

**PRESENTATION OF THE
BOARD OF PUBLIC ACCOUNTANCY**

TO THE HOUSE COMMITTEE ON
CONSUMER PROTECTION AND COMMERCE

TWENTY-FIFTH LEGISLATURE
Regular Session of 2009

Monday, March 30, 2009
2:15 p.m.

**TESTIMONY ON SENATE BILL NO. 55, S.D.1, RELATING TO PUBLIC
ACCOUNTANCY.**

TO THE HONORABLE ROBERT N. HERKES, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Doreen Griffith and I am the Vice -Chairperson of the Board of Public Accountancy ("Board"). Thank you for the opportunity to present testimony on behalf of the Board in opposition to Senate Bill No. 55, Senate Draft 1, Relating to Public Accountancy.

The purpose of this bill is to repeal the requirement that all public accountancy firms apply for and obtain a permit to practice to actively engage in the practice of public accountancy in the State of Hawaii.

Over the past years, the Board has worked to establish regulatory oversight for all CPA firms through the implementation of the firm permit to practice requirement that is mandated by Hawaii Revised Statutes section 466-7, by promulgating new rules as part of an overhaul and update of the Board's Hawaii Administrative Rules ("HAR") chapter 16-71. The Board is fully cognizant of the delay in this implementation and has worked over the years with the Hawaii Association of Public Accountants, the Hawaii Society of Certified Public

Accountants, the Accountants Coalition, the Internal Revenue Service, the Hawaii Department of Taxation, the Office of the State Auditor, the Hawaii chapter of the National Association of Tax Professionals, and all other stakeholders, to craft rules that implement, clarify, and formalize current Board mandates and practices.

I am pleased to report to this Committee that since the introduction of this measure, the comprehensive package of rule revisions to HAR chapter 16-71, which includes the implementation of firm permits to practice, has been approved by the Board and is well on its way to completion of the process to promulgation. Once the rule amendments were approved by the Board, the Office of the Attorney General reviewed the rules and granted initial approval as to form. The Legislative Reference Bureau ("LRB") then reviewed and verified the rule chapter's compliance with the LRB's format requirements pursuant to HRS chapter 91, and provided its recommendation to proceed.

The next step in the process was the presentation of the rule amendments to the Small Business Regulatory Review Board of the Department of Business, Economic Development, and Tourism ("Review Board"). As you may know, the Review Board provides recommendations to State and County agencies on proposed rules and proposed rule amendments, pursuant to HRS chapter 201M and the Governor's Administrative Directive No. 99-02. Upon discussion and review of the proposed changes, the Review Board unanimously recommended that the rules proceed to public hearing.

Immediately after the Review Board's approval, the rules were submitted to the Governor for approval to hold the public hearing. The Board is now awaiting this approval to be permitted to schedule the hearing, anticipated to be sometime in June. This means that the rule amendments, including the rule that implements firm permits to practice, are completed for all intents and purposes, with the exception of the public hearing.

The Board believes that implementation of the firm permit to practice is critical to enhance protection of the public relating to the primary function of Certified Public Accountants – attestation services, services that individuals, corporations, investors, and others rely upon when making critical financial decisions. Furthermore, establishing firm permits to practice lays the foundation for this appropriate oversight and vigilance over not only the performance of attestation services, but over all other services within the scope of a CPA firm's practice. The disciplinary authority of the Board, including the power to revoke or suspend a license or permit will extend to all CPA firms as well as individual CPAs, thereby enhancing public protection.

Further, the firm permit to practice is the cornerstone to the concept of practice mobility, advocated by both the American Institute of Certified Public Accountants and the National Association of State Boards of Accountancy as the profession's proactive effort to meet the evolving requirements of a global economy. The Board believes that implementation of the firm permit to practice is crucial to advance its position in support of the reciprocal benefits of practice

mobility. Firm regulation is a basic prerequisite for Hawaii to join the growing network of states that allow CPA firms the reciprocal privilege to practice in any state or jurisdiction within the network.

In its support of practice mobility, the Board believes that now, more than ever before, the electronic age makes conducting business across state borders an everyday occurrence. There is a critical need for states to adopt a uniform mobility system that will allow licensed CPAs to provide services across state lines without unnecessary burdens that only serve to limit consumer access to professional services while not providing any further protection of the public interest. With the establishment of practice mobility, Hawaii will join the growing network, which currently includes nearly forty (40) states, that allows for this cross-border practice, and Hawaii CPAs and CPA firms will be able to provide their public accountancy services to clients throughout the network who need and want their expertise, special knowledge, and proficiency. The fluidity with which this can be accomplished will allow our CPAs and CPA firms to plan different and expanded business realities and seek to alter their business practice paradigm.

These ambitious new business ventures may not be possible if the Hawaii CPA firm cannot meet the practice privilege requirements of the state in which the business expansion is planned, which includes that the firm be registered or licensed as a CPA firm. Repeal of the firm permit to practice, which is what this bill proposes, could disallow the Hawaii CPA firm from practice in that state under a practice privilege, or at the very least, will place the Hawaii CPA firm at a

disadvantage by hindering its efforts to comply with the practice privilege requirements in order to timely service clients in that state.

In closing, the Board reiterates its strong opposition to S.B. No. 55, S.D. 1, and respectfully requests that the Committee allow the Board to finally complete the promulgation of this most comprehensive package of rule amendments, inclusive of the implementation of firm permits to practice.

Thank you for the opportunity to provide testimony.



HAWAII ASSOCIATION OF PUBLIC ACCOUNTANTS

Organized August 7, 1943
P.O. BOX 61043
HONOLULU, HAWAII 96839



Before the Committee on Consumer Protection and Commerce

Monday, March 30, 2009 at 2:15 p.m.
Conference Room 325
State Capitol

Re: Support for SB 55, SD 1 Relating to Public Accountancy

Testimony of Marilyn M. Niwao, J.D., CPA

Chair Herkes, Vice Chair Wakai and committee members:

HAPA's board (and I) support SB 55, SD 1. I am a CPA and attorney, practicing public accounting as a principal of Niwao & Roberts, CPAs, a P.C., a CPA firm on Maui. I am a past state president, current board member and legislative committee co-chairperson for the Hawaii Association of Public Accountants (HAPA), an association that represents local public accounting practitioners (primarily CPA firm owners and staff) throughout the State of Hawaii. I am the National Society of Accountants Governor of District XI, serving on the national governing board of this organization. I am also a member and past state director of the HSCPA and a member of the AICPA.

