

JAN 23 2009

A BILL FOR AN ACT

RELATING TO OUTDOOR ADVERTISING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that reasonable limits
2 are required to protect the rights of Hawaii residents to
3 display signs on residential property while preserving
4 neighborhoods from the visual blight created by excessive and
5 inappropriate signs. These reasonable limits will not affect
6 the posting of signs by the overwhelming majority of residents,
7 but will eliminate signs of excessive size and concentrations
8 that degrade the beauty of our communities. The limits will
9 also increase the visibility and effectiveness of signs legally
10 displayed. Regulations governing signage on public property and
11 in nonresidential areas are unchanged by this Act and remain in
12 place.

13 The legislature further finds that the United States
14 Supreme Court has stated that local governments have the power
15 "to address the ills that may be associated with residential
16 signs." *City of Ladue v. Gilleo*, 512 U.S. 43, 58 (1994).
17 Federal courts have upheld the regulation of signs by



1 municipalities that reasonably restrict the size and physical
 2 characteristics. See, *Baldwin v. Redwood City*, 540 F.2d 1360
 3 (9th Cir. 1976), certiorari denied sub nomen; *Leipzig v.*
 4 *Baldwin*, 431 U.S. 913 (1977); *G.K. Limited Travel v. City of*
 5 *Lake Oswego*, 436 F.3d 1064, 1081 (9th Cir. 2006). Reasonable
 6 limitations on the size and physical qualities of the sign,
 7 without regulation of any type of specific speech or content, is
 8 "content neutral" and does not raise the issues raised in *Runyan*
 9 *v. McCrary*, 762 F.Supp. 280 (D.Hawaii 1991), and *Ross v. Goshi*,
 10 351 F.Supp. 949 (D.Hawaii 1972).

11 The purpose of this Act is provide reasonable limits on
 12 signs on residential real property without restricting the
 13 content of the sign.

14 SECTION 2. Chapter 445, Hawaii Revised Statutes, is
 15 amended by adding a new section to part IV to be appropriately
 16 designated and to read as follows:

17 "§445- Residential real property; limitations. (a) No
 18 sign or outdoor device may be displayed on residential property
 19 if:

20 (1) The sign or device is larger than four feet by two
 21 feet;



1 (2) The total area of all signs or devices displayed on
2 each dwelling unit exceeds sixteen square feet; or

3 (3) The owner or tenant of the property receives payment
4 or valuable consideration for the display of the sign
5 or device.

6 (b) Nothing in this section is intended to invalidate any
7 provision relating to signs or outdoor advertising devices in
8 any county ordinance, house rules or bylaws of a condominium or
9 apartment building, or lawful provisions in a private contract
10 in effect prior to the effective date of this Act.

11 (c) For purposes of this section:

12 "Condominium" shall have the same meaning as defined in
13 section 514B-3.

14 "Dwelling unit" shall have the same meaning as defined in
15 section 521-8.

16 "Residential real property" shall have the same meaning as
17 defined in section 508D-1."

18 SECTION 3. Section 445-121, Hawaii Revised Statutes, is
19 amended by amending subsection (a) to read as follows:

20 **"§445-121 Penalty.** (a) Any person violating any
21 provision of sections 445-111 to 445-121 or section 445- ,



1 shall be fined not less than \$25 nor more than \$500, or
2 imprisoned not more than one month, or both."

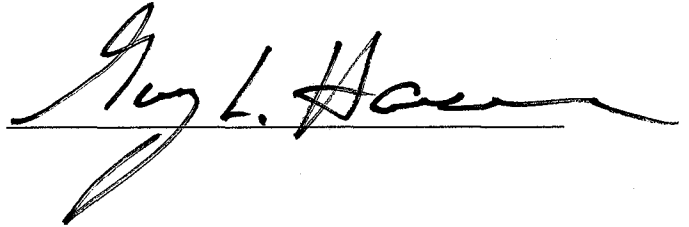
3 SECTION 4. This Act does not affect rights and duties that
4 matured, penalties that were incurred, and proceedings that were
5 begun, before its effective date.

6 SECTION 5. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 6. This Act shall take effect upon its approval.

9

INTRODUCED BY:

A handwritten signature in black ink, appearing to read "Guy L. Han", is written over a horizontal line.

Report Title:

Advertising Devices; Signs; Residential Real Property

Description:

Requires reasonable limitations the size and commercial use of signs on residential real property.

