

SCR 53

**PRESENTATION OF THE  
REAL ESTATE COMMISSION**

TO THE SENATE COMMITTEE ON  
WAYS AND MEANS

TWENTY-FIFTH LEGISLATURE  
Regular Session of 2009

Wednesday, April 8, 2009  
9:00 a.m.

**WRITTEN COMMENTS ON SENATE CONCURRENT RESOLUTION NO. 53 –  
REQUESTING THE AUDITOR TO CONDUCT A REVIEW OF THE REGULATION OF  
REAL ESTATE APPRAISAL MANAGEMENT COMPANIES.**

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

My name is Trudy Nishihara and I serve as the Chairperson of the Real Estate Commission ("Commission"). I thank you for the opportunity to present comments on Senate Concurrent Resolution No. 53, requesting the Auditor to conduct a sunrise review of the regulation of real estate appraisal management companies.

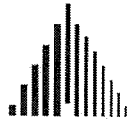
This resolution is the result of section 1 of Senate Bill No. 1606, which proposed a new Hawaii Revised Statutes ("HRS") Chapter regulating Hawaii appraisal management companies. The Commission testified that, pursuant to section 26H-6, HRS, any new regulatory measure proposed shall be referred to the legislative auditor for a "sunrise review" analysis.

As section 26-H, HRS, requires that the Auditor conduct a sunrise review before enactment of a measure that would subject an unregulated profession or vocation to regulation, we strongly support this measure. The Auditor's analysis would set forth the probable effects of the proposed regulatory measure, assess whether its enactment is

consistent with the purposes of section 26H-2, HRS, and assess alternate forms of regulation.

Senate Bill No. 1606 required registration of appraisal management companies and placed this new regulatory scheme under the Real Estate Commission, Department of Commerce and Consumer Affairs. The Commission also would like to state that it is concerned, and opposes that the regulation of real estate appraisal management companies be placed under the Commission's jurisdiction. The Commission is comprised of nine members, seven actively licensed real estate brokers and two public members. The Commissioners are not real estate appraisers and do not understand the necessary regulatory work of appraisers and appraisal management companies.

Thank you for this opportunity to provide written comments on Senate Concurrent Resolution No. 53.



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April 6, 2009

Senator Donna Mercado Kim, Chair  
Senator Shan S. Tsutsui, Vice-Chair  
Committee on Ways and Means

**Senate Concurrent Resolution 53  
Requesting the Auditor to Conduct a Review of the Regulation of Real Estate Appraisal  
Management Companies  
Wednesday, April 8, 2009, 9:00 AM**

The Hawaii Chapter of the Appraisal Institute would like to comment on this Resolution.

This Resolution requests that the Auditor conduct a review and assessment of the regulation of real estate appraisal management companies ("AMC").

**We believe the Auditor will find that State regulation of AMCs will provide proactive and necessary protection to homeowners and appraisers via a framework for State registration and oversight, standards of ethical behavior, disclosure, accountability, reporting and recourse.**

Appraisal management companies (AMC) are business entities that recruit and administer networks of real estate appraisers to fulfill real estate appraisal assignments on behalf of lenders. AMCs are third-party brokers of appraisal services that sit between banks and other mortgage originators and state licensed or certified appraisers.

While appraisal management companies have been in existence for many years, the industry has experienced dramatic growth as a result of outsourcing by financial institutions. The growth of the industry has resulted in numerous instances of abuse.

Currently, appraisal management companies are not required to register with any government agency and are not subject to any state or federal regulation specific to their activity. Because of this, no one is protected from questionable business practices and there are numerous ongoing lawsuits involving alleged unscrupulous practices of lenders and appraisal management companies.

We trust the Auditor will conclude that regulation of AMCs will promote ethical standards and behavior and accountability.

Thank you for this opportunity to comment.

Ted Yamamura  
Chair, Government Relations Committee  
Hawaii Chapter of the Appraisal Institute

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WAYS AND MEANS**

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AND MEMBERS OF THE COMMITTEE:**

My name is Trudy Nishihara and I serve as the Chairperson of the Real Estate Commission ("Commission"). I thank you for the opportunity to present comments on Senate Concurrent Resolution No. 53, requesting the Auditor to conduct a sunrise review of the regulation of real estate appraisal management companies.

This resolution is the result of section 1 of Senate Bill No. 1606, which proposed a new Hawaii Revised Statutes ("HRS") Chapter regulating Hawaii appraisal management companies. The Commission testified that, pursuant to section 26H-6, HRS, any new regulatory measure proposed shall be referred to the legislative auditor for a "sunrise review" analysis.

As section 26-H, HRS, requires that the Auditor conduct a sunrise review before enactment of a measure that would subject an unregulated profession or vocation to regulation, we strongly support this measure. The Auditor's analysis would set forth the probable effects of the proposed regulatory measure, assess whether its enactment is

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Thank you for this opportunity to provide written comments on Senate Concurrent Resolution No. 53.

# HAWAII FINANCIAL SERVICES ASSOCIATION

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April 8, 2009

Sen. Donna Mercado Kim, Chair  
and members of the Senate Committee on Ways and Means  
Hawaii State Capitol  
Honolulu, Hawaii 96813

Re: **Senate Concurrent Resolution 53**  
**Requesting the Auditor to Conduct a Review of the Regulation of Real Estate**  
**Appraisal Management Companies.**  
**Hearing Date/Time: Wednesday, April 8, 2009, 9:00 A.M.**

I am the attorney for the **Hawaii Financial Services Association** ("HFSA"). The HFSA is the trade association for Hawaii's financial services loan companies which are regulated by the Hawaii Commissioner of Financial Institutions under the Code of Financial Institutions (Chapter 412, Article 9 of the Hawaii Revised Statutes).

The HFSA wants to **comment** on this Resolution.

The purpose of this Resolution is to request that the Auditor conduct a review of the regulation of real estate appraisal management companies.

For the reasons stated below, an analysis of the appraisal management company ("AMC") industry by the Auditor using the policies in Hawaii Revised Statutes Sec. 26H-2 should conclude that State regulation of AMCs is neither necessary nor recommended. It should be noted that S.B. 1606 (Real Estate Appraisal Management Companies), which is mentioned in the Resolution, is being pushed by appraisers and not by AMCs.

Financial services loan companies and other mortgage lenders obtain real estate appraisals as part of the mortgage loan process. As stated in the Resolution, "real estate appraisal management companies are business entities administering a network of independent real estate appraisers to fulfill real estate appraiser assignments on behalf of mortgage lending institutional clients."

AMCs act on behalf of regulated lenders, which have outsourced the appraisal management process to AMCs as their agents. AMCs work with lenders and appraisers to ensure that an appraiser's work meets the lender's requirements. Lenders use AMCs as a "buffer" between lenders and appraisers to avoid improper pressure on appraisers. This system benefits consumers and appraisers. Unnecessarily regulating AMCs will likely increase the cost of appraisals, which will be passed on to consumers.

We are unaware of any factual finding or proof by a Hawaii governmental agency that demonstrates a need for State regulation of AMCs. Some appraisers claim that AMCs are unregulated, but that is a very narrow and inaccurate view of AMC operations and the obligations of AMCs to their lender clients. We understand that federal regulations require AMCs to adhere to the same standards and regulations that are required of their lender clients. AMCs are hired specifically to manage the entire appraisal process, including compliance with the Uniform Standards of Professional Appraisal Practices and with applicable federal banking guidances. Many lenders employ a chief appraiser to oversee AMC quality and appraisal compliance in general. The new Home Valuation Code of Conduct ("HVCC") recently adopted by Fannie Mae and Freddie Mac takes effect in May, 2009. HVCC has guidelines for AMCs and lenders on the issue of appraiser pressure. Recently, federal banking regulatory agencies have proposed updated guidelines to address matters relating to real estate appraisals and evaluations used to support real estate-related financial transactions. Regulation of AMCs by the State seems unwarranted.

Thank you for considering our comments.

  
MARVIN S.C. DANG  
Attorney for Hawaii Financial Services Association



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April 7, 2009

**The Honorable Donna Mercado Kim, Chair**

House Committee on Ways and Means  
State Capitol, Room 210  
Honolulu, Hawaii 96813

**RE: S.C.R.53 REQUESTING THE AUDITOR TO CONDUCT A REVIEW OF  
THE REGULATION OF REAL ESTATE APPRAISAL MANAGEMENT  
COMPANIES.**

**HEARING DATE: Wednesday, April 8, 2009 at 9:00 a.m.**

Aloha Chair Kim and Members of the Committee:

I am Myoung Oh, Government Affairs Director of the Hawai'i Association of REALTORS® ("HAR"), here to testify on behalf of HAR and our 9,600 members in Hawai'i. HAR supports S.C.R. 53, which requests the Auditor to provide a sunrise review of regulating appraisal management companies as required by Hawaii Revised Statutes section 26H-6.

Real Estate Appraisal Management Companies (AMC) serve as a third-party broker of appraisal services between a real estate client and appraisers and connect networks of independent contract appraisers who perform appraisal services to these clients.

HAR believes that those involved in the real estate transactions should be held to a high professional and ethical standard in servicing their clients. AMC serve a crucial role in real estate transactions and may require regulation, given that they are not currently subject to any state or federal regulatory requirements. HAR supports the Auditor's sunrise review of this area to determine the need for regulation of AMCs.

HAR looks forward to working with our state lawmakers in building better communities by supporting quality growth, seeking sustainable economies and housing opportunities, embracing the cultural and environmental qualities we cherish, and protecting the rights of property owners.

Mahalo for the opportunity to testify.