

JAN 20 2017

A BILL FOR AN ACT

RELATING TO CONDOMINIUMS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

4 "CHAPTER

5 CONDOMINIUM DISPUTE RESOLUTION COMMISSION

6 § -1 Definitions. As used in this chapter, unless the
7 context otherwise requires:

8 "Association" shall have the same meaning as that term is
9 defined in section 514B-3.

10 "Commission" means the condominium dispute resolution
11 commission.

12 "Department" means the department of commerce and consumer
13 affairs.

14 "Unit" shall have the same meaning as that term is defined
15 in section 514B-3.

16 § -2 Condominium dispute resolution commission. (a)
17 There is created a condominium dispute resolution commission



1 within the department of commerce and consumer affairs for
2 administrative purposes. The commission shall consist of seven
3 voting members who shall be citizens of the United States, shall
4 have resided in the State for at least three years preceding
5 appointment, and shall be appointed by the governor in
6 accordance with section 26-34; provided that:

7 (1) Two members shall be unit owners who have resided in
8 their unit for at least three years;

9 (2) Two members shall be members of an association board;

10 (3) One member shall be an attorney licensed to practice
11 law in the State, preferably an attorney with real
12 estate law experience;

13 (4) One member shall be a member of the real estate
14 commission; and

15 (5) One member shall be a member of the public.

16 The director of commerce and consumer affairs, or the
17 director's designee shall be an ex officio, nonvoting member of
18 the commission.

19 Three members shall be appointed initially for a term of
20 three years, two members shall be appointed for a term of two
21 years, and two members shall be appointed for a term of one



1 year. Thereafter, the terms of office of each member shall be
2 three years. No member shall serve more than two, three-year
3 terms of office. Any vacancy in the commission shall be filled
4 by appointment for the unexpired term.

5 (b) The members of the commission shall serve without pay
6 but shall be reimbursed for their actual and necessary expenses,
7 including travel expenses, incurred in carrying out their
8 duties.

9 (c) Any action taken by the commission shall be approved
10 by a simple majority of its members. Four members shall
11 constitute a quorum to do business.

12 **§ -3 Commission meetings.** (a) The director of commerce
13 and consumer affairs shall provide suitable quarters for
14 meetings of the commission and for the transaction of its other
15 business.

16 (b) The commission shall meet no less than four times each
17 year to be held at times agreed upon by the members and at a
18 place as provided by the director of commerce and consumer
19 affairs under subsection (a); provided that a meeting may be
20 called at any time by a simple majority of the members of the
21 commission.



1 (c) All meetings of the commission shall be conducted in
2 accordance with chapter 92.

3 § -4 Duties and powers of the commission. The
4 commission:

5 (1) Shall carry out those powers and duties otherwise
6 conferred upon the real estate commission with regard
7 to alternative dispute resolution under chapters 514A
8 and 514B;

9 (2) Shall adopt, amend, or repeal rules as it may deem
10 proper to effectuate this chapter and carry out its
11 purpose. All rules shall be approved by the governor
12 and the director of commerce and consumer affairs, and
13 when adopted pursuant to chapter 91 shall have the
14 force and effect of law;

15 (3) Shall enforce this chapter and rules adopted pursuant
16 thereto;

17 (4) Shall refer complaints regarding the alternative
18 dispute resolution process or disputes between an
19 association and unit owner to the commission
20 ombudsman, receive reports and recommendations of
21 action made by the commission ombudsman regarding a



- 1 dispute, and consider the commission ombudsman's
2 report and recommendation when making decisions
3 considering the dispute;
- 4 (5) Shall report to the governor and the legislature
5 relevant information regarding alternative dispute
6 resolution under its jurisdiction, through the
7 director of commerce and consumer affairs annually,
8 and at other times and in other manners as the
9 governor or the legislature may require concerning its
10 activities;
- 11 (6) May publish and distribute pamphlets and circulars,
12 produce seminars and workshops, hold meetings in all
13 counties, and require other education regarding any
14 information as is proper to further the accomplishment
15 of the purpose of this chapter;
- 16 (7) May hire employees necessary to assist in the
17 performance of its duties without regard to the
18 requirements of chapter 76;
- 19 (8) May enter into contract or contracts with qualified
20 persons to assist the commission in effectuating the
21 purpose of this chapter; and



1 (9) May charge a fee to associations in accordance with
2 section -5.

3 § -5 Fees. The commission may charge fees to cover the
4 costs of the commission ombudsman established under section -
5 6; provided that the commission shall not charge more than \$4.25
6 per unit belonging to the association. All fees collected under
7 this section shall be deposited into the condominium dispute
8 resolution commission special fund.

