

Honolulu, Hawaii

FEB 28 2013

RE: S.B. No. 966

Honorable Donna Mercado Kim
President of the Senate
Twenty-Seventh State Legislature
Regular Session of 2013
State of Hawaii

Madam:

Your Committee on Judiciary and Labor, to which was referred
S.B. No. 966 entitled:

"A BILL FOR AN ACT RELATING TO THE UNIFORM MEDIATION ACT,"

begs leave to report as follows:

The purpose and intent of this measure is to adopt the
Uniform Mediation Act that provides a comprehensive law for
privileges and confidentiality in mediation. Specifically, this
measure:

- (1) Establishes a privilege of confidentiality for mediators
and participants that prohibits the disclosure of
mediation communication from being subject to discovery
or admissible as evidence;
- (2) Allows the parties to the mediation to waive the
privilege and provides certain exceptions to the
privilege, including the types of information the
mediator may disclose;
- (3) Requires the disclosure of known conflicts of interest
by the mediator and, upon request, the disclosure of the
mediator's qualifications; and
- (4) Promotes autonomy by authorizing the parties to decide
matters that can be set by agreement.

Your Committee received testimony in support of this measure
from the Commission to Promote Uniform Legislation; The Mediation



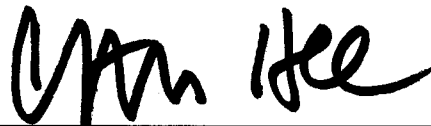
Center of the Pacific, Inc.; West Hawaii Mediation Center; Honolulu Board of REALTORS; Hawai'i Association of REALTORS; and three individuals. The Judiciary submitted comments on this measure.

Your Committee finds that mediation is a process by which a third party facilitates communication and negotiation between parties to a dispute to assist them in reaching a voluntary agreement resolving that dispute. Currently, mediation communication is covered by Rule 408, Hawaii Rules of Evidence. This measure establishes a privilege that provides significantly more protection for mediation communications than the existing rule of evidence.

Your Committee notes the testimony submitted by the Commission to Promote Uniform Legislation clarifies that this measure does not apply to collective bargaining disputes, certain judicial settlement conferences, or mediation involving parties who are all minors. The Commission also notes that the Uniform Mediation Act has been adopted by eleven jurisdictions and is currently being considered for adoption in two other states.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 966 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

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



CLAYTON HEE, Chair



The Senate
 Twenty-Seventh Legislature
 State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

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|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|----------|-----|---------|
| Bill / Resolution No.:* | Committee Referral: | Date: | | |
| SB 966 | JDL | 2/08/13 | | |
| <input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____ | | | | |
| The Recommendation is: <input checked="" type="checkbox"/> Pass, unamended 2312 <input type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313 | | | | |
| Members | Aye | Aye (WR) | Nay | Excused |
| HEE, Clayton (C) | ✓ | | | |
| SHIMABUKURO, Maile S.L. (VC) | ✓ | | | |
| GABBARD, Mike | | | | ✓ |
| IHARA, Jr., Les | ✓ | | | |
| SLOM, Sam | ✓ | | | |
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| TOTAL | 4 | | | 1 |
| Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted | | | | |
| Chair's or Designee's Signature: | | | | |
| Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy | | | | |

*Only one measure per Record of Votes