STAND. COM. REP. NO. 711

Honolulu, Hawaii Morch 6 , 2009

RE: H.B. No. 812 H.D. 2

Honorable Calvin K.Y. Say Speaker, House of Representatives Twenty-Fifth State Legislature Regular Session of 2009 State of Hawaii

Sir:

Your Committees on Consumer Protection & Commerce and Judiciary, to which was referred H.B. No. 812, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO DOMESTIC VIOLENCE,"

beg leave to report as follows:

The purpose of this bill is to protect domestic violence victims by allowing them to terminate their rental agreement without penalty after notifying the landlord in writing and attaching either:

- A copy of a temporary restraining order (TRO) or protective order (PO); or
- (2) A written report prepared by a law enforcement officer showing that allegations of domestic abuse, sexual assault, or harassment by stalking were filed.

The Honolulu Police Department, Hawaii State Coalition Against Domestic Violence, Sex Abuse Treatment Center, Legal Aid Society of Hawaii, and several concerned individuals testified in support of this bill. The Department of the Prosecuting Attorney of the City and County of Honolulu, Hawaii Association of REALTORS, and a concerned individual provided comments.

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There are concerns that this bill:

- (1) Allows terminations of rental agreements to be based on criminal offenses, such as sexual assault and harassment by stalking, that may exceed the scope of this bill's title, "Relating to Domestic Violence"; and
- (2) Provides for the attachment of police reports to the notice to terminate the rental agreement, even though current procedures apparently do not permit the release of police reports to the public without a court subpoena, which may create additional time delays and expenses for victims attempting to provide notice to a landlord under this measure.

Accordingly, your Committees have amended this bill by:

- Eliminating all references to specific criminal offenses and instead providing that termination of a rental agreement under this measure may be based on an act of abuse of a family or household member;
- (2) Replacing the police report attachment provision with one allowing the attachment of an affidavit executed by a prosecuting attorney regarding the victim's need for safety, using the criteria currently applied under section 574-5(e), Hawaii Revised Statutes (HRS), for endangered individuals seeking a name change without the standard publication requirement;
- (3) Providing that:
 - (A) Any tenant who does not vacate within 15 days of providing the landlord notice to terminate the rental agreement is to be treated as a holdover tenant on a month-to-month tenancy; and
 - (B) Any other co-tenant under the rental agreement is to be treated as a tenant on a month-to-month tenancy 15 days after the notice to terminate the rental agreement has been given;

and

(4) Changing the effective date to November 1, 2009.

HB812 HD2 HSCR CPC-JUD HMS 2009-2522

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Your Committees further note that while this bill provides for the attachment of TROs or POs to the notice of rental agreement termination, it may be preferable to limit this provision to POs only in the interest of discouraging fraudulent uses of the process established by this bill. This is because TROs are ex parte orders that may be issued without prior notice to the respondent and based only on the account of the alleged victim (section 586-4, HRS). Following the issuance of a TRO, a court hearing is held at which both parties may present their arguments on whether the protections of the TRO should continue through the issuance of a PO (sections 586-5 and 586-5.5, HRS).

As affirmed by the records of votes of the members of your Committees on Consumer Protection & Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 812, H.D. 1, as amended herein, and recommend that it pass Third Reading in the form attached hereto as H.B. No. 812, H.D. 2.

> Respectfully submitted on behalf of the members of the Committees on Consumer Protection & Commerce and Judiciary,

ROBERT N. HERKES, Chair

State of Hawaii House of Representatives The Twenty-fifth Legislature

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Record of Votes of the Committee on Consumer Protection & Commerce

Bill/Resolution No.: HB 812 HD 1	Committee F	Referral: CPC/	JUD	Date: 2/26/09		
The committee is reconsidering its prev	vious decision of	n the measure.				
	, unamended (as short form bill v		ss, with amendr			
CPC Members		Ayes	Ayes (W)	R)	Nays	Excused
1. HERKES, Robert N. (C)		Construction of the				V
2. WAKAI, Glenn (VC)						
3. BELATTI, Della Au					age graat van	\checkmark
4. CABANILLA, Rida		V				
5. CARROLL, Mele						V
6. ITO, Ken		V				
7. KARAMATSU, Jon Riki		V.				
8. LUKE, Sylvia						moore that split is the second sec
9. McKELVEY, Angus L.K.						V
10. MIZUNO, John M.		~				
11. MORITA, Hermina M.						V
12. SOUKI, Joseph M.				SUCCESSION CHEERED SU		~
13. TSUJI, Clift		V				
14. MARUMOTO, Barbara C.		V				
15. THIELEN, Cynthia		1	in the second			
TOTAL (15)		9	0		0	6
The recommendation is: Add If joint	referral,	Not Adop mmittee acronym	did not	support re	commendation	
Vice Chair's or designee's signature:	Cynth	in Th	jelen			
Distribution: Original (White) – Comm	ittee Dupl	icate (Yellow)	- Chief Clerk's	Office	Duplicate (P	ink) – HMSO

State of Hawaii House of Representatives The Twenty-fifth Legislature

HSCR 711

Record of Votes of the Committee on Judiciary

	Committee Referral:		Date: 3/5/100						
HB 812, HD1 HUS, CPC/JUD 2/26/09									
The committee is reconsidering its previous decision on the measure.									
The recommendation is to: Pass, unamended (as is) Pass, with amendments (HD) Hold Pass short form bill with HD to recommit for future public hearing (recommit)									
JUD Members	Ayes	Ayes (WR)	Nays	Excused					
1. KARAMATSU, Jon Riki (C)									
2. ITO, Ken (VC)									
3. BELATTI, Della Au		a second protocol and							
4. CABANILLA, Rida									
5. CARROLL, Mele									
6. HERKES, Robert N.									
7. LUKE, Sylvia									
8. McKELVEY, Angus L.K.									
9. MIZUNO, John M.									
10. MORITA, Hermina M.									
11. OSHIRO, Blake K.									
12. SOUKI, Joseph M.									
13. TSUJI, Clift									
14. WAKAI, Glenn									
15. MARUMOTO, Barbara C.									
16. THIELEN, Cynthia									
TOTAL (16)	10	0	0	6					
The recommendation is: Adopted Not Adopted If joint referral,									
Vice Chair's or designee's signature:									
Distribution: Original (White) - Committee Duplicate (Yellow) - Chief Clerk's Office Duplicate (Pink) - HMSO									