

STAND. COM. REP. NO.

1177

Honolulu, Hawaii

March 22, 2013

RE: S.B. No. 1067
S.D. 2
H.D. 1

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Seventh State Legislature
Regular Session of 2013
State of Hawaii

Sir:

Your Committee on Consumer Protection & Commerce, to which was referred S.B. No. 1067, S.D. 2, entitled:

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

begs leave to report as follows:

The purpose of this measure is to update the laws regulating escrow depositories by:

- (1) Expanding the powers of the Commissioner of Financial Institutions (Commissioner) to supervise, regulate, and examine escrow depositories;
- (2) Authorizing the Commissioner to issue permanent and temporary cease and desist orders and providing for their issuance and enforcement;
- (3) Increasing various fees, penalty amounts, and coverage requirements, including administrative fines, enhanced penalties for violations directed at elders, net capital requirements, fidelity bond requirements, insurance coverage requirements policy, and licensing fee amounts;
- (4) Imposing a fee for the transfer and change in control through transfer of stock in a corporate escrow depository licensee; and

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- (5) Requiring escrow depository licensees to notify the Commissioner of any change in the escrow deposit licensees' designated escrow branch manager.

The Commissioner of Financial Institutions testified in support of this measure. The Hawaii Escrow Association testified in opposition to this measure.

Your Committee notes that the various fee increases, as well as the amended effective dates of sections that increase insurance and security requirements, represent a compromise among the various stakeholders in this measure. Your Committee wishes to further note the Committee's discussions regarding enhanced penalties for violations involving the elderly. These provisions have been left in the measure to support statewide policies aimed at protecting Hawaii's elderly population, a problem highlighted in a Honolulu Prosecutor's Office report that stated that crimes, including financial crimes, against the elderly have doubled from 2009 to 2012.

Your Committee has amended this measure by:

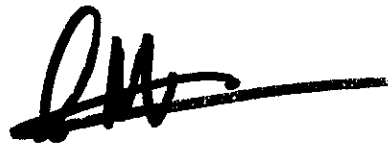
- (1) Requiring the Commissioner to report violations of federal law, rules, guidance, guidelines, statements, supervisory policies, or any similar proclamations, to the applicable federal authority rather than enforce compliance;
- (2) Removing the authority of the Commissioner to issue and enforce permanent and temporary cease and desist orders;
- (3) Deleting the definition of and references to "branch managers" in section 449-1, Hawaii Revised Statutes (HRS), as unnecessary to effectuate the intent of this measure;
- (4) Adding a definition, "examination and investigation," in section 449-1, HRS, for purposes of clarity, consistency, and style;
- (5) Imposing new advance requirements for notice to the commissioner in situations where designated escrow officers are terminated or replaced, including requirements for certain circumstances where advance notice is not possible;



- (6) Increasing the fee for the transfer or change in control of corporate escrow depository license resulting from stock transfer from \$2,000 to \$5,000;
- (7) Changing the effective date of increased insurance and security requirements so that they take effect on the date of the renewal of existing security devices, but not later than July 1, 2014;
- (8) Changing its effective date to January 1, 2012, to encourage further discussion; and
- (9) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1067, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1067, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

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



ANGUS L.K. MCKELVEY, Chair



