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PRESENTATION OF
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
REGULATED INDUSTRIES COMPLAINTS OFFICE

TO THE HOUSE COMMITTEE ON
CONSUMER PROTECTION AND COMMERCE

TWENTY-FIFTH STATE LEGISLATURE
REGULAR SESSION, 2009

MONDAY, MARCH 30, 2009
2:15 P.M.

**TESTIMONY ON HOUSE CONCURRENT RESOLUTION NO. 219/HOUSE
RESOLUTION NO. 188--REQUESTING THE DEPARTMENT OF COMMERCE AND
CONSUMER AFFAIRS TO RECOMMEND PROCEDURES AND LEGISLATION TO
REQUIRE CEMETERY AND PRE-NEED FUNERAL AUTHORITIES TO COMPLY WITH
UNCLAIMED PROPERTY LAWS UNDER CHAPTER 523A, HAWAII REVISED
STATUTES.**

TO THE HONORABLE ROBERT N. HERKES, CHAIR,
AND TO THE HONORABLE GLENN WAKAI, VICE-CHAIR,
AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs ("Department")
appreciates the opportunity to testify on House Concurrent Resolution No. 219 and
House Resolution No. 188, which request that the Department recommend
procedures and legislation to require cemetery and pre-need funeral authorities "to
comply with unclaimed property law." My name is Jo Ann Uchida, Complaints and

Enforcement Officer for the Department's Regulated Industries Complaints Office ("RICO"). The Department has the following concerns with the proposal:

1) The Department is not aware of a particular problem relating to cemetery and pre-need funeral authority compliance with the State's unclaimed property laws;

2) The Department does not know how tangible property, which is owned outright by the purchaser under § 441-1, Hawaii's Revised Statutes, would transfer under the unclaimed property law; and

3) The Department is not the agency that administers the State's unclaimed property law and would defer to the Department of Budget and Finance as to whether legislation to review Chapter 523A, Hawaii Revised Statutes, is necessary.

Thank you for the opportunity to testify on House Concurrent Resolution No. 219 and House Resolution No. 188. I will be happy to answer any questions that the members of the Committee may have.



Hawaii's Voice for a Better Future

HCR219
CPC
Maunday, March 30, 2009
2:15 p.m.
Room 325

COMMITTEE ON CONSUMER
PROTECTION & COMMERCE

Rep. Robert N. Herkes, Chair
Rep. Glenn Wakai, Vice Chair

March 27, 2008

Re: HCR219 — Requires cemetery and pre-need funeral authorities to comply with unclaimed property laws

In Support

Just as abandoned bank or securities accounts are required by law to be turned over to the unclaimed properties office, so too must unclaimed funeral contracts be turned over.

Yet the DAGS unclaimed properties office reports that it has not received any funds from unclaimed funeral trusts.

It appears that the laws regulating these trusts are not being properly enforced, hence the need for this resolution. As the preamble notes, this is a sizable pool of funds, with an approximate aggregate value of more than \$150,000,000.

We urge the Committee to pass this resolution in order that the 2010 session may be prepared to make any necessary changes to ensure industry compliance and consumer protection.

Larry Geller, President

Larry Geller
Kokua Council

The **Kokua Council** is one of Hawaii's oldest advocacy groups. Kokua Council seeks to empower seniors and other concerned citizens to be effective advocates in shaping the future and well-being of our community, with particular attention to those needing help in advocating for themselves. "We embrace diversity and extend a special invitation to any senior or intergenerational minded individual interested in advocating for these important issues in Hawaii." All are welcome. Annual membership is \$5 to defer printing and postage costs. At each meeting, topical issues are presented for discussion and possible action.

FROM: Laura Manis
Legislative Committee, PABEA (Policy Advisory Board for Elder
Affairs)

HCR219

SUPPORT

I am offering testimony on behalf of PABEA, the Policy Advisory Board for Elder Affairs, which is an appointed board tasked with advising the Executive Office on Aging (EOA). My testimony does not represent the views of the EOA but of the Board.

Funds in trust for unclaimed funeral contracts are required by law to be turned over to the state, just like abandoned checking/savings accounts, stocks and other financial instruments, even gift cards. The DAGS unclaimed properties office has reported not receiving any funds from unclaimed funeral trusts.

AS someone who has personally experienced an unscrupulous act by a funeral company, I believe there must be more oversight of this industry by the Department of Consumer Protection.

No time should be wasted to protect persons having to make costly decisions in a time of when they are vulnerable because of their grief.

Laura G. Manis
597-8838

Sharon Sagayadoro

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, March 29, 2009 4:06 PM
To: CPCtestimony
Cc: Tlenzer@hawaii.rr.com
Subject: Testimony for HCR219 on 3/30/2009 2:15:00 PM

Testimony for CPC 3/30/2009 2:15:00 PM HCR219

Conference room: 325
Testifier position: support
Testifier will be present: No
Submitted by: Anthony Lenzer
Organization: Individual
Address: 222 Kuukama St. Kailua, HI
Phone: 261-2095
E-mail: Tlenzer@hawaii.rr.com
Submitted on: 3/29/2009

Comments:

My name is Anthony Lenzer. I am a Professor Emeritus of Public Health, and former Director of the Center on Aging, University of Hawaii. I do not hold either a pre-need funeral or cemetery plan, but strongly support the intent of this resolution, requesting DCCA to make recommendations on requiring cemetery and funeral pre-need licensees to comply with the State's unclaimed property law. It is my understanding that unclaimed funds held in trust for such contracts should be turned over to the State, just like abandoned savings/checking accounts and other financial instruments. I also understand that the DAGS unclaimed property office has reported not receiving any funds from unclaimed funeral trusts. Given the large number of such contracts which have been written in Hawaii, it is reasonable to assume that some represent unclaimed property, the funds for which should have been sent to DAGS.

It is well known that Hawaii has some of the nation's weakest consumer protection laws with regard to such pre-need contracts. The unclaimed property issue is but one example of the need for greater oversight of the pre-need industry. Please support this Resolution, as a step towards making this industry more accountable to consumers and the public interest.

Thank you for the opportunity to testify.