



TESTIMONY OF THE STATE ATTORNEY GENERAL TWENTY-FOURTH LEGISLATURE, 2008

ON THE FOLLOWING MEASURE:

H.C.R. NO. 173 AND H.R. NO. 146, REQUESTING THE DEPARTMENT OF THE ATTORNEY GENERAL TO STUDY AND RECOMMEND WHETHER LEGISLATION ESTABLISHING A REVOCABLE BENEFICIARY DEED SHOULD BE ENACTED IN HAWAII.

BEFORE THE:

HOUSE COMMITTEE ON JUDICIARY

DATE: Tuesday, April 1, 2008 **TIME:** 2:00 PM

LOCATION: State Capitol, Room 325
Deliver to: Committee on Judiciary, Room 302, 5 Copies

TESTIFIER(S): Mark J. Bennett, Attorney General
or Pamela K. Matsukawa, Deputy Attorney General

Chair and Members of the Committee:

The Department of the Attorney General opposes House Concurrent Resolution No. 173 and House Resolution No. 146.

The resolutions ask our department to study the possible advantages and disadvantages of enacting legislation in Hawaii establishing the revocable beneficiary deed as a means by which an interest in real property may be transferred upon the death of the owner, and to make recommendations to the Legislature. The study includes a review of existing real property donative transfer devices in Hawaii. The purpose of establishing a revocable beneficiary deed would be to avoid complicated or costly probate proceedings.

The objection of the Department of the Attorney General is that the study concerns the legal area of estate planning, which is not an area of law practiced by the department. Therefore, conducting such a study involving methods of transferring a private real property interest upon the death of the owner and assessing whether revocable beneficiary deeds would be effective in avoiding

complicated or costly probate proceedings would not fall within the department's expertise. In order to conduct this study, the department would have to hire a consultant.

We respectfully ask the Committee to hold the resolutions or to redirect the resolutions' request to an agency that regularly conducts studies or oversees consultants who conduct studies for the Legislature.

JUDtestimony

From: [REDACTED]
Sent: Monday, March 31, 2008 7:59 PM
To: JUDtestimony
Subject: Testimony in Support of HCR 173/HR 146

To: Chair Tommy Waters and Members of the House Judiciary Committee
From: Rob Palin, Esq.
Re: Testimony IN SUPPORT of HCR 173/HR 146 Revocable Beneficiary Deeds

I run into too many cases of seniors who think they're passing property onto their children, and do things that eventually hurt them.

For example, a lot of people end up putting their kids names on their deeds. The kids get into financial trouble and a lien ends up on the house.

If seniors give financial power of attorneys to their children abuse may also occur. For example, the children could take equity loans out.

It's best if people can add to their deeds who should have their property when they die, rather than having them try to do something during their life that ends up to their detriment.

Many people don't have wills or trusts because it is too difficult/expensive to hire a lawyer, or it's an issue they don't want to deal with.

Many low income people have no other assets but their homes. They should be able to name a beneficiary, just as you can for your 401k, life insurance, etc.

Around 5 other states have successfully passed this much needed legislation, such as Ohio and Missouri. Please pass these resolutions.

-- Rob Palin, Attorney
Honolulu, HI
[REDACTED]

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