

MAR 05 2009

---

---

# SENATE CONCURRENT RESOLUTION

REQUESTING THE AUDITOR TO CONDUCT A REVIEW OF THE REGULATION OF  
REAL ESTATE APPRAISAL MANAGEMENT COMPANIES.

1           WHEREAS, real estate appraisal management companies are  
2 business entities administering a network of independent real  
3 estate appraisers to fulfill real estate appraiser assignments  
4 on behalf of mortgage lending institutional clients; and  
5

6           WHEREAS, real estate appraisers are regulated by the State  
7 of Hawaii's Department of Commerce and Consumer Affairs,  
8 Professional and Vocational Licensing Division's, Real Estate  
9 Appraisers Program pursuant to chapter 466K, Hawaii Revised  
10 Statutes; and  
11

12           WHEREAS, real estate appraisers are further regulated by  
13 the federal Financial Institutions, Reform, Recovery, and  
14 Enforcement Act of 1989; and  
15

16           WHEREAS, unlike real estate appraisers, real estate  
17 appraisal management companies are not currently required to  
18 register with any state or federal governmental agency and are  
19 not subject to any state or federal regulation; and  
20

21           WHEREAS, section 26H-6, Hawaii Revised Statutes, requires  
22 that "[n]ew regulatory measures being considered for enactment  
23 that, if enacted, would subject unregulated professions and  
24 vocations to licensing or other regulatory controls shall be  
25 referred to the auditor for analysis"; and  
26

27           WHEREAS, section 1 of S.B. No. 1606, introduced during the  
28 2009 Regular Session, proposes the registration and regulation  
29 of Hawaii real estate appraisal management companies; now,  
30 therefore,  
31

32           BE IT RESOLVED by the Senate of the Twenty-fifth  
33 Legislature of the State of Hawaii, Regular Session of 2009, the



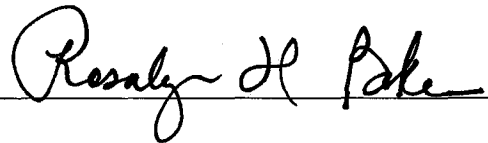
# S.C.R. NO. 53

1 House of Representatives concurring, that the Auditor is  
2 requested to perform a review setting forth the probable effects  
3 of the registration and regulation of real estate appraisal  
4 management companies and assess whether the enactment of the  
5 regulatory measure contained in section 1 of S.B. No. 1606 is  
6 consistent with the policies set forth in section 26H-2, Hawaii  
7 Revised Statutes; and  
8

9 BE IT FURTHER RESOLVED that the Auditor is requested to  
10 report findings and recommendations, including an assessment of  
11 alternate regulatory enforcement frameworks to the one contained  
12 in section 1 of S.B. No. 1606, to the Legislature no later than  
13 twenty days prior to the convening of the Regular Session of  
14 2010; and  
15

16 BE IT FURTHER RESOLVED that certified copies of this  
17 Concurrent Resolution be transmitted to the Auditor and the  
18 Director of Commerce and Consumer Affairs.  
19  
20  
21

OFFERED BY:





**PRESENTATION OF THE  
REAL ESTATE COMMISSION**

TO THE SENATE COMMITTEE ON  
COMMERCE AND CONSUMER PROTECTION

TWENTY-FIFTH LEGISLATURE  
Regular Session of 2009

Wednesday, April 1, 2009  
9:00 a.m.

**TESTIMONY ON SENATE CONCURRENT RESOLUTION NO. 53 – REQUESTING  
THE AUDITOR TO CONDUCT A REVIEW OF THE REGULATION OF REAL ESTATE  
APPRAISAL MANAGEMENT COMPANIES.**

TO THE HONORABLE ROSALYN H. BAKER, CHAIR,  
AND MEMBERS OF THE COMMITTEE:

My name is Trudy Nishihara and I serve as the Chairperson of the Real Estate Commission ("Commission"). I thank you for the opportunity to present testimony on Senate Concurrent Resolution No. 53, requesting the Auditor to conduct a sunrise review of the regulation of real estate management companies. The Commission submits comments relating to Senate Concurrent Resolution No. 53.

This resolution is the result of a proposal in section 1 of Senate Bill No. 1606, which proposed a new Hawaii Revised Statutes ("HRS") Chapter regulating Hawaii appraisal management companies. The Commission testified that pursuant to section 26H-6, HRS, any new regulatory measure proposed shall be referred to the legislative auditor for a "sunrise review" analysis.

As section 26-H, HRS, requires that the Auditor conduct a sunrise review before enactment of a measure that would subject an unregulated profession or vocation to regulation, we strongly support this measure. The Auditor's analysis would set forth the probable effects of the proposed regulatory measure, assess whether its enactment is

consistent with the purposes of section 26H-2, HRS, and assess alternate forms of regulation.

Senate Bill No. 1606 required registration of appraisal management companies and placed this new regulatory scheme under the Real Estate Commission, Department of Commerce and Consumer Affairs. The Commission also would like to state that it is concerned, and opposes that the regulation of real estate appraisal management companies be placed under the Commission's jurisdiction. The Commission is comprised of nine members, seven actively licensed real estate brokers and two public members. The Commissioners are not real estate appraisers and do not understand the necessary regulatory work of appraisers and appraisal management companies.

