

Honolulu, Hawaii

APR 25 2013

RE: S.B. No. 966
H.D. 1
C.D. 1

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

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

Madam and Sir:

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House of Representatives in S.B. No. 966, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO THE UNIFORM MEDIATION ACT,"

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this measure is to adopt the Uniform Mediation Act, which provides a comprehensive law for privileges and confidentiality in mediation. Specifically, this measure:

- (1) Establishes a privilege of confidentiality for mediators and participants that prohibits the disclosure of mediation communication from being subject to discovery or admissible as evidence;
- (2) Allows the parties to the mediation to waive the privilege and provides certain exceptions to the privilege, including the types of information the mediator may disclose;



- (3) Requires the disclosure of known conflicts of interest by the mediator and, upon request, the disclosure of the mediator's qualifications; and
- (4) Promotes autonomy by authorizing the parties to decide matters that can be set by agreement.

Your Committee on Conference finds that mediation is a process by which a third party facilitates communication and negotiation between parties to a dispute to assist them in reaching a voluntary agreement resolving that dispute. Currently, mediation communication is covered by Rule 408, Hawaii Rules of Evidence. This measure establishes a privilege that provides significantly more protection for mediation communications than the existing rule of evidence.

Your Committee on Conference has amended this measure by deleting language from the definition of "mediation" that specifies that mediation does not include hooponopono, ifoga, or other similar, traditional or customary dispute resolution practices.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 966, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 966, H.D. 1, C.D. 1.

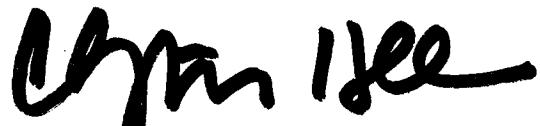
Respectfully submitted on behalf of the managers:

ON THE PART OF THE HOUSE

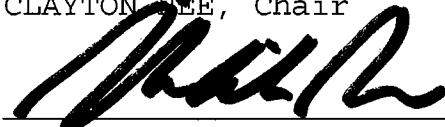
ON THE PART OF THE SENATE



KARL RHOADS, Chair



CLAYTON LEE, Chair



MAILE S.L. SHIMABUKURO, Co-Chair



