

STAND. COM. REP. NO. 1308-12

Honolulu, Hawaii

March 23, 2012

RE: S.B. No. 3068
S.D. 1
H.D. 1

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

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 3068, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO BAIL BONDS,"

begs leave to report as follows:

The purpose of this measure to provide comprehensive oversight and regulation of bail bond agents and properly hold bail bondsmen and bail insurance companies accountable for a forfeited bail bond by streamlining enforcement procedures for bail bondsmen regarding bail bond forfeitures.

Da Kine Bail Bonds and Professional Bail Agents of Hawaii testified in support of this measure. The Department of Commerce and Consumer Affairs testified in support of the intent of this measure. The Judiciary, Exodus Bail Bond, and Wiki Wiki Bail Bonds, LLC testified in opposition to this measure. Three concerned individuals provided comments.

Your Committee has amended this measure by:

- (1) Establishing criteria and circumstances under which a person executing a bail bond as principal or as a surety is required to be exonerated from bail bond liability;

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- (2) Clarifying that the system implemented for the recording and dissemination of the names of those bail agents who are prohibited from posting bail bonds in the State due to an unpaid judgment shall be a board system;
- (3) Clarifying that, if the State extradites the defendant, all necessary and actual costs associated with the extradition shall be borne by the surety or bail agent up to the amount of the bond;
- (4) Allowing a bail agent or bail insurance company to surrender a defendant within one year of paying a judgment;
- (5) Clarifying that the automatic stay of execution upon a bail forfeiture judgment expires pursuant to its terms unless the surety or bail agent satisfies the court that appearance and surrender by the defendant was impossible and without fault by the defendant;
- (6) Specifying that the insurance commissioner by an order of the court, rather than the court itself, shall suspend the license of the bail agent until such time as all forfeitures and judgments ordered and entered against the bail agent have been certified as paid or vacated by order of a court of record;
- (7) Amending the definition of "bail" or "giving of bail" in, and adding new definitions for "bail agent" or "bail bond agent," "bail fugitive," "bail insurance company," "depositor of bail," "insurance commissioner," and "on the board" to section 804-1, Hawaii Revised Statutes;
- (8) Making numerous conforming amendments to Chapter 804, Hawaii Revised Statutes, in particular section 804-51, to use the term "bail agent" consistently and to ensure consistency between existing statutory language and the new language contained in this measure;
- (9) Deleting the provision exonerating a bond in the event of any change of circumstances affecting risk as this provision was too broad in scope; and
- (10) Making technical, nonsubstantive amendments for clarity, consistency, and style.



As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3068, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3068, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

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


GILBERT KEITH-AGARAN, Chair



