

**LATE**

**PRESENTATION OF THE  
REAL ESTATE COMMISSION**

**TO THE SENATE COMMITTEE ON  
COMMERCE AND CONSUMER PROTECTION**

**TWENTY-FIFTH LEGISLATURE  
Regular Session of 2009**

**Wednesday, March 18, 2009  
9:00 a.m.**

**TESTIMONY ON HOUSE BILL NO. 1415, H.D. 1, RELATING TO SERVICE OF  
PROCESS.**

**TO THE HONORABLE ROSALYN H. BAKER, CHAIR,  
AND MEMBERS OF THE COMMITTEE:**

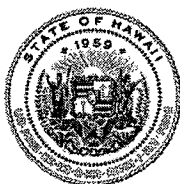
My name is William S. Chee and I serve as the Chairperson of the Real Estate Commission's ("Commission") Condominium Review Committee. I thank you for the opportunity to present testimony on House Bill No. 1415, H.D. 1, Relating to Service of Process. We understand the intent of this measure but we do have technical and budgetary concerns with the bill. To the extent that this bill would require expenditures on the part of the Commission we oppose it inasmuch as we would have to pass those costs on to the public since we are self-funded.

The Commission wishes to make clear to the Committee that while it has jurisdiction over condominiums, it has no jurisdiction over co-operative housing corporations or planned community associations. For condominiums, we support the intent of this bill to require condominium associations to establish a policy for reasonable access to process servers. We also have no objections that in

biennial registrations for condominium associations, that this information be disclosed (as page 4, lines 4-7 suggest).

What we would not want to be responsible for, are the tasks stated in Section 6 of the bill, to adopt forms or make adaptation to forms for the purpose of facilitating implementation of this bill for all the different entities covered under this bill. While we could do a form or adapt current Commission forms for condominium associations, we would not want to nor think it appropriate for our forms to be applied to the other groups named in the bill. Also, if the Department of Commerce and Consumer Affairs ("DCCA") is going to be responsible for developing generic forms, and if the Commission needs to adopt its own form, it would likely adopt DCCA's forms for consistency. The Commission just wants its very limited role, if any, with the implementation of Section 6, disclosed.

Thank you for the opportunity to testify on House Bill No. 1415, H.D. 1.



**LATE**

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TO THE SENATE COMMITTEE ON  
COMMERCE & CONSUMER PROTECTION  
THE TWENTY-FIFTH LEGISLATURE  
REGULAR SESSION OF 2009

Wednesday, March 18, 2009  
9:00 a.m.  
Conference Room 229

**TESTIMONY ON HOUSE BILL NO. 1415, H.D. 1  
RELATING TO SERVICE OF PROCESS**

TO THE HONORABLE ROSALYN H. BAKER, CHAIR AND MEMBERS OF THE COMMITTEE:

My name is Tung Chan, Commissioner of Securities and head of the Business Registration Division, Department of Commerce and Consumer Affairs ("Department"). The Division appreciates the opportunity to testify on House Bill No. 1415, H.D. 1, relating to service of process. We understand the intent of this measure but we do have technical and budgetary concerns with the bill. To the extent that this bill would require expenditures on the part of the Department we oppose it inasmuch as we would have to pass those costs on to the public since we are self-funded.

The bill requires that "each board of directors of . . . [a] cooperative housing corporation, or planned community association shall . . . identify the designees

[responsible for responding to a request for access to serve individuals residing or staying on the property] on its annual corporate filing . . . as filed with the department of commerce and consumer affairs."

First, with respect to planned community associations, the bill's filing provisions would not apply to a host of these associations. Under HRS 421J-2, a planned community association may choose to be "a nonprofit, incorporated or unincorporated organization." For the planned community associations that choose to be unincorporated, the Department would have no records or filings for them.

As for those that choose to be nonprofit corporations, the technical problem is that currently there is no way to distinguish which nonprofit corporations are planned community associations. This is because under HRS 421J-2, the law only refers to the option between incorporated and unincorporated organizations in the definition of "association" and does not currently make any filing distinctions among nonprofit corporations. If this bill is meant to create a new filing requirement (designee requirement) for planned community associations that distinguishes it from all other nonprofit corporations, we would require time to implement the change and it would incur expenses.

Similarly for cooperative housing corporations, at this time, HRS 421I points to HRS 414 (regular profit corporations) as the governing law for filing requirements with the Department. Accordingly, there is no distinction between cooperative housing corporations and all other for-profit corporations. If this bill is meant to create a filing

distinction, we would again require time to implement the change and it would incur expenses. Our IT staff estimates a cost of \$78,000 to accommodate both the nonprofit and profit corporation changes and they have estimated 9.5 months to make the modifications. Thank you for the opportunity to testify.