

Honolulu, Hawaii

February 27, 2014

RE: H.B. No. 1300
H.D. 1

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Seventh State Legislature
Regular Session of 2014
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 1300 entitled:

"A BILL FOR AN ACT RELATING TO A FIDUCIARY'S STANDARD OF CARE AND PERFORMANCE,"

begs leave to report as follows:

The purpose of this measure is to authorize the formation of directed trusts by specifying the standards of care and performance for fiduciary actions subject to an advisor's authority under the terms of the trust.

The Bank of Hawaii testified in support of this measure. The Central Pacific Bank provided comments.

Your Committee has amended this measure by:

- (1) Clarifying the liability of a trustee under the Hawaii permitted transfer in trust laws by specifying that the trustee shall bear no liability for the results of the advisor's decisions subject to certain conditions;
- (2) Replacing the term "fiduciary" with "trustee" throughout the measure to conform with existing language in the Uniform Probate Code;



- (3) Specifying that one or more persons who are given advisor authority by the terms of a trust, must first accept the authority to be considered an advisor;
- (4) Clarifying the liability protections for a trustee to eliminate immunity where the trustee is grossly negligent;
- (5) Deleting language that would have applied the directed trust standards established by this measure to existing trusts where they were incorporated by the settlor or other authorized person, or by the written agreement of all interested parties;
- (6) Clarifying the definition of "advisor" and deleting the definitions of "interested persons" and "wilful misconduct"; and
- (7) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1300, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1300, H.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary,



KARL RHOADS, Chair



