

SB 1107

**PRESENTATION OF THE
REAL ESTATE COMMISSION**

TO THE SENATE COMMITTEE ON
WAYS AND MEANS

TWENTY-FIFTH LEGISLATURE
Regular Session of 2009

Wednesday, February 25, 2009
9:00 a.m.

**WRITTEN COMMENTS ON SENATE BILL NO. 1107, S.D. 1 - RELATING TO
CONDOMINIUMS.**

TO THE HONORABLE DONNA MERCADO KIM, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is William S. Chee and I serve as the Chairperson of the Real Estate Commission's ("Commission") Condominium Review Committee. Thank you for the opportunity to present written comments on Senate Bill No. 1107, S.D. 1, Relating to Condominiums. The purpose of this bill is to merge the two condominium education funds into one fund, the Condominium Education Trust Fund, established pursuant to section 514B-71, HRS. The Commission strongly supports Senate Bill No. 1107, S.D. 1, but opposes amendments not suggested by the Commission.

In recodifying the condominium law, it was always the intent that the Commission administer one education fund, the Condominium Education Trust Fund ("CETF"). This bill is to correct the unintended consequence in the 2003-2007 recodification efforts of Chapter 514A and the creation of Chapter 514B when, inadvertently, two separate educational trust funds (the Condominium Management Education Fund, Chapter 514A, HRS; and the CETF, Chapter 514B, HRS) were set forth in two statutes.

Consequently, this bill amends Chapter 514A, HRS, and Chapter 514B, HRS, so that there is only one fund, by the:

- Repeal of the original Condominium Management Education Fund in Chapter 514A, HRS;
- Provision of language which allows for the transfer of all unexpended and unencumbered balances remaining in the Condominium Management Education Fund (Chapter 514A, HRS) to the credit of the CETF (Chapter 514B, HRS);
- Clarification on the allocation of future payments due to the credit of the CETF (Chapter 514B, HRS);
- Housekeeping changes so that all statutory references are to the "Condominium Education Trust Fund" (Chapter 514B, HRS); and
- Other conforming amendments.

However, the Commission opposes some of the proposed amendments made in Senate Draft 1 of Senate Bill No. 1107 and recommends the following changes for the reasons discussed below:

- On page 11, lines 16-18, recommend deletion of the proposed amendment to add a new subsection (c) of section 514B-71, HRS. The proposed amendment impacts the CETF and will require raising the approved legislative expenditure ceiling to accommodate the increased expenditures relating to the printing of "any" publications produced by the Commission to be made available to individual condominium owners in both printed and electronic formats. Currently, the Commission makes available to

condominium owners all of its educational publications via download from its website. In addition quarterly printed copies of the Hawaii Condominium Bulletin are sent to condominium owners via their respective boards. Annually, printed copies of unofficial versions of the condominium law, Chapter 514A, HRS, and Chapter 514B, HRS, are made available to individual owners in the same manner.

- On page 14, lines 3-4 and lines 8-11, recommend deletion of the proposed amendments to subsection (d) of section 514B-73, HRS. The proposed amendments impact the CETF and will require raising the approved legislative expenditure ceiling for the CETF. The specific fiscal impacts include the necessity of increasing the Commission's position count to accommodate the additional personnel required to perform the accounting as proposed by the amendments.
- Additionally, the proposed amendments on page 14, lines 3-4 and lines 8-11, do not fit squarely with the legislative intent of the condominium education funds. Section 514B-71, HRS, and Section 514A-131, HRS, require the Commission to administer and expend monies from the funds for "educational purposes" which are identically defined in section 514B-71 (a), HRS, and Section 514A-131 (a), HRS, as

. . . Educational purposes shall include financing or promoting:

(1) Education and research in the field of condominium management, condominium project registration, and real estate, for the benefit of the public and those required to be registered under this chapter;

(2) The improvement and more efficient administration of associations; and

(3) Expedient and inexpensive procedures for resolving association disputes.

(b) The commission may use any and all moneys in the condominium education trust fund for purposes consistent with subsection (a).

Educational purpose as defined in sections 514B-71, HRS, and 514B-131, HRS, does not target expenditures for any designated group, e.g., individual condominium owners. The current language recognizes that education of the related parts as specified in sections 514B-71, HRS, and 514B-131, HRS, benefits all necessary parties.

The Real Estate Commission strongly supports the passage of Senate Bill No. 1107, S.D. 1, pursuant to the Commission's recommendations outlined herein.

Thank you for the opportunity to present written comments.