

STAND. COM. REP. NO.

2984

Honolulu, Hawaii

APR - 1 2010

RE: H.B. No. 2288  
H.D. 1  
S.D. 2

Honorable Colleen Hanabusa  
President of the Senate  
Twenty-Fifth State Legislature  
Regular Session of 2010  
State of Hawaii

Madam:

Your Committee on Judiciary and Government Operations, to which was referred H.B. No. 2288, H.D. 1, S.D. 1, entitled:

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

begs leave to report as follows:

The purpose of this measure is to prohibit the inclusion of a requirement in a deed restriction or other covenant running with the land that requires a transferee of real property to pay a fee in connection with a future transfer of the property.

Written comments in support of the measure were submitted by two private organizations. Written comments regarding the measure were submitted by the Hawai'i Association of Realtors. Written comments presented to your Committee may be reviewed on the Legislature's website.

Your Committee finds that a private transfer fee is a fee imposed by a private party that requires the payment of a certain amount, potentially in perpetuity. Presently, there is no regulation over the imposition of private transfer fees, no limitation on the application of the fees, and no accountability or oversight of the recipients of the fees. Your Committee notes that some private transfer fees are legitimate. These include, among others, fees paid to holders of conservation easements when portions of the property are transferred to a third party and assessments by community association entities. Your Committee



2984

believes that the measure as received adequately exempts these legitimate transfer fees.

Your Committee received comments from the Hawai'i Association of Realtors regarding the exemption relating to shared appreciation for affordable housing, suggesting that a ten-year limitation be included to close a potential loophole for nongovernmental affordable housing projects.

Your Committee has amended this measure by:

- (1) Adding a ten-year limitation for the exemption regarding shared appreciation for affordable housing, as suggested by the Hawai'i Association of Realtors; and
- (2) Making technical, nonsubstantive changes for purposes of style, consistency, and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2288, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2288, H.D. 1, S.D. 2.

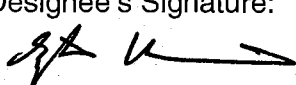
Respectfully submitted on  
behalf of the members of the  
Committee on Judiciary and  
Government Operations,

  
BRIAN T. TANIGUCHI, Chair



The Senate  
 Twenty-Fifth Legislature  
 State of Hawaii

**Record of Votes**  
**Committee on Judiciary and Government Operations**  
**JGO**

Bill / Resolution No.:* <b>HB 2288, HDI, SDI</b>	Committee Referral: <b>CPN, JGO</b>	Date: <b>3/23/10</b>		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
TANIGUCHI, Brian T. (C)	✓			
TAKAMINE, Dwight Y. (VC)	✓			
BUNDA, Robert				✓
GABBARD, Mike	✓			
NISHIHARA, Clarence K.				✓
SLOM, Sam	✓			
<b>TOTAL</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>2</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
<b>Distribution:</b> Original     Yellow     Pink     Goldenrod File with Committee Report     Clerk's Office     Drafting Agency     Committee File Copy				

\*Only one measure per Record of Votes