SB 55, SD 1 repeals the requirement for CPA firms to obtain a firm permit to practice in order to practice public accountancy. HRS §466-7 (d) specifies that "All firms shall obtain a permit to practice. The board may issue or renew a permit to actively engage in the practice of public accountancy to any firm which submits a completed application and demonstrates qualifications as prescribed by the board (emphasis added)."

HRS §466-7 (e) further states, in part, ".... Continued performance in the practice of public accountancy without a permit shall constitute unlicensed activity and the individual or firm shall be subject to sections 466-9 and 466-11, section 487-13, and section 26-9."

Unfortunately, for unknown reasons, the board has delayed passing administrative rules to specify the qualifications to obtain a CPA firm permit to practice and has not issued firm permits even though the requirement has been law from 1989. I am aware that the board approved proposed administrative rules incorporating firm licensing approximately two years ago, after working on the rules for about a year and a half. At that time, the board's

executive officer mentioned that it may take from three to five years to get the rules passed because of a backlog in the rules process.

Since then, it appears the administrative rules were placed on the back burner until they were again addressed (with more changes) and approved again by the board in December 2008. Due to the uncertainty of when these rules would take effect (another three to five years?) we ask that SB 55, SD 1 be passed so that CPA firms do not have the appearance of practicing public accounting illegally. In addition, CPA firms have in fact been conducting business in Hawaii for many years without these firm permits, without adverse consequences to the State of Hawaii.

If and when there is future accounting legislation that must incorporate firm permits, the requirement for firm permits can be added then.

Please support SB 55, SD 1 for the reasons stated above. If you have any questions, please do not hesitate to contact me at (808) 242-4600, ext. 224.

Thank you for this opportunity to testify.

Respectfully submitted,



Marilyn M. Niwao, J.D., CPA
HAPA Legislative Committee Co-chairperson and Board member

**Brian M. Iwata, CPA
101 Aupuni St. #139
Hilo, HI 96720**

**Monday , March 30, 2009 at 2:30 p.m.
Conference Room 325**

**Re: Support for SB 55, SD 1
Relating to Public Accountancy**

Chair Herkes, Vice Chair Wakai, and committee members:


I am a CPA from Hilo and have been in practice for over 30 years.

I support SB 55, SD 1 that repeals the requirement for CPA firms to obtain a permit to practice in order to practice public accountancy. This provision has been part of the Hawaii Revised Statutes for about 20 years and has never been implemented by the Department of Commerce and Consumer Affairs or the Board of Public Accountancy.

I feel it is only good public policy, that laws like this that has been on the books for many years which has never been implemented should be removed from the Statutes to alleviate future practice rights problems on CPAs and the State of Hawaii.

Thank you for this opportunity to testify.

Respectfully submitted,



Brian M. Iwata

**HAWAII ASSOCIATION OF PUBLIC ACCOUNTANTS**

Organized August 7, 1943
P.O. BOX 61043
HONOLULU, HAWAII 96839

**Before the Committee on Consumer Protection and Commerce**

Monday, March 30, 2009 at 2:15 p.m.
Conference Room 325

Re: Support for SB 55, SD 1

Relating to Public Accountancy

Testimony of Gregg M. Taketa, CPA**Chair Herkes, Vice-Chair Wakai and Committee Members:**

I am the State President of the Hawaii Association of Public Accountants and a certified public accountant with over 30 years of public accounting experience.

I support SB 55, SD 1 which repeals HRS §466-7 (d) requiring CPA firms to obtain a firm permit to practice in order to practice public accountancy.

SB 55, SD1 would eliminate an awkward situation where Hawaii CPAs are practicing illegally under existing laws because the Board of Public Accountancy has failed to adopt and implement rules to issue firm permits to practice. This situation has continued for over twenty years. Based on their inaction, one could conclude that the Board of Public Accountancy believes that firm permits to practice are not necessary for the protection of consumers. If this is the case, then HRS §466-7 (d) should be repealed.

In the twenty years that the Board has failed to comply with HRS §466-7 (d), there has never been a public outcry from consumers of public accounting services for the enforcement of CPA firm licensing.

More importantly, SB 55, SD 1 would remove a dangerous precedent that clearly exhibits our Executive Branch's disregard of laws passed by the Legislature.

Please support SB 55, SD 1 for the reasons stated above. Thank you for this opportunity to testify.

Respectfully submitted,

Handwritten signature of Gregg M. Taketa in cursive.

Gregg M. Taketa, State President
Hawaii Association of Public Accountants

AMERICAN COUNCIL OF LIFE INSURERS
TESTIMONY IN SUPPORT OF SB 53, RELATING TO INSURANCE

March 30, 2009

Via E Mail: cpctestimony@capitol.hawaii.gov
Honorable Representative Robert N. Herkes, Chair
Committee on Consumer Protection and Commerce
Honorable Jon Riki Karamatsu, Chair
Committee on Judiciary
State House of Representatives
Hawaii State Capital, Conference Room 325
415 S. Beretania Street
Honolulu, HI 96813

Dear Chair Herkes, Chair Karamatsu and Committee Members:

Thank you for the opportunity to testify in support of SB 53, relating to Insurance.

Our firm represents the American Council of Life Insurers ("ACLI"), a national trade association whose three hundred forty (340) member company's account for 94% of the life insurance premiums and 94% of the annuity considerations in the United States among legal reserve life insurance companies. ACLI member company assets account for 93% of legal reserve company total assets. Two hundred fifty-three (253) ACLI member companies currently do business in the State of Hawaii.

