



**TESTIMONY OF THE STATE ATTORNEY GENERAL
TWENTY-FIFTH LEGISLATURE, 2009**

ON THE FOLLOWING MEASURE:

S.B. NO. 1219, RELATING TO REAL ESTATE BROKERS AND SALESPERSONS.

BEFORE THE:

SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

DATE: Wednesday, February 11, 2009 TIME: 8:30 AM

LOCATION: State Capitol, Room 229

TESTIFIER(S): Mark J. Bennett, Attorney General
or Shari Wong, Deputy Attorney General

LATE

Chair Baker and Members of the Committee:

The Department of the Attorney General opposes this bill.

As drafted, it appears that a real estate broker or salesperson may provide any service for which a license is required under chapter 467, Hawaii Revised Statutes (HRS), and it shall not be considered to be the practice of law. This language is very broad, ambiguous, and unnecessary. The unauthorized practice of law, codified in section 605-14 HRS, already carves out certain activities of various professions.

Section 605-14 defines the unauthorized practice of law as follows:

It shall be unlawful for any person, firm, association, or corporation to engage in or attempt to engage in or to offer to engage in the practice of law, or to do or attempt to do or offer to do any act constituting the practice of law, except and to the extent that the person, firm, or association is licensed or authorized so to do by an appropriate court, agency, or office or by a statute of the State or of the United States. Nothing in section 605-14 to 605-17 contained shall be construed to prohibit the preparation or use by any party to a transaction of any legal or business form or document used in the transaction.

(Emphasis added.)

Section 605-14 currently allows licensed or authorized persons to practice within their professions, and clearly permits any party to a

transaction to prepare or use any legal or business form or document. .
Thus, we believe a specific exemption in chapter 467, HRS, to be
unnecessary and duplicative of section 605-14.

We also note the plural nature of this bill's title, relating to
real estate brokers and salespersons. Pursuant to article III, section
14, of the State Constitution, "[e]ach law embrace but one subject,
which shall be expressed in its title." (Emphasis added.)

We respectfully request that this bill be held.