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# 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 when valuing properties and determining market value or  
9 market rent. Compliance with the Uniform Standards of  
10 Professional Appraisal Practice ensures adherence to  
11 professional standards that protect the parties to an  
12 arbitration and consumers in 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 would 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 by:

- 12 (1) Requiring arbitration awards issued under chapter  
13 466K, Hawaii Revised Statutes, to be public records;
- 14 (2) Requiring real estate appraisers named or appointed as  
15 an arbitrator in a submission agreement to appraise or  
16 arbitrate entered into after July 1, 2014, to record  
17 with the bureau of conveyances all arbitration awards;  
18 records of awards, if separately issued; and any  
19 supplementary, dissenting, or explanatory opinions on  
20 awards within ninety days of the notification of the  
21 determination of the award to the parties;



1 (3) Specifying that no agreement between the parties or  
2 the appraisers acting as arbitrators shall preclude or  
3 deny the requirement to record an award, the record of  
4 the award, or any supplementary, dissenting, or  
5 explanatory opinions; and

6 (4) Clarifying that failure to make arbitration reports  
7 public or failing to record required information with  
8 the bureau of conveyances shall be a violation of the  
9 license or certification requirements of chapter 466K,  
10 Hawaii Revised Statutes.

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

13 "[+]§466K-6[+] Appraisers in arbitration proceedings[-];  
14 recordation; non-confidentiality. (a) Arbitration awards,  
15 records of awards, and supplementary, dissenting, or explanatory  
16 opinions recorded pursuant to this section shall be public  
17 records.

18 (b) In an arbitration proceeding to determine the fair  
19 market value, fair market rental, or fair and reasonable rent of  
20 real property where the arbitrator is a real estate appraiser  
21 licensed or certified under [+]this[+] chapter, the record of an  
22 award shall include but not be limited to findings of fact; the



1 state-licensed or certified appraiser's rationale for the award;  
2 the state-licensed or certified appraiser's certification of  
3 compliance with the most current Uniform Standards of  
4 Professional Appraisal Practice as approved by the director; and  
5 information regarding the evidence, including the data,  
6 methodologies, and analysis that provided the basis for the  
7 award.

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

16 (d) No agreement between the parties or the appraisers  
17 acting as arbitrators shall preclude or deny the requirement to  
18 record an award, the record of an award, or any supplementary,  
19 dissenting, or explanatory opinions as required by this section.

20 (e) Failure to comply with this section shall be a  
21 violation of this chapter for purposes of licensing or  
22 certification."



1 SECTION 3. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

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

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**Report Title:**

Real Estate Appraisers; Arbitration Awards; Recordation; Non-confidentiality

**Description:**

Requires arbitration awards, records of awards, and related supporting materials under chapter 466K, Hawaii Revised Statutes, to be public records. Requires licensed or certified real estate appraisers who are named or appointed in a submission agreement to appraise or arbitrate entered into after July 1, 2014, to record with the bureau of conveyances all arbitration awards; records of awards, if separately issued; and any supplementary, dissenting, or explanatory opinions on awards within ninety days of the notification of the determination of the award to the parties. Specifies that no agreement between the parties or the appraisers acting as arbitrators may preclude or deny the requirement to record an award, the record of the award, or any supplementary, dissenting, or explanatory opinions. Clarifies that failure to comply is a violation of real estate appraiser license or certification requirements.  
(SD1)

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