

SB503

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): BAKER, ENGLISH, KEITH-AGARAN, Dela Cruz, Espero, Gabbard, Kahele, Nishihara, Solomon, Taniguchi

<u>Sort by</u> <u>Date</u>		Status Text
1/18/2013	S	Introduced.
1/22/2013	S	Passed First Reading.
1/22/2013	S	Referred to CPN, JDL.
1/24/2013	S	The committee(s) on CPN has scheduled a public hearing on 01-30-13 8:30AM in conference room 229.

January 30, 2013

The Honorable Rosalyn H. Baker, Chair

Senate Committee on Commerce and Consumer Protection
State Capitol, Room 229
Honolulu, Hawaii 96813

RE: S.B. 503, Relating to Private Transfer Fee

HEARING: Wednesday, January 30, 2013 @ 8:30 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** S.B. 503, 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.



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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.

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January 28, 2013

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

Re: Senate Bill 503 Relating to Private Transfer Fees
Hearing Date: Wednesday, January 30, 2013
Hearing Time: 8:30 a.m.

Dear Chair Baker, Vice Chair Galuteria, and Members of the Senate Committee on
Commerce and Consumer Protection:

My name is Lorrin Hirano, and I am president of the Hawaii Land Title
Association ("HLTA"), which is an association of the eight largest title companies and
underwritten title agents in Hawaii. The HLTA supports Senate Bill 503 and respectfully
requests that the Committee act favorably in approving the bill.

If you have any questions, I would be happy to be contacted at 533-5842.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lorrin Hirano', is written over a horizontal line.

Lorrin Hirano
President, Hawaii Land Title Association