HOUSE RESOLUTION

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

WHEREAS, currently, major homeowners association disputes are handled by association boards that are also responsible for controlling millions of dollars in annual association dues and that consist of voluntary members who are in a position where their actions are often questioned; and

WHEREAS, the lack of an alternative dispute resolution mechanism to resolve these disputes has resulted in litigation and, as a consequence, association coffers are being used for legal fees rather than common maintenance repairs; and

WHEREAS, delays in resolving these disputes can ultimately affect the health and safety of hundreds of people, particularly in large subdivisions where the lack of maintenance leads to the disrepair of critical infrastructure, such as a major road; and

WHEREAS, condominium complexes, which have similar disputes as homeowners associations, have access to benefits such as a Condominium Education Trust Fund under section 514B-71, Hawaii Revised Statutes, and arbitration and mediation under sections 514B-161 and 514B-162, Hawaii Revised Statutes, but homeowners associations do not have such benefits; and

WHEREAS, among its duties, the Real Estate Commission of the Department of Commerce and Consumer Affairs administers the Condominium Education Trust Fund, for which a fee is collected from each project and association under the Commission's jurisdiction, for purposes including financing or promoting expeditious and inexpensive procedures for resolving association disputes; and
WHEREAS, the dispute resolution and mediation systems that currently exist within the Judiciary may meet the needs of homeowners associations; now, therefore,

BE IT RESOLVED by the House of Representatives of the Twenty-ninth Legislature of the State of Hawaii, Regular Session of 2018, that the Department of Commerce and Consumer Affairs is requested to convene a task force to conduct a study and develop a plan for requiring homeowners association disputes to be resolved by dispute resolution alternatives prior to resorting to litigation; and

BE IT FURTHER RESOLVED that this task force be composed of the following members:

(1) The Director of Commerce and Consumer Affairs or the Director's designee;

(2) A representative from the Alternative Dispute Resolution branch of the Judiciary selected by the Chief Justice;

(3) The Ombudsman or the Ombudsman's designee;

(4) The chair of the House Committee on Judiciary, or the chair's designee;

(5) The chair of the Senate Committee on Judiciary, or the chair's designee;

(6) A representative from a Homeowners Association selected by the Department of Commerce and Consumer Affairs;

(7) A representative from the Legislative Reference Bureau, who shall provide legislative drafting assistance, should the task force propose any legislation; and
(8) A member of the Hawaii Association of Realtors; and

BE IT FURTHER RESOLVED that the task force is requested to report its findings and recommendations, including any proposed legislation, to the Legislature no later than twenty days prior to the convening of the Regular Session of 2019; and

BE IT FURTHER RESOLVED that certified copies of this Resolution be transmitted to the Ombudsman, the Director of Commerce and Consumer Affairs, the Administrative Director of the Courts, the Acting Director of the Legislative Reference Bureau, the chair of the House Committee on Judiciary, the chair of the Senate Committee on Judiciary, and the President of the Hawaii Association of Realtors.

OFFERED BY:

[Signatures]

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