
HOUSE CONCURRENT RESOLUTION

REQUESTING THE DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS TO
REPORT ON ITS EXPERIENCE WITH AND TO EVALUATE THE CURRENT
SYSTEM FOR CONDOMINIUM DISPUTE RESOLUTION.

1 WHEREAS, today in the State, tens of thousands of residents
2 live in condominiums; and

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4 WHEREAS, condominium living by nature brings persons who in
5 most cases were, and in many cases remain, strangers to each
6 other together living in close proximity; and

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8 WHEREAS, this close contact may lead to disputes between
9 condominium owners and between condominium owners and the
10 association of apartment owners and the association's agents,
11 such as management companies, that oversee the maintenance and
12 operation of the condominium; and

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14 WHEREAS, chapter 514B, Hawaii Revised Statutes, contains
15 provisions for alternative dispute resolution, including section
16 514B-161, Hawaii Revised Statutes, that calls for mandatory
17 mediation at the request of any party to a dispute concerning
18 one or more owners and an association, its board, managing
19 agent, or one or more other unit owners relating to the
20 interpretation, application, or enforcement of chapter 514B,
21 Hawaii Revised Statutes, or the association's declaration,
22 bylaws, or house rules; and

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24 WHEREAS, if the dispute is not resolved by mediation, then
25 any party that participated in the mediation may request an
26 administrative hearing with the Office of Administrative Hearing
27 of the Department of Commerce and Consumer Affairs, under a
28 pilot project that is set to expire on June 30, 2009; and

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30 WHEREAS, if the administrative hearing process does not
31 resolve the dispute, pursuant to section 514B-162, Hawaii



1 Revised Statutes, any party to the dispute may invoke mandatory
2 arbitration; and

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4 WHEREAS, pursuant to section 514B-163, Hawaii Revised
5 Statutes, any award of arbitration may be subjected to appeal in
6 the circuit court or a trial de novo of the dispute in the
7 circuit court; and

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9 WHEREAS, all these proceedings from mediation to an
10 administrative hearing to arbitration and, finally, to
11 litigation in the circuit court can be complex, requiring
12 parties to retain attorneys and possibly expert witnesses; and

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14 WHEREAS, the costs of these proceedings may result in
15 enormous legal and other fees and costs, particularly to an
16 individual condominium owner; and

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18 WHEREAS, pursuant to section 514B-157, Hawaii Revised
19 Statutes, if the condominium owner fails to prevail in any
20 dispute with an association of apartment owners, the condominium
21 owner is further subject to having to repay the association for
22 its costs and expenses; and

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24 WHEREAS, the result to any individual condominium owner in
25 a legitimate dispute could be horrendous; now, therefore,

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27 BE IT RESOLVED by the House of Representatives of the
28 Twenty-fourth Legislature of the State of Hawaii, Regular
29 Session of 2007, the Senate concurring, that the Department of
30 Commerce and Consumer Affairs is requested to report to the
31 Legislature on its direct, first hand experience with the
32 condominium dispute resolution program, and to provide a review
33 and evaluation of the efficacy of that program; and

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35 BE IT FURTHER RESOLVED that the Department of Commerce and
36 Consumer Affairs is requested to consider other possible methods
37 of dispute resolution that may result in expeditious and
38 equitable dispute resolutions without exposing the parties to
39 any dispute to excessive and unreasonable legal and other fees
40 and costs; and

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42 BE IT FURTHER RESOLVED that the Department of Commerce and
43 Consumer Affairs is requested to report its findings and
44 recommendations, along with any proposed legislation, to the



1 Legislature not later than twenty days prior to the convening of
2 the Regular Session of 2008; and

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4 BE IT FURTHER RESOLVED that a certified copy of this
5 Concurrent Resolution be transmitted to the Director of Commerce
6 and Consumer Affairs.

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9 OFFERED BY: Calvin K. Ay

By Request

MAR 14 2007

