

**PRESENTATION OF THE  
REAL ESTATE COMMISSION**

TO THE HOUSE COMMITTEE ON  
FINANCE

TWENTY-SEVENTH LEGISLATURE  
Regular Session of 2013

Wednesday, March 27, 2013  
4:45 p.m.

**TESTIMONY ON SENATE BILL NO. 505, S.D. 2, H.D. 1, RELATING TO  
CONDOMINIUMS.**

TO THE HONORABLE SYLVIA LUKE, CHAIR,  
AND MEMBERS OF THE COMMITTEE:

My name is Nikki Senter and I am the Chairperson of the Hawaii Real Estate Commission ("Commission"). The Commission appreciates the opportunity to present testimony in support of Senate Bill No. 505, S.D. 2, H.D. 1, Relating to Condominiums, subject to amending the effective date.

Since 1990, pursuant to the then section 514A-131 (a) (3), HRS, and now section 514B-71 (a) (3), HRS<sup>1</sup>, the Commission has strongly supported and continues to subsidize mediation of condominium disputes with funds from the Condominium Education Trust Fund (CETF). Senate Bill No. 505, S.D. 2, H.D. 1, provides the additional support necessary for making the mediation program for the benefit of the condominium community more "robust." House Bill No. 24, H.D. 2, appears to be the companion bill to Senate Bill No. 505, S.D. 2, H.D. 1. House Bill No. 24, H.D. 2, was

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<sup>1</sup> **[§514B-71] Condominium education trust fund.** (a) The commission shall establish a condominium education trust fund that the commission may use for educational purposes. 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) Expeditious and inexpensive procedures for resolving association disputes. (Emphasis added.)**

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

not heard by the appropriate Senate committee. From an administrative standpoint, it appears that Senate Bill No. 505, S.D. 2, H.D. 1, provides the Commission with the necessary administrative framework for supporting and carrying out a CETF subsidized mediation program.

Specifically, Senate Bill No. 505, S.D. 2, H.D. 1, amongst other provisions, specifies the total additional CETF fee payable into the CETF at \$3 per biennium and at \$1.50 annually; and provides a definition of "professionally trained mediators" to include retired judges and individuals who have professional mediation training.

The Commission strongly supports Senate Bill No. 505, S.D. 2, H.D. 1, and respectfully requests this Committee to pass out or advance Senate Bill No. 505, S.D. 2, H.D. 1, with an earlier effective date than July 1, 2050. Thank you for the opportunity to present testimony and comments on Senate Bill No. 505, S.D. 2, H.D. 1.



P.O. Box 976  
Honolulu, Hawaii 96808

March 25, 2013

Honorable Sylvia Luke  
Honorable Scott Y. Nishimoto  
Committee on Finance  
415 South Beretania Street  
Honolulu, Hawaii 96813

Re: **SB 505 SD2 HD1/SUPPORT**

Dear Chair Luke, Vice-Chair Nishimoto and Committee Members:

I chair the CAI Legislative Action Committee. CAI supports SB 505 SD2 HD1. Its companion, HB24 HD2, has crossed over but SB 505 SD2 HD1 is preferred.

The first thing to note is that SB 505 SD2 HD1 involves the expenditure of **zero** public dollars. The proposed increase to the condominium education trust fund is to be paid entirely by private funds. Developers and condominium associations pay into the fund through registration fees.

CAI is the relevant national industry organization representing condominium associations, so its support for this initiative should be regarded as significant. The missing piece in the search for consumer-friendly means of resolving condominium-related disputes has always been funding for mediation. SB 505 SD2 HD1 supplies that deficiency without the expenditure of general funds.

SB 505 SD2 HD1 takes into account concerns raised by the Real Estate Commission before a prior committee. For example, the funding increase was delayed to accommodate REC's registration cycle.

REC's February 1, 2013 testimony stated that there has been "a decline in the use of mediation" and suggested that mediation was "an educational purpose not widely used by its beneficiaries[.]" The February 1, 2013 testimony of the Executive Director of the Mediation Center of the Pacific, Inc. explained why. Mediators with subject matter expertise are better able to address condominium-related disputes.

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SB 505 SD2 HD1 will enable consumers to access professional mediation services that would otherwise be unaffordable. This should enable the resolution of more condominium-related disputes. That, in turn, should reduce the incidence of litigation related to such disputes.

The non-adversarial resolution of condominium-related disputes is especially important because of the value of preserving relationships in communities. SB 505 SD2 HD1 serves important policy objectives by enabling broader use of professional mediators.

That is, professional mediators should be available to consumers, on a subsidized basis, when complex, challenging and vexing problems arise in the condominium context. SB 505 SD2 HD1 provides the funds to subsidize such access.

Many retired judges, for example, serve as professional mediators. They quite reasonably charge rates corresponding to their years of experience in law practice and on the bench. There is an obvious benefit to consumers by making the services of professional mediators available to consumers and distributing the expense throughout the entire condominium community via registration fees paid into the trust fund.

Many litigation cases are referred to mediation by judges anyway. It is better to provide a robust mediation opportunity to consumers in the first place, so condominium-related disputes can be resolved before legal action is considered. Moreover, with the support of SB 505 SD2 HD1, courts faced with condominium-related disputes will have the option to refer such disputes back to mediation knowing that the cost of mediation will not be a burden on consumers.

In summary, SB 505 SD2 HD1 will provide real benefit to consumers. The funding for this initiative will come entirely from condominium associations and developers. General funds are not involved. REC discretion over other trust funds is not impinged.

CAI represents the condominium industry, and endorses this approach. We respectfully request the Committee to pass SB 505 SD2 HD1.

Very truly yours,

*Philip Nerney*

Philip Nerney

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [FINTestimony](#)  
**Cc:** [twalkey@clearwire.net](mailto:twalkey@clearwire.net)  
**Subject:** Submitted testimony for SB505 on Mar 27, 2013 16:45PM  
**Date:** Tuesday, March 26, 2013 11:47:12 AM

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**SB505**

Submitted on: 3/26/2013

Testimony for FIN on Mar 27, 2013 16:45PM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Ted Walkey	Individual	Support	No

Comments: The mediator must have knowledge of the subject matter.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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