

Honolulu, Hawaii

Feb 26, 2010

RE: H.B. No. 2706

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 Committee on Finance, to which was referred H.B. No. 2706 entitled:

"A BILL FOR AN ACT RELATING TO THE PERMITTED TRANSFERS IN TRUST ACT,"

begs leave to report as follows:

The purpose of this bill is to provide incentives for high net-worth individuals worldwide to transfer a portion of their liquid net worth into Hawaii for asset and trust management by enacting the Permitted Transfers in Trust Act, which would make Hawaii a strong competitor in the trust marketplace by among other things, allowing trusts to last forever, and permitting an individual to protect a portion of their wealth by becoming a beneficiary under a trust.

First Hawaiian Bank and a concerned individual supported this bill. The Trust Division of Bank of Hawaii provided comments.

Your Committee has amended this bill by, among other things:

- (1) Adding a definition of "cash" to mean United States currency;
- (2) Adding a definition of "marketable securities" to mean securities exchanged on a governmentally regulated exchange within the United States including common stocks, bonds, mutual funds, or exchange traded funds



that are permitted to be held by a fiduciary under Hawaii law but excluding real estate or any interests in corporations, partnerships, and limited liability companies that are not publicly traded;

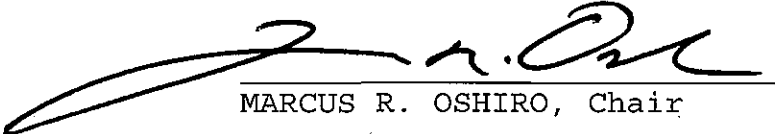
- (3) Amending the definition of "permitted trustee" to mean a person other than the transferor, who is a resident of Hawaii, or a bank or trust company authorized to do business in Hawaii and act as a trustee;
- (4) Amending the definition of "permitted property" to mean cash, marketable securities, life insurance contracts, and non-private annuities;
- (5) Replacing the term "perfected," which has a certain meaning under the Uniform Commercial Code, which is not applicable to this bill, with the term "completed";
- (6) Allowing the trustee to terminate the trust if the market value has declined to the extent it would be uneconomical, imprudent, or unwise to continue to retain the trust;
- (7) Allowing the transferor to direct that a determination is to be made by the advisor in the case of a dispute, deadlock, or difference of opinion between a permitted trustee and an advisor;
- (8) Providing that a permitted trustee shall be authorized to invest only in permitted property, as defined in this chapter, instead of in accordance with chapter 554C;
- (9) Providing that limits on actions by creditors to avoid permitted transfers shall not apply to a lender who extends a secured or collateralized loan to the transferor on the representation that the trust amounts would be security for the transferor's default on the loan;
- (10) Blanking out the tax on permitted transfers;
- (11) Removing the provision that the State will not levy any other taxes against trusts under the chapter;
- (12) Providing that a nongrantor trust is subject to Hawaii income tax unless there is no Hawaii beneficiary;



- (13) Changing the effective date to July 1, 2020, to encourage further discussion; and
- (14) Making technical, nonsubstantive amendments for consistency, clarity, and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2706, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2706, H.D. 1.

Respectfully submitted on
behalf of the members of the
Committee on Finance,


MARCUS R. OSHIRO, Chair



HSR 655-10

Record of Votes of the Committee on Finance

Bill/Resolution No.: HB 2706	Committee Referral: CPC, FIN	Date: 2/24/10		
<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)				
FIN Members	Ayes	Ayes (WR)	Nays	Excused
1. OSHIRO, Marcus R. (C)	✓			
2. LEE, Marilyn B. (VC)	✓			
3. AQUINO, Henry J.C.	✓			
4. AWANA, Karen Leinani	✓			
5. BROWER, Tom	✓			
6. CHOY, Isaac W.	✓			
7. COFFMAN, Denny	✓			
8. HAR, Sharon E.	✓			
9. KEITH-AGARAN, Gilbert S.C.	✓			
10. LEE, Chris	✓			
11. NISHIMOTO, Scott Y.	✓			
12. SAGUM, Roland D., III				✓
13. TOKIOKA, James Kumane	✓			
14. WOOLEY, Jessica	✓			
15. YAMASHITA, Kyle T.	✓			
16. FINNEGAN, Lynn	✓			
17. WARD, Gene	✓			
TOTAL (17)	16	0	0	1
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <div style="text-align:center; font-size:small;">committee acronym(s)</div>				
Vice Chair's or designee's signature: <u>Marilyn B. Lee</u>				
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