



LEGISLATIVE REPORT

How did real estate do at the Legislature?

2017

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Priorities



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President's MESSAGE



Susan Savage
REALTOR®, CRS, ABR, SFR

Aloha REALTOR® 'Ohana,

This legislative session, we truly had homeownership in mind when crafting our top priorities to present to the Legislature. I am pleased to report that 3 of 4 of our top priorities passed.

“3 of 4 of Our Priority Issues Passed”

One of the critical issues we faced was fixing an existing law to ensure that Hawai'i maintain its National Flood Insurance Program eligibility. The loss of this program would have been terrible for the 60,000 homeowners who utilize it, and a significant loss for the industry as a whole.

Achieving this required our diligent collaboration between various entities, including legislators, the Department of Land and Natural Resources, and various industry groups – such as lenders, insurers and builders. Because this issue was so important, we even received a National Association of REALTORS® grant to create a consumer campaign designed to inform Hawai'i's residents of the matter. We could not take a chance on this situation. We wanted to engage our homeowners while promoting the value of Hawai'i REALTORS® in advocacy.

Another success during this legislative session was the registration of Appraisal Management Companies to comply with federal law, ensuring that consumers have full access to a wide range of lending products.

Furthermore, we helped empower the counties in the fight against invasive species, giving the counties tools for eradication that had been previously only available to the State.

Looking forward, Governor Ige must provide the Legislature with a list of any bill he may veto by June 26, 2017. Any bill that he signs before that date, or that is not on the veto list, becomes law regardless of his signature. Any listed bills not vetoed become law after July 12th. The Legislature may then decide to override any vetoes at that point.

We owe a big Mahalo to our Government Affairs Committee, who spent a total of 3,325 volunteer hours reviewing the 2,918 bills introduced, as well as monitoring, testifying and strategizing over 326 additional bills affecting real estate.

Mahalo,

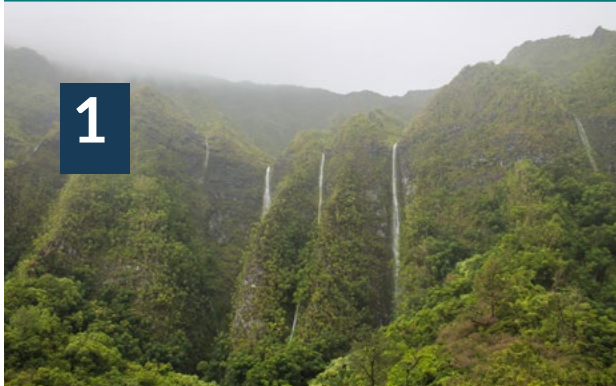
“3,325 Volunteer Hours”

Susan Savage

2017 Hawai'i Association of REALTORS® President

Top Priorities IN-DEPTH

Ensure Hawai'i did not Lose its National Flood Insurance Program Eligibility



60,000

Homeowners saved from losing their flood insurance.

\$13.2^{bil}

Flood risk covered by those flood policies.

\$400^{mil}

Federal disaster assistance in the event of a presidentially declared emergency.
(Amount Hawai'i has received to date)

Background:

An existing law, Hawai'i Revised Statutes (HRS) §46-88, jeopardized Hawaii's continued eligibility in the National Flood Insurance Program (NFIP.) The law provided broad exemptions from building permit and code requirements for certain types of agricultural building and structures. This was in conflict with State and County agreements with the Federal Emergency Management Agency (FEMA) to maintain floodplain management regulations.

FEMA warned the State of Hawai'i that it had until July 31, 2017, to fix the law or it would suspend Hawaii's eligibility in the NFIP. Also, Hawai'i would lose certain forms of its federal disaster assistance in the event of a presidentially declared emergency.

More than just an Open House.

Your Hawai'i Association of REALTORS® just helped pass a bill that could potentially save the mortgages of up to 60,000 Hawai'i homeowners.

House Bill 1418 will help ensure that Hawai'i continues to participate in the National Flood Insurance Program. This protects existing and future homeowners with access to flood insurance.

We would like to thank those who assisted in its passage. In particular, FEMA Region IX, farmers, builders, insurers, lenders, the Department of Land and Natural Resources, and of course, the Hawai'i State Legislature.

