

MAR 07 2025

SENATE CONCURRENT 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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1 WHEREAS, issues facing condominium governance include:

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- 3 (1) Financial practices: Improper or unlawful
4 non-judicial foreclosures; the imposition of improper
5 fines by real estate management entities that may not
6 align with established bylaws or rules; and the use of
7 attorneys rather than collection agencies to collect
8 unpaid fees, which creates an undue financial burden
9 on homeowners;
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- 11 (2) Governance and transparency: Selective enforcement of
12 bylaws, rules, or regulations; refusal or failure to
13 provide condominium-related documents, including
14 invoices, contracts, meeting minutes, and other
15 materials necessary for condominium owners to fully
16 understand and participate in the governance of their
17 properties; and the appointment of industry personnel
18 to commissions and boards, creating potential
19 conflicts of interest that may hinder fair enforcement
20 and oversight of condominium governance; and
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- 22 (3) Mediation and conflict resolution: Lack of or
23 ineffective mediation between associations of
24 apartment owners and homeowners, which may lead to
25 forced civil actions that require homeowners to incur
26 unaffordable legal fees, including the hiring of
27 counsel; and the failure to facilitate fair and
28 equitable dispute resolution processes; and
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30 WHEREAS, there is an urgent need to assess whether the Real
31 Estate Commission's oversight and enforcement efforts are
32 effective in ensuring compliance with Chapter 514B, Hawaii
33 Revised Statutes, and whether more resources, clarity in
34 enforcement practices, or changes to existing laws and rules,
35 including changes in the statutory authority of the Real Estate
36 Commission, are necessary to improve compliance with Chapter
37 514B, Hawaii Revised Statutes, and protect the public interest;
38 and

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40 WHEREAS, the Auditor is an independent body with the
41 expertise to conduct audits of state agencies and programs to



1 evaluate performance, identify areas for improvement, and
2 recommend corrective actions; now, therefore,

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4 BE IT RESOLVED by the Senate of the Thirty-third
5 Legislature of the State of Hawaii, Regular Session of 2025, the
6 House of Representatives concurring, that the Auditor is urged
7 to conduct an audit of the Real Estate Commission's oversight of
8 real estate management entities under Chapter 514B, Hawaii
9 Revised Statutes, and to make recommendations to improve the
10 effectiveness of the Commission's oversight of real estate
11 management entities; and

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13 BE IT FURTHER RESOLVED that the Auditor is requested to
14 examine the following issues:

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16 (1) The Real Estate Commission's oversight of real estate
17 management entities under Chapter 514B, Hawaii Revised
18 Statutes, including nonjudicial foreclosures,
19 selective enforcement of bylaws and house rules, and
20 violations of covenants, conditions, and restrictions
21 in association bylaws, as well as whether statutory
22 changes are needed to allow the Commission to provide
23 more effective oversight over those matters;
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25 (2) The use of unlicensed contractors for
26 condominium-related work, including whether
27 enforcement is occurring over the use of unlicensed
28 contractors;
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30 (3) The Real Estate Commission's monitoring and
31 investigative policies and procedures to detect and
32 address violations of Chapter 514B, Hawaii Revised
33 Statutes, including the refusal to provide essential
34 condominium-related documents such as invoices,
35 contracts, and meeting minutes to owners and
36 residents;
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38 (4) The adequacy of penalties or disciplinary actions
39 imposed on persons found by the Real Estate Commission
40 to be in violation of Chapter 514B, Hawaii Revised
41 Statutes, including the deterrent effect of those
42 penalties;



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- (5) The effectiveness of the Real Estate Commission's efforts to assure that real estate management entities, boards, associations, and homeowners are aware of alternative dispute resolution methods that could reduce the need for costly civil actions and 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



S.C.R. NO. 187

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

OFFERED BY: 

