
HOUSE CONCURRENT RESOLUTION

REQUESTING THE REAL ESTATE COMMISSION TO STUDY THE EFFECTIVENESS OF ITS EXISTING DISPUTE RESOLUTION PROCESS AND CONSUMER ASSISTANCE PROGRAM FOR CONDOMINIUM OWNERS AND ASSOCIATIONS, AND POSSIBLE EXPANSION OF THESE SERVICES TO OTHER TYPES OF HOMEOWNERS ASSOCIATIONS.

1 WHEREAS, the Real Estate Commission has been required since
2 2013 to use the condominium education trust fund to support
3 mediation of condominium related disputes pursuant to section
4 514B-71(a) (4), Hawaii Revised Statutes; and

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6 WHEREAS, this particular use of the condominium education
7 trust fund is subsidized by an additional increase in the annual
8 condominium education trust fund fee pursuant to section 514B-
9 72(a) (2), Hawaii Revised Statutes; and

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11 WHEREAS, since 2013, the Real Estate Commission has started
12 to use an evaluative mediation service as a means of dispute
13 resolution; and

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15 WHEREAS, evaluative mediation is a style of mediation that
16 employs trained mediators who possess subject matter expertise
17 in various areas of the law; and

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19 WHEREAS, the Legislature continues to receive complaints
20 from condominium owners regarding unresolved disputes with their
21 condominium associations; and

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23 WHEREAS, given that the evaluative mediation dispute
24 resolution program has been operating for the past three years,
25 the Real Estate Commission is in the best position at this point
26 in time to evaluate the efficacy of the program and provide a
27 report detailing its successes and shortcomings; and



1 WHEREAS, in addition to the Real Estate Commission's
2 evaluative mediation dispute resolution program, the Director of
3 Commerce and Consumer Affairs may appoint, pursuant to section
4 514B-63, Hawaii Revised Statutes, condominium specialists to
5 assist consumers with information, advice, and referral on any
6 matter relating to condominium associations or other issues
7 concerning condominiums; and
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9 WHEREAS, while the establishment of a condominium ombudsman
10 has been proposed as an additional option to aid in the
11 resolution of condominium related disputes, it seems that
12 existing condominium specialist positions may already be serving
13 as de facto condominium ombudspersons, thus obviating the need
14 to hire additional staff or increase the condominium education
15 trust fund fee paid by condominium associations; and
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17 WHEREAS, homeowners who are part of planned community
18 associations, cooperative housing corporations, or other types
19 of homeowners associations face similar dispute problems; now,
20 therefore,
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22 BE IT RESOLVED by the House of Representatives of the
23 Twenty-eighth Legislature of the State of Hawaii, Regular
24 Session of 2016, the Senate concurring, that the Real Estate
25 Commission is requested to study the effectiveness of its
26 existing dispute resolution process and consumer assistance
27 program for condominium owners and associations; and
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29 BE IT FURTHER RESOLVED that the Real Estate Commission is
30 requested to specifically consider issues such as:
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- 32 (1) The efficacy of its evaluative mediation dispute
33 resolution program to determine the program's
34 successes and shortcomings;
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- 36 (2) If evaluative mediation dispute resolution program
37 shortcomings are identified, how the program can be
38 amended to eliminate the shortcomings and increase its
39 effectiveness and accessibility at little to no
40 additional cost to condominium owners and
41 associations;
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- 43 (3) If condominium specialists who are appointed pursuant
44 to section 514B-63, Hawaii Revised Statutes, to assist



1 consumers with information, advice, and referral on
2 any matter relating to condominium associations or
3 other issues concerning condominiums are fulfilling
4 the intended purpose of their enabling statute;

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6 (4) If the Real Estate Commission concludes that section
7 514B-63, Hawaii Revised Statutes, is presently too
8 narrowly drawn to enable condominium specialist
9 positions to perform functions similar to that of an
10 ombudsman, what recommended actions would be necessary
11 to achieve this objective; and

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13 (5) Whether the evaluative mediation dispute resolution
14 process and condominium specialist/ombudsman position
15 responsibilities should be expanded to include
16 jurisdiction over other types of homeowners
17 associations, including but not limited to planned
18 community associations and cooperative housing
19 corporations, and if so, recommendations on how to
20 accomplish this objective and the costs associated
21 therewith; and

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23 BE IT FURTHER RESOLVED that the Real Estate Commission is
24 requested to submit a report of its findings and
25 recommendations, including any proposed legislation, to the
26 Legislature not later than twenty days prior to the convening of
27 the Regular Session of 2017; and

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29 BE IT FURTHER RESOLVED that certified copies of this
30 Concurrent Resolution be transmitted to the Chairperson of the
31 Real Estate Commission and the Director of Commerce and Consumer
32 Affairs.

