

JAN 23 2014

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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 the consumers of 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 value 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:

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

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

21 " ~~[§466K-6]~~ **Appraisers in arbitration proceedings.** (a)

22 In an arbitration proceeding to determine the fair market value,



1 fair market rental, or fair and reasonable rent of real property  
2 where the arbitrator is a real estate appraiser licensed under  
3 [†]this[†] chapter, the record of an award shall include but not  
4 be limited to findings of fact; the state-licensed appraiser's  
5 rationale for the award; the state-licensed appraiser's  
6 certification of compliance with the most current Uniform  
7 Standards of Professional Appraisal Practice as approved by the  
8 director; and information regarding the evidence, including the  
9 data, methodologies, and analysis that provided the basis for  
10 the award.

11 (b) A real estate appraiser licensed under this chapter  
12 who is acting as an arbitrator in an arbitration proceeding  
13 based on an agreement to arbitrate entered into after July 1,  
14 2014, shall record all arbitration awards, the record of an  
15 award, if separately issued, and any supplementary, dissenting,  
16 or explanatory opinions on the award with the bureau of  
17 conveyances within ninety days of the notification of the  
18 determination of the award to the parties."

19 SECTION 3. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.



1 SECTION 4. This Act shall take effect on July 1, 2014.

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INTRODUCED BY: *Miss [Signature]*

*[Signature]*



# S.B. NO. 2969

**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 within a specified period of time. Effective July 1, 2014.

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

