STAND. COM. REP. NO. 1096

Honolulu, Hawaii Mezh ZZ<sup>, 2009</sup>

RE: S.B. No. 1241 S.D. 2

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

Sir:

Your Committee on Consumer Protection & Commerce, to which was referred S.B. No. 1241, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO REAL PROPERTY TRANSACTIONS,"

begs leave to report as follows:

The purpose of this bill is to prohibit residential real property deed restrictions or other covenants running with the land from requiring the payment of fees for the future transfer of the property, except certain fees or charges relating to:

- Payments to a lender on a mortgage loan secured by the property;
- (2) Payments to homeowners', condominium, cooperative, or property owners' associations pursuant to a declaration, covenant, or law applicable to the association;
- (3) Lease payments and charges to landlords;
- (4) Payments to the holder of an option to purchase an interest in residential real property, or holder of a right of first refusal or first offer to purchase such an interest, for waiving the option or right upon transfer of the property to another person; and
- (5) Payments to a government entity.

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The Office of Hawaiian Affairs, Hawaii Association of REALTORS, and Mililani Town Association testified in support of this bill. Alexander & Baldwin, Inc. provided comments.

This bill seeks to prohibit residential real property deed restrictions or covenants imposing fees on transferees every time the property is transferred. These restrictions run with the land and are not always disclosed to buyers until the closing of a property sale. Moreover, these fees may be used to generate income on recurring transfers of homes long after their initial sale. Your Committee finds that this bill addresses the apparent lack of regulation over the imposition of such fees by prohibiting them altogether, while providing exemptions for certain usual and customary fees, assessments, and charges triggered by various real property transactions.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1241, S.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

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Respectfully submitted on behalf of the members of the Committee on Consumer Protection & Commerce,

ROBERT N. HERKES, Chair



## **Record of Votes of the Committee on Consumer Protection & Commerce**

Bill/Resolution No.: Committee Referral: CPC, JUD		Date	Date: 3/16/09	
□ The committee is reconsidering its previo	ous decision on the measure.			
	namended (as is) Pas nort form bill with HD to record	ss, with amendments mmit for future publi	. ,	
CPC Members	Ayes	Ayes (WR)	Nays	Excused
1. HERKES, Robert N. (C)		•		
2. WAKAI, Glenn (VC)				
3. BELATTI, Della Au		•		
4. CABANILLA, Rida				/
5. CARROLL, Mele	/			
6. ITO, Ken				
7. KARAMATSU, Jon Riki				
8. LUKE, Sylvia				
9. McKELVEY, Angus L.K.	-V			
10. MIZUNO, John M.				
11. MORITA, Hermina M.				
12. SOUKI, Joseph M.				
13. TSUJI, Clift				
14. MARUMOTO, Barbara C.				
15. THIELEN, Cynthia				
			_//	
TOTAL (15)	_		$\mathcal{P}$	3
The recommendation is: Adop If joint re		did not supp	ort recommendatio	n.
Vice Chair's or designee's signature:	XXX			
Distribution: Original (White) – Commit	tee Duplicate (Yellow) -	- Chief Clerk's Office	e Duplicate (	Pink) – HMSO
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