

# SB200

Measure Title: RELATING TO CONDOMINIUMS.

Report Title: Condominiums; Binding Arbitration; Condominium Education Trust Fund Fee

Description: Allows annual condominium education trust fund fees to be used for binding arbitration of condominium disputes.

Companion:

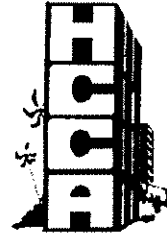
Package: None

Current Referral: CPH, WAM

Introducer(s): KIDANI, BAKER, ESPERO, GALUTERIA, INOUYE, KEITH-AGARAN, NISHIHARA, SHIMABUKURO, S. Chang, Dela Cruz, Ruderman



**Hawaii Council of Associations  
of Apartment Owners**  
**DBA: Hawaii Council of Community Associations**  
1050 Bishop Street, #366, Honolulu, Hawaii 96813



February 2, 2017

Sen. Rosalyn Bakery, Chair  
Sen. Clarence Nishihara, Vice-Chair  
Senate Committee on Commerce, Consumer Protection & Health

Re: Testimony in Support (with comments) of  
SB200 RELATING TO CONDOMINIUMS  
Hearing: Tues., February 7, 2017, 9 a.m., Conf. Rm. #229

Chair Baker, Vice-Chair Nishihara and Members of the Committee:

I am Jane Sugimura, President of the Hawaii Council of Associations of Apartment Owners (HCAAO dba HCCA). This organization represents the interests of condominium and community association members.

HCAAO has always supported alternative dispute resolution remedies and we believe that encouraging resolution of condominium disputes by and between and among owners, board members, the Board, managing agents and developers and their design professionals via binding arbitration is a positive use of the condo-education fund. Currently monies in that fund are being used to subsidize resolution of condo disputes through mediation.

HCCA respectfully requests that you amend the bill to include the various parties that would be allowed to use binding arbitration to resolve their disputes, e.g., owners, board members, the Board, managing agents, developers and their design professionals, and that the amended bill be passed out. If you have any questions, please feel free to contact me. Thank you for the opportunity to testify on this matter.

  
Jane Sugimura  
President

**PRESENTATION OF THE  
REAL ESTATE COMMISSION**

TO THE SENATE COMMITTEE ON  
COMMERCE, CONSUMER PROTECTION, AND HEALTH

TWENTY-NINTH LEGISLATURE  
Regular Session of 2017

Tuesday, February 7, 2017  
9:00 a.m.

**TESTIMONY ON SENATE BILL NO. 200, RELATING TO CONDOMINIUMS.**

TO THE HONORABLE ROSALYN H. BAKER, CHAIR,  
AND MEMBERS OF THE COMMITTEE:

My name is Nikki Senter, Chairperson of the Hawaii Real Estate Commission ("Commission"). The Commission takes no position on this bill, and submits the following comments.

The purpose of this bill is to permit annual condominium trust fund fees designated for educational purposes to be used for binding arbitration of condominium disputes, in addition to mediation, by amending sections 514B-71 and 514B-72, Hawaii Revised Statutes, and Act 187, Session Laws of Hawaii 2013.

The Commission supports the concept of alternative dispute resolution as an avenue for handling condominium disputes. Arbitration, however, can be more costly than mediation. Thus, should this bill pass, the Commission requests that it retain discretion regarding allocation of funds to each program.

Thank you for the opportunity to provide comments on Senate Bill No. 200.

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 2, 2017 11:09 AM  
**To:** CPH Testimony  
**Cc:** richard.emery@associa.us  
**Subject:** Submitted testimony for SB200 on Feb 7, 2017 09:00AM

**SB200**

Submitted on: 2/2/2017

Testimony for CPH on Feb 7, 2017 09:00AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Richard Emery	Associa	Support	Yes

Comments: This measure allows participants to voluntarily elect binding arbitration instead of mediation to bring finality to a dispute. It will reduce the court's workload.

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.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, February 4, 2017 1:33 PM  
**To:** CPH Testimony  
**Cc:** Schoenecker@email.Phoenix.edu  
**Subject:** Submitted testimony for SB200 on Feb 7, 2017 09:00AM

**SB200**

Submitted on: 2/4/2017

Testimony for CPH on Feb 7, 2017 09:00AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
JOY SCHOENECKER	Mauna Luan	Support	No

Comments: we support alternative dispute resolution remedies and we believe that encouraging resolution of condominium disputes by and between and among owners, board members, the Board, managing agents and developers and their design professionals via binding arbitration is a positive use of the condo-ed fund.

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.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, February 5, 2017 5:12 PM  
**To:** CPH Testimony  
**Cc:** john-a-morris@outlook.com  
**Subject:** Submitted testimony for SB200 on Feb 7, 2017 09:00AM

**SB200**

Submitted on: 2/5/2017

Testimony for CPH on Feb 7, 2017 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
John Morris	Individual	Support	No

Comments: My name is John Morris and I am testifying in support of SB 200. Reportedly, the fund established a few years ago to promote evaluative mediation has a significant positive balance. In addition, not all disputes can be resolved by mediation and it is possible that arbitration might be necessary in some cases and might prevent condominium disputes from clogging the courts. Therefore, SB 200 seems to serve a worthwhile purpose. Nevertheless, arbitration can be significantly more expensive than evaluative mediation. The Hawaii Real Estate Commission, which administers the evaluative mediation program, has currently capped at a maximum of \$3000 for evaluative mediation unless special circumstances exist. Therefore, perhaps the committee report for this bill could clearly state that the commission has the authority to establish criteria for arbitration under the terms of SB 200. For example, the commission could establish criteria that any arbitration funded under this proposed change in the law will only be permitted if the parties first attempt evaluative mediation. The commission could also set maximum funding for arbitration under this change in the law. Thank you for this opportunity to testify.

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.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, February 4, 2017 2:27 PM  
**To:** CPH Testimony  
**Cc:** merrileelucas@hotmail.com  
**Subject:** \*Submitted testimony for SB200 on Feb 7, 2017 09:00AM\*

**SB200**

Submitted on: 2/4/2017

Testimony for CPH on Feb 7, 2017 09:00AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Merrilee Lucas	Individual	Support	No

Comments:

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.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, February 4, 2017 2:27 PM  
**To:** CPH Testimony  
**Cc:** cporter@hawaiiilegal.com  
**Subject:** \*Submitted testimony for SB200 on Feb 7, 2017 09:00AM\*

**SB200**

Submitted on: 2/4/2017

Testimony for CPH on Feb 7, 2017 09:00AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Christian Porter	Individual	Support	No

Comments:

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.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)