

STAND. COM. REP. NO.

2296

Honolulu, Hawaii

FEB 12 2010

RE: S.B. No. 2373  
S.D. 1

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

Madam:

Your Committee on Commerce and Consumer Protection, to which was referred S.B. No. 2373 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 imposition of private transfer fees on the transfer of real property.

Your Committee received testimony in support of this measure from Hawai'i Association of Realtors, the Mortgage Bankers Association of Hawaii, the Hawaii Bankers Association, and Hawaii Financial Services Association. Your Committee received testimony in opposition to this measure from 1250 Oceanside Partnerships. Comments on this measure were received from Alexander & Baldwin, Inc., and Hawaii Land Title Association. Written testimony presented to the Committee may be reviewed on the Legislature's website.

Your Committee finds that private transfer fees are fees imposed by private parties which require a purchaser of real property to pay a certain amount upon closing of a sale of real property. Your Committee finds that these fees are currently unregulated and carry the potential for abuse if not subject to reasonable regulation. Your Committee notes that this measure provides exemptions to the general prohibition on transfer fees for legitimate charges that arise from the transfer of real property, fees paid by property developers, fees paid by purchasers who attempt to subvert the intention of affordable



housing initiatives by purchasing property that was originally transferred at below market value pursuant to an affordable housing program, and fees and charges payable pursuant to a court order or settlement agreement that was issued prior to the effective date of this measure.

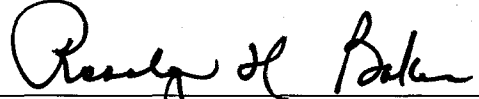
Your Committee has amended this measure by:

- (1) Clarifying the exception to the fee prohibition for fees payable to condominium associations, cooperative housing corporations, and planned community associations;
- (2) Exempting persons who purchase real property that was initially transferred at below market value pursuant to an affordable housing program from the prohibition on transfer fees;
- (3) Adding a new provision to clarify that fees and charges imposed in violation of this measure after the effective date of this measure shall be unenforceable;
- (4) Clarifying that this measure applies prospectively and that no cause of action shall lie for recovery of a fee charged prior to its effective date; and
- (5) Making nonsubstantive technical changes for the purposes of clarity and accuracy.

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. 2373, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2373, 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.:* <i>SB 2313</i>	Committee Referral: <i>CPN, JGO</i>	Date: <i>2/10/2010</i>
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The committee is reconsidering its previous decision on this measure.  
If so, then the previous decision was to: \_\_\_\_\_

The Recommendation is:

Pass, unamended 2312     
 Pass, with amendments 2311     
 Hold 2310     
 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	✓			
<b>TOTAL</b>	<i>6</i>			<i>1</i>

Recommendation:       Adopted       Not Adopted

Chair's or Designee's Signature:  
*David Y Ige*

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\*Only one measure per Record of Votes