

JAN 17 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 Accordingly, the purpose of this Act is to support the
9 openness and transparency originally contemplated by Act 227 by:

- 10 (1) Requiring real estate appraisers acting as arbitrators
11 to record, or cause to be recorded, the arbitration
12 award rendered; the findings of fact, rationale, and
13 information regarding the evidence, including the
14 data, methodologies, and analysis that provided the
15 basis for the award; and any supplementary,
16 dissenting, or explanatory opinions with the bureau of
17 conveyances within ninety days of the determination of
18 the award and its notification to the parties; and
19 (2) Specify that no agreement between the parties or the
20 appraisers acting as arbitrators may preclude or deny
21 the recordation of the award, the record of the award,



1 or any supplementary, dissenting, or explanatory
2 opinions.

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

6 "~~S466K-~~ Arbitration awards; recordation; non-
7 confidentiality. (a) A real estate appraiser licensed or
8 certified under this chapter who is acting as an arbitrator in
9 an arbitration proceeding to determine the fair market value,
10 fair market rental, or fair and reasonable rent of real
11 property, shall record, or cause to be recorded, the arbitration
12 award rendered; the findings of fact, rationale, and information
13 regarding the evidence, including the data, methodologies, and
14 analysis that provided the basis for the award; and any
15 supplementary, dissenting, or explanatory opinions with the
16 bureau of conveyances within ninety days of the determination of
17 the arbitration award and the notification of its determination
18 to the parties.

19 (b) No agreement between the parties or the appraisers
20 acting as arbitrators may preclude or deny the recordation of
21 the award, the record of the award, or any supplementary,
22 dissenting, or explanatory opinions."



S.B. NO. 2476

1 SECTION 3. New statutory material is underscored.

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

3

INTRODUCED BY: *Randy H. Bell*



Report Title:

Real Estate Appraisers; Arbitration Awards; Recordation; Non-confidentiality

Description:

Requires real estate appraisers acting as arbitrators to record, or cause to be recorded, the arbitration award rendered; the findings of fact, rationale, and information regarding the evidence, including the data, methodologies, and analysis that provided the basis for the award; 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. Specifies that no agreement between the parties or the appraisers acting as arbitrators may preclude or deny the recordation of the award, the record of the award, or any supplementary, dissenting, or explanatory opinions.

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