This collaboration is yet another example of how Hawai'i REALTORS® are more than just buying and selling houses.

We help people find the homes of their dreams, and then constantly work to ensure that dream is always protected. We're always in your corner.

Hawai'i Association of REALTORS®

"Always in your corner"

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House Bill 1418, SD1

Signed as Act 70
(7/03/17)

Fixed the law to ensure Hawai'i did not lose its NFIP participation by:

- ▶ Establishing that HRS §46-88 does not exempt any new or existing agricultural buildings, structures, appurtenances or other development from local, state or federal floodplain management development standards.
- ▶ Requiring an owner or occupier intending to use the building code and permit exemption, to provide notice to the appropriate county agency of the final as-built size, type and location of the proposed building. The agency must determine whether a building permit is necessary for floodplain management compliance.
- ▶ Effective upon approval.

Strong Support

[View Testimony](#)

Top Priorities

IN-DEPTH

Registration of Appraisal Management Companies

2



[House Bill 50, CD1](#)

Signed as Act 118
(7/10/17)

Establishes and funds a registration program within the Department of Commerce and Consumer Affairs (DCCA) for Appraisal Management Company (AMC). Effective January 1, 2018; funding is effective July 1, 2017.

Individual States have until August 18, 2018, to conform to the minimum standards set by the federal Dodd-Frank Wall Street Reform Act. An AMC would be barred from providing appraisal management services for federally-related real estate transactions in that State, unless the AMC is owned by a federally-regulated depository institution.

60% of appraisals ordered for residential mortgages are facilitated by an AMC

Strong Support

[View Testimony](#)

Empowering Counties in the Fight Against Invasive Species

3



[House Bill 606, CD1](#)

Signed as Act 182
(7/11/17)

Authorizes the counties, through their employees or authorized agents, to enter private property to control or eradicate invasive species and pests.

Previously, only the State could seek a court order to deal with uncooperative owners of infested properties.

10% of invading species will prove to be harmful to Hawaii's economy and environment.

Support

[View Testimony](#)

Increasing County Oversight on Land Use

4



Our fourth priority issue was to increase the acreage requirement from 15 to 50 acres, before district boundary amendments must be approved by the Land Use Commission instead of the counties.

While there were various bills proposed on this issue, none of the bills received a hearing.

Support

DEAD- No Hearing

Tax HIGHLIGHTS



Income Tax Increased Starting at Income Over \$150k

[House Bill 209, CD1](#)

Signed as Act 107
(7/10/17)

The income tax rates have been increased to pay for a low-income household renters credit, renewed food/excise tax credit, and new nonrefundable earned income tax credit based on 20% of the federal Earned Income Tax Credit.

This was the only bill opposed by HAR that passed.

[Oppose](#)

[View Testimony](#)

	Rate:	Starts at:
Single Filers	9%	\$150,000
	10%	\$175,000
	11%	\$200,000
Head of Household	9%	\$225,000
	10%	\$262,500
	11%	\$300,000
Married Filing Jointly	9%	\$300,000
	10%	\$350,000
	11%	\$400,000

Tax on Residential Investment Properties to Fund Education Bills Die

[Senate Bill 686, SD2, HD1](#) and [Senate Bill 683, SD2, HD1](#)

DEAD

- ▶ SB 686 established an education surcharge on investment properties and visitor accommodations for the purpose of funding special education.
- ▶ SB 683 was a constitutional amendment to be placed on the ballot to enact Senate Bill 686.

While we support the goal of funding education, HAR strongly opposed the surcharge tax on residential investment property as there was no clear nexus to education. Under the original proposal, investment properties valued at \$2 million dollars would be assessed \$7.50 per \$1,000 of total property value or \$15,000.

[Strongly Oppose](#)

[View Testimony](#)

Funding for O'ahu Rail

[Senate Bill 1183 \(2 Versions\)](#)

DEAD or Special Session?

This issue was one of the most intense and closely watched this session. HAR monitored this measure because any extension to Oahu's GET surcharge would give the counties a window of time to pass a GET surcharge to fund transportation projects.

- ▶ The Senate's position was to extend the 0.5% General Excise Tax surcharge for another 10 years and reduce the State's administrative cost amount to 1%, which is now at 10%. The 0.5% GET surcharge is set to expire in 2027, after having received a 5 year extension in 2015.
- ▶ The House version would make the GET extension for 1 more year and makes up the difference by increasing the Transient Accommodations Tax (TAT) by 1% for 10 years. Also, a portion of the additional TAT collected would be used to create an education special fund.
- ▶ No consensus could be reached, and the Governor has indicated that he will not call a special session unless the House and Senate can reach an agreement on a position.

[Closely Monitor](#)

Tax HIGHLIGHTS



Bills that Passed the Legislature

[House Bill 1244,CD1](#)

**Signed as Act 125
(7/10/17)**

Requires upgrade, conversion or sewer connection of all cesspools in the State before 2050. Property owners may apply to the Department of Health (DOH) for an exemption, such as small lot size, topography, poor soil or accessibility.

Broadens the existing tax credit for qualified cesspools by:

- Increasing the location from 200 to 500 feet of a shoreline, perennial stream or wetland; or
- Showing that the property impacts drinking or recreational water supplies; or
- Obtaining certification by a county or private sewer company that the property is appropriate for connection to its existing sewer system.

The DOH must investigate existing cesspools, assess incentive programs and report to the Legislature.

Effective July 1, 2017

[Comment](#)

[View Testimony](#)

Highlights of Bills that Died

[House Bill 486,HD2](#)

DEAD

Eliminates the mortgage interest deduction for second homes under Hawaii's income tax law.

[Oppose](#)

[View Testimony](#)

[House Bill 698 HD1](#)

DEAD

Increases the conveyance tax for properties with a value of \$2 million.

[Oppose](#)

[View Testimony](#)

[House Bill 924](#)

DEAD

Increases the General Excise Tax by 1 percent for a two-year period to provide a dedicated funding source for the acquisition of agricultural lands.

[Strongly Oppose](#)

[View Testimony](#)

Property Management HIGHLIGHTS



8% Cap on Late Rent Payment Fees Passes

[Senate Bill 119, CD1](#)

Signed as Act 179
(07/11/17)

Establishes a cap of 8% on late rent payment fees, applicable to all new rental agreements and renewals entered into on or after the effective date of November 1, 2017.

HAR will be updating the Rental Agreement for the November Standard Forms release to reflect this new law. Be careful not to place a fee amount on a Rental Agreement that is more than the 8% amount after November 1, 2017.

The original proposal was a cap of 5%. HAR looked at industry practices and other industries late fee standards and worked with lawmakers to come up with an 8% cap.

Opposed Original Bill

[View Testimony](#)

HAR Will Work on Application Screening Fee Process in Interim

[House Bill 223, HD2, SD1](#)

DEAD

This bill would have capped the application screening fee to \$25. Also, a landlord would only be able to charge one application screening fee per application and would not be able to charge an application screening fee for each member of a household. Further, upon request the landlord or landlord's agent would need to provide a receipt and copy of any report obtained by the landlord or landlord's agent.

HAR had serious concerns, such as, if only one member of the household would be charged a fee to run a report this could severely harm applicants from qualifying, if more than one income is needed to show that they could afford the rent. Also, there were concerns that the \$25 fee cap would not adequately cover both the costs of the report and any other administrative fees in screening an applicant.

HAR has been asked to work on this after session ended to ensure no unintended consequences to the consumer, landlord or property manager.

Oppose

[View Testimony](#)

[House Bill 1009, CD1](#)

Signed as Act 114
(07/10/17)

Exempts residence or occupancy in a structure or on a property directly controlled, owned, or managed by the Hawai'i Public Housing Authority from the requirements of the Landlord Tenant-Code.

Effective upon approval.

Monitor

Housing / Affordable Housing

Bills that Passed the Legislature

[House Bill 530, CD1](#)

Signed as Act 123 (7/10/17)

The Hawai'i Housing Finance and Development Corporation (HHFDC) downpayment loan assistance program has been inactive due to funding and outdated programmatic constraints. This measure updates and modernizes the program.

