

1 (3) The request for hearing shall name one or more
2 parties that participated in the mediation as an
3 adverse party and identify the statutory
4 provisions in the dispute; and

5 (4) The subject matter of the hearing before the
6 hearings officer may include any matter that was
7 the subject of the mediation pursuant to section
8 514B-161.

9 (b) The office of evaluative mediation shall accept no
10 more than thirty requests for hearing per fiscal year under this
11 section.

12 (c) The party requesting the hearing shall pay a filing
13 fee of \$25 to the department of commerce and consumer affairs,
14 and the failure to do so shall result in the request for hearing
15 being rejected for filing. All other parties shall file a
16 response, accompanied by a filing fee of \$25, to the department
17 of commerce and consumer affairs, within twenty days of being
18 served with the request for hearing.

19 (d) The mediator, as chosen from a pool of pre-selected
20 qualified evaluative mediators by the department of commerce and
21 consumer affairs, shall have jurisdiction to review any request
22 for hearing filed under subsection (a). The mediator shall have



1 the power to issue subpoenas, administer oaths, hear testimony,
2 find facts, make conclusions of law, and issue written
3 directions that shall be final and conclusive, unless a party
4 adversely affected by the decision files an appeal in the
5 circuit court under section 91-14.

6 (e) Rules and practices and procedure of the department of
7 commerce and consumer affairs shall govern all proceedings
8 brought under this section. The burden of proof, including the
9 burden of producing the evidence and the burden of persuasion,
10 shall be upon the party initiating the proceeding. Proof of a
11 matter shall be by a preponderance of the evidence.

12 (f) Hearings to review and make determinations upon any
13 requests for hearings filed under subsection (a) shall commence
14 within sixty days following the receipt of the request for
15 hearing. The mediator shall issue written findings of fact,
16 conclusions of law, and an order no later than ninety days after
17 the hearing has been concluded.

18 (g) Each party to the hearing shall bear the party's own
19 costs, including attorney's fees.

20 (h) Any party to a proceeding under this section who is
21 aggrieved by a final decision of a hearings officer may apply
22 for judicial review of that decision pursuant to section 91-14;



1 provided that any party seeking judicial review pursuant to
2 section 91-14 shall be responsible for the costs of preparing
3 the record on appeal, including the costs of preparing the
4 transcript of the hearing.

5 (i) The department of commerce and consumer affairs may
6 adopt rules and forms, pursuant to chapter 91, to effectuate the
7 purpose of this section and to implement its provisions.

8 SECTION 2. Section 514B-71, Hawaii Revised Statutes, is
9 amended by amending subsection (a) to read as follows:

10 "[§514B-71] **Condominium education trust fund.** (a) The
11 commission shall establish a condominium education trust fund
12 that the commission may use for educational purposes.

13 Educational purposes shall include financing or promoting:

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

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

20 (3) Expeditious and inexpensive procedures for resolving
21 association disputes[-]; and



1 (4) Expenses of the evaluative mediation program
 2 established under chapter 514B- ."

3 SECTION 3. Statutory material to be repealed is bracketed
 4 and stricken. New statutory material is underscored.

5 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:

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Carina W. Lang
Tom Brower
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JAN 28 2009



Report Title:

Condominiums

Description:

Establishes the evaluative mediation program.