9 § -6 Commission ombudsman; established; salary. (a)
10 The commission, by a majority vote, shall appoint a commission
11 ombudsman who shall serve for a period of five years and
12 thereafter until a successor shall have been appointed. A
13 commission ombudsman may be reappointed but may not serve for
14 more than two terms. The commission, by a majority vote, may
15 remove a commission ombudsman but only for neglect of duty,
16 misconduct, or disability. The commission ombudsman shall be
17 hired without regard to chapter 76. If the commission ombudsman
18 dies, resigns, or is removed from office, the commission shall
19 immediately appoint a new ombudsman for a full term.

20 (b) The salary of the commission ombudsman shall be
21 established by the commission in consultation with the



1 department of human resources development, but shall not exceed
2 the salary of the deputy director of the department of commerce
3 and consumer affairs. The salary of the commission ombudsman
4 shall be paid for from the condominium dispute resolution
5 commission special fund.

6 § -7 Commission ombudsman; powers and duties. The
7 commission ombudsman:

- 8 (1) Shall receive and investigate any complaints regarding
9 disputes between an association and a unit owner or
10 any complaints referred to the ombudsman by the
11 commission;
- 12 (2) May investigate on the ombudsman's own motion if the
13 ombudsman reasonably believes that an appropriate
14 subject for investigation exists;
- 15 (3) Shall establish procedures for receiving and
16 processing complaints, conducting investigations, and
17 reporting the ombudsman's findings. However, the
18 ombudsman may not levy fees for the submission or
19 investigation of complaints;
- 20 (4) May make inquiries and obtain information as the
21 ombudsman thinks fit in conducting an investigation;



1 (5) Shall maintain secrecy in respect to all matters and
2 the identities of the complainants or witnesses except
3 so far as disclosures may be necessary to enable the
4 ombudsman to carry out the ombudsman's duties and to
5 support the ombudsman's recommendations;

6 (6) Shall submit a report to the commission containing the
7 findings of and recommendations for any investigation
8 conducted;

9 (7) Shall submit to the governor, legislature and the
10 commission an annual report discussing the ombudsman's
11 activities under this chapter, including any actions
12 taken and recommendations made by the ombudsman; and

13 (8) May hire any necessary staff without regard to chapter
14 76.

15 § -8 Commission ombudsman; notice to complainant and
16 commission. (a) The commission ombudsman shall provide notice
17 to the complainant and the commission upon initiation of an
18 investigation.

19 (b) Upon completion of an investigation, the commission
20 ombudsman shall notify the complainant and the commission and



1 provide a report of the commission ombudsman's findings and
2 recommendations to the complainant and commission.

3 § -9. Condominium dispute resolution commission special
4 fund. (a) There is established a condominium dispute
5 resolution commission special fund into which shall be deposited
6 any moneys appropriated to the fund by the legislature and any
7 fees collected by the commission pursuant to section -5.

8 (b) Moneys in the special fund shall be used for the
9 salary of the commission ombudsman. Any moneys in the special
10 fund unencumbered for the salary of the commission ombudsman may
11 be used by the commission or the ombudsman to carry out the
12 purposes of this chapter, including hiring employees,
13 specialists, and consultants necessary to assist in the
14 performance of the commission's or commission ombudsman's
15 duties.

16 (c) Moneys deposited into or appropriated to the special
17 fund shall remain available until the moneys are obligated or
18 until the special fund is terminated.

19 (d) If the special fund is terminated, all funds shall be
20 transferred to the general fund; provided that all unexpended or
21 unencumbered balances shall be disbursed in accordance with any



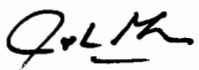
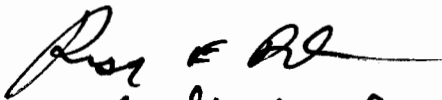


1 requirements set by funding sources and for purposes consistent
2 with this chapter.

3 (e) The commission shall submit an annual report on the
4 status of the condominium dispute resolution commission special
5 fund to the legislature, no later than twenty days prior to the
6 convening of each regular session of the legislature. The
7 annual report shall include the total amount of moneys deposited
8 to and distributed from the special fund, reasons and amounts
9 for each distribution, and balances remaining on June 30 of each
10 year."

11 SECTION 2. This Act shall take effect upon its approval.

12

INTRODUCED BY: 



S.B. NO. 165

Report Title:

Condominium Disputes; Commission; Ombudsman; Fee

Description:

Creates the Condominium Dispute Resolution Commission to address disputes between a condominium owner and condominium association. Establishes a Commission Ombudsman. Allows the Commission to assess fees to pay for the Commission Ombudsman.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

