



LATE TESTIMONY

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Presentation of the Committee on Commerce and Consumer Protection

Wednesday, March 10, 2010 at 2:00 p.m.

Testimony on Bill SB 2910 Relating to Real Property

TO: The Honorable Chair Robert Herkes
The Honorable Vice Chair Glenn Wakai
Members of the Committee

I am Gary Fujitani, Executive Director of the Hawaii Bankers Association (HBA), testifying on behalf of HBA on S.B. 2910. HBA is the trade organization that represents all FDIC insured depository institutions doing business in Hawaii.

It is our understanding that S.B. 2910 is intended to prohibit a foreclosing mortgagee or mortgagee who acquires a residential property from requiring that a buyer purchase title insurance or escrow services from any particular vendor as a condition of sale. Hawaii banks already generally adhere to federal requirements covering this matter.

There are two types of title insurance: 1. that protects the owner/borrower and 2. that protects the lender.

Owner's title insurance fully protects an owner if a problem surfaces with the title that was not uncovered during a title search, and pays for any legal fees involved in defending a claim against owner's title to the property. The lender's title insurance version only protects the lender up to the amount of the mortgage, and it doesn't protect the owner's equity in the property.

While we understand the intent of the bill, we ask that the bill be clarified so that a lender retains the right to select the "lenders" title insurance provider. Therefore, we suggest clarifying language as follows, Line 10 insert "the owner's" between "that" and "title insurance".

Thank you for the opportunity to provide our testimony.