

STAND. COM. REP. NO. 394

Honolulu, Hawaii

FEB 17, 2011

RE: H.B. No. 909  
H.D. 1

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Sixth State Legislature  
Regular Session of 2011  
State of Hawaii

Sir:

Your Committee on Human Services, to which was referred H.B. No. 909 entitled:

"A BILL FOR AN ACT RELATING TO FAMILY COURT,"

begs leave to report as follows:

The purpose of this bill is to provide effective procedures for property division pursuant to a divorce while simplifying and codifying existing law to ensure consistency, lower barriers to justice, and to assist practitioners and pro se litigants with family court divorce cases by:

- (1) Adding definitions for clarity and consistency in the creation of dissipation statutory guidelines;
- (2) Creating statutory language pertaining to marital partnership and property division that, among other things:
  - (A) Provides that the date of property valuation of marital property for division and the commencement of the marital partnership winding up period is the date of the dissolution of the marital partnership;
  - (B) Explains the fiduciary duty of loyalty and the duty of care that each party owes the marital partnership during the marital partnership winding up period;

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- (C) Specifies when a chargeable reduction of the dollar value of the marital estates occurs and when the dollar value of the chargeable reduction can be added to the dollar value of the marital estate; and
  - (D) Establishes that both spouses are both debtor and creditor to each other for the purposes of the Uniform Fraudulent Transfer Act during the dissolution and winding up of the marital partnership;
- (3) Requiring that when a complaint for annulment, divorce, or separation is filed, each of the parties timely provide to the other party full financial and property disclosure on forms provided by the court; and
  - (4) Removing existing statutory language that a divorced spouse is not entitled to dower or curtesy in the former spouse's real estate, or any part thereof, nor to any share of the former spouse's personal estate following the dissolution of marriage.

A concerned individual testified in support of this bill. The Judiciary commented on this measure.

Your Committee has amended this bill by:

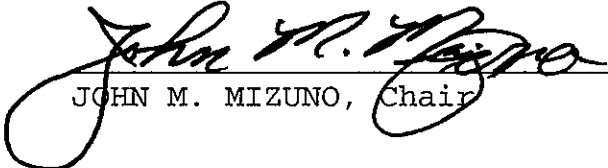
- (1) Deleting the definitions of "marital partnership property" and "marital separate property";
- (2) Changing the definition of "date of the dissolution of the marital partnership" by deleting the date at which one or both of the parties demonstrated their express will to withdraw from the marital partnership;
- (3) Providing that the date of valuation of marital property for division is the date of the filing of the complaint for divorce instead of the date of the dissolution of the marital partnership;
- (4) Eliminating the characterization of spouses as debtors and creditors during the dissolution and winding up of the marital partnership;



- (5) Restoring existing statutory language that a divorced spouse is not entitled to dower or curtesy in the former spouse's real estate, or any part thereof, nor to any share of the former spouse's personal estate following the dissolution of marriage;
- (6) Changing the effective date to July 1, 2050, to encourage further discussion; and
- (7) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 909, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 909, H.D. 1, and be referred to the Committee on Judiciary.

Respectfully submitted on  
behalf of the members of the  
Committee on Human Services,

  
JOHN M. MIZUNO, Chair