Last session the legislature passed into law Act 177 which enacted the National Conference of Insurance Legislators ("NCOIL") Life Settlements Model Act (the "NCOIL Model Act") which became effective on June 16, 2008.

As of March 11, 2009, Hawaii is one of 13 states nationwide which have enacted laws that address Stranger Originated Life Insurance ("STOLI") – a growing predatory practice by investors who purchase life insurance on the lives of consumers, particularly elderly consumers, for profit.

Of these 13 states Hawaii is one of 7 states that adopted the NCOIL Model Act. The others are Arizona, Connecticut, Indiana, Kansas, Maine and Oklahoma. However, unlike any of these other states, unless Hawaii's legislature provides otherwise Hawaii's NCOIL Model Act is repealed next year effective June 16, 2010. Secondly, Hawaii's Insurance Division is required to deliver an annual report to the legislature on January 1 of this year and next year relating to (among other matters) the laws effectiveness in regulating STOLI.

The law should not be repealed and the reporting requirements by the Insurance Division are unnecessary.

The NCOIL Model Act was carefully crafted by NCOIL. Work on the Model Act began on March 7, 2007 and with the assistance and approvals of all stakeholders in the

Life Settlement Insurance industry, including, ACLI, National Association of Independent and Financial Advisors (NAIFA), Association of Advanced Life Underwriters (AALU), Life Insurance Settlement Association (LISA), Coventry, Institutional Life Markets Association (ILMA), Life Insurance Financing Association (LIFA) and Life Settlement Institute (LSI), the Act was adopted by NCOIL at its annual meeting on November 7, 2007.

There are no provisions in the Act which would justify postponement of its permanent enactment until there is a track record of its effectiveness in preventing STOLI transactions.

1. STOLI is morally wrong and wrong for the life insurance industry and consumers.

Wagering on the lives of people is wrong.

- STOLI violates the intended purpose of life insurance. Life insurance is designed to protect an individual's family and estate in the case of a death – not to financially benefit a group of strangers gambling on a person's life.
- STOLI benefits investment groups and hedge funds, not families. It circumvents insurable interest laws and does not protect consumers.

2. STOLI invites wrong-doing.

- STOLI investors are betting on the early deaths of consumers, not on their continuing good health. This gaming scheme simply invites wrong-doing that targets elderly seniors.
- With STOLI, consumers do not have control over their own life insurance policies. Their life insurance is owned by or sold to strangers who do not have their health and welfare at heart.
- Under STOLI transactions, consumers do not know who owns their life insurance policy and what that person or persons intend to do with it.

3. Preying on the elderly is wrong.

- STOLI takes advantage of the elderly – inducing them to buy something they would not normally buy and do not need.
- There may be hidden tax consequences for elderly consumers that investors do not warn them about.
- If people enter into a STOLI arrangement, they may not be able to obtain more life insurance at a time they really need it.
- STOLI is an unregulated business that preys on the elderly.

4. STOLI is unfair to consumers.

While the cost of life insurance continues to fall, enabling more Americans to obtain good coverage, STOLI could reverse this positive trend at the expense of all consumers.

5. STOLI is detrimental to the life insurance industry.

STOLI, if permitted by law, will likely alter the way life insurance companies do business. Insurance companies have been consistently able to raise the age at which they are able to provide affordable life insurance. STOLI may eventually result in fewer choices for insurance consumers.

The NCOIL Model Act is an effective tool in deterring STOLI.

Act 177 prohibits STOLI transactions by prohibiting “life settlement contracts” at any time prior to policy issuance or within a 2 year period thereafter, unless otherwise exempted.

The NCOIL Model Act makes engaging in STOLI schemes a fraudulent life settlement act subject to regulatory and civil penalties. Further, any person damaged by the STOLI scheme may bring a civil suit for damages against the person committing the violation.

The centerpiece of the Act’s regulatory scheme is its definition as to what constitutes “Stranger Originated Life Insurance”.

In a press release the executive director of the Life Insurance Settlement Association has characterized the NCOIL definition as a pioneering consumer protection measure. In commenting on the STOLI transaction which was the subject of a lawsuit filed in the U.S. District Court case of Life Product Clearing LLC, vs. Angel, 530 F. Supp.2d 646, (Jan. 22, 2008, S.D.N.Y.) LISA observed:

The Angel order repeatedly demonstrates the wisdom of the NCOIL Model . . . The NCOIL Model provides a legislative definition of STOLI as “a practice or plan to initiate a life insurance policy for the benefit of a third party investor.” This is virtually identical language to the court’s holding in Angel. And NCOIL’s pioneering consumer affirmations – including written certifications stating “I have not entered into any agreement or arrangement providing for the future sale of this life insurance policy” and “I have not entered into any agreement by which I am to receive consideration in exchange for procuring this policy” – would likely have stopped issuance of this policy.

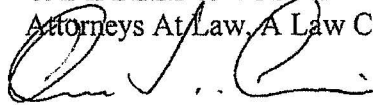
ACLI strongly supports legislation which effectively deters STOLI transactions.

The protections afforded to consumers in preventing STOLI should not be taken away.

For all of the foregoing reasons, ACLI respectfully requests that this Committee pass SB 53, unamended.

Again, thank you for giving us the opportunity to testify in support of SB 53.

CHAR HAMILTON
CAMPBELL & YOSHIDA
Attorneys At Law, A Law Corporation



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737 Bishop Street, Suite 2100
Honolulu, Hawaii 96813
Telephone: (808) 524-3800
Facsimile: (808) 523-1714
E mail: ochikamoto@chctlaw.com

N I W A O
&
R O B E R T S

Certified Public Accountants, A Professional Corporation

Before the Committee on Consumer Protection and Commerce

**Monday, March 30, 2009 at 2:15 p.m.
Conference Room 325
State Capitol**

**Re: Support for SB 55, SD 1
Relating to Public Accountancy**

Testimony of John W. Roberts, CPA

Chair Herkes, Vice Chair Wakai and committee members:

I support SB 55, SD 1 which eliminates CPA firm permits to practice. Since 1989 the Hawaii Revised Statutes have required CPA firms in Hawaii to obtain firm permits to practice in order to practice public accounting. Yet no CPA firm has been able to obtain a firm permit to practice. Why? Because the Board of Public Accountancy still has not issued administrative rules to implement CPA firm permits to practice.

