

STAND. COM. REP. NO. **829**

Honolulu, Hawaii

MAR 03 2017

RE: S.B. No. 394
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2017
State of Hawaii

Sir:

Your Committee on Judiciary and Labor, to which was referred
S.B. No. 394 entitled:

"A BILL FOR AN ACT RELATING TO REAL ESTATE BROKERS,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Establish criminal penalties for real estate brokers for improper deposit, segregation, or disposition of client trust account funds;
- (2) Require the principal broker to report the client trust account number and name of the managing institution to the Real Estate Commission and notify the Commission of any change in account number or location within ten days; and
- (3) Authorize the Real Estate Commission to take action in Circuit Court to enforce client trust account requirements.

Your Committee received testimony in support of this measure from the Regulated Industries Complaints Office of the Department of Commerce and Consumer Affairs and Real Estate Commission. Your Committee received testimony in opposition to this measure from the Hawai'i Association of REALTORS.



Your Committee finds that, to ensure consumers are appropriately protected, property management companies should utilize client trust accounts and have clear rules associated with the use of client trust accounts. However, your Committee notes that existing law does not contain sufficient protections to safeguard client information and funds held in client trust accounts.

Accordingly, this measure ensures greater consumer protections by creating the criminal offense of theft, with regard to client trust accounts, and requiring principal brokers to file with the Real Estate Commission the client trust account number and name of the financial institution at which the client trust account is held. This measure also enables the Regulated Industries Complaints Office to expedite investigations of alleged client trust account violations and pursue court action, in addition to existing administrative remedies, to address client trust account violations.

Your Committee has amended this measure by:

- (1) Inserting an effective date of January 7, 2059, to encourage further discussion; and
- (2) Making a technical, nonsubstantive amendment for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 394, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 394, S.D. 1.

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


GILBERT S.C. KEITH-AGARAN, Chair



The Senate
 Twenty-Ninth Legislature
 State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:* SB 394	Committee Referral: CPH, JDL	Date: 2/27/17		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
KEITH-AGARAN, Gilbert S.C. (C)	✓			
RHOADS, Karl (VC)	✓			
GABBARD, Mike	✓			
KIM, Donna Mercado	✓			
THIELEN, Laura H.	✓			
TOTAL	5	0	0	0
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <i>Karl Rhoads</i>				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes