

STAND. COM. REP. NO. 1096

Honolulu, Hawaii

March 23, 2009

RE: S.B. No. 1241  
S.D. 2

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Fifth State Legislature  
Regular Session of 2009  
State of Hawaii

Sir:

Your Committee on Consumer Protection & Commerce, to which  
was referred S.B. No. 1241, S.D. 2, entitled:

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

begs leave to report as follows:

The purpose of this bill is to prohibit residential 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 residential real property, or holder of a right of first  
refusal or first offer to purchase such an interest, for  
waiving the option or right upon transfer of the property  
to another person; and
- (5) Payments to a government entity.

SB1241 SD2 HSCR CPC HMS 2009-3080



The Office of Hawaiian Affairs, Hawaii Association of REALTORS, and Mililani Town Association testified in support of this bill. Alexander & Baldwin, Inc. provided comments.

This bill seeks to prohibit residential real property deed restrictions or covenants imposing fees on transferees every time the property is transferred. These restrictions run with the land and are not always disclosed to buyers until the closing of a property sale. Moreover, these fees may be used to generate income on recurring transfers of homes long after their initial sale. Your Committee finds that this bill addresses the apparent lack of regulation over the imposition of such fees by prohibiting them altogether, while providing exemptions for certain usual and customary fees, assessments, and charges triggered by various real property transactions.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1241, S.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

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



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ROBERT N. HERKES, Chair



