

MAR 18 2009

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# SENATE CONCURRENT RESOLUTION

URGING THE REAL ESTATE COMMISSION TO ALLOW DEVELOPERS AND  
ATTORNEYS TO SUBMIT CONDOMINIUM REGISTRATION FILINGS IN  
ELECTRONIC FORMAT.

1           WHEREAS, during the last two years, the Legislature has  
2 implemented "paperless" initiatives, with great success both in  
3 terms of reduction of paper usage and streamlining the  
4 legislative process; and

5  
6           WHEREAS, the public has access to many governmental  
7 services via the Internet, allowing individuals to file State  
8 income tax returns electronically, obtain Certificates of Good  
9 Standing for Hawaii businesses, register businesses, register to  
10 obtain a Hawaii state identification card, and perform many  
11 other tasks; and

12  
13           WHEREAS, similarly, other state and federal agencies have  
14 also initiated paperless filing procedures, such as electronic  
15 filing of income tax returns with the Internal Revenue Service,  
16 renewal of real estate licenses in various states, and  
17 submission of applications for many types of licenses; and

18  
19           WHEREAS, the federal judiciary, to a large extent, allows  
20 electronic filing of pleadings in federal courts, as over  
21 thirty-three million cases are on the federal case management  
22 systems, and more than four hundred thousand attorneys and  
23 others have filed documents over the Internet; and

24  
25           WHEREAS, the federal Department of Housing and Urban  
26 Development now permits a developer subject to the Interstate  
27 Land Sales Full Disclosure Act, 15 U.S.C. 1701 et seq., to  
28 submit subdivision registration documents via CD-ROM; and

29  
30           WHEREAS, even though the Real Estate Commission posts  
31 approved condominium public reports on its website in PDF  
32 format, it nonetheless still requires developers and their



1 attorneys to submit their condominium project registration  
2 materials in paper format; and

3  
4 WHEREAS, draft condominium public reports and supporting  
5 documentation can be several hundred pages long and can be  
6 expensive and cumbersome for the developer, its attorney, and  
7 the Real Estate Commission to produce and handle; and

8  
9 WHEREAS, upon receipt of the application documentation from  
10 a developer or its attorney, the Real Estate Commission must  
11 transmit the bulky materials to the private consultant retained  
12 by the Real Estate Commission via mail or courier or hold these  
13 materials for the consultant to pick up, which can unnecessarily  
14 delay processing of the condominium registration application;  
15 and

16  
17 WHEREAS, after the registration review process is  
18 completed, the supporting documents for each condominium project  
19 registration are held at the Real Estate Commission for a time  
20 and then are archived offsite, and retrieval for public or  
21 government agency viewing can be time-consuming; and

22  
23 WHEREAS, the Legislature believes that if the Real Estate  
24 Commission begins accepting application materials for  
25 condominium registration in electronic format, such as CD-ROM,  
26 this practice will: cut down on unnecessary delays if the Real  
27 Estate Commission sends application materials to its private  
28 consultants via electronic mail, as opposed to by regular mail  
29 or holding the materials for the consultants to pickup; save the  
30 cost and expense of reproducing and handling bulky submission  
31 materials; permit easy archiving of older condominium projects;  
32 and streamline the condominium registration process for the Real  
33 Estate Commission, its private consultants, and developers and  
34 their attorneys; now, therefore,

35  
36 BE IT RESOLVED by the Senate of the Twenty-fifth  
37 Legislature of the State of Hawaii, Regular Session of 2009, the  
38 House of Representatives concurring, that the Real Estate  
39 Commission is urged to accept filings for condominium  
40 registrations and supporting documents in CD-ROM or other  
41 electronic format compatible with chapter 489E, Hawaii Revised  
42 Statutes; and

43

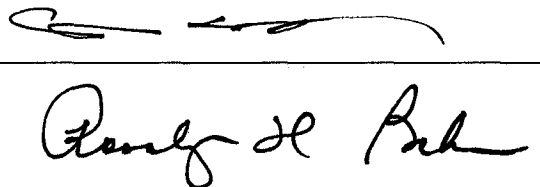


# S.C.R. NO. 96

1 BE IT FURTHER RESOLVED that the Chair of the Real Estate  
2 Commission is requested to report on the measures taken by the  
3 Real Estate Commission to accept condominium registration  
4 filings in electronic format, to the Legislature twenty days  
5 before the convening of the Regular Session of 2010; and  
6

7 BE IT FURTHER RESOLVED that certified copies of this  
8 Concurrent Resolution be transmitted to the Director of Commerce  
9 and Consumer Affairs and the Chair of the Real Estate  
10 Commission.  
11  
12  
13

OFFERED BY: \_\_\_\_\_



**PRESENTATION OF THE  
REAL ESTATE COMMISSION**

TO THE SENATE COMMITTEE ON  
COMMERCE AND CONSUMER PROTECTION

TWENTY-FIFTH LEGISLATURE  
Regular Session of 2009

Friday, April 3, 2009  
9:30 a.m.

