

JAN 24 2013

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 would protect the parties to an
12 arbitration and the consumers of the State.

13 The legislature also finds that Hawaii has relatively few
14 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 further finds that since the passage of Act
4 227, confidentiality clauses have been incorporated into
5 agreements that govern individual arbitration panels. Inclusion
6 of these confidentiality clauses frustrates the legislature's
7 intent in enacting Act 227 and works to the detriment of
8 consumers because valuable market data is wilfully withheld from
9 public use.

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

19 In the resetting of industrial and commercial leasehold
20 rents, recordation of an arbitration award and access to the
21 record of the award at the bureau of conveyances would ensure
22 public access to data that is currently unavailable, despite the



1 enactment of Act 227. For the leasehold market to function with
2 openness and transparency, and to further protect consumers in
3 the State of Hawaii, the legislature finds that arbitration
4 awards and reports should be available to all interested
5 participants in the market.

6 The purpose of this Act is to:

- 7 (1) Improve and protect the process by which real estate
8 appraisers, when acting as arbitrators to determine
9 fair market value, fair market rent, or fair and
10 reasonable rent of leasehold property, fully and
11 publicly record arbitration awards along with the
12 record of the arbitration award and any supplementary,
13 dissenting, or explanatory opinions as required by
14 section 466K-6, Hawaii Revised Statutes; and
- 15 (2) Improve the economy and protect the interests of the
16 people of Hawaii by making data pertinent to
17 industrial and commercial ground lease valuations and
18 rents available to the general public.

19 SECTION 2. Chapter 466K, Hawaii Revised Statutes, is
20 amended by adding a new section to be appropriately designated
21 and to read as follows:



1 "§466K- Arbitration; non-confidentiality; judicial
2 relief. (a) A real estate appraiser certified or licensed
3 under this chapter who is acting as an arbitrator shall record
4 all arbitration awards, the records of the arbitration awards,
5 if separately issued, and any supplementary, dissenting, or
6 explanatory opinions with the bureau of conveyances within
7 ninety days of the determination of the arbitration award and
8 the notification of its determination to the parties."

9 SECTION 3. New statutory material is underscored.

10 SECTION 4. This Act shall take effect upon its approval.

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S.B. NO. 1258

Report Title:

Real Estate Appraisers; Arbitration

Description:

Requires real estate appraisers, acting as arbitrators, to record arbitration awards, the records of the awards, if separately issued, and any supplementary, dissenting, or explanatory opinions with the bureau of conveyances within 90 days of the determination of the award and its notification to the parties.

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