

STAND. COM. REP. NO.

1136

Honolulu, Hawaii

March 27, 2015

RE: S.B. No. 134
S.D. 2
H.D. 1

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Eighth State Legislature
Regular Session of 2015
State of Hawaii

Sir:

Your Committee on Consumer Protection & Commerce, to which was referred S.B. No. 134, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO PARTITION OF HEIRS PROPERTY,"

begs leave to report as follows:

The purpose of this measure is to adopt the Uniform Partition of Heirs Property Act.

More specifically, this measure establishes procedures and remedies to be used in actions for partition of real property that is known as heirs property. The measure defines the term "heirs property" as real property that is held under a tenancy in common in which there is no binding agreement among the cotenants governing partition of the property. Additionally, one or more of the cotenants must have acquired title from a relative, and one of the following must be true:

- (1) Twenty per cent or more of the interests are held by cotenants who are relatives;
- (2) Twenty per cent or more of the interests are held by an individual who acquired title from a relative; or
- (3) Twenty per cent or more of the cotenants themselves are relatives.



Your Committee received comments on this measure from the Judiciary and the Commission to Promote Uniform Legislation.

Your Committee finds that partitioning real property held in tenancy in common without a binding agreement, when one or more of the cotenants acquired their interest from a relative, can be an unfair and complicated process. A partition of real property held in tenancy in common can result in tenants being forced from their family homes and real property being valued below fair market value. Your Committee believes that this measure provides cotenants of heirs property with many of the protections and rights commonly found in private agreements governing the partition of tenancy-in-common property by establishing procedures and remedies to be used under certain real property partition actions.

Your Committee has amended this measure by changing the effective date to July 1, 2112, to facilitate further discussion on the measure.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 134, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 134, S.D. 2, H.D. 1, and be referred to the Committee on Judiciary.

Respectfully submitted on
behalf of the members of the
Committee on Consumer
Protection & Commerce,



ANGUS L.K. MCKELVEY, Chair



