

Honolulu, Hawaii

April 26, 2012

RE: H.B. No. 2623  
H.D. 1  
S.D. 1  
C.D. 1

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Sixth State Legislature  
Regular Session of 2012  
State of Hawaii

Honorable Shan S. Tsutsui  
President of the Senate  
Twenty-Sixth State Legislature  
Regular Session of 2012  
State of Hawaii

Sirs:

Your Committee on Conference on the disagreeing vote of the House of Representatives to the amendments proposed by the Senate in H.B. No. 2623, H.D. 1, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO TRANSFER OF PROPERTY,"

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this measure is to, among other things:

- (1) Extend the same immunity that property held by spouses or reciprocal beneficiaries as tenants by the entirety would have from their separate creditors to conveyances of real property by spouses or reciprocal beneficiaries to joint or separate revocable trusts amendable by both parties, or each individual grantor, respectively, under specified conditions;
- (2) Ensure that the protection of a tenancy by the entirety to real property in the spouses' or reciprocal beneficiaries'



trust continues after the death of one of the spouses or reciprocal beneficiaries;

- (3) Establish that if the property transfer is held invalid, or if the trust is revoked or dissolved, all real property held in trust is automatically deemed to be held by both spouses of reciprocal beneficiaries in tenancy by the entirety;
- (4) Establish that upon the divorce or annulment of spouses or the termination of a reciprocal beneficiary relationship the immunity of real property from claims of separate creditors shall immediately terminate and the property will be treated as tenancy in common;
- (5) Allow spouses or reciprocal beneficiaries to waive the tenancy by the entirety protection as to any creditor or any specifically described trust property;
- (6) Place the burden of proving immunity of the trust property from a separate creditor's claims on the spouses or reciprocal beneficiaries in the event of a dispute; and
- (7) Establish that the real property conveyed by the spouses or reciprocal beneficiaries is governed by the terms of the trust and is considered as a tenancy by the entirety property only for protection purposes.

Your Committee on Conference has amended this measure by:

- (1) Adding the requirement that the first and last name of the spouse or reciprocal beneficiary for their respective trusts, or the first and last names of both spouses or reciprocal beneficiaries for their joint trust, are included in the name of the trust as one of the specified conditions for real property conveyed by spouses or reciprocal beneficiaries to a revocable trust to receive the same immunity as spouses or reciprocal beneficiaries would have from their separate creditors as tenants by the entirety;
- (2) Changing the effective date to July 1, 2012; and
- (3) Making technical, nonsubstantive amendments for clarity, consistency, and style.

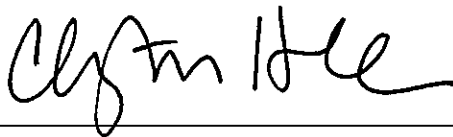


As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2623, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2623, H.D. 1, S.D. 1, C.D. 1.

Respectfully submitted on behalf of the managers:

ON THE PART OF THE SENATE

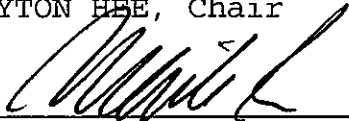
ON THE PART OF THE HOUSE



CLAYTON HEE, Chair



GILBERT KEITH-AGARAN, Chair



MAILE SHIMABUKURO, Co-Chair