**TESTIMONY ON SENATE CONCURRENT RESOLUTION NO. 96, URGING THE  
REAL ESTATE COMMISSION TO ALLOW DEVELOPERS AND ATTORNEYS TO  
SUBMIT CONDOMINIUM REGISTRATION FILINGS IN ELECTRONIC FORMAT.**

TO THE HONORABLE ROSALYN H. BAKER, 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. I thank you for the opportunity to present testimony on Senate Concurrent Resolution No. 96.

Senate Concurrent Resolution No. 96 urges the Commission to accept filings for condominium registrations and supporting documents in CD-ROM or other electronic format compatible with Chapter 489E, Hawaii Revised Statutes ("HRS"); and requests that the Chair of the Commission report on the measures taken by the Commission to accept condominium registration filings in electronic format, to the Legislature twenty days before the convening of the Regular Session of 2010.

The Commission understands the intent of this resolution but the Commission has some technical and budgetary concerns with the provisions of the bill as set forth herein and believes the resolution is unnecessary for the following reasons:

- The status reporting requirement is duplicative. The Commission is already committed to the electronic administration of the developer's public reports and reports annually to the legislature the progress and status of this program of work in its required annual report to the legislature pursuant to §514B-73 (d), HRS, relating to the management of the Condominium Education Trust Fund ("CETF").
- The Commission accepts a form of electronic condominium project filings. The Commission does not prohibit developers and their attorneys from individually electing and arranging with the Commission's condominium review consultants to have the condominium project registration application submitted to the consultants via electronic format. Four of Commission's twelve consultants have made such arrangements. These voluntary arrangements are consistent with Chapter 489E, HRS, and in particular with §489E-5 (a) and (b), HRS, and §489E-17, HRS, which encourage private agreements for the use of electronic formats and allow governmental agencies to determine whether, and the extent to which, it will create and retain electronic records and convert written records to electronic records.
- The Commission does not have funds to immediately address and implement a comprehensive, across the board system for accepting condominium registration filings in CD-ROM or other electronic format

compatible with Chapter 489E, HRS. Preliminary cost estimates to implement such a system are in the neighborhood of \$100,000 and are presently unbudgeted. Costs to the Commission's retained condominium consultants to receive the condominium project application and supporting documents are unknown and are dependent on the individual consultant's computer's ability to accept voluminous files. Only four of 12 of the Commission's retained condominium consultants have indicated their willingness to receive the condominium project filings in electronic format.

- Assuming the Condominium Education Trust Fund is the primary funding source to implement the proposed electronic filing system, at the current level of developers' contribution of \$5 and an association's contribution for each unit of \$2 to the CETF, the fund will be depleted quicker than the current expected budget shortfall of approximately \$17,873 by 2012 and \$158,854 by 2015.
- For the Commission and the Real Estate Branch of the Professional and Vocational Licensing Division, there are additional concerns with the storage, maintenance, retention, and access of such electronic filings of condominium projects which would need to be addressed.
- Filings for condominium registrations and supporting documents in CD-ROM or other electronic format compatible with Chapter 489E, HRS, are complex, require a statutory compliance review and rewrites of disclosure

information, unlike the circumstances underlying the electronic filings cited in the resolution.

For these reasons, the Commission believes Senate Concurrent Resolution No. 96 is unnecessary. Thank you for the opportunity to present testimony.

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<sup>1</sup>Admitted in Hawaii and California

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District of Columbia



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and exceptional service.

April 2, 2009

VIA E-MAIL [senbaker@capitol.hawaii.gov](mailto:senbaker@capitol.hawaii.gov)

Senator Rosalyn H. Baker  
Chairperson, Senate Commerce and Consumer Protection Committee  
Hawaii State Capitol  
Honolulu, Hawaii 96813

Re: Testimony of the Real Property & Financial Services Section of  
the Hawaii State Bar Association on SCR 96

Dear Senator Baker & Committee Members:

I am the Chair of the Real Property & Financial Services Section of the Hawaii State Bar Association. On behalf of the Board of Directors of our Section I am writing to express our support for the intent of Senate Concurrent Resolution No. 96. Filing of condominium registration applications on CD-ROM or by other electronic means would make the registration process simpler, faster and more secure, and would also make it easier to archive and access registrations once they are completed. According, we support this important change to the current registration requirements. Thank you for this opportunity to testify.

Sincerely,

A handwritten signature in black ink, appearing to read 'G. Kugle'.

Gregory W. Kugle  
Chair, Real Property & Financial Services  
Section HSBA

GWK:rt  
[216430.1]



LAWRENCE N. C. ING  
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a Limited Liability Law Partnership

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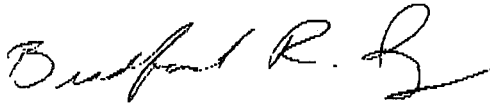
April 2, 2009

Rosalyn H. Baker, Senator  
Chairperson  
Commerce and Consumer Protection Committee  
Fax: (808) 586-6071

Dear Senator Baker:

My name is Bradford R. Ing and I am a practicing lawyer on the Island of Maui. I am writing to express my support for the passage of SCR 95 and SCR96 in its current form, which will be before the commerce and Consumer Protection Committee tomorrow April 3, 2009. Thank you for your time and consideration on this matter.

