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# HOUSE CONCURRENT RESOLUTION

REQUESTING THE CONVENING OF A TASK FORCE TO EXAMINE THE CREATION  
AND REGULATION OF HOMEOWNERS ASSOCIATIONS FOR PRE-STATEHOOD  
SUBDIVISIONS.

1           WHEREAS, subdivisions exist that were created prior to  
2 statehood that lack covenants, declarations, or other recorded  
3 instruments that impose responsibilities of homeowners or  
4 entities on the maintenance or operational responsibilities over  
5 common areas, such as private roads and infrastructure in the  
6 subdivision; and

7  
8           WHEREAS, the lack of organizational documents for these  
9 pre-statehood subdivisions have led to various lawsuits and  
10 created a patchwork of court orders on a case-by-case basis; and

11  
12           WHEREAS, an example of such limited issue court orders is  
13 *Paradise Hui Hanalike v. Hawaiian Paradise Park Corporation*, 66  
14 Haw. 362, 662 P.2d 211 (1983), where the Hawaii Supreme Court  
15 held that landowners have a duty to contribute to the  
16 maintenance of private roads that abut the landowners' property  
17 even without any recorded instrument stating covenants and  
18 declarations; and

19  
20           WHEREAS, however, such order gives no guidance as to the  
21 procedure for collection of contributions, the creation of the  
22 entity that collects the contributions or manages the money, or  
23 any audit ability by a governmental agency; and

24  
25           WHEREAS, a number of these lawsuits involve subdivisions  
26 created prior to statehood in Hawaii County, which were able to  
27 collect hundreds of thousands to millions of dollars in annual  
28 dues; however, the dues-collecting entities are not subject to  
29 any oversight by a governmental agency; and



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1 WHEREAS, as exemplified by multiple lawsuits, it is  
2 necessary to establish a procedure for the governance of  
3 pre-statehood subdivisions similar to the condominium property  
4 regimes governed by the State; now, therefore,  
5

6 BE IT RESOLVED by the House of Representatives of the  
7 Thirtieth Legislature of the State of Hawaii, Regular Session of  
8 2020, the Senate concurring, that a task force be convened to  
9 examine the creation and regulation of homeowners associations  
10 for pre-statehood subdivisions; and  
11

12 BE IT FURTHER RESOLVED that the task force is requested to  
13 include the following members, or their designees:  
14

- 15 (1) One member of the House of Representatives, to be  
16 designated by the Speaker of the House of  
17 Representatives, who shall serve as co-chair of the  
18 task force;  
19
- 20 (2) One member of the Senate, to be designated by the  
21 President of the Senate, who shall serve as co-chair  
22 of the task force;  
23
- 24 (3) The Director of Commerce and Consumer Affairs;  
25
- 26 (4) A member of the Hawaii Council of Community  
27 Associations;  
28
- 29 (5) A member from the Community Associations Institute,  
30 Hawaii Chapter;  
31
- 32 (6) A parliamentarian from the National Association of  
33 Parliamentarians;  
34
- 35 (7) A representative from an association management  
36 company; and  
37
- 38 (8) Two representatives from pre-statehood subdivisions;  
39 and



1 BE IT FURTHER RESOLVED that the chair is requested to  
2 invite other individuals with relevant knowledge or experience  
3 to be members of the task force; and  
4

5 BE IT FURTHER RESOLVED that the task force is requested to  
6 examine:  
7

8 (1) The framework for the creation and regulatory  
9 oversight of any entity for the maintenance or  
10 operational responsibilities over common areas of  
11 pre-statehood created subdivisions;  
12

13 (2) Whether to regulate these entities under the existing  
14 law governing planned community associations, Chapter  
15 421J, Hawaii Revised Statutes, and if so, how to  
16 integrate the entities into the existing statutory  
17 framework; and  
18

19 (3) Any other issues the task force may find relevant to  
20 the regulation of homeowners associations; and  
21

22 BE IT FURTHER RESOLVED that the members of the task force  
23 shall serve without compensation; and  
24

25 BE IT FURTHER RESOLVED that the task force is requested to  
26 submit a report of its findings and recommendations, including  
27 any proposed legislation, to the Legislature no later than  
28 twenty days prior to the convening of the Regular Session of  
29 2021; and  
30

31 BE IT FURTHER RESOLVED that certified copies of this  
32 Concurrent Resolution be transmitted to the Director of Commerce  
33 and Consumer Affairs; President of the Hawaii Council of  
34 Community Associations; President of the National Association of  
35 Parliamentarians; and President of the Community Associations  
36 Institute, Hawaii Chapter.  
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38  
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OFFERED BY:

*[Handwritten signatures and scribbles over the text]*



MSA

Lindeschique

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MAR 04 2020