Effective July 1, 2017

Support

[View Testimony](#)

[Senate Bill 611, CD1](#)

Signed as Act 123 (7/10/17)

Extends the prohibitions on county requirements for automatic fire sprinkler systems in one- and two-family detached dwelling units and non-residential aquacultural structures located outside urban areas.

Effective June 29, 2017; Repeals on June 30, 2027.

Support

[View Testimony](#)

[Senate Bill 911, CD1](#)

Signed as Act 175 (7/11/17)

Provides additional financing assistance for affordable housing rental projects by increasing the Hula Mae Multifamily Revenue Bond authorization amount from \$1 billion to \$1.5 billion.

Effective July 1, 2017

Support

[View Testimony](#)

[Senate Bill 584, CD1](#)

Signed as Act 166 (07/11/17)

Allows an extended or hanai family member to act as a co-mortgagor in assisting a qualified resident in securing a mortgage to purchase a dwelling unit from the HHFDC.

Effective July 1, 2017

Monitor

[House Bill 451, CD1](#)

Signed as Act 180 (07/05/17)

Allows a lessee with an interest in Hawaiian Home Lands to will that interest to a spouse, children, grandchildren, brothers or sisters who are at least 1/32nd Hawaiian.

Effective upon approval by the Governor of Hawai'i and with consent of the United States Congress.

Monitor



Condominiums / Planned Communities

Bills that Passed the Legislature

[House Bill 192, CD1](#)

Signed as Act 101 (7/05/17)

Expands the law on planned community associations to apply to certain homeowners' associations. Clarifies that if a proxy is a standard proxy form authorized by an association, and the proxy is returned with no box checked or more than one box checked, the proxy shall be counted for quorum purposes only.

Effective July 1, 2017

Monitor

[House Bill 832, CD1](#)

Signed as Act 81 (7/05/17)

Specifies that condominium boards may be in violation of fiduciary duty for violating the mediation and arbitration requirements of the condominium law. Allows association member participation in board meetings pursuant to rules established therefore. Requires board meeting notices to list items on the meeting agenda. Requires unapproved final drafts of meeting minutes to be available within 30 days after the meeting.

Effective July 1, 2017

Monitor

[Senate Bill 292, CD1](#)

Signed as Act 181 (7/11/17)

Repeals chapter 514A, Hawai'i Revised Statutes, relating to condominium property regimes, and ensures that all condominiums in the State are governed under chapter 514B, Hawai'i Revised Statutes.

Effective July 1, 2017

Monitor

[Senate Bill 369, CD1](#)

Signed as Act 190 (7/11/17)

Prohibits associations of apartment owners, boards of directors, managing agents, resident managers, unit owners, and persons acting on behalf of associations or unit owners from retaliating against a unit owner, board member, managing agent, resident manager, or association employee who files a complaint; acts in furtherance of a complaint, report, or investigation of an alleged violation of the State's condominium laws or a condominium's governing documents; or exercises or attempts to exercise any right as a unit owner.

Effective July 1, 2017

Monitor



Business HIGHLIGHTS



Principal Broker Criminal Liability for Client Trust Accounts Bill Dies

[Senate Bill 394, SD1](#)

DEAD

This measure would have created criminal penalties for real estate brokers for improper deposit, segregation, or disposition of client trust account funds. Required the principal broker to report the client trust account number and name of the managing institution to the Real Estate Commission (REC.) Specifies that the principal broker must report changes in the account number and account location within ten days of a change. Authorize the REC to take action in circuit court to enforce client trust account requirements.

HAR opposed this measure because it was overly broad and ambiguous. Furthermore, this bill unfairly singled out real estate licensees from other professional and Vocational Licensing divisions in providing for criminal penalties. Additionally, there are criminal statutes that adequately address the extremely rare instances that involve criminal behavior.

Oppose

[View Testimony](#)

Bills that Passed the Legislature

[Senate Bill 396, CD1](#)

Signed as Act 192 (07/11/17)

Clarifies public records by amending the procedure for clearing titles by adding a reference to recorded assignments of leases and rents for which the underlying debt has been fully paid or satisfied.

Effective July 1, 2017

Support

[View Testimony](#)

[Senate Bill 1227, SD2](#)

Signed as Act 158 (07/10/17)

Makes permanent the affirmation requirement and form that is filed by an attorney on behalf of a mortgagee who is seeking to foreclose on a residential property under a judicial foreclosure action.

The purpose of this was that during the foreclosure crisis, there were reports that financial institutions were engaging in robo-signing, in which banks supported foreclosure actions through the use of false affidavits signed by bank employees. This adds a layer of consumer protection by requiring a foreclosing party's attorney to affirm that the attorney has personally reviewed the documents and records associated with a foreclosure action, confirm the factual accuracy of the complaint allegations, and state that the attorney does not believe there are any false statements of fact or law and that the plaintiff has legal standing to bring that foreclosure action.

Effective June 30, 2017

Monitor

Land Use HIGHLIGHTS



Transient Accommodations Tax Collection Agent Bill Dies (“AirBnB Bill”)

[House Bill 1471, HD3, SD2](#)

DEAD

There were numerous versions of a bill that allowed transient accommodation brokers to register as a tax collection agent to collect and remit General Excise Tax and Transient Accommodations Taxes on behalf of operators and plan manager using their services, such as AirBnB.

HAR opposed a version of this bill that made this process mandatory and thereby would have required real estate licensees that manage transient accommodations for their clients to collect and remit taxes.

Once it became a voluntary process again, HAR closely monitored this bill to ensure that the process remained optional.

Closely Monitor

[View Testimony](#)

Bills that Passed the Legislature

[House Bill 115, CD1](#)

Law w/o Governor’s signature as Act 208 (07/12/17)

Requires the City and County of Honolulu to take ownership and jurisdiction over all disputed roads under certain circumstances. Defines disputed roads.

Effective July 1, 2017

Support

[View Testimony](#)

[House Bill 655, CD1](#)

Signed as Act 31 (06/01/17)

Appropriates funds to the Department of Land and Natural Resources (DLNR) to assist and provide supplemental funds to the National Wildlife Research Center of the U.S. Department of Agriculture to research the adverse effects of the rose-ringed parakeet on Kaua’i and develop and begin implementation of a control plan to reduce the negative impacts.

Effective July 1, 2017

Monitor

[House Bill 575, CD1](#)

Law w/o Governor’s signature as Act 215 (07/12/17)

Establishes a process for the re-leasing or renegotiation of a lease for public lands classified as commercial or industrial use near the end of the life of the lease. Permits DLNR to extend public land leases to school or government entities without recourse to auction, with certain exceptions.

Effective July 1, 2017

Support

[View Testimony](#)

[House Bill 2, CD1](#)

Vetoed (07/11/17)

Authorizes tiny homes of less than 500 square feet for farm workers in agricultural districts on the island of Hawai’i. The County Council may adopt ordinances for the oversight of tiny homes, as defined in this Act.

Effective upon approval.

Monitor

Special Mahalo!

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FAQ

1. Where can I find more information on a specific bill?

Each bill number is linked to the status page on the capitol.hawaii.gov website. To find a bill not contained within the report, visit the website. Under “Bill Status/Measure Status” type in the bill number, i.e. HB25 or SB100 (no space.)

2. What does HD1, SD1, or CD1 mean after a bill number?

It means House Draft 1, Senate Draft 1, or Conference Draft 1. Every time a bill passes with amendments, the changes are made and the bill becomes a new draft. Based on the number of Committees that hear a bill, it can be amended multiple times, i.e. HD2, CD1. Conference Draft happens in Conference Committee; House and Senate members meet to work out any differences it has in the bills language.



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TO LISTEN TO OUR ISSUES AND STOP BAD LEGISLATION, SUCH AS:

STATE

- In 2017...
1. SAVING 60,000 HOMEOWNERS AND HAWAI'I FROM LOSING FLOOD INSURANCE
 2. FIGHTING BROAD CLIENT TRUST ACCOUNT BILL THAT WOULD CREATE CRIMINAL PENALTIES FOR BROKERS
 3. OPPOSING A TAX SURCHARGE ON RESIDENTIAL INVESTMENT PROPERTIES



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