

STAND. COM. REP. NO.

2423

Honolulu, Hawaii

FEB 26 2010

RE: S.B. No. 2408
S.D. 2

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

Madam:

Your Committee on Education and Housing, to which was referred S.B. No. 2408, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO HOUSING DEVELOPMENT,"

begs leave to report as follows:

The purpose of this measure is to amend the criteria for approval by the Hawaii Community Development Authority of substitute reserved housing projects to be constructed within and outside of the geographic boundaries of the Authority's jurisdiction.

Testimony in support of this measure was submitted by one state agency and four organizations. Testimony in support of the intent of this measure was submitted by one state agency. Comments were submitted by one state agency. Written testimony presented to the Committee may be reviewed on the Legislature's website.

In Kalima, et al. v. State of Hawaii, et al., Civil No. 99-0-4771-12 (EEH), on November 3, 2009, Judge Hifo ruled that the State of Hawaii is liable for breaches of trust to native Hawaiian beneficiaries of the Hawaiian Home Lands Trust that led to delays in the award of homestead lots between 1959 and 1988. Judge Hifo found:

"By any measure and any method the clear and convincing evidence proves the award of significantly more homesteads would have occurred during the claims



period if the Defendant State had cured its own breaches and those of predecessor trustees for which the State became equally responsible as the successor trustee that knew and ignored the prior breaches." (Kalima, et al. v. State of Hawaii, et al., Decision Regarding Liability and Legal Causation Following Bifurcated Trial on Aforesaid Issues, November 3, 2009.)

While the State has made progress in generating income from the trust lands and getting claimants onto the land, your Committee finds that this measure is a viable and appropriate effort by the State to further carry out its trust responsibilities to provide additional housing for its beneficiaries. With approximately 25,000 native Hawaiian applicants waiting for an opportunity for home ownership, this measure would help more native Hawaiians obtain affordable and needed housing.

Your Committee finds that amendments to this measure are necessary to maintain the intent of creating reserved workforce housing in the urban Honolulu core while also creating opportunities for the Department of Hawaiian Home Lands to provide additional housing for its beneficiaries. Accordingly, your Committee has amended this measure by:

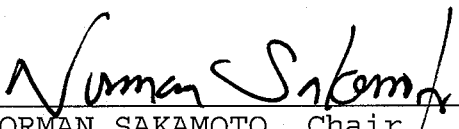
- (1) Reducing the maximum percentage of affordable housing requirements imposed on any proposed development project that may be satisfied through substitute reserved housing from fifty per cent to thirty-three per cent;
- (2) Requiring the allowed substitute reserved housing to be located on land within the jurisdiction of the Department of Hawaiian Home Lands and within the urban core of Honolulu; provided that for development projects within the Kalaeloa Community Development District, substitute reserved housing units shall be located on lands within the jurisdiction of the Department of Hawaiian Home Lands on the island of Oahu;
- (3) Removing the requirement that substitute reserved housing units must be substantially equal in value to the housing units that were to be developed;



- (4) Allowing the development of substitute reserved housing to be undertaken pursuant to requests submitted by Hawaiian Homestead Community Associations;
- (5) Inserting an effective date of July 1, 2050, to allow for further discussion of this measure; and
- (6) Making technical, nonsubstantive changes for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Education and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2408, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2408, S.D. 2.

Respectfully submitted on
behalf of the members of the
Committee on Education and
Housing,

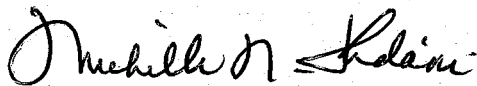


NORMAN SAKAMOTO, Chair



The Senate
Twenty-Fifth Legislature
State of Hawaii

Record of Votes
Committee on Education and Housing
EDH

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 2408 SDI	WTL, EDH	2-19-10		
<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
SAKAMOTO, Norman (C)	✓			
KIDANI, Michelle N. (VC)	✓			
CHUN OAKLAND, Suzanne	✓			
GALUTERIA, Brickwood	✓			
TSUTSUI, Shan S.				✓
HEMMINGS, Fred				✓
TOTAL	4			2
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