

Honolulu, Hawaii

FEB 20 2009

RE: S.B. No. 1241
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. 1241 entitled:

"A BILL FOR AN ACT RELATING TO REAL PROPERTY TRANSACTIONS,"

begs leave to report as follows:

The purpose of this measure is to prohibit a deed restriction or covenant that requires the payment of a transfer fee to a specified private party every time a property is sold or transferred.

Your Committee received testimony in support of this measure from Hawai'i Association of Realtors. Testimony in opposition to this measure was received from Mililani Town Association and one private citizen. Written testimony presented to the Committee may be reviewed on the Legislature's website.

Your Committee finds that some real estate developers charge transfer fees that require a payment to the developer every time a property is sold or transferred from one owner to the next. Some of these fees are unrelated to any legitimate purpose and serve only to enrich the developer. Your Committee finds that there is presently no regulation of these fees, no limitation on their application, and no accountability or oversight of the recipients. Your Committee recognizes the concerns voiced by testifiers that legitimate fees, such as those to cover the cost of association membership, be excluded from this measure.




Your Committee has amended this measure by:

- (1) Exempting fees paid by a borrower to a lender in connection with loan services, cooperative or owner's association fees, fees paid to a landlord for services rendered in connection with the execution of a lease, and fees paid for an option to purchase or right of first refusal;
- (2) Clarifying the definition of residential real property;
- (3) Adding a new section so that the prohibition of transfer fees applies equally to transactions registered with the bureau of conveyances and with the land court; and
- (4) Deferring the effective date of this measure to November 1, 2009, to allow affected parties time to amend forms and printed materials.

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. 1241, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1241, S.D. 1, and be referred to the Committee on Judiciary and Government Operations.

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

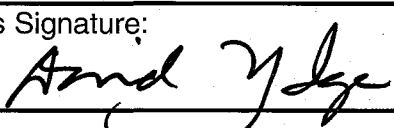


ROSALYN H. BAKER, Chair



The Senate
 Twenty-Fifth Legislature
 State of Hawaii

Record of Votes
Committee on Commerce and Consumer Protection
CPN

Bill / Resolution No.:* SB 1241	Committee Referral: CPN, J90	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: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes