

Testimony of the Real Estate Commission

**Before the
House Committee on Consumer Protection & Commerce
Wednesday, February 10, 2021
2:00 p.m.
Via Videoconference**

**On the following measure:
H.B. 47, RELATING TO CONDOMINIUMS**

Chair Johanson and Members of the Committee:

My name is Carole Richelieu, Senior Condominium Specialist, testifying for Michael Pang, Chairperson of the Real Estate Commission (Commission). The Commission opposes this bill.

The purpose of this bill is to exclude a homeowner-developer from the annual requirement to file a developer's report and pay a fee if the homeowner's development consists of not more than two units, one in which the developer resides and one for which the initial sale of the other unit has been completed.

Hawaii Revised Statutes section 514B-58 is a consumer protection provision that requires the developer to annually file a developer's report. Filing on an annual basis allows the developer to timely update the report with any material changes¹ to the development, and it protects the developer from accusations of fraud and omission in a later sale (or, if the sale is by surviving beneficiaries, the time and expense of filing an amendment or amending the developer's public report). The annual filing requirement also protects buyers by requiring the developer to disclose material modifications to the condominium and by avoiding the delay or termination of a purchase transaction because the developer has failed to keep the disclosure documents up-to-date.

Thank you for the opportunity to testify on this bill.

¹ Commission staff has observed a number of instances where, at the time of sale by the developer or the developer's beneficiaries, developers have forgotten about non-visible changes to the property, such as modifications to: easement rights; view plane building restrictions; or bylaws governing commercial or pet practices, any of which may materially impact the value and usage of a unit to a buyer.

HAWAII LEGISLATIVE
ACTION COMMITTEE


community
ASSOCIATIONS INSTITUTE

P.O. Box 976
Honolulu, Hawaii 96808

February 8, 2021

Chair Aaron Ling Johanson
Vice Chair Lisa Kitagawa
Committee on Consumer Protection & Commerce
415 South Beretania Street
Honolulu, Hawaii 96813

Re: HB 47 SUPPORT

Dear Chair Johanson, Vice-Chair Kitagawa and Committee Members:

The Community Associations Institute ("CAI") supports HB 47. This bill would relieve the developer of a two-unit condominium who permanently resides in one of the units from the obligation to file an annual report after the other unit is sold.

There is no obvious harm in providing such relief. There is no obvious purpose to requiring the filing of annual reports in that circumstance.

Very truly yours,

Philip Nerney

Philip Nerney

HB-47

Submitted on: 2/8/2021 3:57:52 PM

Testimony for CPC on 2/10/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Richard Emery	Associa	Support	No

Comments:

Often the Developer lives in the second unit and does not sell. It makes sense to delete the report requirement.

HB-47

Submitted on: 2/9/2021 1:30:03 PM

Testimony for CPC on 2/10/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
R Laree McGuire	Individual	Support	No

Comments:

Strongly support.

LATE

HB-47

Submitted on: 2/9/2021 2:45:26 PM
Testimony for CPC on 2/10/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Richard J. Cohen	Individual	Support	No

Comments:

Good afternoon..at this time i would like to submit testimony in strong support of 2021's HB 47....due to covid related issues of 2020, this bill (HB 2195 in 2020) was scheduled to be heard in a Senate Finance Committee hearing literally the day after everything got shut down. You can check the record on that. It had already passed through the appropriate House hearings essentially unopposed and moved on to the Senate phase of consideration when everything came to an unfortunate, but certainly necessary pause. Therefore, I would just like to say that now that the legislative process has resumed, I feel it appropriate that the passing of this newly reintroduced bill be seriously considered and supported again, and that the successes it had met with in last year's truncated session be appropriately accorded again. Thank you so much for your time, attention, and support in this delayed matter. Richard J. Cohen, Hawi (The Big Island)