

STAND. COM. REP. NO.

711

Honolulu, Hawaii

March 6, 2009

RE: H.B. No. 812  
H.D. 2

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Fifth State Legislature  
Regular Session of 2009  
State of Hawaii

Sir:

Your Committees on Consumer Protection & Commerce and  
Judiciary, to which was referred H.B. No. 812, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO DOMESTIC VIOLENCE,"

beg leave to report as follows:

The purpose of this bill is to protect domestic violence  
victims by allowing them to terminate their rental agreement  
without penalty after notifying the landlord in writing and  
attaching either:

- (1) A copy of a temporary restraining order (TRO) or  
protective order (PO); or
- (2) A written report prepared by a law enforcement officer  
showing that allegations of domestic abuse, sexual  
assault, or harassment by stalking were filed.

The Honolulu Police Department, Hawaii State Coalition  
Against Domestic Violence, Sex Abuse Treatment Center, Legal Aid  
Society of Hawaii, and several concerned individuals testified in  
support of this bill. The Department of the Prosecuting Attorney  
of the City and County of Honolulu, Hawaii Association of  
REALTORS, and a concerned individual provided comments.

HB812 HD2 HSCR CPC-JUD HMS 2009-2522



There are concerns that this bill:

- (1) Allows terminations of rental agreements to be based on criminal offenses, such as sexual assault and harassment by stalking, that may exceed the scope of this bill's title, "Relating to Domestic Violence"; and
- (2) Provides for the attachment of police reports to the notice to terminate the rental agreement, even though current procedures apparently do not permit the release of police reports to the public without a court subpoena, which may create additional time delays and expenses for victims attempting to provide notice to a landlord under this measure.

Accordingly, your Committees have amended this bill by:

- (1) Eliminating all references to specific criminal offenses and instead providing that termination of a rental agreement under this measure may be based on an act of abuse of a family or household member;
- (2) Replacing the police report attachment provision with one allowing the attachment of an affidavit executed by a prosecuting attorney regarding the victim's need for safety, using the criteria currently applied under section 574-5(e), Hawaii Revised Statutes (HRS), for endangered individuals seeking a name change without the standard publication requirement;
- (3) Providing that:
  - (A) Any tenant who does not vacate within 15 days of providing the landlord notice to terminate the rental agreement is to be treated as a holdover tenant on a month-to-month tenancy; and
  - (B) Any other co-tenant under the rental agreement is to be treated as a tenant on a month-to-month tenancy 15 days after the notice to terminate the rental agreement has been given;

and

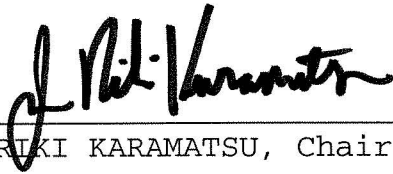
- (4) Changing the effective date to November 1, 2009.



Your Committees further note that while this bill provides for the attachment of TROs or POs to the notice of rental agreement termination, it may be preferable to limit this provision to POs only in the interest of discouraging fraudulent uses of the process established by this bill. This is because TROs are ex parte orders that may be issued without prior notice to the respondent and based only on the account of the alleged victim (section 586-4, HRS). Following the issuance of a TRO, a court hearing is held at which both parties may present their arguments on whether the protections of the TRO should continue through the issuance of a PO (sections 586-5 and 586-5.5, HRS).

As affirmed by the records of votes of the members of your Committees on Consumer Protection & Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 812, H.D. 1, as amended herein, and recommend that it pass Third Reading in the form attached hereto as H.B. No. 812, H.D. 2.

Respectfully submitted on  
behalf of the members of the  
Committees on Consumer  
Protection & Commerce and  
Judiciary,



JON RIKI KARAMATSU, Chair



ROBERT N. HERKES, Chair





