

Honolulu, Hawaii

MAR 06 2009

RE: S.B. No. 887
S.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fifth State Legislature
Regular Session of 2009
State of Hawaii

Madam:

Your Committee on Commerce and Consumer Protection, to which
was referred S.B. No. 887 entitled:

"A BILL FOR AN ACT RELATING TO ESCROW DEPOSITORIES,"

begs leave to report as follows:

The purpose of this measure is to update and clarify the
existing law governing licensure and regulation of escrow
depositories to reflect the growth and the changing practices of
the industry over the more than three decades that have passed
since the law was enacted.

Your Committee received testimony in support of this measure
from the Department of Commerce and Consumer Affairs. Written
testimony presented to the Committee may be reviewed on the
Legislature's website.

Your Committee finds that the current law governing the
licensure and registration of escrow depositories has not been
updated in thirty-six years. In that time, the transactions
routinely handled by Hawaii's escrow depositories have grown in
both number and size so that many escrow depositories may
currently be undercapitalized although they are compliant with the
current law. The current law does not provide adequate
protections to consumers and does not provide consumers or escrow
depositories with a contemporary framework for the conduct of
escrow transactions.



Your Committee notes that the issue of statutorily requiring arbitration to resolve disputes involving escrow depositories was raised at the hearing on this measure. Your Committee finds that an arbitration mandate is more appropriately addressed in an individual escrow contract than in statute. Therefore, your Committee has excluded an arbitration requirement from this measure and recommends that such a requirement not be inserted at a later stage in the legislative process.

Your Committee has amended this measure by:

- (1) Specifying that an emergency situation that may compel closure of an escrow depository includes a flood;
- (2) Adding a new section to direct associations of escrow companies to provide their members with updated educational materials on a regular basis;
- (3) Adding a definition of "tangible net capital";
- (4) Clarifying that the tangible net capital requirements of this measure apply equally to all escrow depositories regardless of their status as a corporation, partnership, limited liability corporation, limited liability partnership, or other corporate status;
- (5) Deferring the effective date of this measure to encourage further discussion; and
- (6) Making technical, nonsubstantive changes for the purpose of clarity and accuracy in the language of this measure.

As affirmed by the record of votes of the members of your Committee on Commerce and Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 887, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 887, S.D. 1, and be placed on the calendar for Third Reading.



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


ROSALYN H. BAKER, Chair



The Senate
Twenty-Fifth Legislature
State of Hawaii

Record of Votes
Committee on Commerce and Consumer Protection
CPN

Bill / Resolution No.:* <div style="font-size: 1.2em; font-family: cursive;">SB 887</div>	Committee Referral: <div style="font-size: 1.2em; font-family: cursive;">CPN</div>	Date: <div style="font-size: 1.2em; font-family: cursive;">3/3/2009</div>		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="text-align: center;"><input type="checkbox"/> Pass, unamended 2312</div> <div style="text-align: center;"><input checked="" type="checkbox"/> Pass, with amendments 2311</div> <div style="text-align: center;"><input type="checkbox"/> Hold 2310</div> <div style="text-align: center;"><input type="checkbox"/> Recommit 2313</div> </div>				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	✓			
IGE, David Y. (VC)	✓			
ESPERO, Will	✓			
GREEN, M.D., Josh				✓
IHARA, Jr., Les	✓			
SAKAMOTO, Norman	✓			
HEMMINGS, Fred	✓			
TOTAL	6			1
Recommendation: <div style="display: flex; justify-content: space-around; margin-top: 10px;"> <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted </div>				
Chair's or Designee's Signature: <div style="font-size: 1.5em; font-family: cursive; text-align: center;">David Y Ige</div>				
Distribution: <div style="display: flex; justify-content: space-between; font-size: 0.8em; margin-top: 5px;"> <div>Original File with Committee Report</div> <div>Yellow Clerk's Office</div> <div>Pink Drafting Agency</div> <div>Goldenrod Committee File Copy</div> </div>				

*Only one measure per Record of Votes