

JAN 15 2014

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 (Act 227), which was codified as section
4 466K-6, 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 standards when valuing properties and determining
9 market value or market rent. Compliance with the Uniform
10 Standards of Professional Appraisal Practice ensures adherence
11 to professional standards that would protect the parties to an
12 arbitration and the consumers of the State.

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



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

3 The legislature also finds that Act 227 was intended to
4 bring data, openness, and transparency to a market controlled by
5 few landlords and very few commercial and industrial appraisers.
6 Unfortunately, since the passage of Act 227, confidentiality
7 clauses have been incorporated into agreements that govern
8 individual arbitration panels. Inclusion of these
9 confidentiality clauses frustrates the legislature's intent in
10 enacting Act 227 and works to the detriment of consumers because
11 valuable market data is wilfully withheld from public use.

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

21 In the resetting of industrial and commercial leasehold
22 rents, recordation of an arbitration award and access to the



1 record of the award at the bureau of conveyances would ensure
2 public access to data that is currently unavailable, despite the
3 enactment of Act 227. For the leasehold market to function with
4 openness and transparency, and to further protect consumers in
5 the State of Hawaii, the legislature finds that arbitration
6 awards and reports must be available to all interested
7 participants in the market.

8 It is the legislature's intent that these awards and
9 reports be open to the public. Accordingly, the purpose of this
10 Act is to support the openness and transparency originally
11 contemplated by Act 227 by:

- 12 (1) Requiring arbitration awards issued under chapter
13 466K, Hawaii Revised Statutes, to be open to the
14 public;
- 15 (2) Further requiring real estate appraisers acting as
16 arbitrators to record arbitration awards, the records
17 of the awards, if separately issued, and any
18 supplementary, dissenting, or explanatory opinions
19 with the bureau of conveyances within ninety days of
20 the determination of the award and its notification to
21 the parties; and



1 (3) Clarifying that failure to make arbitration reports
2 public or record required information with the bureau
3 of conveyances shall be a violation of the license or
4 certification requirements of chapter 466K, Hawaii
5 Revised Statutes.

6 SECTION 2. Chapter 466K, Hawaii Revised Statutes, is
7 amended by adding a new section to be appropriately designated
8 and to read as follows:

9 "§466K- Arbitration awards; recordation. (a)
10 Arbitration awards under this chapter shall be open to the
11 public.

12 (b) A real estate appraiser licensed or certified under
13 this chapter who is acting as an arbitrator shall record all
14 arbitration awards, the records of the arbitration awards, if
15 separately issued, and any supplementary, dissenting, or
16 explanatory opinions with the bureau of conveyances within
17 ninety days of the determination of the arbitration award and
18 the notification of its determination to the parties.

19 (c) Failure to comply with this section shall be deemed a
20 violation of the license or certification requirements under
21 this chapter."

22 SECTION 3. New statutory material is underscored.



1 SECTION 4. This Act shall take effect upon its approval.

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S.B. NO. 2047

Report Title:

Real Estate Appraisers; Arbitration Awards; Recordation;
Openness; Transparency

Description:

Requires arbitration awards under chapter 466K, Hawaii Revised Statutes, to be open to the public. Requires real estate appraisers, acting as arbitrators, to record arbitration awards, the records of the awards, if separately issued, and any supplementary, dissenting, or explanatory opinions with the bureau of conveyances within ninety days of the determination of the award and its notification to the parties. Clarifies that failure to comply is a violation of real estate appraiser license or certification requirements.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

