

March 19, 2013

**The Honorable Clayton Hee, Chair**

Senate Committee on Judiciary and Labor  
State Capitol, Room 016  
Honolulu, Hawaii 96813

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

**HEARING: Tuesday, March 19, 2013 at 10:05 a.m.**

Aloha Chair Hee, Vice Chair Shimabukuro, and Members of the Committee:

I am Myoung Oh, Government Affairs Director, testifying 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 and after the 2012 legislation sessions, a total of 41 states explicitly prohibit private transfer fees in most situations. Act 129 included a sunset date, and HAR believes that this sunset date should now be removed.



 | 808-733-7060

 | 808-737-4977

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

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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.



**hee2 - Kathleen**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, March 18, 2013 12:39 PM  
**To:** JDLTestimony  
**Cc:** pryan@ryanassociates.com  
**Subject:** Submitted testimony for HB998 on Mar 19, 2013 10:05AM

**HB998**

Submitted on: 3/18/2013

Testimony for JDL on Mar 19, 2013 10:05AM in Conference Room 16

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Paul Ryan	Individual	Support	No

Comments: I believe that Hawai'i needs to establish funding specifically for wildlife recovery and rehabilitation to support the operations of a facility to respond to oil and fuel-related disasters affecting native wildlife in the State. I support allocating a portion of the funding collected from barrel taxes specifically for the purpose of wildlife recovery and rehabilitation. I support establishing a funding source from the barrel tax for wildlife recovery and rehabilitation to support the operations of the Hawaii Wildlife Center to respond to oil and fuel-related disasters affecting native wildlife. We must be prepared to care for Hawaii's 15 million seabirds, shorebirds, and water birds in the advent of an oil spill or other wildlife related disaster. HB988 HD2 will have an immediate effect towards ensuring that a permitted, professionally staffed, state-of-the-art facility is fully prepared to respond to any spill event and help to satisfy the statutory responsibility of the State and Federal government.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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