

Honolulu, Hawaii

MAR 28 2023

RE: H.B. No. 980
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Second State Legislature
Regular Session of 2023
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B.
No. 980 entitled:

"A BILL FOR AN ACT RELATING TO FORFEITURE PURSUANT TO SECTION
804-51, HAWAII REVISED STATUTES,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Allow notice of a bond or recognizance forfeiture to be sent to either the surety or surety insurer, by certified mail, to start the thirty-day forfeiture countdown for the surety or surety insurer to locate and surrender a principal or file a motion or application to set aside the bond or recognizance forfeiture; and
- (2) Provide the State with an avenue to appeal when the court grants a motion or application to set aside a bail bond forfeiture.

Your Committee received testimony in support of this measure from the Department of the Attorney General.

Your Committee finds that under section 804-51, Hawaii Revised Statutes, a surety has thirty days from receiving notice of a bail bond forfeiture, by personal service or certified mail, to locate and surrender the criminal defendant and to file a



motion or application to set aside a bail bond forfeiture. If the surety is unable to locate the criminal defendant within the thirty-day search period, the surety must pay the full amount of the bond to the State. Sureties have been able to evade service of the notice. When sureties evade service, there is no incentive for them to locate criminal defendants who fail to appear in court and the State is not able to collect the moneys owed under the bonds. The surety and its insurer form an agency relationship when the surety registers a bond or recognizance with a court. This measure will allow the notice to be sent to the surety insurer, which will reduce a loophole used by a surety to avoid its obligations on the bond or recognizance.

Your Committee has amended this measure by 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 that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 980, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 980, S.D. 1, and be placed on the calendar for Third Reading.

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



KARL RHOADS, Chair



The Senate
Thirty-Second Legislature
State of Hawai'i

Record of Votes
Committee on Judiciary
JDC

Bill / Resolution No.:*	Committee Referral:	Date:
HB 980	JDC	3/17/23

☐ The Committee is reconsidering its previous decision on this measure.

If so, then the previous decision was to: _____

The Recommendation is:

☐ Pass, unamended
2312

☒ Pass, with amendments
2311

☐ Hold
2310

☐ Recommit
2313

Members	Aye	Aye (WR)	Nay	Excused
RHOADS, Karl (C)	✓	✓		
GABBARD, Mike (VC)	✓	✓		
ELEFANTE, Brandon J.C.	✓	✓		
SAN BUENAVENTURA, Joy A.	✓	✓		
AWA, Brenton	✓			
TOTAL	5	1	1	1

Recommendation:

☒ Adopted

☐ Not Adopted

Chair's or Designer's Signature:

Mike Gabbard

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*Only one measure per Record of Votes