STAND. COM. REP. NO. 87

Honolulu, Hawaii

MAR 0 3 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 AOAO, 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)



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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:

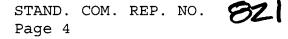


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- (A) A board member shall, within ninety days after being elected to the board of directors, certify that the member has received and reviewed a copy of the association's or corporation's articles of incorporation, bylaws, rules and regulations, and 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,

JARRETT KEOHOKALOLE, Chair



The Senate Thirty-Second Legislature State of Hawaiʻi

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Record of Votes Committee on Commerce and Consumer Protection CPN

Bill / Resolution No.:*	Committee Referral:			Date:	
SB729	CPN			2/23	23
The Committee is reconsidering its previous decision on this measure.					
If so, then the previous decision was to:					
The Recommendation is:					
Pass, unamended Pass, with amendments Hold Recommit 2312 2311 2310 2313					
Members		Aye	Aye (WR)	Nay	Excused
KEOHOKALOLE, Jarrett (C)		V_			
FUKUNAGA, Carol (VC)		 ✓ 			
MCKELVEY, Angus L.K.				\checkmark	
RICHARDS, III, Herbert M. "Tim"					
AWA, Brenton				V	
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TOTAL		2	(1
Recommendation: Adopted Not Adopted					
Chair's or Designee's Signature:					
and Julian ega					
Distribution: Original File with Committee Re	Yellow Pink port Clerk's Office Drafting Age			Goldenrod ncy Committee File Copy	

*Only <u>one</u> measure per Record of Votes

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