

STAND. COM. REP. NO.

348

Honolulu, Hawaii

FEB 20 2009

RE: S.B. No. 1106
S.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fifth State Legislature
Regular Session of 2009
State of Hawaii

Madam:

Your Committee on Commerce and Consumer Protection, to which was referred S.B. No. 1106 entitled:

"A BILL FOR AN ACT RELATING TO TAXATION,"

begs leave to report as follows:

The purpose of this measure is to strengthen the Hawaii Real Property Tax Act withholding requirements by requiring that the buyer of real property provide a tax clearance certificate to be furnished to the Bureau of Conveyance as a condition of recording a transfer of title.

Your Committee received testimony in opposition to this measure from Hawaii Association of Realtors and Title Guaranty of Hawaii, Inc. Testimony with comments was received from the Department of Taxation. Written testimony presented to the Committee may be reviewed on the Legislature's website.

Your Committee finds that it is especially important in these difficult economic times that the State be able to collect the full amount of revenue due to it under the law. Your Committee further finds that out-of-state interests, as sellers of real property, are sometimes able to circumvent their obligations under existing Hawaii tax laws. Your Committee finds that this measure will allow the State to collect the appropriate taxes due to it without placing the burden of enforcing the law on the real estate profession.



Your Committee notes that the Department of Taxation has expressed concerns with the effectiveness of the current law that places the entire burden of ensuring tax compliance on the buyer of real property. The Department of Taxation noted in its testimony that shifting the burden of obtaining a tax clearance certificate to the seller will assist the Department of Taxation in collecting all the revenue from the various state taxes that may be due to it. Your Committee further notes that this change in the current law will likely require procedural changes in the conduct of real property transactions, especially in the escrow process. Your Committee recommends that the Committee on Ways and Means investigate this issue further.

Your Committee has amended this measure by:

- (1) Shifting the responsibility of obtaining a tax clearance certificate from the transferee (buyer) in a real estate transaction to the transferor (seller) in order to conform to the requirements of the Hawaii Real Property Tax Act; and
- (2) Making technical, nonsubstantive changes for the purpose of clarity and accuracy in the language of this measure.

As affirmed by the record of votes of the members of your Committee on Commerce and Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1106, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1106, S.D. 1, and be referred to the Committee on Ways and Means.

Respectfully submitted on
behalf of the members of the
Committee on Commerce and
Consumer Protection,



ROSALYN H. BAKER, Chair



The Senate
Twenty-Fifth Legislature
State of Hawaii

Record of Votes
Committee on Commerce and Consumer Protection
CPN

Bill / Resolution No.:* SB 1106	Committee Referral: CPN, WAM	Date: 2/17/2009		
<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
BAKER, Rosalyn H. (C)	✓			
IGE, David Y. (VC)	✓			
ESPERO, Will	✓			
GREEN, M.D., Josh	✓			
IHARA, Jr., Les	✓			
SAKAMOTO, Norman				✓
HEMMINGS, Fred	✓			
TOTAL	6	0	0	1
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
<i>David Y Ige</i>				
Distribution:				
Original	Yellow	Pink	Goldenrod	
File with Committee Report	Clerk's Office	Drafting Agency	Committee File Copy	

*Only one measure per Record of Votes