
HOUSE 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

28 WHEREAS, in addition to the Real Estate Commission's
29 evaluative mediation dispute resolution program, the Director of
30 Commerce and Consumer Affairs may appoint, pursuant to section



1 514B-63, Hawaii Revised Statutes, condominium specialists to
2 assist consumers with information, advice, and referral on any
3 matter relating to condominium associations or other issues
4 concerning condominiums; and

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6 WHEREAS, while the establishment of a condominium ombudsman
7 has been proposed as an additional option to aid in the
8 resolution of condominium related disputes, it seems that
9 existing condominium specialist positions may already be serving
10 as de facto condominium ombudspersons, thus obviating the need
11 to hire additional staff or increase the condominium education
12 trust fund fee paid by condominium associations; and

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14 WHEREAS, homeowners who are part of planned community
15 associations, cooperative housing corporations, or other types
16 of homeowners associations face similar dispute problems; now,
17 therefore,

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19 BE IT RESOLVED by the House of Representatives of the
20 Twenty-eighth Legislature of the State of Hawaii, Regular
21 Session of 2016, that the Real Estate Commission is requested to
22 study the effectiveness of its existing dispute resolution
23 process and consumer assistance program for condominium owners
24 and associations; and

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26 BE IT FURTHER RESOLVED that the Real Estate Commission is
27 requested to specifically consider issues such as:

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29 (1) The efficacy of its evaluative mediation dispute
30 resolution program to determine the program's
31 successes and shortcomings;
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33 (2) If evaluative mediation dispute resolution program
34 shortcomings are identified, how the program can be
35 amended to eliminate the shortcomings and increase its
36 effectiveness and accessibility at little to no
37 additional cost to condominium owners and
38 associations;
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40 (3) If condominium specialists who are appointed pursuant
41 to section 514B-63, Hawaii Revised Statutes, to assist
42 consumers with information, advice, and referral on
43 any matter relating to condominium associations or



1 other issues concerning condominiums are fulfilling
2 the intended purpose of their enabling statute;
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4 (4) If the Real Estate Commission concludes that section
5 514B-63, Hawaii Revised Statutes, is presently too
6 narrowly drawn to enable condominium specialist
7 positions to perform functions similar to that of an
8 ombudsman, what recommended actions would be necessary
9 to achieve this objective; and

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

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

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

