

Honolulu, Hawaii

March 3, 2006

RE: H.B. No. 105
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Third State Legislature
Regular Session of 2006
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 105 entitled:

"A BILL FOR AN ACT RELATING TO THE RESIDENTIAL LANDLORD-TENANT CODE,"

begs leave to report as follows:

The purpose of this bill is to make rental units drug-free, by:

- (1) Prohibiting tenants and their guests from possessing drugs in or near the tenant's unit; and
- (2) Authorizing landlords to bring a summary proceeding for possession of the unit upon violation of the prohibition.

The Hawaii Association of Realtors and a concerned individual testified in support of this bill. The Department of the Prosecuting Attorney of the City and County of Honolulu supported the intent of this measure.

Your Committee has concerns that this measure as drafted may confuse landlords who attempt to apply the law in relying on a "written notice or report" regarding "possession" of a dangerous, harmful, or detrimental drug on the landlord's property. Presently, section 521-3(B), Hawaii Revised Statutes (HRS), provides: "Every legal right, remedy, and obligation arising out

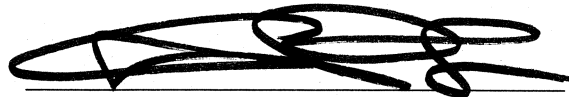


of a rental agreement not provided for in this chapter shall be regulated and determined under chapter 666, and in the case of conflict between any provision of this chapter and a provision of chapter 666, this chapter shall control." Within chapter 666, section 666-3, HRS, contains provisions for landlords to terminate leases in cases of violations of laws prohibiting drug offenses more serious than possession. These provisions need to be harmonized.

Your Committee supports the concept of assisting landlords in ridding properties of drug dealers, but without prior concurrence, your Committee is unable to amend this bill to address the concerns. Accordingly, your Committee has amended this bill by changing the effective date to January 1, 2096, to promote further discussion. Technical, nonsubstantive amendments were also made for clarity and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 105, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 105, H.D. 1.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary,



SYLVIA LUKE, Chair



