

Honolulu, Hawaii

Feb 26, 2010

RE: H.B. No. 2288  
H.D. 1

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Fifth State Legislature  
Regular Session of 2010  
State of Hawaii

Sir:

Your Committees on Consumer Protection & Commerce and  
Judiciary, to which was referred H.B. No. 2288 entitled:

"A BILL FOR AN ACT RELATING TO PRIVATE TRANSFER FEES,"

beg leave to report as follows:

The purpose of this bill is to prohibit real property deed  
restrictions or other covenants running with the land from  
requiring the payment of fees for the future transfer of the  
property, except certain fees or charges relating to:

- (1) Payments to a lender on a mortgage loan secured by the  
property;
- (2) Payments to homeowners', condominium, cooperative, or  
property owners' associations pursuant to a declaration,  
covenant, or law applicable to the association;
- (3) Lease payments and charges to landlords;
- (4) Payments to the holder of an option to purchase an  
interest in real property, or holder of a right of first  
refusal or first offer to purchase such interest, for  
waiving the option or right upon transfer of the  
property to another person;



- (5) Payments by a developer of real property for resale to others; and
- (6) Payments to a government entity.

The Mortgage Bankers Association of Hawaii testified in support of this bill. The Hawaii Bankers Association, Hawaii Land Title Association, and Nature Conservancy supported the intent of this measure. The Hawaii Association of REALTORS and Hawaii Financial Services Association supported this bill with amendments. 1250 Oceansides Partners opposed this measure. Alexander & Baldwin, Inc., provided comments.

Private transfer fees created through a deed restriction or covenant on real property require every buyer of the property to pay the fee to the party that created that restriction. Because this transfer fee is paid every time that property is transferred, the party imposing this restriction retains an interest in the property being transferred, potentially in perpetuity. Left unchecked, these fees may create significant and prohibitive costs for homeownership, negatively impact the marketability of real property, discourage buyers, and depress property values. This bill prohibits these fees while exempting certain usual and customary fees, assessments, or charges that are typical for various real property transactions.

Your Committees also note there have been discussions about adding further exemptions from this bill. Accordingly, your Committees have amended this measure by changing the effective date to January 1, 2050, to encourage further discussion. Technical, nonsubstantive amendments were also made for clarity and style.

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. 2288, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2288, H.D. 1, and be placed on the calendar for Third Reading.



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

  
\_\_\_\_\_  
JON RIKI KARAMATSU, Chair

  
\_\_\_\_\_  
ROBERT N. HERKES, Chair

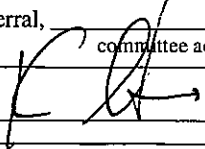




State of Hawaii  
House of Representatives  
The Twenty-fifth Legislature

HSR 491-10

Record of Votes of the Committee on Judiciary

Bill/Resolution No.: <b>HB 2288</b>	Committee Referral: <b>CPC/JUD</b>	Date: <b>2/24/10</b>		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
JUD Members	Ayes	Ayes (WR)	Nays	Excused
1. KARAMATSU, Jon Riki (C)	✓			
2. ITO, Ken (VC)	✓			
3. BELATTI, Della Au	✓			
4. CABANILLA, Rida	✓			
5. CARROLL, Mele				✓
6. HERKES, Robert N.	✓			
7. LUKE, Sylvia				✓
8. McKELVEY, Angus L.K.	✓			
9. MIZUNO, John M.	✓			
10. MORITA, Hermina M.				✓
11. OSHIRO, Blake K.	✓			
12. SOUKI, Joseph M.	✓			
13. TSUJI, Clift	✓			
14. WAKAI, Glenn	✓			
15. MARUMOTO, Barbara C.		✓		
16. THIELEN, Cynthia	✓			
<b>TOTAL (16)</b>	<b>12</b>	<b>1</b>		<b>3</b>
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
If joint referral, _____ did not support recommendation. committee acronym(s)				
Vice Chair's or designee's signature: 				
Distribution: Original (White) – Committee    Duplicate (Yellow) – Chief Clerk's Office    Duplicate (Pink) – HMSO				