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# A BILL FOR AN ACT

RELATING TO REAL ESTATE APPRAISERS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds a lack of openness and  
2 transparency exists in the implementation of Act 227, Session  
3 Laws of Hawaii 2011, which was codified as section 466K-6,  
4 Hawaii Revised Statutes.

5           Act 227 requires appraisers acting as arbitrators to fully  
6 report the basis for an award and to certify compliance with the  
7 nationally accepted Uniform Standards of Professional Appraisal  
8 Practice when valuing properties and determining market value or  
9 market rent. Compliance with these standards ensures adherence  
10 to professional standards that protect the parties to an  
11 arbitration and consumers in the State.

12           The legislature also finds that Hawaii has relatively few  
13 commercial appraisers who specialize in these matters and these  
14 individuals or firms are the exclusive determiners of the market  
15 values or market rents of leasehold property in Hawaii. This  
16 results in members of the same profession gathering and  
17 selecting market data, presenting that data to arbitration



1 panels as expert witnesses, and then deciding the matter as  
2 appointed arbitrators.

3 The legislature further finds that since the enactment of  
4 Act 227, confidentiality clauses have been incorporated into  
5 agreements that govern individual arbitration panels. Inclusion  
6 of these confidentiality clauses frustrates the legislature's  
7 intent in enacting Act 227 and works to the detriment of  
8 consumers because valuable market data is wilfully withheld from  
9 public use.

10 Real estate transactions that occur as sales transactions  
11 are recorded with the bureau of conveyances; any interested  
12 party may request a copy of a recorded real estate transaction  
13 from the bureau. Financial institutions, real estate firms,  
14 buyers, and sellers all take advantage of this data prior to  
15 participating in the market. Access to this information allows  
16 participants in the real estate market to better understand the  
17 volume and the value of that market in an open and transparent  
18 manner, allowing the market to function more efficiently.

19 In the resetting of industrial and commercial leasehold  
20 rents, recordation of an arbitration award and access to the  
21 record of the award at the bureau of conveyances would ensure  
22 public access to data that is currently unavailable, despite the



1 enactment of Act 227. For the leasehold market to function with  
2 openness and transparency, and to further protect consumers in  
3 the State of Hawaii, the legislature finds that arbitration  
4 awards and reports should be available to all interested  
5 participants in the market.

6 The purpose of this Act is to improve market efficiency and  
7 consumer protection in transactions related to the appraised  
8 valuation of real property by:

- 9 (1) Improving the process by which real estate appraisers,  
10 when acting as arbitrators to determine fair market  
11 value, fair market rent, or fair and reasonable rent  
12 of leasehold property, fully and publicly record  
13 arbitration awards along with the record of the  
14 arbitration award and any supplementary, dissenting,  
15 or explanatory opinions recorded as required by  
16 section 466K-6, Hawaii Revised Statutes; and  
17 (2) Making data pertinent to industrial and commercial  
18 ground lease valuations and rents available to the  
19 general public.

20 SECTION 2. Section 466K-6, Hawaii Revised Statutes, is  
21 amended to read as follows:



1           " ~~[+]§466K-6[+]~~ **Appraisers in arbitration proceedings.** (a)  
2     Arbitration awards, records of awards, and supplementary,  
3     dissenting, or explanatory opinions recorded pursuant to this  
4     section shall be public records.

5           (b) In an arbitration proceeding to determine the fair  
6     market value, fair market rental, or fair and reasonable rent of  
7     real property where the arbitrator is a real estate appraiser  
8     licensed or certified under ~~[+]this[+]~~ chapter, the record of an  
9     award shall include but not be limited to findings of fact; the  
10    state-licensed or certified appraiser's rationale for the award;  
11    the state-licensed or certified appraiser's certification of  
12    compliance with the most current Uniform Standards of  
13    Professional Appraisal Practice as approved by the director; and  
14    information regarding the evidence, including the data,  
15    methodologies, and analysis that provided the basis for the  
16    award.

17           (c) A real estate appraiser licensed or certified under  
18    this chapter who is named or appointed as an arbitrator in a  
19    submission agreement to appraise or arbitrate entered into after  
20    July 1, 2014, shall record with the bureau of conveyances all  
21    arbitration awards; records of awards, if separately issued; and  
22    any supplementary, dissenting, or explanatory opinions on awards



1 within ninety days of the notification of the determination of  
2 the award to the parties.

3 (d) No agreement between the parties or the appraisers  
4 acting as arbitrators shall preclude or deny the requirement to  
5 record an award, the record of an award, or any supplementary,  
6 dissenting, or explanatory opinions as required by this section.

7 (e) Failure to comply with this section shall be a  
8 violation of this chapter for purposes of licensing or  
9 certification."

10 SECTION 3. Statutory material to be repealed is bracketed  
11 and stricken. New statutory material is underscored.

12 SECTION 4. This Act shall take effect on July 1, 2020.



**Report Title:**

Real Estate Appraisers; Arbitration Awards; Recordation

**Description:**

Requires real estate appraisers, acting as arbitrators, to record arbitration awards, the record of an award, and any supplementary, dissenting, or explanatory opinions with the Bureau of Conveyances. Specifies that information recorded is a public record. Effective July 1, 2020. (HB1830 HD1)

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