

Honolulu, Hawaii

MAR 01 2012

RE: S.B. No. 3002

S.D. 2

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

Sir:

Your Committee on Judiciary and Labor, to which was referred
S.B. No. 3002, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO REAL ESTATE BROKERS AND
SALESPERSONS,"

begs leave to report as follows:

The purpose and intent of this measure is to establish that
real estate brokers and salespersons shall not be held liable:

- (1) For misrepresentations based upon a good faith reliance
on certain information; and
- (2) For failure to ascertain and disclose all material facts
concerning a property if there was a good faith reliance
on a prepared disclosure statement.

Your Committee received testimony in support of this measure
from the Hawaii Association of Realtors, Prudential Locations LLC,
the Honolulu Board of Realtors, and the Oahu Chapter of the
National Association of Residential Property Managers. Testimony
in opposition to this measure was submitted by the Department of
Commerce and Consumer Affairs and the Real Estate Commission.

Your Committee finds that this measure provides a clearer
legal standard for the Real Estate Commission to use in
determining whether to revoke or suspend real estate broker or
real estate salesperson licenses or whether to fine real estate
brokers or salespersons. This measure requires the Real Estate



Commission to use the reasonable care standard, rather than the strict liability standard under existing law, when enforcing violations.

Your Committee has amended this measure by:

- (1) Adopting the amendments suggested by the Hawaii Association of Realtors to:
 - (A) Identify specific individuals who could misrepresent information that real estate brokers or salespersons may rely on in good faith; and
 - (B) Clarify that real estate brokers and salespersons shall not be held liable for failure to ascertain and disclose all material facts concerning a property if there was reliance in good faith and with due care on a prepared disclosure statement; and
- (2) Inserting an effective date of July 1, 2050, to ensure further discussion.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3002, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3002, S.D. 2.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Labor,



CLAYTON HEE, Chair



