

MAR 07 2025

## SENATE RESOLUTION

REQUESTING THE AUDITOR TO CONDUCT AN AUDIT OF THE REAL ESTATE COMMISSION'S OVERSIGHT OF REAL ESTATE MANAGEMENT ENTITIES UNDER CHAPTER 514B, HAWAII REVISED STATUTES, AND MAKE RECOMMENDATIONS TO IMPROVE THE EFFECTIVENESS OF THE COMMISSION'S OVERSIGHT OF REAL ESTATE MANAGEMENT ENTITIES AND RELATED ISSUES.

1 WHEREAS, condominium regimes make up a significant portion  
2 of Hawaii's housing supply, providing homes for residents from  
3 diverse backgrounds; and

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5 WHEREAS, ensuring the effective governance and management  
6 of condominiums is essential for protecting the value and  
7 livability of these properties; and

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9 WHEREAS, the Condominium Property Act, Chapter 514B, Hawaii  
10 Revised Statutes, governs the establishment, management, and  
11 operation of condominium regimes in Hawaii; and

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13 WHEREAS, the Real Estate Commission, an agency  
14 administratively attached to the Department of Commerce and  
15 Consumer Affairs, is tasked with overseeing compliance with  
16 certain portions of the Condominium Property Act, including  
17 certain provisions relating to real estate management entities,  
18 property managers, and other parties responsible for managing  
19 condominiums; and

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21 WHEREAS, while the Real Estate Commission performs critical  
22 work, there is growing concern among stakeholders, including  
23 condominium owners, residents, and property management  
24 professionals, that gaps in oversight and enforcement may allow  
25 violations to go unaddressed, undermining trust in condominium  
26 governance; and

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28 WHEREAS, issues facing condominium governance include:

- 29  
30 (1) Financial practices: Improper or unlawful  
31 non-judicial foreclosures; the imposition of improper  
32 fines by real estate management entities that may not



1 align with established bylaws or rules; and the use of  
2 attorneys rather than collection agencies to collect  
3 unpaid fees, which creates an undue financial burden  
4 on homeowners;

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6 (2) Governance and transparency: Selective enforcement of  
7 bylaws, rules, or regulations; refusal or failure to  
8 provide condominium-related documents, including  
9 invoices, contracts, meeting minutes, and other  
10 materials necessary for condominium owners to fully  
11 understand and participate in the governance of their  
12 properties; and the appointment of industry personnel  
13 to commissions and boards, creating potential  
14 conflicts of interest that may hinder fair enforcement  
15 and oversight of condominium governance; and

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17 (3) Mediation and conflict resolution: Lack of or  
18 ineffective mediation between associations of  
19 apartment owners and homeowners, which may lead to  
20 forced civil actions that require homeowners to incur  
21 unaffordable legal fees, including the hiring of  
22 counsel; and the failure to facilitate fair and  
23 equitable dispute resolution processes; and  
24

25 WHEREAS, there is an urgent need to assess whether the Real  
26 Estate Commission's oversight and enforcement efforts are  
27 effective in ensuring compliance with Chapter 514B, Hawaii  
28 Revised Statutes, and whether more resources, clarity in  
29 enforcement practices, or changes to existing laws and rules,  
30 including changes in the statutory authority of the Real Estate  
31 Commission, are necessary to improve compliance with Chapter  
32 514B, Hawaii Revised Statutes, and protect the public interest;  
33 and  
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35 WHEREAS, the Auditor is an independent body with the  
36 expertise to conduct audits of state agencies and programs to  
37 evaluate performance, identify areas for improvement, and  
38 recommend corrective actions; now, therefore,  
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40 BE IT RESOLVED by the Senate of the Thirty-third  
41 Legislature of the State of Hawaii, Regular Session of 2025,  
42 that the Auditor is urged to conduct an audit of the Real Estate



1 Commission's oversight of real estate management entities under  
2 Chapter 514B, Hawaii Revised Statutes, and to make  
3 recommendations to improve the effectiveness of the Commission's  
4 oversight of real estate management entities; and

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6 BE IT FURTHER RESOLVED that the Auditor is requested to  
7 examine the following issues:

- 8  
9 (1) The Real Estate Commission's oversight of real estate  
10 management entities under Chapter 514B, Hawaii Revised  
11 Statutes, including nonjudicial foreclosures,  
12 selective enforcement of bylaws and house rules, and  
13 violations of covenants, conditions, and restrictions  
14 in association bylaws, as well as whether statutory  
15 changes are needed to allow the Commission to provide  
16 more effective oversight over those matters;  
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18 (2) The use of unlicensed contractors for  
19 condominium-related work, including whether  
20 enforcement is occurring over the use of unlicensed  
21 contractors;  
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23 (3) The Real Estate Commission's monitoring and  
24 investigative policies and procedures to detect and  
25 address violations of Chapter 514B, Hawaii Revised  
26 Statutes, including the refusal to provide essential  
27 condominium-related documents such as invoices,  
28 contracts, and meeting minutes to owners and  
29 residents;  
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31 (4) The adequacy of penalties or disciplinary actions  
32 imposed on persons found by the Real Estate Commission  
33 to be in violation of Chapter 514B, Hawaii Revised  
34 Statutes, including the deterrent effect of those  
35 penalties;  
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37 (5) The effectiveness of the Real Estate Commission's  
38 efforts to assure that real estate management  
39 entities, boards, associations, and homeowners are  
40 aware of alternative dispute resolution methods that  
41 could reduce the need for costly civil actions and  
42 unaffordable legal costs for homeowners;



- (6) The imposition of improper fines by real estate management entities and the practices surrounding these fines, and ensuring that fines align with condominium bylaws and applicable laws;
- (7) The use of attorneys for the collection of unpaid fees, rather than relying on collection agencies, and the financial impact this practice has on homeowners;
- (8) The potential conflicts of interest arising from the appointment of industry personnel to commissions and boards overseeing condominium governance, and the effects of those appointments on the impartiality of enforcement actions;
- (9) Recommendations for improving the Real Estate Commission's ability to effectively oversee compliance with Chapter 514B, Hawaii Revised Statutes, including statutory changes necessary for the Commission to facilitate more effective mediation processes, increased transparency in the management of condominium regimes, and the adoption of fair and equitable collection practices; and
- (10) The potential benefits of implementing digital tools and platforms to improve public access to association governance documents and enhance the Real Estate Commission's capacity to monitor compliance; and

BE IT FURTHER RESOLVED that the Auditor is requested to submit a report of the Auditor's findings and recommendations, including any proposed legislation, to the Legislature no later than twenty days prior to the convening of the Regular Session of 2026; and

BE IT FURTHER RESOLVED that certified copies of this Resolution be transmitted to the Auditor, Director of Commerce and Consumer Affairs, and Chairperson of the Real Estate Commission.



S.R. NO. 168

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OFFERED BY: *Samanta Debnath*

