

MAR 18 2009

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## SENATE 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  
33 attorneys to submit their condominium project registration  
34 materials in paper format; and



1 WHEREAS, draft condominium public reports and supporting  
2 documentation can be several hundred pages long and can be  
3 expensive and cumbersome for the developer, its attorney, and  
4 the Real Estate Commission to produce and handle; and  
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6 WHEREAS, upon receipt of the application documentation from  
7 a developer or its attorney, the Real Estate Commission must  
8 transmit the bulky materials to the private consultant retained  
9 by the Real Estate Commission via mail or courier or hold these  
10 materials for the consultant to pick up, which can unnecessarily  
11 delay processing of the condominium registration application;  
12 and  
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14 WHEREAS, after the registration review process is  
15 completed, the supporting documents for each condominium project  
16 registration are held at the Real Estate Commission for a time  
17 and then are archived offsite, and retrieval for public or  
18 government agency viewing can be time-consuming; and  
19

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


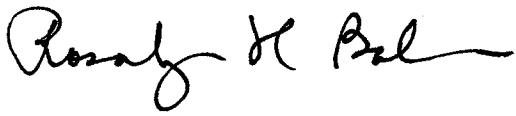
33 BE IT RESOLVED by the Senate of the Twenty-fifth  
34 Legislature of the State of Hawaii, Regular Session of 2009,  
35 that the Real Estate Commission is urged to accept filings for  
36 condominium registrations and supporting documents in CD-ROM or  
37 other electronic format compatible with chapter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

40 BE IT FURTHER RESOLVED that the Chair of the Real Estate  
41 Commission is requested to report on the measures taken by the  
42 Real Estate Commission to accept condominium registration  
43 filings in electronic format, to the Legislature twenty days  
44 before the convening of the Regular Session of 2010; and



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BE IT FURTHER RESOLVED that certified copies of this Resolution be transmitted to the Director of Commerce and Consumer Affairs and the Chair of the Real Estate Commission.

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 RESOLUTION NO. 113, 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 Resolution No. 113.

Senate Resolution No. 113 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

Testimony on Senate Resolution No. 113  
Friday, April 3, 2009  
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information, unlike the circumstances underlying the electronic filings cited  
in the resolution.

For these reasons, the Commission believes Senate Resolution No. 113 is  
unnecessary. Thank you for the opportunity to present testimony.

# CASE LOMBARDI & PETTIT

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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 Resolution No. 113

Dear Chair Baker and Members of the Committee:

We appreciate the opportunity to testify **in strong support** of Senate Resolution 113, 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.

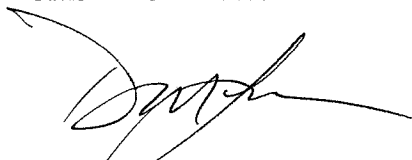


The Honorable Rosalyn H. Baker, Chair  
and Members of the Committee on  
Commerce and Consumer Protection  
Senate  
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For the foregoing reasons, we urge you to adopt Senate Resolution No. 113.

Very truly yours,

**CASE LOMBARDI & PETTIT**

A handwritten signature in black ink, appearing to read "Dennis M. Lombardi", with a long horizontal flourish extending to the right.

Dennis M. Lombardi  
David G. Brittin

09-  
DML:DGB