given the level of detail in the specifications contained in Section 514B-148(a), an Association can easily inadvertently omit information from the summary, or information in the summary may turn out to be inaccurate or incomplete. For example, Section 514B-148(a)(6)(B) requires the disclosure of any component of association property omitted from the reserve study and the basis for the omission. If a component is inadvertently omitted from the summary and the omission is not disclosed, an owner could argue that the association breached its duty to submit a summary meeting the requirements of Section 514B-148(a).

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When a plaintiff brings an action, that party has the burden of proof. In some instances, the burden of proof may shift to the defendant, for example, after the plaintiff makes a prima facie showing of certain facts. However, it is inconsistent with general principles of law to allow an owner to file an action without any burden of proof. There is no justification for shifting the burden of proof to an association. If an owner brings an action, the owner should be required to prove that the association failed to meet the requirements of Section 514B-148(a). The statute

may expose associations to costly frivolous litigation over whether they complied with Section 514B-148(a).

HB-70-HD-1

Submitted on: 2/24/2025 2:17:32 PM

Testimony for JHA on 2/25/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Joseph Graves	Individual	Oppose	Written Testimony Only

Comments:

Dear Representative Tarnas, Chair, Representative Poepoe, Vice Chair, and Members of the Committee:

1. OPPOSE H.B. No. 70, H.D.1.

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When a plaintiff brings an action, that party has the burden of proof. In some instances, the burden of proof may shift to the defendant, for example, after the plaintiff makes a prima facie showing of certain facts. However, it is inconsistent with general principles of law to allow an owner to file an action without any burden of proof. There is no justification for shifting the burden of proof to an association. If an owner brings an action, the owner should be required to prove that the association failed to meet the requirements of Section 514B-148(a). The statute may expose associations to costly frivolous litigation over whether they complied with Section 514B-148(a).

Respectfully submitted,

Joseph Graves

HB-70-HD-1

Submitted on: 2/24/2025 3:40:19 PM

Testimony for JHA on 2/25/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Laurie Sokach	Individual	Oppose	Written Testimony Only

Comments:

Dear Representative Tarnas, Chair, Representative Poepoe, Vice Chair, and Members of the Committee:

I OPPOSE H.B. No. 70, H.D.1.

First, I oppose the proposed sentence in Section 2, subsection 1 of the measure (amending subsection (d)) which reads: “The defense of good faith shall be unavailable to an association whenever its board adopts a budget that omits the summary required by subsection (a).” This sentence may cause disputes and litigation in the event that an association includes a summary with a budget as specified in HRS Section 514B-148(a), but an owner contends that the summary does not strictly comply with the comprehensive list of requirements for the summary as set forth in the statute. Given the level of detail in the specifications contained in Section 514B-148(a), an Association can easily inadvertently omit information from the summary, or information in the summary may turn out to be inaccurate or incomplete. For example, Section 514B-148(a)(6)(B) requires the disclosure of any component of association property omitted from the reserve study and the basis for the omission. If a component is inadvertently omitted from the summary and the omission is not disclosed, an owner could argue that the association breached its duty to submit a summary meeting the requirements of Section 514B-148(a).

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When a plaintiff brings an action, that party has the burden of proof. In some instances, the burden of proof may shift to the defendant, for example, after the plaintiff makes a prima facie showing of certain facts. However, it is inconsistent with general principles of law to allow an owner to file an action without any burden of proof. There is no justification for shifting the burden of proof to an association. If an owner brings an action, the owner should be required to

prove that the association failed to meet the requirements of Section 514B-148(a). The statute may expose associations to costly frivolous litigation over whether they complied with Section 514B-148(a).

Respectfully submitted,

Laurie Sokach AMS, PCAM

Community Portfolio Manager

Kona Hawaii, since 1997