HOUSE CONCURRENT RESOLUTION

REQUESTING THE CONVENING OF A TASK FORCE TO CONDUCT A STUDY ON
    IMPOSING MANDATORY ALTERNATIVE DISPUTE RESOLUTION TO
    RESOLVE HOMEOWNERS ASSOCIATION DISPUTES.

1   WHEREAS, currently, major homeowners association disputes
2 are handled by association boards that are also responsible for
3 controlling millions of dollars in annual association dues and
4 that consist of voluntary members who are in a position where
5 their actions are often questioned; and
6
7   WHEREAS, the lack of an alternative dispute resolution
8 mechanism to resolve these disputes has resulted in litigation
9 and, as a consequence, association coffers are being used for
10 legal fees rather than common maintenance repairs; and
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12   WHEREAS, delays in resolving these disputes can ultimately
13 affect the health and safety of hundreds of people, particularly
14 in large subdivisions where the lack of maintenance leads to the
15 disrepair of critical infrastructure, such as a major road; and
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17   WHEREAS, condominium complexes, which have similar disputes
18 as homeowners associations, have access to benefits such as a
19 Condominium Education Trust Fund under section 514B-71, Hawaii
20 Revised Statutes, and arbitration and mediation under sections
21 514B-161 and 514B-162, Hawaii Revised Statutes, but homeowners
22 associations do not have such benefits; and
23
24   WHEREAS, among its duties, the Real Estate Commission of
25 the Department of Commerce and Consumer Affairs administers the
26 Condominium Education Trust Fund, for which a fee is collected
27 from each project and association under the Commission's
28 jurisdiction, for purposes including financing or promoting

1   expeditious and inexpensive procedures for resolving association
2   disputes; and
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4   WHEREAS, the dispute resolution and mediation systems that
5   currently exist within the Judiciary may meet the needs of
6   homeowners associations; now, therefore,
7
8   BE IT RESOLVED by the House of Representatives of the
9   Twenty-ninth Legislature of the State of Hawaii, Regular Session
10 of 2018, the Senate concurring, that the Department of Commerce
11 and Consumer Affairs is requested to convene a task force to
12 conduct a study and develop a plan for requiring homeowners
13 association disputes to be resolved by dispute resolution
14 alternatives prior to resorting to litigation; and
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16   BE IT FURTHER RESOLVED that this task force be composed of
17 the following members:
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19   (1)   The Director of Commerce and Consumer Affairs or the
20   Director's designee;
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22   (2)   A representative from the Alternative Dispute
23   Resolution branch of the Judiciary selected by the
24   Chief Justice;
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26   (3)   The Ombudsman or the Ombudsman's designee;
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28   (4)   The chair of the House Committee on Judiciary, or the
29   chair's designee;
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31   (5)   The chair of the Senate Committee on Judiciary, or the
32   chair's designee;
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34   (6)   A representative from a Homeowners Association
35   selected by the Department of Commerce and Consumer
36   Affairs;
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38   (7)   A representative from the Legislative Reference
39   Bureau, who shall provide legislative drafting
40   assistance, should the task force propose any
41   legislation; and

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1   (8)   A member of the Hawaii Association of Realtors; and
2
3   BE IT FURTHER RESOLVED that the task force is requested to
4 report its findings and recommendations, including any proposed
5 legislation, to the Legislature no later than twenty days prior
6 to the convening of the Regular Session of 2019; and
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8   BE IT FURTHER RESOLVED that certified copies of this
9 Concurrent Resolution be transmitted to the Ombudsman, the
10 Director of Commerce and Consumer Affairs, the Administrative
11 Director of the Courts, the Acting Director of the Legislative
12 Reference Bureau, the chair of the House Committee on Judiciary,
13 the chair of the Senate Committee on Judiciary, and the
14 President of the Hawaii Association of Realtors.
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OFFERED BY: _____

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