

STAND. COM. REP. NO.

821

Honolulu, Hawaii

MAR 03 2023

RE: S.B. No. 729  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Thirty-Second State Legislature  
Regular Session of 2023  
State of Hawaii

Sir:

Your Committee on Commerce and Consumer Protection, to which was referred S.B. No. 729 entitled:

"A BILL FOR AN ACT RELATING TO BOARD MEMBERS,"

begs leave to report as follows:

The purpose and intent of this measure is to require members of boards of directors and officers of condominium associations, cooperative housing corporations, and planned community associations to certify their receipt and reading of certain documents or complete a board leader course from an instructor certified by the Community Associations Institute, or similar nationally recognized organization.

Your Committee received testimony in support of this measure from the Hawaii Council of Associations of Apartment Owners dba Hawaii Council of Community Associations, Community Associations Institute, Palehua Townhouse Association, and five individuals. Your Committee received testimony in opposition to this measure from the Real Estate Commission, Hawai'i State Association of Parliamentarians, Honolulu Tower AOA, Waikoloa Village Association, and fifteen individuals. Your Committee received comments on this measure from one individual.

Your Committee finds that the members of boards of directors and officers of condominium associations, cooperative housing corporations, and planned community associations (board members)



are volunteers elected by their co-owners who serve for altruistic reasons with the best interests of their communities in mind. Existing law imposes a level of care and loyalty on board members to their associations to the level and extent required of an officer or director of a corporation. To improve board members' decision-making and governance skills, and to minimize disputes by and among owners and their boards, it is imperative that board members receive proper education and training. This measure requires board members to certify that they have received proper education and training, or understand their duties to promote better governance. Your Committee acknowledges the concerns raised in testimony that this measure imposes education requirements on board members, but does not provide support for these new requirements.

Accordingly, your Committee has amended this measure by:

- (1) Inserting new language that:
  - (A) Establishes a Cooperative Housing Corporation Education Trust Fund and Planned Community Association Education Trust Fund and authorizing the Real Estate Commission to use the respective funds to finance education requirements for board members;
  - (B) Requires cooperative housing corporations and planned community associations to pay an education trust fund fee;
  - (C) Establishes requirements for management of the Cooperative Housing Corporation Education Trust Fund and Planned Community Association Education Trust Fund; and
  - (D) Requires cooperative housing corporations and planned community associations to register with the Department of Commerce and Consumer Affairs;
- (2) With respect to a board member's educational requirements, clarifying that:



- (A) A board member shall, within ninety days after being elected to the board of directors, certify that the member has received and reviewed a copy of the association's or corporation's articles of incorporation, bylaws, rules and regulations, and chapter 421I, 421J, or 514B, Hawaii Revised Statutes, as appropriate; provided that, for any member elected to the board of directors before the effective date of this measure, the member shall provide the written certification to the board of directors within ninety days of the effective date of this measure;
- (B) A board member shall, within one year after being elected to the board of directors, obtain a board leader course completion certificate from a course approved by the Real Estate Commission; provided that, for any member elected to the board of directors before the effective date of this measure, the member shall obtain the course completion certification within one year of the effective date of this measure; and
- (C) A board member's failure to both certify that the member has received and reviewed the necessary documents and completed the required board leader course shall disqualify the member from serving on the board of directors;
- (3) Inserting language requiring the Real Estate Commission, with input from stakeholders as to the curriculum to be used, to approve and administer board leadership courses that members of board of directors are required to complete;
- (4) Inserting an effective date of July 1, 2050, to encourage further discussion; and
- (5) 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 and Consumer Protection that is attached to



this report, your Committee is in accord with the intent and purpose of S.B. No. 729, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 729, 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,



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JARRETT KEOHOKALOLE, Chair



