
A BILL FOR AN ACT

RELATING TO REAL ESTATE APPRAISERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds a lack of openness and
2 transparency exists in the implementation of Act 227, Session
3 Laws of Hawaii 2011 (Act 227), which was codified as section
4 466K-6, Hawaii Revised Statutes.

5 Act 227 requires appraisers acting as arbitrators to fully
6 report the basis for an award and to certify compliance with the
7 nationally accepted Uniform Standards of Professional Appraisal
8 Practice standards when valuing properties and determining
9 market value or market rent. Compliance with the Uniform
10 Standards of Professional Appraisal Practice ensures adherence
11 to professional standards that protect the parties to an
12 arbitration and the consumers of the State.

13 The legislature further finds that Hawaii has relatively
14 few commercial appraisers who specialize in these matters and,
15 consequently, these individuals or firms are the exclusive
16 determiners of the market value or market rents of leasehold
17 property in Hawaii. This results in members of the same
18 profession gathering and selecting market data, presenting that



1 data to arbitration panels as expert witnesses, and then
2 deciding the matter as appointed arbitrators.

3 The legislature also finds that Act 227 was intended to
4 bring data, openness, and transparency to a market controlled by
5 few landlords and very few commercial and industrial appraisers.
6 Unfortunately, since the passage of Act 227, confidentiality
7 clauses have been incorporated into agreements that govern
8 individual arbitration panels. Inclusion of these
9 confidentiality clauses frustrates the legislature's intent in
10 enacting Act 227 and works to the detriment of consumers because
11 valuable market data is wilfully withheld from public use.

12 Real estate transactions that occur as sales transactions
13 are recorded with the bureau of conveyances; any interested
14 party may request a copy of a recorded real estate transaction
15 from the bureau. Financial institutions, real estate firms,
16 buyers, and sellers all take advantage of this data prior to
17 participating in the market. Access to this information allows
18 participants in the real estate market to better understand the
19 volume and the value of that market in an open and transparent
20 manner, allowing the market to function more efficiently.

21 In the resetting of industrial and commercial leasehold
22 rents, recordation of an arbitration award and access to the



1 record of the award at the bureau of conveyances will ensure
2 public access to data that is currently unavailable, despite the
3 enactment of Act 227. For the leasehold market to function with
4 openness and transparency, and to further protect consumers in
5 the State of Hawaii, the legislature finds that arbitration
6 awards and reports must be available to all interested
7 participants in the market.

8 It is the legislature's intent that these awards and
9 reports be open to the public. Accordingly, the purpose of this
10 Act is to support the openness and transparency originally
11 contemplated by Act 227 and improve market efficiency and
12 consumer protection in transactions related to the appraised
13 valuation of real property by:

14 (1) Improving the process by which real estate appraisers,
15 when acting as arbitrators, determine fair market
16 value, fair market rental, or fair and reasonable rent
17 of real property;

18 (2) Requiring that an appraiser acting as an arbitrator
19 fully and publicly record arbitration awards along
20 with the record of the arbitration award and any
21 supplementary, dissenting, or explanatory opinions in
22 the bureau of conveyances; and



(3) Prohibiting agreements between parties or appraisers that attempt to circumvent the public recording requirements established by this Act.

SECTION 2. Section 466K-6, Hawaii Revised Statutes, is amended to read as follows:

"~~[§] 466K-6~~ Appraisers in arbitration proceedings. (a) Arbitration awards, records of awards, and supplementary, dissenting, or explanatory opinions recorded pursuant to this section shall be public records.

(b) In an arbitration proceeding to determine the fair market value, fair market rental, or fair and reasonable rent of real property where the arbitrator is a real estate appraiser licensed or certified under ~~[§] this~~ chapter, the record of an award shall include but not be limited to findings of fact; the state-licensed or certified appraiser's rationale for the award; the state-licensed or certified appraiser's certification of compliance with the most current Uniform Standards of Professional Appraisal Practice as approved by the director; and information regarding the evidence, including the data, methodologies, and analysis that provided the basis for the award.



1 (c) A real estate appraiser licensed or certified under
2 this chapter who is named or appointed as an arbitrator in a
3 submission agreement to appraise or arbitrate entered into after
4 July 1, 2014, shall record with the bureau of conveyances all
5 arbitration awards; records of awards, if separately issued; and
6 any supplementary, dissenting, or explanatory opinions on awards
7 within ninety days of the notification of the determination of
8 the award to the parties.

9 (d) No agreement between the parties or the appraisers
10 acting as arbitrators shall preclude or deny the requirement to
11 record an award, the record of an award, or any supplementary,
12 dissenting, or explanatory opinions as required by this
13 section."

14 SECTION 3. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 4. This Act shall take effect on July 1, 2112.



Report Title:

Real Estate Appraisers; Arbitration Awards; Recordation

Description:

Requires real estate appraisers, acting as arbitrators, to record arbitration awards, records of awards, and any supplementary, dissenting, or explanatory opinions with the Bureau of Conveyances. Specifies that information recorded is a public record. Effective July 1, 2112. (HB2043 HD1)

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