

STAND. COM. REP. NO.

2158

Honolulu, Hawaii

FEB 14 2012

RE: S.B. No. 2760

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

Sir:

Your Committee on Commerce and Consumer Protection, to which was referred S.B. No. 2760 entitled:

"A BILL FOR AN ACT RELATING TO ESCROW DEPOSITORIES,"

begs leave to report as follows:

The purpose and intent of this measure is to adjust bond requirements for escrow depositories, amend fines for violations of escrow depository regulations, and amend the fee structure for services provided by the Division of Financial Institutions.

Your Committee received testimony in support of this measure from the Department of Commerce and Consumer Affairs. Your Committee received comments on this measure from Title Guaranty Escrow Services, Inc.

Your Committee finds that the Division of Financial Institutions in the Department of Commerce and Consumer Affairs is responsible for ensuring that customers of escrow depositories receive the services for which they contracted. Your Committee further finds that escrows by customers are growing in size, and that bonding requirements should more closely coincide with the escrow account amounts. This measure proposes to raise the amount of the bonds required to more accurately reflect today's escrow transaction amounts. This measure also authorizes the Division of Financial Institutions to penalize a company for any violation of escrow depository regulations, rather than having to prove a violation was committed willfully.



Your Committee further finds that the Division of Financial Institutions must annually review escrow depositories' applications for license renewal. The fees for renewal must cover the time spent in renewing the licenses, as well as time spent on matters for which no fees are paid, including reviewing audited financial statements; reviewing renewals and replacements of escrow depository bonds, errors and omissions insurance, fidelity bonds, and capital bonds; responding to inquiries; and processing complaints.

Your Committee additionally finds that the fees assessed by the Division of Financial Institutions are low, have not been significantly reviewed or adjusted since 1987, and are not in line with what other states charge. The fees proposed by this measure have been adjusted to reflect the time spent by staff to review requests and provide services for escrow depositories.

The Division of Financial Institutions has indicated that the increase in fees is based on the Division's need to show a stable source of income for the upcoming accreditation review by the Conference of State Bank Supervisors. The Division is seeking additional fees in an attempt to replace and expand its funding source should the Division not receive its share of the franchise tax. Although the franchise tax revenue for a fiscal year is credited to the Division's fund as of June 30, the revenue is not deposited into the fund until July of the following fiscal year. This requires the Division to have thirteen months of cash reserves in its fund to meet its total operations need for the fiscal year.

The Division of Financial Institutions reviewed various states to determine which fees should be assessed for services provided, and reviewed the type of services provided to escrow companies in light of new federal laws and rules. The Division then focused on four areas of fee adjustments: new companies establishing a new escrow depositor; new mergers, acquisitions, or changes in control of an existing escrow company; new branches or relocation of branches; and bond requirements.

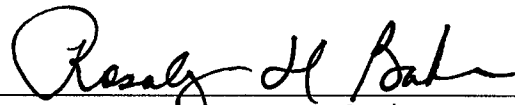
The Division of Financial Institutions based its fees on the time spent reviewing applications from escrow depositories at the rate of \$60 an hour. The Division notes that this rate is a fraction of the actual costs for staff time spent on reviewing applications from escrow depositories and does not include overhead costs.



The Division of Financial Institutions estimates additional revenues of \$80,000 based on the proposed annual renewal fees in this measure. The Division currently receives \$3,050 in annual fees.

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. 2760 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

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



ROSALYN H. BAKER, Chair



