



## Learn more about the Real Estate Branch (REB) of the Department of Commerce and Consumer Affairs

Check out the REB website [www.hawaii.gov/hirec](http://www.hawaii.gov/hirec) for more information and some frequently asked questions.

- What services does the REB provide to the condominium community?
- Where do I file a complaint against my association?
- What laws apply to my condominium association?
- How do I get a copy of my association documents?

## Real Estate Branch

### About Us

The Real Estate Branch, as part of the Professional and Vocational Licensing Division, assists the Real Estate Commission in carrying out its responsibility for the education, licensure and discipline of real estate licensees; registration of condominium projects, condominium associations, condominium managing agents, and condominium hotel operators; and intervening in court cases involving the real estate recovery fund.

### Subscribe

Receive emails on relevant condominium educational materials. Sign up now at <http://cca.hawaii.gov/reb/subscribe/>

### Contact Us

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**CONDOMINIUM:  
EXPANDED ALTERNATIVE  
DISPUTE RESOLUTION**  
Real Estate Branch  
335 Merchant Street #333  
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## CONDOMINIUM:

## EXPANDED ALTERNATIVE DISPUTE RESOLUTION

*Real Estate Branch  
Department of Commerce and  
Consumer Affairs*

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## Legislative Changes to Alternative Dispute Resolution

Condominium governance is built around the model of “self-governance.” There are times, however, when an objective third party is needed to referee disputes. The Hawaii Real Estate Commission, part of the Department of Commerce and Consumer Affairs, facilitates condominium owners’ access to third party alternative dispute resolution. Condominium owners pay biennial fees which subsidize alternative dispute resolution.

The 2018 and 2019 legislative sessions enacted bills which increased the scope and breadth of the state’s subsidized condominium alternative dispute resolution program.

### Priority of Payments

[Act 192, SLH 2019](#), only permits associations to deduct late fees, legal fees, fines, and interest from common expense payments after common area expenses have been fully paid. Owners may still not withhold any common expense assessments, but may dispute



other assessments requests **prior** to payment.

Effective July 1, 2018, [Act 195, SLH 2018](#) unit owners may contest a demand for payment of attorney’s fees and costs, penalties or fines, lien filing fees, late fees, or other charges, except for common expense assessments, through mediation **prior** to paying. This is a dramatic change from the historical “pay now, contest later” precedent, and both owners and boards should be aware and plan accordingly. Owners would go through the existing mediation process in contesting non-maintenance assessments following the specified timeline under Act 195.

Boards should discuss the issue with their relevant agents and their respective condominium owners.

The law also prohibits associations from attempting to collect any of the disputed assessments until the association has participated in mediation following the required timeline.

### Subsidized Arbitration & Expanded Mediation

The Legislature created additional dispute resolution to support non-binding

mediation by subsidizing voluntary binding arbitration through [Act 196, SLH 2018](#). Parties are required to participate in evaluative mediation prior to arbitration.



The law also expands both the scope of who can participate in mandatory mediation and what may be mediated.

Act 196 additionally allows parties to apply to the circuit court to compel mediation in certain circumstances and sets time deadlines.

### Subsidized Mediation

Mediation by professional mediators is available across the state to owners and boards of directors within condominium associations registered with the Hawaii Real Estate Commission. There is a nominal cost, but the majority is subsidized through the Condominium Education Trust Fund.

You may find more information on mediation [here](#).