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## HOUSE CONCURRENT RESOLUTION

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REQUESTING THE DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS TO  
REPORT ON ITS EXPERIENCE WITH AND TO EVALUATE THE CURRENT  
SYSTEM FOR CONDOMINIUM DISPUTE RESOLUTION.

1 WHEREAS, today in the State, tens of thousands of residents  
2 live in condominiums; and

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4 WHEREAS, condominium living by nature brings persons who in  
5 most cases were, and in many cases remain, strangers to each  
6 other together living in close proximity; and

7  
8 WHEREAS, this close contact may lead to disputes between  
9 condominium owners and between condominium owners and the  
10 association of apartment owners and the association's agents,  
11 such as management companies, that oversee the maintenance and  
12 operation of the condominium; and

13  
14 WHEREAS, chapter 514B, Hawaii Revised Statutes, contains  
15 provisions for alternative dispute resolution, including section  
16 514B-161, Hawaii Revised Statutes, that calls for mandatory  
17 mediation at the request of any party to a dispute concerning  
18 one or more owners and an association, its board, managing  
19 agent, or one or more other unit owners relating to the  
20 interpretation, application, or enforcement of chapter 514B,  
21 Hawaii Revised Statutes, or the association's declaration,  
22 bylaws, or house rules; and

23  
24 WHEREAS, if the dispute is not resolved by mediation, then  
25 any party that participated in the mediation may request an  
26 administrative hearing with the Office of Administrative Hearing  
27 of the Department of Commerce and Consumer Affairs, under a  
28 pilot project that is set to expire on June 30, 2009; and

29  
30 WHEREAS, if the administrative hearing process does not  
31 resolve the dispute, pursuant to section 514B-162, Hawaii



1 Revised Statutes, any party to the dispute may invoke mandatory  
2 arbitration; and

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4 WHEREAS, pursuant to section 514B-163, Hawaii Revised  
5 Statutes, any award of arbitration may be subjected to appeal in  
6 the circuit court or a trial de novo of the dispute in the  
7 circuit court; and

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9 WHEREAS, all these proceedings from mediation to an  
10 administrative hearing to arbitration and, finally, to  
11 litigation in the circuit court can be complex, requiring  
12 parties to retain attorneys and possibly expert witnesses; and

13  
14 WHEREAS, the costs of these proceedings may result in  
15 enormous legal and other fees and costs, particularly to an  
16 individual condominium owner; and

17  
18 WHEREAS, pursuant to section 514B-157, Hawaii Revised  
19 Statutes, if the condominium owner fails to prevail in any  
20 dispute with an association of apartment owners, the condominium  
21 owner is further subject to having to repay the association for  
22 its costs and expenses; and

23  
24 WHEREAS, the result to any individual condominium owner in  
25 a legitimate dispute could be horrendous; now, therefore,

26  
27 BE IT RESOLVED by the House of Representatives of the  
28 Twenty-fourth Legislature of the State of Hawaii, Regular  
29 Session of 2007, the Senate concurring, that the Department of  
30 Commerce and Consumer Affairs is requested to report to the  
31 Legislature on its direct, first hand experience with the  
32 condominium dispute resolution program, and to provide a review  
33 and evaluation of the efficacy of that program; and

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35 BE IT FURTHER RESOLVED that the Department of Commerce and  
36 Consumer Affairs is requested to consider other possible methods  
37 of dispute resolution that may result in expeditious and  
38 equitable dispute resolutions without exposing the parties to  
39 any dispute to excessive and unreasonable legal and other fees  
40 and costs; and

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42 BE IT FURTHER RESOLVED that the Department of Commerce and  
43 Consumer Affairs is requested to report its findings and  
44 recommendations, along with any proposed legislation, to the



1 Legislature not later than twenty days prior to the convening of  
2 the Regular Session of 2008; and  
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4 BE IT FURTHER RESOLVED that a certified copy of this  
5 Concurrent Resolution be transmitted to the Director of Commerce  
6 and Consumer Affairs.  
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OFFERED BY:

*Calvin L. Ay*  
By Request

MAR 14 2007

