

Honolulu, Hawaii

APR 06 2018

RE: H.B. No. 2328
H.D. 1
S.D. 2

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2018
State of Hawaii

Sir:

Your Committee on Ways and Means, to which was referred H.B. No. 2328, H.D. 1, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO HOUSING,"

begs leave to report as follows:

The purpose and intent of this measure is to make certain clarifying amendments with respect to housing law.

Specifically, the measure clarifies:

- (1) The terms and applicability of the Hawaii Housing Finance and Development Corporation's authority to exercise or transfer to a qualified nonprofit housing trust the first option to purchase affordable housing units developed with the Corporation's financing or assistance; and
- (2) That Act 159, Session Laws of Hawaii 2017 (Act 159), does not affect rights, duties, and obligations that have matured through a signed contract or disclosure by way of a preliminary offering statement filed with the Real Estate Commission before the Act's effective date.



Your Committee finds that this measure provides clarification with respect to the first option to purchase certain affordable housing units.

Your Committee notes that section 2 of the measure amends section 8 of Act 159 by repealing that section's existing language and replacing it with an entirely new provision. The measure's justification sheet (included in the original draft of the measure) and testimony from the Hawaii Housing Finance and Development Corporation and the Department of Business, Economic Development, and Tourism submitted to the Senate Committee on Housing indicate that the new provision clarifies that Act 159 does not retroactively apply to the Corporation's housing projects developed or sold prior to Act 159's effective date. However, your Committee further notes that the proposed new language of section 8, Act 159, appears to be narrower in scope than the existing provision of section 8, Act 159, which has standard and broad language designed to prevent the inadvertent retroactive application of the provisions of an act. Hence, due to the numerous provisions and amendments that appear in Act 159, it is possible that the repeal of the existing language of section 8 may lead to unintended consequences.

Due to the extensive scope of Act 159 and the limited time frame that your Committee has had to consider this measure, it is not yet apparent what those unintended consequences might be. It may be prudent to insert the new proposed provision of section 8, Act 159, as amended by this measure, but also maintain the existing language of that section.

Your Committee respectfully requests that the Committee on Conference consider this issue further and, if necessary, consult legislative counsel or the Department of the Attorney General.

Your Committee has amended this measure by changing the effective date to July 1, 2050, to facilitate further discussion on the measure.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2328, H.D. 1, S.D. 1, as amended herein, and recommends that



it pass Third Reading in the form attached hereto as H.B.
No. 2328, H.D. 1, S.D. 2.


Respectfully submitted on
behalf of the members of the
Committee on Ways and Means,


DONOVAN M. DELA CRUZ, Chair



The Senate
 Twenty-Ninth Legislature
 State of Hawai'i

Record of Votes
Committee on Ways and Means
WAM

Bill / Resolution No.:*	Committee Referral:	Date:		
HB 2328 HDISDI	HOU, WAM	4/6/18		
<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
DELA CRUZ, Donovan M. (C)	X			
KEITH-AGARAN, Gilbert S.C. (VC)	X			
ENGLISH, J. Kalani	X			
GALUTERIA, Brickwood	X			
HARIMOTO, Breene				X
INOUE, Lorraine R.				X
KAHELE, Kaiali'i				X
KIDANI, Michelle N.	X			
RIVIERE, Gil	X			
SHIMABUKURO, Maile S.L.				X
WAKAI, Glenn				X
TOTAL	6	0	0	5
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes