



*The Judiciary, State of Hawaii*

**Testimony to the House Committee on Judiciary**

Rep. Karl Rhoads, Chair

Rep. Joy A. San Buenaventura, Vice Chair

Thursday, March 31, 2016, 2:00 p.m.  
State Capitol, Conference Room 325

**WRITTEN TESTIMONY ONLY**

by

Rodney A. Maile

Administrative Director of the Courts

---

**Bill No. and Title:** Senate Bill No. 2408, S.D. 1, H.D. 1, Relating to Partition of Heirs Property.

**Purpose:** Adopts Uniform Partition of Heirs Property Act. Establishes procedures and remedies for use in actions for partition of real property involving heirs property, real property held in tenancy in common that meets certain requirements.

**Judiciary's Position:**

This bill adds a new chapter to Hawaii Revised Statutes entitled the Uniform Partition of Heirs Property Act that sets forth a protocol for circuit court civil cases where partition of real property is sought.

While the Judiciary takes no position on the merits of this bill, in circuit court civil cases, responsibility for providing notice generally rests with the parties. For consistency, the Judiciary recommends that parties in a civil action involving partition of heirs property remain responsible for providing notice. This would avoid any potential conflicts of interest or liability that could arise from situations where a court would be responsible for both providing notice and determining whether notice requirements have been fulfilled.



Senate Bill No. 2408, Relating to Partition of Heirs Property  
House Committee on Judiciary  
March 31, 2016  
Page 2

Additionally, the Judiciary notes that S.B. 2408, S.D. 1, H.D. 1, page 6, lines 6-7 (§ - 6(e)), specifies that the court “send notice to each party with a known address” “not later than ten days after the appraisal is filed.” This provision appears to be the only instance among the court-provided notice requirements that includes a specific deadline by which notice must be given. Should the court remain responsible for providing notice once an appraisal is filed, the Judiciary requests that this ten-day provision be removed.

Thank you for the opportunity to testify on Senate Bill No. 2408, S.D. 1, H.D. 1.