Thank you for this opportunity to testify on Senate Concurrent Resolution No. 53.



The REALTOR® Building  
1136 12<sup>th</sup> Avenue, Suite 220  
Honolulu, Hawaii 96816

Phone: (808) 733-7060  
Fax: (808) 737-4977  
Neighbor Islands: (888) 737-9070  
Email: har@hawaiiirealtors.com

---

March 31, 2009

**The Honorable Rosalyn H. Baker, Chair**

House Committee on Commerce  
and Consumer Protection  
State Capitol, Room 325  
Honolulu, Hawaii 96813

**RE: S.C.R.53 REQUESTING THE AUDITOR TO CONDUCT A REVIEW OF  
THE REGULATION OF REAL ESTATE APPRAISAL MANAGEMENT  
COMPANIES.**

**HEARING DATE: Wednesday, April 1, 2009 at 9:00 a.m.**

Aloha Chair Baker and Members of the Committee:

I am Myoung Oh, Government Affairs Director of the Hawai'i Association of REALTORS® ("HAR"), here to testify on behalf of HAR and our 9,600 members in Hawai'i. HAR supports S.C.R. 53, which requests the Auditor to provide a sunrise review of regulating appraisal management companies as required by statute.

Real Estate Appraisal Management Companies (AMC) serve as a third-party broker of appraisal services between a real estate client and appraisers and connect networks of independent contract appraisers who perform appraisal services to these clients.

HAR believes that those involved in the real estate transactions should be held to a high professional and ethical standard in servicing their clients. AMC serve a crucial role in real estate transactions and may require regulation, given that they are not currently subject to any state or federal regulatory requirements. HAR supports the Auditor's sunrise review of this area to determine the need for regulation of AMCs.

HAR looks forward to working with our state lawmakers in building better communities by supporting quality growth, seeking sustainable economies and housing opportunities, embracing the cultural and environmental qualities we cherish, and protecting the rights of property owners.

Mahalo for the opportunity to testify.

# HAWAII FINANCIAL SERVICES ASSOCIATION

c/o Marvin S.C. Dang, Attorney-at-Law

P.O. Box 4109

Honolulu, Hawaii 96812-4109

Telephone No.: (808) 521-8521

Fax No.: (808) 521-8522

April 1, 2009

Sen. Rosalyn H. Baker, Chair  
and members of the Senate Committee on Commerce and Consumer Protection  
Hawaii State Capitol  
Honolulu, Hawaii 96813

Re: **Senate Concurrent Resolution 53**  
**Requesting the Auditor to Conduct a Review of the Regulation of Real Estate**  
**Appraisal Management Companies.**  
**Hearing Date/Time: Wednesday, April 1, 2009, 9:00 A.M.**

I am the attorney for the **Hawaii Financial Services Association** ("HFSA"). The HFSA is the trade association for Hawaii's financial services loan companies which are regulated by the Hawaii Commissioner of Financial Institutions under the Code of Financial Institutions (Chapter 412, Article 9 of the Hawaii Revised Statutes).

The HFSA wants to **comment** on this Resolution.

The purpose of this Resolution is to request that the Auditor conduct a review of the regulation of real estate appraisal management companies.

For the reasons stated below, an analysis of the appraisal management company ("AMC") industry by the Auditor using the policies in Hawaii Revised Statutes Sec. 26H-2 should conclude that State regulation of AMCs is neither necessary nor recommended.

Financial services loan companies and other mortgage lenders obtain real estate appraisals as part of the mortgage loan process. As stated in the Resolution, "real estate appraisal management companies are business entities administering a network of independent real estate appraisers to fulfill real estate appraiser assignments on behalf of mortgage lending institutional clients."

AMCs act on behalf of regulated lenders, which have outsourced the appraisal management process to AMCs as their agents. AMCs work with lenders and appraisers to ensure that an appraiser's work meets the lender's requirements. Lenders use AMCs as a "buffer" between lenders and appraisers to avoid improper pressure on appraisers. This system benefits consumers and appraisers. Unnecessarily regulating AMCs will likely increase the cost of appraisals, which will be passed on to consumers.

We are unaware of any factual finding or proof by a Hawaii governmental agency that demonstrates a need for State regulation of AMCs. Some appraisers claim that AMCs are unregulated, but that is a very narrow and inaccurate view of AMC operations and the obligations of AMCs to their lender clients. We understand that federal regulations require AMCs to adhere to the same standards and regulations that are required of their lender clients. AMCs are hired specifically to manage the entire appraisal process, including compliance with the Uniform Standards of Professional Appraisal Practices and with applicable federal banking guidances. Many lenders employ a chief appraiser to oversee AMC quality and appraisal compliance in general. The new Home Valuation Code of Conduct ("HVCC") recently adopted by Fannie Mae and Freddie Mac takes effect in May, 2009. HVCC has guidelines for AMCs and lenders on the issue of appraiser pressure. Recently, federal banking regulatory agencies have proposed updated guidelines to address matters relating to real estate appraisals and evaluations used to support real estate-related financial transactions. Additional regulation by the State seems unwarranted.

Thank you for considering our comments.

  
MARVIN S.C. DANG  
Attorney for Hawaii Financial Services Association

(MSCD/hfsa)