



# HB998


Measure Title: RELATING TO PRIVATE TRANSFER FEES.  
 Report Title: Real Property; Private Transfer Fees  
 Description: Makes permanent the prohibition of private fees for a future transfer of real property.  
 Companion:  
 Package: None  
 Current Referral: CPN, JDL  
 Introducer(s): MCKELVEY, KOBAYASHI, Cabanilla

<u>Sort by Date</u>		<b>Status Text</b>
1/22/2013	H	Pending introduction.
1/24/2013	H	Introduced and Passed First Reading
1/28/2013	H	Referred to WAL, CPC/JUD, referral sheet 6
2/1/2013	H	Bill scheduled to be heard by WAL on Monday, 02-04-13 10:50AM in House conference room 325.
2/4/2013	H	The committees on WAL recommend that the measure be PASSED, UNAMENDED. The votes were as follows: 7 Ayes: Representative(s) Evans, Lowen, Cullen, Kawakami, C. Lee, Fale, Thielen; Ayes with reservations: none; Noes: none; and 2 Excused: Representative(s) Coffman, Hanohano.
2/6/2013	H	Reported from WAL (Stand. Com. Rep. No. 156), recommending passage on Second Reading and referral to CPC/JUD.
2/6/2013	H	Passed Second Reading and referred to the committee(s) on CPC/JUD with none voting aye with reservations; none voting no (0) and Representative(s) Cachola, Say excused (2).
2/7/2013	H	Bill scheduled to be heard by CPC/JUD on Monday, 02-11-13 2:30PM in House conference room 325.
2/11/2013	H	The committees on CPC recommend that the measure be PASSED, UNAMENDED. The votes were as follows: 9 Ayes: Representative(s) McKelvey, Kawakami, Brower, Cabanilla, Evans, C. Lee, Tsuji, Yamane, McDermott; Ayes with reservations: none; Noes: none; and 6 Excused: Representative(s) Belatti, Cachola, Carroll, Har, Ito, Thielen.
2/11/2013	H	The committees on JUD recommend that the measure be PASSED, UNAMENDED. The votes were as follows: 7 Ayes: Representative(s) Rhoads, Brower, Carroll, Kawakami, C. Lee, Tsuji, McDermott; Ayes with reservations: none; Noes: none; and 6 Excused: Representative(s) Har, Belatti, Cabanilla, Ito, Wooley, Thielen.
2/28/2013	H	Reported from CPC/JUD (Stand. Com. Rep. No. 641), recommending passage on Third Reading.
2/28/2013	H	Passed Third Reading with none voting aye with reservations; none voting no (0) and Coffman, McDermott excused (2). Transmitted to Senate.
3/1/2013	S	Received from House (Hse. Com. No. 118).
3/1/2013	S	Passed First Reading.
3/5/2013	S	Referred to CPN, JDL.
3/7/2013	S	The committee(s) on CPN has scheduled a public hearing on 03-12-13 10:00AM in conference room 229.



 | 808-733-7060

 | 1259 A'ala Street, Suite 300  
Honolulu, HI 96817

 | 808-737-4977

March 12, 2013

**The Honorable Rosalyn H. Baker, Chair**  
Senate Committee on Commerce and Consumer Protection  
State Capitol, Room 229  
Honolulu, Hawaii 96813

**RE: H.B. 998, Relating to Private Transfer Fee**

**HEARING: Tuesday, March 12, 2013 at 10:00 a.m.**

Aloha Chair Baker, Vice Chair Galuteria, and Members of the Committee:

I am Myoung Oh, Government Affairs Director, here to testify on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its 8,000 members. HAR **strongly supports** H.B. 998, which repeals the sunset date of Act 129, Session Laws of Hawai'i 2010 and makes permanent the prohibition of private fees for a future transfer of real property.

A Private Transfer Fee ("PTF") is a fee imposed by a private party which requires the payment of a certain amount (usually a percentage of the sales price) for future conveyances of a property, potentially in perpetuity. PTFs may be imposed via deed restrictions or covenants. Sometimes, PTFs may be imposed as part of a new housing development upon the initial and subsequent purchasers of the property. These restrictions run with the land, and may not necessarily be disclosed to subsequent buyers until the closing of a property sale.

HAR believes that, left unregulated, PTFs can be misused, and may create significant financial barriers to homeownership. Because PTFs are funds due at closing, they can be a substantial burden on real property buyers, who are already financially committed to the costs of down payments, appraisals, title insurance, surveys, mortgage points, attorney's fees, and other taxes and fees.

In 2010, recognizing the problematic nature of PTFs, the Legislature passed Act 129, Session Laws of Hawai'i 2010, which prohibits the use of PTFs with very limited exceptions. In that same year, 12 other states passed legislation prohibiting PTFs. After the 2011 legislation sessions, a total of 36 states have either banned or placed conditions on the practice.

Act 129 included a sunset date, and HAR believes that this sunset date should now be removed.

REALTOR® is a registered collective membership mark which may be used only by real estate professionals who are members of the NATIONAL ASSOCIATION OF REALTORS® and subscribe to its strict Code of Ethics.





Hawai'i  
Association of  
**REALTORS**<sup>®</sup>  
www.hawaii Realtors.com



| 808-733-7060



| 808-737-4977



| 1259 A'ala Street, Suite 300  
Honolulu, HI 96817

---

Finally, HAR notes that the Federal Housing Finance Agency's (FHFA) final rule excludes private transfer fees paid to homeowner associations, condominiums, cooperatives, and certain tax-exempt organizations that use private transfer fee proceeds to benefit the property. These exclusions are similar to Hawaii's Act.

Therefore, we respectfully request your favorable support of this measure to repeal the sunset date of Act 129, Session Laws of Hawai'i 2010 and make permanent the prohibition of private fees.

Mahalo for the opportunity to testify.

REALTOR<sup>®</sup> is a registered collective membership mark which may be used only by real estate professionals who are members of the NATIONAL ASSOCIATION OF REALTORS<sup>®</sup> and subscribe to its strict Code of Ethics.

