

STAND. COM. REP. NO.

3449

Honolulu, Hawaii

MAY 12 2020

RE: H.B. No. 2563
H.D. 1
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirtieth State Legislature
Regular Session of 2020
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Health,
to which was referred H.B. No. 2563, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO PLANNED COMMUNITY
ASSOCIATIONS,"

begs leave to report as follows:

The purpose and intent of this measure is to exempt planned
community associations from certain requirements regarding
cumulative voting for and the removal of directors under the
Hawaii Nonprofit Corporations Act.

Your Committee received testimony in support of this measure
from the Hawai'i State Association of Parliamentarians; Hawaii
Chapter of the Community Associations Institute; Associa; Law
Offices of Mark K. McKeller, LLC; and six individuals.

Your Committee finds that the cumulative voting provisions
under the Hawaii Nonprofit Corporations Act may be manipulated by
planned community association boards of directors to prevent
minority groups from attaining representation by simply omitting
cumulative voting from meeting notices. This measure will clarify
that the cumulative voting provisions under the Hawaii Nonprofit
Corporations Act do not apply to planned community associations
governed under the State's planned community association laws.



Your Committee notes that stakeholders have had an opportunity to discuss potential amendments to clarify the cumulative voting procedures for planned community associations, similar to those found in the statutes governing condominium associations. Accordingly, amendments to this measure are necessary to incorporate this consensus language.

Your Committee has amended this measure by:

- (1) Inserting language that establishes cumulative voting requirements for directors; provided that the articles of incorporation, declaration, or bylaws provide for cumulative voting by members;
- (2) Inserting language that establishes removal procedures for directors elected by members or directors, and the notice requirements for meetings at which removal of a director is proposed;
- (3) Clarifying that if the board of directors does not intend to use association funds to distribute proxies that include the election of directors, the board shall post notice in prominent locations within the project of its intent to distribute written notice of an association meeting; and
- (4) 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 H.B. No. 2563, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2563, H.D. 1, S.D. 1, and be referred to your Committee on Judiciary.



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

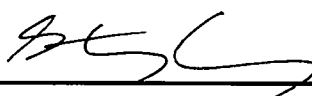
Rosalyn H. Baker

ROSALYN H. BAKER, Chair



The Senate
Thirtieth Legislature
State of Hawai'i

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

Bill / Resolution No.:*	Committee Referral:	Date:		
HB 2563 HD1	CPH, JDC	3/11/20		
<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)	✓			
CHANG, Stanley (VC)	✓			
NISHIHARA, Clarence K.	✓			
RUDERMAN, Russell E.	✓			
THIELEN, Laura H.	✓			
WAKAI, Glenn	✓			
FEVELLA, Kurt	✓			
TOTAL	7			
Recommendation:				
<input checked="" type="checkbox"/> Adopted				
<input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
Distribution:				
Original	Yellow	Pink	Goldenrod	
File with Committee Report	Clerk's Office	Drafting Agency	Committee File Copy	

*Only one measure per Record of Votes