What are the consequences of the Board of Public Accountancy's failure to implement a 20-year-old law? In my opinion, they are:

1. The authority of the legislature is undermined if a Board can selectively choose which laws to implement and when.
2. The competitiveness of Hawaii CPA firms is impaired in pursuing mainland contracts. Our firm had no choice but to walk away from a large mainland contract because we could not certify that we were in compliance with the laws and regulations governing our profession in Hawaii through no fault of our own.
3. Potential local jobs and tax revenues are lost.
4. Every CPA firm in Hawaii appears to be practicing illegally without a firm permit.
5. The validity of malpractice insurance policies of all CPA firms in the state may be jeopardized.

While the Board of Public Accountancy, in my opinion, deserves the lion share of the blame, it is not the only organization that failed. Both the Department of Commerce and Consumer Affairs and the Office of the Attorney General dropped the ball. Even my own trade association, the Hawaii Society of Certified Public Accountants (HSCPA), failed by not speaking up for decades and demanding the law be implemented.

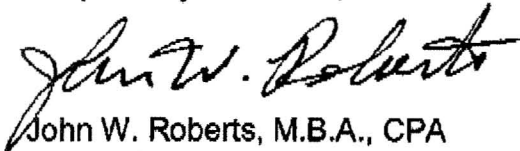
When the principals of our firm made written and oral requests to the Board in 2007 asking that our firm be issued a firm permit to practice, the HSCPA representatives attending Board meetings were silent. Only later, after it appeared that legislation would be introduced eliminating the requirement for firm permits to practice, did representatives of the HSCPA speak up, now claiming that a law that has not been implemented in 20 years is critical to their master plan to rewrite the laws governing the CPA profession in Hawaii.

If you want to promote the competitiveness of businesses based in Hawaii, create local jobs, and raise tax revenues, you must eliminate unnecessary laws and regulations that interfere with commerce. A law that has been on the books but not implemented for two decades is clearly unnecessary by any standard of common sense. That is why I urge you to pass SB 55, SD 1.

Finally, as background information, I have attached correspondence between our firm and the Board of Public Accountancy, and would be happy to respond to any questions you may have.

Thank you for this opportunity to testify.

Respectfully submitted,



John W. Roberts, M.B.A., CPA

Principal

Enclosures

NIWAO
&
ROBERTS

Certified Public Accountants, A Professional Corporation

November 22, 2008

Mr. Howard Todo, Chairman, and
Members of the Hawaii Board of Public Accountancy
DCCA-PVL
Att: Acct
P.O. Box 3469
Honolulu, HI 96801

Re: Firm Permit to Practice for Niwao & Roberts, Certified Public Accountants,
a Professional Corporation

Ladies and Gentlemen:

Approximately one year has passed since our firm wrote to you requesting that Niwao & Roberts, CPAs, a P. C. be issued a firm permit to practice as required by Hawaii Revised Statutes (HRS) §466-7 (see the enclosed letter dated November 27, 2007). No permit has been issued. As a result, the principals of our firm could not certify that our firm was in compliance with the laws governing the CPA profession in Hawaii, and we lost an opportunity to substantially expand in Hawaii as well as open an office on the mainland.

Our firm received your enclosed letter dated February 1, 2008 which indicates that the Hawaii Revised Statutes requiring firm permits is not law unless the Board of Public Accountancy issues related administrative rules, even though HRS §466-7 (d) is specific and says that "All firms shall obtain a permit to practice. The board may issue or renew a permit to actively engage in the practice of public accountancy to any firm which submits a completed application and demonstrates qualifications as prescribed by the board (emphasis added)." In my opinion, laws promulgated under the Hawaii Revised Statutes should not be disregarded by the Board of Public Accountancy due to its own failure (after a reasonable time period) to issue administrative rules to implement these laws.

As you know, the State of Hawaii spends millions of dollars through grants and tax credits to attract and retain businesses that hopefully will provide good-paying, non-polluting jobs for its citizens. In the current economic environment where every job counts, it is most unfortunate that the failure to implement a law that has been on the books since 1989, according to the head research librarian of the Hawaii Legislative Reference Bureau, caused the forfeiture of local jobs and tax revenues.¹

¹ See enclosed e-mail message, dated April 3, 2008, from Karen Mau to John Roberts.

The principals of our firm understand that amended administrative rules implementing firm licensing were approved by the Board of Public Accountancy around March of 2007. However, representatives of your board subsequently indicated that the process to implement administrative rules will take an additional three to five years due to a backlog of rules for other boards.

Although it is too late to salvage our firm's lost opportunity, I urge the Board of Public Accountancy to take immediate action to remedy the situation. Towards this goal, I recommend the Board of Public Accountancy do the following:

1. Endorse legislation to remove the firm permit to practice requirement. Time has proven that a) the current requirement is unnecessary for the protection of Hawaii consumers, and b) the Board is unable to implement the existing law in a timely manner.
2. Review the rules process and make recommendations to the administration of Governor Linda Lingle and the State of Hawaii legislature regarding what reforms are needed so that the public and Hawaii businesses can be assured that the laws governing Hawaii commerce will be implemented expeditiously and without delay.

Thank you for your consideration of this matter.

Very truly yours,



Marilyn M. Niwao, J.D., CPA
President

Enclosures: Letter from Niwao & Roberts dated November 27, 2007
Letter from Board of Public Accountancy dated February 1, 2008
E-mail message from Legislative Reference Bureau dated April 3, 2008

cc: The Honorable Rosalyn H. Baker, Senator
The Honorable Les Ihara, Jr., Senator
The Honorable Robert N. Herkes, Representative
The Honorable Angus L.K. McKelvey, Representative
The Honorable Isaac Choy, Representative
Mr. Gregg Taketa, President of the Hawaii Association of Public Accountants

NIWAO
&
ROBERTS

Certified Public Accountants, A Professional Corporation

November 27, 2007

Mr. Howard Todo, Chairman, and
Members of the Hawaii Board of Public Accountancy
DCCA-PVL
Att: Accl
P.O. Box 3469
Honolulu, HI 96801

Re: Firm Permit to Practice for Niwao & Roberts, Certified Public Accountants,
a Professional Corporation

Ladies and Gentlemen:

We respectfully request that our firm be issued a permit to practice as required
by Hawaii Revised Statutes (HRS) §466-7.

HRS §466-7 states, in part:

- (d) All firms shall obtain a permit to practice. The board may issue or renew a permit to actively engage in the practice of public accountancy to any firm which submits a completed application and demonstrates qualifications as prescribed by the board.
- (e) Failure to submit the required fees, continuing education hours, or other requirements for renewal as specified in this section by December 31 of every odd-number year, shall constitute forfeiture of the permit. Continued performance in the practice of public accountancy without a permit shall constitute unlicensed activity and the individual or firm shall be subject to sections 466-9 and 466-11, section 487-13, and section 26-9.

Even though the firm permit to practice requirement has been law for years, the Board of Public Accountancy has yet to implement rules and develop application forms for issuing permits to practice to firms. In failing to do so, all certified public accounting firms in the State of Hawaii appear to have been and continue to be engaged in unlicensed activity as described in HRS § 466-7 (e) above. Since we cannot certify that our firm is in compliance with Hawaii's professional licensing

2145 Wells Street, Suite 402, Waiʻikū, Hawaii 96793 • Telephone: (808) 242-4600 • Telefax: (808) 242-4607 • www.mauicpa.com

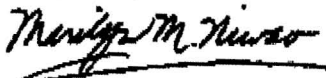
laws, this status raises questions whether our firm's errors and omissions insurance policy would be valid if a claim is ever filed against our firm. It also impairs our firm's ability to market our services outside of the State of Hawaii.

The lack of a firm permit to practice, as required by Hawaii law, continues to place our firm at a competitive disadvantage compared to CPA firms based in other states. We understand the Board has been aware of this situation for at least a few years, and, therefore, we respectfully request that you please issue a permit to practice to our firm.

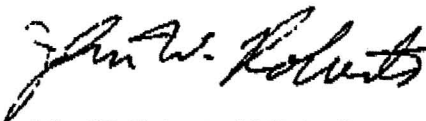
Should you require additional information, please contact us.

Thank you for your assistance in this matter.

Very truly yours,



Marilyn M. Niwao, J.D., CPA
President



John W. Roberts, M.B.A., CPA
Vice President

Enclosure: Copy of HRS 466-7 (d) and (e)

(c) A person who, on January 1, 1974, holds a license of public accountant under the laws of this State theretofore existing, shall not be required to obtain an additional license under this chapter, but shall otherwise be subject to all the provisions of this chapter; and such previous license shall, for all purposes, be considered a license under this chapter and subject to the provisions herein.

§466-7 Permits to practice. (a) A license and permit are required to actively engage in the practice of public accountancy. The board may grant or renew a permit to actively engage in the practice of public accountancy. Permits shall be initially issued and renewed for periods of two years but in any event shall expire on December 31 of every odd-numbered year. The board shall prescribe the methods and requirements for application.

(b) An applicant for the initial issuance or renewal of a permit shall have:

(1) A valid license;

(2) Completed continuing professional education hours, the content of which shall be specified by the board which may provide for special consideration by the board to applicants for permit renewal when, in the judgment of the board, full compliance with all requirements of continuing education cannot reasonably be met;

(3) Completed an application; and

(4) Paid appropriate fees and assessments.

(c) The board may grant a temporary permit to actively engage in the practice of public accountancy to any person who:

(1) Has attained eighteen years of age;

(2) Possesses a history of competence, trustworthiness, and fair dealing;

(3) Holds a valid license of certified public accountant or of public accountant issued under the laws of another state, or who holds a valid comparable certificate, registration, or license or degree from a foreign country determined by the board to be a recognized qualification for the practice of public accountancy in such other country;

(4) Incidental to the person's practice in such other state or country, desires to practice public accountancy in this State on a temporary basis; and

(5) Has completed an application.

Such permit shall be effective for a period not exceeding three months, and shall specify the nature and extent of the practice so permitted.

(d) All firms shall obtain a permit to practice. The board may issue or renew a permit to actively engage in the practice of public accountancy to any firm which submits a completed application and demonstrates qualifications as prescribed by the board.

(e) Failure to submit the required fees, continuing education hours, or other requirements for renewal as specified in this section by December 31 of every odd-numbered year, shall constitute forfeiture of the permit. Continued performance in the practice of public accountancy without a permit shall constitute unlicensed activity and the individual or firm shall be subject to sections 466-9, 466-11, 487-13, and 26-9.

LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT GOVERNOR



LAWRENCE M. REIFURTH
DIRECTOR

NOENOE TOM
LICENSING ADMINISTRATOR

BOARD OF PUBLIC ACCOUNTANCY

STATE OF HAWAII
PROFESSIONAL AND VOCATIONAL LICENSING DIVISION
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

P.O. Box 3469
HONOLULU, HAWAII 96801
www.hawaii.gov/dcca/pvl

February 1, 2008

Marilyn M. Niwao, J.D., CPA, President
John W. Roberts, M.B.A., CPA, Vice President
Niwao & Roberts, Certified Public Accountants,
A Professional Corporation
2145 Wells St., Suite 402
Wailuku, Hawaii 96793

Dear Ms. Niwao and Mr. Roberts:

Re: Request for a Firm Permit to Practice for Niwao & Roberts,
Certified Public Accountants, a Professional Corporation

At its January 25, 2008 meeting, the Board of Public Accountancy ("Board") discussed your November 27, 2007 letter and request to have the Board issue a permit to practice to your certified public accountancy ("CPA") firm, Niwao & Roberts.

The Board reviewed Hawaii Revised Statutes ("HRS") §466-7 and determined that the law requires all CPA firms to obtain a permit to practice. However, the law also requires that the Board prescribe the qualifications to obtain the CPA firm permit to practice. It was further determined that these qualifications must be specified in the Board's administrative rules.

As you are well aware, the Board's current administrative rules do not address CPA firm permits to practice. However, the Board is in the process of amending its administrative rules to specify the qualifications to obtain a CPA firm permit to practice. Thus, until these rule amendments are promulgated, the Board is unable to issue a permit to practice to your (or any other) CPA firm.

Marilyn M. Niwao, J.D., CPA, President
John W. Roberts, M.B.A., CPA, Vice President
February 4, 2008
Page 2

Because the Board is unable to issue CPA firm permits to practice, the Board does not consider CPA firms to be engaging in unlicensed activity due to the lack of a CPA firm permit to practice.

If you have any questions on the above, please do not hesitate to contact me at (808) 586-2696.

Sincerely,



Laureen M. Kai
Executive Officer

Page 1 of 1

John Roberts

From: LRB Library [lr@Capitol.hawaii.gov]
Sent: Thursday, April 03, 2008 10:44 AM
To: John Roberts
Subject: RE: Date of Adoption for HRS Section 466-7 (d) CPA Firm Permits to Practice

Section 466-7, Hawaii Revised Statutes, Permits to practice; (d) was added in 1989 by Act 110.

The text of Act 110, is available in the Session Laws of Hawaii, 1989; contact the Second Circuit Court Law Library - Maui, 244-2959.

Aloha,
Karen Mau
Head Research Librarian
Legislative Reference Bureau
State Capitol, Rm. 005
Honolulu, HI 96813
Phone 808-587-0690
Fax 808-587-0699

From: John Roberts [mailto:Roberts@mauicpa.com]
Sent: Tuesday, April 01, 2008 10:26 PM
To: LRB Library
Subject: Date of Adoption for HRS Section 466-7 (d) CPA Firm Permits to Practice

Ladies and Gentlemen:

I am writing to request your assistance in determining when Hawaii Revised Statutes Section 466-7 (d) became law. This section states:

(d) All firms shall obtain a permit to practice. The board may issue or renew a permit to actively engage in the practice of public accountancy to any firm which submits a completed application and demonstrates qualifications as prescribed by the board.

Thank you for any assistance that you can provide in response to this request.

Very truly yours,

John W. Roberts

John W. Roberts, M.B.A., CPA
Niwao & Roberts, CPAs, a P. C.
2145 Wells Street, Suite 402
Wailuku, Hawaii 96793
Tel.: (808) 242-4600 ext. 223
Fax: (808) 242-4607
Email: roberts@mauicpa.com
Website: www.mauicpa.com

11/12/2008

Sharon Sagayadoro

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, March 28, 2009 8:42 AM
To: CPCtestimony
Cc: thomas.yamachika@accuityllp.com
Subject: Testimony for SB55 on 3/30/2009 2:15:00 PM

Testimony for CPC 3/30/2009 2:15:00 PM SB55

Conference room: 325
Testifier position: oppose
Testifier will be present: No
Submitted by: Thomas Yamachika
Organization: Individual
Address: 999 Bishop Street, #1900 Honolulu, HI 96813
Phone: 531-3400
E-mail: thomas.yamachika@accuityllp.com
Submitted on: 3/28/2009

Comments:

Chair Herkes, Vice Chair Wakai and Committee members:

Thank you for the opportunity to testify in opposition to Senate Bill 55, SD1. My name is Tom Yamachika. I am not a CPA but I am an attorney-employee of Accuity LLP which is a CPA firm. I have been with this firm, including its predecessors Coopers & Lybrand and PricewaterhouseCoopers, for over 12 years.

Most of the clients that I have worked with think they are hiring a firm rather than an individual practitioner. So it makes sense to have the Board of Accountancy regulate firms as well as individual practitioners.

The requirements in current law are not redundant. They serve different but related purposes. For these reasons, the premise behind this bill is flawed.

Thank you for the opportunity to testify.

Sharon Sagayadoro

From: Luzviminda Leodones [luzviminda.leodones@accuityllp.com]
Sent: Friday, March 27, 2009 5:02 PM
To: CPCtestimony
Subject: In Opposition of SB 55, SD1

Chair Herkes, Vice Chair Wakai and Committee members:

Thank you for the opportunity to testify in opposition of Senate Bill 55, SD1. This bill proposes to prematurely eliminate a law that the Board of Public Accountancy is currently addressing through a comprehensive package in 'overhauling' the Board's Hawaii Administrative Rules. We believe that implementation of the firm Permit to Practice rule is critical to enhance public protection of the primary service of certified public accountants: attestation services. These are services that the public (especially financial, insurance and bonding companies) relies upon when making financial decisions.

Firm Permits to Practice will allow the Board to further strengthen our self-regulatory process for the future. In a separate measure, we have proposed legislation to require CPA firms that provide attest services to undergo peer review. This review covers a random sampling of engagements and includes an evaluation of relevant working papers and reports to determine if appropriate standards were followed.

CPAs have a privilege to practice accountancy, and it's this privilege that is important to the public whose reliance on financial information is so essential to our economy and markets. Keep firm Permits to Practice in the statutes and we urge you to oppose SB 55. Thank you for the opportunity to testify.

Respectfully submitted,

Luchi Leodones

Luchi Leodones

Accuity LLP | 999 Bishop Street, Suite 1900 | Honolulu, HI 96813

TEL: (808) 531-3474 | FAX: (808) 531-3433 | EMAIL: luzviminda.leodones@accuityllp.com

Pursuant to the provisions of Treasury Circular 230 and comparable State law, any tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or any comparable state law, or (ii) promoting, marketing, or recommending to another party any transaction or matter addressed herein.

Sharon Sagayadoro

From: Judy Lee [judy.lee@accuityllp.com]
Sent: Friday, March 27, 2009 5:31 PM
To: CPCtestimony
Subject: In Opposition of SB 55, SD1

Hi Chair Herkes, Vice Chair Wakai and Committee members:

My name is Judy Lee and I am working as a tax accountant for Accuity LLP. I would like to take this great opportunity to testify in opposition of Senate Bill 55. SD 1. The reason that I disagree with SB 55 is because I believe CPA firms should all maintain high standards no matter how big or how small the firm is. In order to maintain the high standards, all firms should be required to obtain a permit to practice. For example, although there are so many accountants there, certified accountants must have more credibility to the public.

Also, I support the Board of Accountancy Peer Review Program. Although it is costly, it is the best way to protect the public eventually. Without oversight from the Board of Accountancy, I can not imagine what quality of the service a firm is going to provide for the public.

Again, thank you for the opportunity. I really appreciated.

Respectfully submitted,

Judy Lee

Judy Lee ♦ Tax ♦ Accuity LLP

999 Bishop Street, Suite 1900 ♦ Honolulu, HI 96813-4427

☎ : (808)531-3498 📠 : (808)531-3688 ✉ : judy.lee@accuityllp.com

Pursuant to the provisions of Treasury Circular 230 and comparable State law, any tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or any comparable state law, or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

Sharon Sagayadoro

From: Travis Tamura [travis.tamura@accuityllp.com]
Sent: Friday, March 27, 2009 5:44 PM
To: CPCtestimony
Subject: In Opposition of SB 55, SD1

Dear Chair Herkes, Vice Chair Wakai and Committee members:

Thank you for the opportunity to testify in opposition of Senate Bill 55, SD1. My name is Travis Tamura and I am currently a tax intern at Accuity LLP. The bill that is being proposed will eliminate the rule of firms being required to get a permit to practice. I think this proposition has more negative affects than positive ones because by eliminating the firm Permit to Practice rule, it allows anyone to start performing accounting-related practices with minimal qualifications. This in turn will hurt the quality of service for all accountants and make the financial information that we are providing for the people less reliable. The most important aspect for accountants is to provide the best service possible for its clients. And in order to fulfill the highest quality of services, the Permit to Practice rule is extremely important and must remain active.

Public protection is also another important point because the economy is already struggling. Passing the bill will only make it worse because the quality of financial information that is disclosed to the public will suffer, and the people will not trust the information and be more conservative with their money. Therefore in the end the economy just suffers more instead of making progress to improve it.

Keep the firm Permits to Practice rule as we urge you to oppose SB 55. Thank you very much for taking the time to read this email.

Respectfully submitted,

Travis Tamura

Travis Tamura | Tax Intern | Accuity LLP
999 Bishop Street, Suite 1900, Honolulu, HI 96813
☎: (808) 531-3400 | 📠: (808) 531-3433 | ✉: travis.tamura@accuityllp.com

Pursuant to the provisions of Treasury Circular 230 and comparable State law, any tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or any comparable state law, or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

Sharon Sagayadoro

From: Joan Fujita [joan.fujita@accuityllp.com]
Sent: Friday, March 27, 2009 5:48 PM
To: CPCtestimony
Subject: OPPOSITION to SB 55, SD1

Chair Herkes, Vice Chair Wakai and Committee Members:

I am writing to OPPOSE SB 55, SD1 – the Bill that proposes to eliminate the requirement for a firm to file for a permit to practice. The Hawaii Board of Public Accountancy has already drafted Rules to implement this law. Requiring firms to file for a permit to practice is beneficial not only for our profession but also for the public that relies on our professional services. Allowing the Board of Public Accountancy to regulate the conduct of firms through oversight can only enhance public protection. Keep firm Permits to Practice in the statutes and OPPOSE SB 55.

Respectfully Submitted,

Joan Fujita, CPA

Joan Fujita | Tax Managing Director

Accuity LLP

999 Bishop Street, Suite 1900 | Honolulu, HI 96813-4427

TEL: 808.531.3657 | FAX: 808.531.3697 | EMAIL: Joan.Fujita@accuityllp.com

Pursuant to the provisions of Treasury Circular 230 and comparable State law, any tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or any comparable state law, or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

Sharon Sagayadoro

From: Wendell Lee [wendell.lee@accuityllp.com]
Sent: Friday, March 27, 2009 5:08 PM
To: CPCtestimony
Subject: Opposition of SB55, SDI

Before the House Committee on
Consumer Protection & Commerce

Monday, March 30, 2009
2:15 p.m.
Conference Room 325

In Opposition of SB 55, SD1
Relating to Public Accountancy

My name is Wendell K. Lee, I have been a practicing CPA for 20 years and in Opposition of SB 55, SD1. As a co-owner of large local firm with a 100 employees, SB 55 would eliminate the Board of Accountancy's ability to require firms to obtain a permit to practice and NOT allow the Board of Accountancy to self-regulate in these matters. There is a small minority of CPA firms that would rather not be regulated and not maintain the same standards as other firms. My firm spends substantial resources on training so that our staff maintains the highest professional standards. SB 55 takes away the authority of the Board of Accountancy to regulate firms in this manner. Firms that do not invest in training and maintain high standards will not feel obligated to maintain these standards and as a result public protection erodes due to fact the local regulating body will have no oversight.

In addition, I would like the Senate to support the Peer Review program. My firm participates in this program and found it very critical in making our firm better. Other firms do not want peer review because of the cost to maintain excellent training and procedural standards. A CPA's public protection and trust is critical to our profession and when laws reduce standards and quality, we all lose.

Sincerely,
Wendell K. Lee



Wendell K. Lee, Partner

First Hawaiian Center, 999 Bishop Street, Suite 1900, Honolulu, HI 96813

Ph: (808) 531-3436 | Fax: (808) 531-3433 | email: wendell.lee@acuityllp.com

Pursuant to the provisions of Treasury Circular 230 and comparable State law, any tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or any comparable state law, or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

wakai1-Karen

From: Oki, Patrick [Patrick.Oki@GT.com]
Sent: Friday, March 27, 2009 1:41 PM
To: CPCtestimony
Subject: Testimony in opposition of SB 55, SD 1

Importance: High

Before the House Committee on
Consumer Protection & Commerce

Monday, March 30, 2009
2:15 p.m.
Conference Room 325

In Opposition of SB 55, SD1
Relating to Public Accountancy

Testimony of Patrick H. Oki, CPA, CFE

Chair Herkes, Vice Chair Wakai and Committee members:

Thank you for the opportunity to testify in opposition of Senate Bill 55, SD1. My name is Patrick Oki and I am a Certified Public Accountant licensed in Hawaii and a member of the Board of Directors of the Hawaii Society of Certified Public Accountants (HSCPA). This bill proposes to prematurely eliminate a law that the Board of Public Accountancy is currently addressing through a comprehensive package in 'overhauling' the Board's Hawaii Administrative Rules. We believe that implementation of the firm Permit to Practice rule is critical to enhance public protection of the primary service of certified public accountants: attestation services. These are services that the public (especially financial, insurance and bonding companies) relies upon when making financial decisions.

Firm Permits to Practice will allow the Board to further strengthen our self-regulatory process for the future. In a separate measure, we have proposed legislation to require CPA firms that provide attest services to undergo peer review. This review covers a random sampling of engagements and includes an evaluation of relevant working papers and reports to determine if appropriate standards were followed.

CPAs have a privilege to practice accountancy, and it's this privilege that is important to the public whose reliance on financial information is so essential to our economy and markets. Keep firm Permits to Practice in the statutes and we urge you to oppose SB 55. Thank you for the opportunity to testify.

Aloha,

Patrick H. Oki

Patrick H. Oki, CPA, CFE
Partner
Audit & Advisory
Grant Thornton LLP

1132 Bishop Street, Suite 2500
Honolulu, HI 96813

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From: Warren Wee [warrenwee@hotmail.com]
Sent: Friday, March 27, 2009 2:01 PM
To: CPCtestimony
Subject: testimony in opposition of SB 55, SD 1

Before the House Committee on
Consumer Protection and Commerce

Monday, March 30, 2009
2:15 p.m.
Conference Room 325

In Opposition of SB 55, SD 1
Relating to Public Accountancy

Testimony of Warren Wee, Ph.D., CPA

Chair Herkes, Vice Chair Wakai, and Committee members:

Thank you for the opportunity to testify. My name is Warren Wee. I am a CPA and a college professor. I oppose SB 55, SD 1.

Repealing an existing provision in the law which provides for additional protection of the public interest by requiring CPA firms to obtain permits to practice does not seem warranted. Over the last five years there has been emphasis on CPA firm practices. The existing provision provides reassurance that the individual practitioner and his/her respective firm will be subject to regulation. In order to provide services to the public, both the firm and the individual will need to possess permits to practice. The repealing of this provision will weaken the protection provisions currently in place.

I am testifying as a Hawaii CPA and not as a representative of any organization. My views do not constitute, and do not necessarily match, the official position of any organization. Thank you again for this opportunity to testify.

Respectfully submitted,

Warren Wee, Ph.D., CPA

wakai1-Karen

From: info Account [info@hscpa.org]
Sent: Friday, March 27, 2009 2:01 PM
To: CPCtestimony
Subject: Testimony in Opposition of SB 55, SD1 - March 30, 2009, 2:15 p.m. in Conf. Room 325

Before the House Committee on
Consumer Protection & Commerce

Monday, March 30, 2009
2:15 p.m.
Conference Room 325

In Opposition of SB 55, SD1
Relating to Public Accountancy

Testimony of Melanie King, CPA

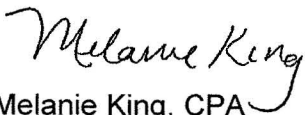
Chair Herkes, Vice Chair Wakai and Committee members:

Thank you for the opportunity to testify in opposition of Senate Bill 55, SD1. My name is Melanie King and I am the president of the Board of Directors of the Hawaii Society of Certified Public Accountants (HSCPA). This bill proposes to prematurely eliminate a law that the Board of Public Accountancy is currently addressing through a comprehensive package in 'overhauling' the Board's Hawaii Administrative Rules. We believe that implementation of the firm Permit to Practice rule is critical to enhance public protection of the primary service of certified public accountants: attestation services. These are services that the public (especially financial, insurance and bonding companies) relies upon when making financial decisions.

Firm Permits to Practice will allow the Board to further strengthen our self-regulatory process for the future. In a separate measure, we have proposed legislation to require CPA firms that provide attest services to undergo peer review. This review covers a random sampling of engagements and includes an evaluation of relevant working papers and reports to determine if appropriate standards were followed.

CPAs have a privilege to practice accountancy, and it's this privilege that is important to the public whose reliance on financial information is so essential to our economy and markets. Keep firm Permits to Practice in the statutes and we urge you to oppose SB 55, SD1. Thank you for the opportunity to testify.

Respectfully submitted,



Melanie King, CPA
President, Hawaii Society of CPAs

Testimony of Ronald I. Heller

700 Bishop Street, Suite 1500
Honolulu HI 96813

phone 523 6000 fax 523 6001
e-mail rheller@torkildson.com

Before the House Committee on Consumer Protection & Commerce

Monday March 30, 2009
2:15 pm
Conference Room 325

Re: SB 55 SD1
Public Accountancy/Firm Permits to Practice

Chair Herkes, Vice Chair Wakai, and Committee members:

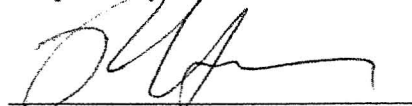
Thank you for the opportunity to testify in opposition to Senate Bill 55, SD 1.

This Bill would eliminate the requirement that a CPA firm must obtain a firm permit to practice. While the specific rules to implement the current law are still being written, the law was intended to be, and will become, an important tool given to the Board of Accountancy.

Requiring CPA firms to obtain permits effectively gives the Board greater power in regulating the conduct of firms, thus allowing the Board to do its job more effectively.

Thank you for your attention to this matter.

Respectfully submitted,



Ronald I. Heller