

STAND. COM. REP. NO. 1729-24

Honolulu, Hawaii

MAR 22 , 2024

RE: S.B. No. 2861
S.D. 1
H.D. 1

Honorable Scott K. Saiki
Speaker, House of Representatives
Thirty-Second State Legislature
Regular Session of 2024
State of Hawaii

Sir:

Your Committees on Judiciary & Hawaiian Affairs and Consumer Protection & Commerce, to which was referred S.B. No. 2861, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO EXCLUSIVE LISTING AGREEMENTS,"

beg leave to report as follows:

The purpose of this measure is to prevent unfair exclusive listing agreements from becoming prevalent in the State by:

- (1) Making certain long-term exclusive listing agreements for the sale of residential real property void and unenforceable under the state law that governs unfair and deceptive practices;
- (2) Prohibiting the recording or filing of exclusive listing agreements of any duration with the Bureau of Conveyances; and
- (3) Establishing certain remedies for persons who are subject to unfair exclusive listing agreements.

Your Committees received testimony in support of this measure from the Department of Land and Natural Resources; Department of Commerce and Consumer Affairs; Hawai'i Association of REALTORS; and

2024-2614 SB2861 HD1 HSCR HMSO



AARP Hawai'i. Your Committees received comments on this measure from the Department of the Attorney General.

Your Committees find that exclusive listing agreements are agreements that require a homeowner to grant exclusive listing rights for a property over a period of time - in some cases up to forty years. However, these agreements, which are recorded as liens, run with the property, and not with the homeowner. As a result, future owners are subject to the agreement which can impede a homeowner's ability to borrow money through a mortgage or home equity loan. Your Committees further find that companies that provide exclusive listing agreements often target vulnerable populations, such as seniors, and do not adequately explain the agreement's terms. This measure would protect Hawaii's homeowners by prohibiting this unfair and deceptive practice.

Your Committees have amended this measure by:

- (1) Amending the preamble;
- (2) Changing the effective date to July 1, 3000, to encourage further discussion; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

Your Committees note that the Department of Commerce and Consumer Affairs has assured your Committees that this measure would not preclude parties from mutually agreeing to a subsequent one-year agreement after the expiration of the initial one-year agreement.

Your Committees respectfully request your Committee on Finance, should it deliberate on this measure, to consider changing the effective date to November 1, 2024, to give the realtors time to provide educational awareness of the new law and create new forms.

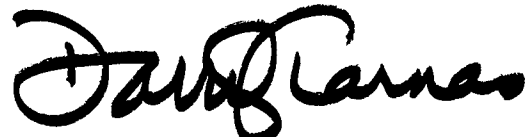
As affirmed by the records of votes of the members of your Committees on Judiciary & Hawaiian Affairs and Consumer Protection & Commerce that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2861, S.D. 1, as amended herein, and recommend that it pass Second Reading in the



form attached hereto as S.B. No. 2861, S.D. 1, H.D. 1, and be referred to your Committee on Finance.

Respectfully submitted on behalf of the members of the Committees on Judiciary & Hawaiian Affairs and Consumer Protection & Commerce,


MARK M. NAKASHIMA, Chair


DAVID A. TARNAS, Chair



Record of Votes of the Committee on Judiciary & Hawaiian Affairs

Bill/Resolution No.: <i>SB2861, SD1</i>	Committee Referral: <i>JHA/CPC, FIN</i>	Date: <i>3.21.24</i>
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The committee is reconsidering its previous decision on the measure.

The recommendation is to: Pass, unamended (as is) Pass, with amendments (HD) Hold
 Pass short form bill with HD to recommit for future public hearing (recommit)

JHA Members	Ayes	Ayes (WR)	Nays	Excused
1. TARNAS, David A. (C)	<i>✓</i>			
2. TAKAYAMA, Gregg (VC)	<i>✓</i>			
3. EVSLIN, Luke A.				<i>✓</i>
4. GANADEN, Sonny	<i>✓</i>			
5. HOLT, Daniel	<i>✓</i>			
6. ICHIYAMA, Linda	<i>✓</i>			
7. ILAGAN, Greggor	<i>✓</i>			
8. KONG, Sam Satoru	<i>✓</i>			
9. MIYAKE, Tyson K.	<i>✓</i>			
10. SOUZA, Kanani	<i>✓</i>			
TOTAL (10)	<i>9</i>	<i>-</i>	<i>-</i>	<i>1</i>

The recommendation is: Adopted Not Adopted
 If joint referral, _____ did not support recommendation.
committee acronym(s)

Vice Chair's or designee's signature:

Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO

Record of Votes of the Committee on Consumer Protection & Commerce

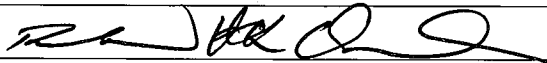
Bill/Resolution No.: SB 2861 SD1	Committee Referral: JHA/CPC, FIN	Date: 3/21/2024
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The committee is reconsidering its previous decision on the measure.

The recommendation is to: Pass, unamended (as is) Pass, with amendments (HD) Hold
 Pass short form bill with HD to recommit for future public hearing (recommit)

CPC Members	Ayes	Ayes (WR)	Nays	Excused
1. NAKASHIMA, Mark M. (C)				/
2. SAYAMA, Jackson D. (VC)	/			
3. AMATO, Terez	/			
4. BELATTI, Della Au	/			
5. HASHEM, Mark J.	✓			
6. HUSSEY-BURDICK, Natalia				/
7. GATES, Cedric Asuega	/			
8. LOWEN, Nicole E.				/
9. ONISHI, Richard H.K.	/			
10. TAM, Adrian K.	/			
11. PIERICK, Elijah	/			
TOTAL (11)	8	0		3

The recommendation is: Adopted Not Adopted
 If joint referral, _____ did not support recommendation.
committee acronym(s)

Vice Chair's or designee's signature: 

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