

STAND. COM. REP. NO. 2359

Honolulu, Hawaii

FEB 18 2016

RE: S.B. No. 2662
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Eighth State Legislature
Regular Session of 2016
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Health,
to which was referred S.B. No. 2662 entitled:

"A BILL FOR AN ACT RELATING TO CONDOMINIUMS,"

begs leave to report as follows:

The purpose and intent of this measure is to ensure that any surplus proceeds from an association foreclosure be paid to junior creditors and the former owner of the condominium instead of first being paid to the first mortgage holder.

Prior to the hearing on this measure, your Committee made available for public review a proposed S.D. 1 of this measure. The proposed S.D. 1 deleted the contents of this measure and inserted provisions that clarify that a director elected by a specific group of unit owners may be removed only by that group and clarify the voting requirement for certain nonresidential units in a mixed-use condominium project.

Your Committee received testimony in support of the proposed S.D. 1 from the Hawai'i State Association of Parliamentarians, Community Associations Institute, Associa, Hawaii Council of Association of Apartment Owners, and one individual.

Your Committee finds that existing condominium law permits different classes of directors in mixed-use projects. Existing law also provides for the removal of directors by a majority of the unit owners. The proposed S.D. 1 clarifies that the removal or replacement of a director elected by a class of unit owners

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shall only be by a majority of the members of that class. Your Committee notes that this clarification is similar to language regarding removal of directors in the Hawaii Business Corporations Act and Hawaii Nonprofit Corporations Act.

Your Committee further finds that existing law specifies that no votes allocated to a unit owned by a condominium association may be cast for the election or reelection of directors. However, this prohibition may be an issue for mixed-use condominium projects where directors are elected by different classes of owners. For example, in a mixed-use project that contains residential and commercial units, the board of directors may be comprised of directors elected by residential unit owners and directors elected by commercial unit owners. A condominium association who owns the single commercial unit in a mixed-use project would therefore be unable to elect or reelection the directors needed to represent that commercial unit. Accordingly, this proposed measure makes an exception for votes cast for nonresidential units owned by an association to ensure that elections may be held and directors may be elected.

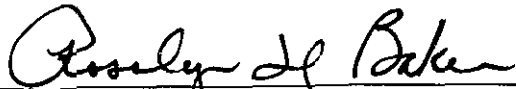
Your Committee has amended this measure by adopting the proposed S.D. 1 and further amending the measure by:

- (1) Clarifying that notwithstanding section 514B-106(b), Hawaii Revised Statutes, or any provision in an association's declaration or bylaws to the contrary, the votes allocated to any nonresidential unit owned by an association in a mixed-use project may be cast for the election or reelection of directors by an association; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2662, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2662, S.D. 1, and be referred to your Committee on Judiciary and Labor.



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



ROSALYN H. BAKER, Chair



The Senate
Twenty-Eighth Legislature
State of Hawai'i

Record of Votes
Committee on Commerce, Consumer Protection, and Health
CPH

Bill / Resolution No.:*	Committee Referral:	Date:
SB 2662	CPH, JDL	2-16-16
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____		
The Recommendation is:		
<input type="checkbox"/> Pass, unamended 2312	<input checked="" type="checkbox"/> Pass, with amendments 2311	<input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313
Members	Aye	Aye (WR)
Nay	Excused	
BAKER, Rosalyn H. (C)	/	
KIDANI, Michelle N. (VC)	/	
ESPERO, Will	/	
IHARA, Jr., Les		/
NISHIHARA, Clarence K.		/
RUDERMAN, Russell E.		/
SLOM, Sam	/	
TOTAL	4	3
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted		
Chair's or Designee's Signature: <i>Michelle N. Kidani</i>		
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy		

*Only one measure per Record of Votes