STAND. COM. REP. NO. 2498

Honolulu, Hawaii

MAR 0 1 2012

RE: S.B. No. 3002 S.D. 2

Honorable Shan S. Tsutsui President of the Senate Twenty-Sixth State Legislature Regular Session of 2012 State of Hawaii

Sir:

Your Committee on Judiciary and Labor, to which was referred S.B. No. 3002, S.D. 1, entitled:

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

begs leave to report as follows:

The purpose and intent of this measure is to establish that real estate brokers and salespersons shall not be held liable:

- (1) For misrepresentations based upon a good faith reliance on certain information; and
- (2) For failure to ascertain and disclose all material facts concerning a property if there was a good faith reliance on a prepared disclosure statement.

Your Committee received testimony in support of this measure from the Hawaii Association of Realtors, Prudential Locations LLC, the Honolulu Board of Realtors, and the Oahu Chapter of the National Association of Residential Property Managers. Testimony in opposition to this measure was submitted by the Department of Commerce and Consumer Affairs and the Real Estate Commission.

Your Committee finds that this measure provides a clearer legal standard for the Real Estate Commission to use in determining whether to revoke or suspend real estate broker or real estate salesperson licenses or whether to fine real estate brokers or salespersons. This measure requires the Real Estate

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Commission to use the reasonable care standard, rather than the strict liability standard under existing law, when enforcing violations.

Your Committee has amended this measure by:

- (1) Adopting the amendments suggested by the Hawaii Association of Realtors to:
 - (A) Identify specific individuals who could misrepresent information that real estate brokers or salespersons may rely on in good faith; and
 - (B) Clarify that real estate brokers and salespersons shall not be held liable for failure to ascertain and disclose all material facts concerning a property if there was reliance in good faith and with due care on a prepared disclosure statement; and
- (2) Inserting an effective date of July 1, 2050, to ensure further discussion.

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. 3002, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3002, S.D. 2.

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

CLAYTON HEE, Chair

The Senate Twenty-Sixth Legislature State of Hawaiʻi

Record of Votes Committee on Judiciary and Labor JDL

Bill / Resolution No.:* Committee Referral: Date:					/
SB 3002, SDI	CPN.	JPL	d	2/24/	12
The committee is reconsidering its previous decision on this measure.					
If so, then the previous decision was to:					
The Recommendation is:					
Pass, unamended Pass, with amendments Hold Recommit 2312 2311 2310 2313					
Members		Aye	Aye (WR)	Nay	Excused
HEE, Clayton (C)					
SHIMABUKURO, Maile (VC)			-	,	
GABBARD, Mike					
IHARA, Jr., Les		~			
SLOM, Sam		/			
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TOTAL		7			
Recommendation: Adopted Not Adopted					
Chair's or Designee's Signature:					
Distribution: Original File with Committee Re					denrod ee File Copy

^{*}Only one measure per Record of Votes