

Honolulu, Hawaii

MAR 30 2006

RE: H.B. No. 3250
H.D. 1

Honorable Robert Bunda
President of the Senate
Twenty-Third State Legislature
Regular Session of 2006
State of Hawaii

Sir:

Your Committee on Judiciary and Hawaiian Affairs, to which was referred H.B. No. 3250, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO SUPERSEDEAS BONDS,"

begs leave to report as follows:

The purpose of this measure is to enact a monetary limit of \$25,000,000 on supersedeas bonds, except:

- (1) If the party posting the supersedeas bond is a small business concern, the amount shall not exceed \$1,000,000; or
- (2) If an appellant who has posted a supersedeas bond intentionally dissipates assets outside of the ordinary course of business to avoid paying the judgment, the amount of bond is an amount up to the judgment appealed.

Your Committee received testimony in support of this measure from The Coalition to Stop Lawsuit Abuse; The Grocery Manufacturers of America; and The Hawaii Business League.

Your Committee finds that this measure establishes fairness in litigated cases by giving greater assurance than under current law that the losing party appellant has the ability to perfect the appeal, particularly involving very large damage awards. This measure recognizes the different financial capacity of businesses by differentiating small business concerns as defined by the



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federal Small Business Act (P.L. 87-367) and classified as such by the Small Business Administration by its size.

On a broader scale, the right to an appeal is one of the most critical safeguards in the court litigation system. Citizens who lose at the trial level must have the ability to appeal. This measure protects that right by ensuring that the amount of the supersedeas bond bears a relationship to the financial assets of the appellant. Otherwise, an appellant may not be able to post the bond and hence lose the right to appeal.

As affirmed by the record of votes of the members of your Committee on Judiciary and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3250, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Hawaiian Affairs,



COLLEEN HANABUSA, Chair



**The Senate
Twenty-Third Legislature
State of Hawaii**

**Record of Votes of the
Committee on Judiciary and Hawaiian Affairs
(Bills and Resolutions)**

Measure:*	Committee Referral:	Date:		
HB 3250 HD1	JHW	3-21-06		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is to:				
<input checked="" type="checkbox"/> Pass, unamended (2312) <input type="checkbox"/> Pass, with amendments (2311) <input type="checkbox"/> Hold (2310) <input type="checkbox"/> Recommit (2313)				
Members	Ayes	Ayes(WR)	Nays	Excused
HANABUSA, Colleen (C)	/			
HEE, Clayton (VC)	/			
CHUN OAKLAND, Suzanne	/			
ENGLISH, J. Kalani	/			
IHARA, Jr., Les	/			
WHALEN, Paul	/			
TOTAL	6	0	0	0
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
<i>Clayton Hee</i>				
Distribution:				
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy	

*Do not list more than one measure per Record of Votes.