Sincerely,



Bradford R. Ing

JOEL ESER RICHMAN  
ATTORNEY AT LAW

April 2, 2009

Senator Rosalyn H. Baker  
Chairperson, Commerce and Consumer Protection Committee  
State of Hawaii

Via Fax to 808-586-6071

Re: Senate Concurrent Resolution No. 95  
Senate Concurrent Resolution No. 96

Dear Senator Baker:

I am writing to state my support for the above two resolutions - S.C.R. No. 95 requesting the Real Estate Commission to promulgate and implement administrative rules for H.R.S. Chapter 514B, and S.C.R. No. 96 requesting the Real Estate Commission to accept condominium registration filings in electronic format.

I have been a practicing attorney on Maui since 1985, and have represented condominium developers since the recodification took effect in 2006. My support of these two resolutions is based on my belief that their passage will benefit developers, consumers and attorneys involved in the formation and purchase of condominiums in Hawaii. The need for revised rules to accommodate the changes contained in H.R.S. Chapter 514B is obvious as well as overdue, and the cost savings to developers, attorneys and (as a result) to consumers which would result from electronic filing of condominium registration documents will be substantial. In addition, electronic filing will save trees and allow our land-fills to last a little longer

Respectfully submitted,



JOEL ESER RICHMAN

JER/tt

LAWRENCE N. C. ING  
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April 2, 2009

VIA EMAIL

SENATOR ROSALYN H BAKER  
SENATOR KALANI ENGLISH  
SENATOR SHAN S TSUTSUI

Re: Hearings on SCR 95 and SCR 96

Dear Senators:

The undersigned practices law on the Island of Maui and express my support for the passage of **SCR 95 and SCR 96** in its current form, which will be before the Commerce and Consumer Protection Committee tomorrow, April 3, 2009.

Your favorable action on this matter is appreciated.

Thank you.

Sincerely,



LAWRENCE N. C. ING

LAWRENCE N. C. ING  
DAVID M. JORGENSEN

JENNIFER M. P. E. OANA  
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April 2, 2009

**VIA E-MAIL ([senbaker@capitol.hawaii.gov](mailto:senbaker@capitol.hawaii.gov))  
AND FACSIMILE (808 586-6071)**

Rosalyn H. Baker, Senator  
Chairperson  
Commerce and Consumer Protection Committee

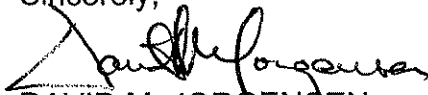
Aloha Senator Baker:

My name is David M. Jorgensen and, as you may recall, I'm the Managing Partner with the Wailuku, Maui law firm of Ing & Jorgensen.

I've been practicing law on Maui since 1992. In my practice, I do a fair amount of condominium work and I'm writing to express my strong support for the passage of SCR 95 and SCR96 in its current form, which will be before your Commerce and Consumer Protection Committee tomorrow, April 3, 2009.

I hereby request your support of SCR 95 and SCR96 and I thank you for your time and consideration on this matter.

Sincerely,



DAVID M. JORGENSEN  
Managing Partner

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# CASE LOMBARDI & PETTIT

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Bruce C. Bigelow (1946-2001)

† A Law Corporation

April 2, 2009

The Honorable Rosalyn H. Baker, Chair  
and Members of the Committee on  
Commerce and Consumer Protection  
Senate  
State Capitol  
Honolulu, HI 96813

Re: Senate Concurrent Resolution No. 96

Dear Chair Baker and Members of the Committee:

We appreciate the opportunity to testify **in strong support** of Senate Concurrent Resolution 96, urging the Real Estate Commission to allow developers and attorneys to submit condominium registration filings in electronic format.

Our firm represents many condominium developers, and files many condominium registrations every year. Each condominium registration requires numerous lengthy documents, all of which currently must be printed out and bound together when submitted. This requires hundreds, sometimes thousands, of sheets of paper, virtually all of which are produced on computers in electronic format. Allowing submission of condominium registrations in electronic format will greatly reduce the amount of paper used, and will allow large savings in time and money to produce the condominium registrations. In addition, we believe that allowing submission of condominium registrations in electronic format will increase the efficiency of condominium consultants in reviewing the filings.

Furthermore, submitting condominium registrations electronic format will save the Real Estate Commission enormous amounts of space currently used to store paper copies, and would allow for backup copies of the documents to be more easily saved in a secure location in case of a natural disaster.

The Honorable Rosalyn H. Baker, Chair  
and Members of the Committee on  
Commerce and Consumer Protection  
Senate  
April 2, 2009  
Page 2

For the foregoing reasons, we urge you to adopt Senate Concurrent Resolution No. 96.

Very truly yours,

**CASE LOMBARDI & PETTIT**

A handwritten signature in black ink, appearing to be "Dennis M. Lombardi", written over a horizontal line.

Dennis M. Lombardi  
David G. Brittin

09-  
DML:DGB