

Honolulu, Hawaii

FEB 28 2013

RE: S.B. No. 499
S.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Seventh State Legislature
Regular Session of 2013
State of Hawaii

Madam:

Your Committee on Judiciary and Labor, to which was referred
S.B. No. 499 entitled:

"A BILL FOR AN ACT RELATING TO PARTITION OF HEIRS PROPERTY,"

begs leave to report as follows:

The purpose and intent of this measure is to adopt the
Uniform Partition of Heirs Property Act, which establishes
procedures and remedies for use in actions for partition of real
property involving heirs property.

Your Committee received testimony in support of this measure
from the Commission to Promote Uniform Legislation. The Judiciary
and one individual submitted comments on this measure.

Your Committee finds that in 2010, the Uniform Law Commission
promulgated the Uniform Partition of Heirs Property Act to provide
a fair solution to the risks posed to those who own heirs
property, which is real property held in tenancy in common that
meets certain requirements. Your Committee notes that this
measure does not displace existing partition law for non-heirs
property, nor does it prohibit a party from petitioning for
partition by sale or apply to situations where there is a written
agreement relating to property partition. Rather, this measure
establishes a hierarchy of remedies designed to protect a family's
property holdings and real property wealth for partition actions
involving heirs property. Your Committee further finds that this
measure provides cotenants with many of the rights and protections



found in private agreements governing the partition of tenancy in common property.

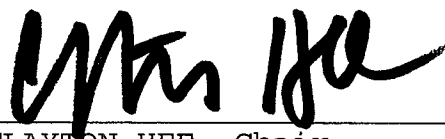
Your Committee notes the concerns raised by the Judiciary regarding this measure placing full responsibility on the court to provide notice of appraisal, notice of fair market value, and notice to cotenants under certain circumstances. The Judiciary testified that generally the parties in a civil case are responsible for giving notice, and the court determines whether the notice requirement is satisfied. Your Committee requested that the Judiciary and Commission to Promote Uniform Legislation develop language to address the Judiciary's concerns regarding the notice requirements under this measure.

Accordingly, your Committee has amended this measure by:

- (1) Adopting the language submitted by the Judiciary that replaces the court with other parties to be responsible for providing notice, such as the movant for determination or appraiser, and specifies the receiving parties;
- (2) Inserting an effective date of July 1, 2050, to encourage further discussion; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

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. 499, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 499, S.D. 1.

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

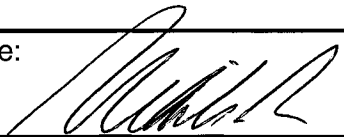


CLAYTON HEE, Chair



The Senate
Twenty-Seventh Legislature
State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:* <div style="font-size: 1.2em; font-family: cursive;">SB499</div>	Committee Referral: <div style="font-size: 1.2em; font-family: cursive;">CPN, JDL</div>	Date: <div style="font-size: 1.2em; font-family: cursive;">2/20/13</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
HEE, Clayton (C)	✓			
SHIMABUKURO, Maile S.L. (VC)	✓			
GABBARD, Mike	✓			
IHARA, Jr., Les	✓			
SLOM, Sam				✓
TOTAL	4			1
Recommendation: <div style="display: flex; justify-content: space-around; margin-top: 5px;"> <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; margin-top: 10px; text-align: center;">  </div>				
Distribution: <div style="display: flex; justify-content: space-between; font-size: 0.8em; margin-top: 5px;"> Original File with Committee Report Yellow Clerk's Office Pink Drafting Agency Goldenrod Committee File Copy </div>				

*Only one measure per Record of Votes