

Honolulu, Hawaii

FEB 15 2013

RE: S.B. No. 1067

S.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Seventh State Legislature
Regular Session of 2013
State of Hawaii

Madam:

Your Committees on Commerce and Consumer Protection and
Judiciary and Labor, to which was referred S.B. No. 1067 entitled:

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

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Update the escrow depositories law to more realistically address the current responsibilities and operations of escrow depositories;
- (2) Authorize the Commissioner of Financial Institutions of the Department of Commerce and Consumer Affairs to investigate and conduct hearings on possible violations of the escrow depositories law; and
- (3) Provide remedies to stop unlawful actions that would endanger the public.

Your Committees received testimony in support of this measure from the Division of Financial Institutions of the Department of Commerce and Consumer Affairs. Your Committees received comments on this measure from the Hawaii Escrow Association.

Your Committees find that the last significant revision to the State's escrow depositories law, codified as chapter 449, Hawaii Revised Statutes, was more than twenty-five years ago. Today's escrow depositories are handling larger and more



sophisticated financial transactions, and certain changes to the escrow depositories law are therefore needed to better regulate the industry and protect consumers. Your Committees further find that the Commissioner of Financial Institutions and representatives from the escrow depository industry met during the summer and fall of 2012 to discuss modernization amendments for the escrow depository industry that would be mutually beneficial to the industry and the State.

According to testimony received by your Committees, the escrow depository representatives and the Commissioner of Financial Institutions have not reached consensus in all areas but have reached consensus on the increased bonding requirements and certain fee schedule changes proposed by this measure.

Your Committees additionally find that the Division of Financial Institutions has indicated that the fee changes proposed by this measure are based on the Division's need to appropriately carry out its mission. The Division has also indicated that a guiding principle of the Division is to ensure that revenues from each program are sufficient to cover the Division's costs of operating that program. Unfortunately, the escrow depositories program ran a deficit of \$199,339 in fiscal year 2011 and a deficit of \$250,459 in fiscal year 2012. It is therefore clear that the escrow depositories program is fiscally unsustainable under the existing fee schedules set by chapter 449, Hawaii Revised Statutes. Your Committees note that representatives from the industry have agreed to support most, but not all, of the fee increases proposed by this measure. Further discussion on this topic is therefore needed.

Your Committees have heard the concerns regarding certain provisions in this measure that increase the Commissioner of Financial Institutions' power, regulatory authority, and enforcement provisions. Your Committees understand that although consensus language on these areas has not yet been reached, the interested parties are willing to work together through further discussions.

Your Committees have amended this measure by:

- (1) Replacing the \$5,000 fee for filing and investigation of an escrow depository's application for license with an unspecified amount;

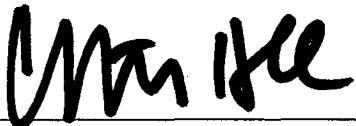


- (2) Removing language that would have permitted the Commissioner of Financial Institutions to charge or bill an escrow depository in connection with an investigation;
- (3) Inserting an effective date of July 1, 2050, to encourage further discussion; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

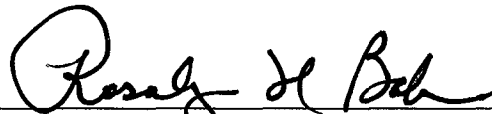
Your Committees note that this amended measure represents a work in progress between the Division of Financial Institutions and escrow depositories licensed in the State. Although there has been some agreement between the parties, there are still aspects of this measure that require further dialogue and compromise. Your Committees strongly encourage both parties to use this amended measure as a means to encourage dialogue and continue discussions as the measure moves through the Legislature.

As affirmed by the records of votes of the members of your Committees on Commerce and Consumer Protection and Judiciary and Labor that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 1067, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1067, S.D. 1, and be referred to the Committee on Ways and Means.

Respectfully submitted on
behalf of the members of the
Committees on Commerce and
Consumer Protection and
Judiciary and Labor,



CLAYTON HEE, Chair

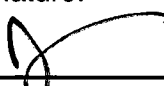


ROSALYN H. BAKER, Chair



The Senate
 Twenty-Seventh Legislature
 State of Hawai'i

Record of Votes
Committee on Commerce and Consumer Protection
CPN

Bill / Resolution No.:* SB1067	Committee Referral: CPN/JDL, WAM	Date: 2/12/13		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	✓			
GALUTERIA, Brickwood (VC)	✓			
NISHIHARA, Clarence K.	✓			
SOLOMON, Malama				✓
TANIGUCHI, Brian T.	✓			
WAKAI, Glenn	✓			
SLOM, Sam				✓
TOTAL	5			2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes

