

HB2569, HD2



Email to: testimony@Capitol.hawaii.gov
Hearing on: Tuesday, March 20, 2012 @ 10:00 a.m.
Conference Room #016

DATE: March 16, 2012

TO: **Senate Committee on Health** **Senate Committee on Judiciary & Labor**
 Senator Josh Green, Chair Senator Clayton Hee, Chair
 Senator Clarence Nishihara, Vice-Chair Senator Maile Shimabukuro, Vice Chair

FROM: Allen Cardines, Jr., Executive Director

RE: Comments on HB 2569 HD 2 Relating to Civil Unions

Honorable Chairs and members of the joint Senate Committee on Health and Judiciary & Labor, I am Allen Cardines, **representing the Hawaii Family Forum**. Hawaii Family Forum is a non-profit, pro-family education organization committed to preserving and strengthening families in Hawaii, representing a network of various Christian Churches and denominations.

Let's be clear at the forefront that the Hawaii Family Forum remains staunchly opposed to the recent establishment of civil unions in Hawaii. We strongly believe, and have stated on the record, that the legalization of these "unions" were just a step toward the legal recognition of same-sex "marriage" in Hawaii. Recent news stories and even public statements by supporters of civil unions have reiterated the fact that they are not satisfied.

We do, however, appreciate that the House Judiciary committee attempted to strengthen the religious protection clause in HRS 572B (HD1) and we support the current language of the bill; however, we strongly believe that because churches are NOT PUBLIC ACCOMMODATIONS the protection language should not be placed in the public accommodation statute as it is in this current version (HD2). We will defer the legal arguments to those in the legal profession that support our position.

As always, we will continue to raise our voices against any effort to keep people of faith, and church communities, from practicing according to their religious belief.

Mahalo for the opportunity to testify.

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: a.r.g.alvarez@gmail.com
Subject: Testimony for HB2569 on 3/20/2012 10:00:00 AM
Date: Monday, March 19, 2012 9:09:17 AM

Testimony for JDL/HTH 3/20/2012 10:00:00 AM HB2569

Conference room: 016
Testifier position: Support
Testifier will be present: No
Submitted by: Antonia Alvarez
Organization: Individual
E-mail: a.r.g.alvarez@gmail.com
Submitted on: 3/19/2012

Comments:
Testifying in Support of HB2569 HD2 With Amendments

Aloha, Chairmen Hee & Green, Vice Chairs Shimabukuro & Nishihara and members of the Senate Judiciary & Labor and Health committees:

My name is Antonia Alvarez and I testify in strong support of HB2569 HD2, with amendments.

This bill represent critically important legislation to our community that strengthens Hawaii's civil unions law.

I am in strong opposition, however, to the language in HD2 that grants public accommodations owned by religious institutions the right to discriminate.

No law should impede upon religious freedom and HD1 protected religious entities from having to perform a ceremony that was against that faith's core beliefs. However, the HD2 language allows for-profit public accommodations purchased and operated by churches a free pass on discrimination, weakening the civil union and public accommodations law. This new language launches Hawaii on a very slippery slope of legalizing discrimination against a certain class of people. This is not "aloha." This is not Hawaii.

As an Equality Hawaii member, I respectfully request that these committees revert the public accommodations language back to the HD1 version and pass this bill.

Mahalo nui loa,
Antonia Alvarez

Clyde J. Wadsworth
1001 Bishop St, Ste 1800
Honolulu, HI 96813
(808) 524-1800

March 19, 2012

Senate Committee on Health
Senate Committee on Judiciary and Labor
Conference Room 016
State Capitol
415 South Beretania Street
Honolulu, HI 96813

Re: **In Support of HB 2569 HD2 (conditioned on the deletion of Section 2 regarding exceptions for "religious organizations")
Relating to Civil Unions
Hearing Date/Time: March 20, 2012 at 10:00 a.m.**

Dear Chairman Green, Vice Chair Nishihara and Members of the Senate Health Committee, Chairman Hee, Vice Chair Shimabukuro and Members of the Senate Judiciary and Labor Committee:

My name is Clyde Wadsworth. I am an attorney with the law firm of Alston Hunt Floyd & Ing, but I am testifying in my personal capacity. I have 26 years of civil litigation experience, and I have worked as a cooperating attorney with Lambda Legal and the ACLU in cases involving claimed religious exemptions to anti-discrimination laws.

I write in support of HB 2569, HD2, conditioned on the deletion of Section 2, which adds a new section to Chapter 489, Hawaii Revised Statutes, designated §489-__ Exception; religious organizations. The new exemption is far too broad, allowing "religious organizations" and "any nonprofit institution or organization . . . in conjunction with a religious organization" – including **hospitals and universities** – to deny an individual "**services**," as well as "accommodations, advantages, facilities, goods, or privileges" if the request for such services is "**related to**" the solemnization or celebration of a civil union. With such open-ended language, this new section goes far beyond an exemption that would simply allow a church to deny the use of its religious facility for solemnization of a civil union.

The broad religious exemption that has been added to this bill is both unnecessary as a matter of constitutional law and unfortunate as a matter of public policy.

The exemption is not constitutionally required. The U.S. Supreme Court made clear in the case of *Employment Division v. Smith* that religious beliefs do not excuse compliance with valid, generally applied laws regulating matters that the state is free to regulate, even if the law has the side effect of burdening a particular religious belief or

Clyde J. Wadsworth
Page Two

practice. To permit religious exemptions to such laws, the Court said, "would be to make the professed doctrines of religious belief superior to the law of the land, and in effect to permit every citizen to become a law unto himself."

The civil unions law does not interfere with internal church governance under the so-called church property cases. It does not involve employment decisions by religious organizations affecting employees who have the religious duties of ministers, which is what the recent case of *Hosanna-Tabor v. EEOC* involved.

Boy Scouts of America v. Dale, which has been cited by advocates of the exemption, also does not apply here. The civil unions law does not force any church or other religious organization to take on civil union partners as their members. When a religiously-affiliated organization enters the public, secular world to make a buck, it is like any other business subject to anti-discrimination laws. Inserting a broad exemption into the civil unions law that allows religiously affiliated businesses to discriminate against civil union partners is simply not a constitutional requirement.

It is also not good public policy. It opens the door to sexual orientation discrimination and other types of discrimination, which is exactly what the public accommodations law and other anti-discrimination laws are designed to prevent. Would we allow these same religiously-affiliated organizations that are providing commercial services to discriminate against interracial couples on religious grounds? I doubt it. It doesn't make policy sense – and it may be constitutionally prohibited – to start cutting piecemeal holes in Hawaii's public accommodations law targeted only at civil union partners – particularly when the discriminatory impact of those kinds of holes will disproportionately fall on gay and lesbian couples.

There is no reason to dilute Hawai'i's civil unions law to allow discrimination against civil union partners. That's not what the constitution requires and it's not what Hawai'i is about.

Thank you for your consideration.

Very truly yours,

Clyde J. Wadsworth

Testifying in Support of HB2569 HD2 With Amendments

Chairmen Hee & Green, Vice Chairs Shimabukuro & Nishihara and members of the Senate Judiciary & Labor and Health committees:

I am in strong support of HB2569 HD2, with amendments.

This bill represents critically important legislation to our community that strengthens Hawaii's civil unions law. This bill will eliminate the "gap period" between the time the RBR is terminated and the civil union is solemnized. This present gap period could cause the couple to forfeit all of their previous legal rights and protections and may have potential catastrophic consequences relating to health care, inheritance, medical decision making, and real estate tenancy.

However, I strongly oppose the language in HD2 that grants those public accommodations that are owned by religious institutions the right to discriminate.

No law should impede upon religious freedom and HD1 protected religious entities from having to perform a ceremony that was against that faith's core beliefs. However, **the HD2 language allows for-profit public accommodations purchased and operated by churches to discriminate, thus weakening the civil union and public accommodations law.** This new language is unacceptable, we should not be legalizing discrimination.

As an Equality Hawaii member, I respectfully request that these committees revert the public accommodations language back to the HD1 version and pass this bill.

Denise Snyder
Honolulu, Hawai'i
3/19/12

HANNAH MIYAMOTO

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March 18, 2012

Senate Committees on Health, Judiciary and Labor
Hawai'i State Capitol
415 South Beretania St.
Honolulu, HI 96813

Re: OPPOSITION to HB 2569, HD2, relating to Civil Unions

Honorable Senators,

I oppose two provisions in HB 2569; one of which is so serious that I recommend that you table the bill to allow for much more study. However, both raise First Amendment issues.

First, the express permission for civil union solemnizations to be “entirely secular” when not performed by a judge in Hawaii Rev. Stat. § 572B-4(b) (2012) is significant and should be retained. The U.S. Supreme Court has made warned states many times against investigating the “sincerity” or “religiosity” of religious, spiritual, moral, or ethical values.

HB 2569 creates the potential for invalidating a civil union because it was not solemnized by either a judge or “minister, priest, or officer” of an actual religious denomination or society. Consequently, HB 2569 *both* improperly advances religion, implicating the Establishment Clause, and improperly infringes on religious freedom, implicating the Free Exercise Clause. *See, Estate of Thornton v. Caldor*, 472 U.S. 703, 707-08 (1985); *Cantwell v. Connecticut*, 310 U.S. 296, 305 (1940) (impermissible for state to investigate if groups are truly “religious”).

Second, and more seriously, HB 2569 opens an unnecessary exception to state laws protecting Lesbian, Gay, Bisexual, and Transgender persons, persons thought to be “LGBT”, and persons thought to support the rights of LGBT persons, from discrimination in public accommodations. Although HB 2569 may be an attempt to make moot claims that the state Civil Unions law infringes on the Free Exercise of Religion rights of discriminatory churches, the churches have not established that their First Amendment rights have been violated. Moreover, there is ample reason to believe their claims will fail, for reasons explained below.

Churches must follow Generally-applicable Laws; the Civil Unions act does not compel Actions or Expressions of Belief.

We begin with the principle that religious belief alone, however sincerely and fervently held, does not exempt the believer or believers from having to comply with a law that is generally applicable to all and was not passed with discriminatory intent. *Employment Div., Dept. of Human Res. of Ore. v. Smith*, 494 U.S. 872, 885 (1990). *Compare with, Church of*

Lukumi Babalu Aye v. City of Hialeah, 508 U.S. 520 (1993) (passage of law clearly motivated by desire to advance Christianity and suppress other religion). The U.S. Supreme Court reinforced this principle when it struck down a federal law that would have, among other things, prevented generally applicable state laws from interfering with religious practices and beliefs, seven years later. *City of Boerne v. Flores*, 521 U.S. 507, 536 (1997).

In addition, the Civil Unions law already expressly guarantees that no one will be forced to actually preside over any solemnization of which they do not approve. Hawaii Rev. Stat. § 572B-4(c) (2012). This is consistent with the Free Exercise clause (and also the Free Speech clause), which definitely prohibits the use of law to compel anyone to participate in a ceremony or espouse a belief with which they disagree. See, *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290 (2000) (prayer at high school games impermissible); *West Virginia State Bd. of Educ. v. Barnette*, 319 U.S. 624 (1943) (compulsory expression of belief violates First Amendment).

The Civil Union act does not restrict or burden Freedom of Religion.

As the Civil Unions law already guarantees that no one will be forced to preside over a ceremony that is against their views—whether that opposition be based on sexual orientation, race, ethnicity, age, etc., or pure caprice—then HB 2569 applies only to the use of inanimate things (which, of course, have no First Amendment rights) like buildings, rooms, and open land, things therein and related to them. Although HB 2569 defines “facilities” as a term that “includes facilities... regularly used for worship or ministry activities” [emphasis added], this provision raises to serious problems: 1) the word “includes” suggests that HB 2569 could apply to buildings and land that are *never* used for “worship or ministry”—e.g., a church-owned restaurant or hotel—and 2) “ministry” is an exception broad enough to swallow the rule. Churches routinely demand broad interpretations of their “ministry” and “religious work” (particularly when seeking tax exemptions).

Therefore, HB 2569 not only permits discrimination in the use of churches, synagogues, and temples, but also the multi-purpose room downstairs, the grotto along the wall, even a summer camp in the country or a beach along the shore. The rent, loan, and use of such places is not exclusive to churches and religious groups, but is a quasi-commercial activity performed by private for-profit companies, non-profit groups, trusts, and local, state, and federal governments, all of which do so without expressly or implicitly endorsing the people using their facilities. Like the “public houses” of old, this very fact designates such buildings and places as “public accommodations” made available to the public without discrimination.

Churches and other religious groups rent and lend their buildings, rooms, and land to raise revenue, attract followers, and other self-serving purposes. Since they only permit others to use these spaces when they have no other pressing use for them, they are also acting in a quasi-commercial role when they do so, and enforcing the Human Rights laws upon them does not burden the free exercise of religion, and imposes no burden on churches the law can cognize. Indeed, churches and other religious groups are enriched, financially or otherwise, when their facilities are used for civil union solemnizations.

HB 2569 is not a Remedial Law to Correct Discrimination against Religion.

Adding to the presumption that HB 2569 improperly advances religion is the fact that, although it is most strongly supported by Christian churches and groups, neither the state, territory, nor kingdom of Hawai‘i has pervasively discriminated against Christianity since at least the mid-19th century. In fact, the kingdom formally adopted Christianity in 1820. On the other hand, LGBT people have been persecuted for their difference—especially by Christian churches—for at least 1,000 years; indeed, the Supreme Court only struck down laws against consensual same-sex relations in 2003. Boswell, John. *Christianity, Social Tolerance, and Homosexuality: Gay People in Western Europe from the Beginning of the Christian Era to the Fourteenth Century* (1981); *Lawrence v. Texas*, 539 U.S. 558 (2003).

Therefore, when history is considered, HB 2569 cannot be defended as a “remedial law” to correct a sordid history of discrimination. *See, City of Boerne*, 521 U.S. at 531. The complained-of provisions of HB 2569 would give churches and other religious organizations *carte blanche* privilege to discriminate against couples desiring to rent, borrow, or use, any building or open land owned, leased, held in trust, etc., by said church or group. Such a denial, one must presume, given the afore-mentioned grisly history, would not be based on anything other than animus against same-sex relationships. While permitting discrimination on the basis of religious belief, HB 2569 does not give that privilege to any one with animus against people of other races, or ethnicities, age, physical and mental abilities, or other basis for discrimination prohibited by law. As such, HB 2569 not only serves the purpose of advancing religion, but of authorizing discriminatory animus against people on the basis of sexual orientation, in violation of public policy. As the U.S. Supreme Court expressed in another case involving law permitting discrimination against lesbians, gays, and bisexual people:

Laws of the kind now before us raise the inevitable inference that the disadvantage imposed is born of animosity toward the class of persons affected. “If the constitutional conception of ‘equal protection of the laws’ means anything, it must at the very least mean that a bare . . . desire to harm a politically unpopular group cannot constitute a legitimate governmental interest.” *Romer v. Evans* 517 U.S. 620, 634 (1996) (citations omitted).

HB 2569 could impose a heavy financial burden on Civil Union members

Finally, although it has been argued that HB 2569 is likely to have little effect, because same-sex couples are unlikely to ask to use buildings and other places owned by churches that oppose same-sex relationships, it is not impossible for this to happen, and if it does, HB 2569 places the entire financial cost on the same-sex couples, instead of the church or other religious organization that denies the request. This implicates the issues raised in the *Thornton* case, in which the U.S. Supreme Court struck down a state law that imposed significant financial costs on employers of a person demanding the right to not work in order to observe the “Sabbath” day designated by his or her religion. *Estate of Thornton*, 472 U.S. at 709-10.

Suppose, for example, that a same-sex couple plans a large ceremony; many people buy airline tickets from the Mainland, caterers, florists, musicians are hired, and the manager of a property owned by a religious group signs a contract renting the property. One example, for

instance, might be the “Waioli Tea Room” in Mānoa, which the local Salvation Army organization owns. Suppose that after thousands of dollars have been spent and risked, a higher-up orders the manager to renege on the contract.

In this situation, HB 2569 would *immunize* the church or religious organization from *contract liability*, as well as a discrimination complaint, since it states that “refusal to provide services... shall not create any civil claim or cause of action.” Moreover—relevant because the pro-LGBT Hawaii Democratic Women’s Caucus held a “Tea” in 2010 (attended by then Rep. Neil Abercrombie) at the Waioli—it is significant that HB 2569 expressly permits a religious group to discriminate against some solemnizations, and yet permit others.

Surely, the policy of the Legislature is not to permit churches and other religious organizations to breach their contractual obligations, whenever and however often they choose, with as little notice as possible, so long as they are motivated by animus against same-sex relationships. *See, Romer*, 517 U.S. at 634. Nor, given that a Maryland priest recently walked out of a funeral of a woman with a lesbian daughter, is this scenario so unlikely that it may be safely discounted. <<abcnews.go.com/blogs/headlines/2012/03/priest-who-denied-lesbian-communion-at-mothers-funeral-placed-on-leave/>> Mar. 12, 2012.

Although the “Waioli Tea Room,” which is property of the anti-gay Salvation Army, is just one example of a “religious organization” that would be immunized by HB 2569, no one currently knows how many other ““Gotcha!”” arrangements there exist between meeting halls, parks, beaches, camps, restaurants, hotels, etc., that might be sprung upon people wanting to hold a civil union solemnization. Surely the most prudent course is to table HB 2569 until either the full potential financial impacts of this law is determined, or it is amended to correct this flaw.

The foregoing is a cursory examination of legal issues raised by HB 2569 HD2, and does not foreclose the discovery of more problems in the future. Nothing herein is attended to implicitly or explicitly waive any claim in a future action.

Aloha nui loa,

Hannah Miyamoto

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: jwiteck@yahoo.com
Subject: Testimony for HB2569 on 3/20/2012 10:00:00 AM
Date: Monday, March 19, 2012 9:01:24 AM

Testimony for JDL/HTH 3/20/2012 10:00:00 AM HB2569

Conference room: 016
Testifier position: Support
Testifier will be present: No
Submitted by: John Witeck
Organization: Individual
E-mail: jwiteck@yahoo.com
Submitted on: 3/19/2012

Comments:
Testifying in Support of HB2569 HD2 With Amendments

Aloha, Chairs and members of the Senate Judiciary & Labor and Health committees:

My name is John Witeck and I testify for myself and my wife Lucy in strong support of HB2569 HD2, with amendments.

This bill represent critically important legislation to our community that strengthens Hawaii's civil unions law. We also hope that it will be a step for full marital equality for same sex couples.

However, we strongly oppose the language in HD2 that grants public accommodations owned by religious institutions the right to discriminate.

No law should impede upon religious freedom and HD1 protected religious entities from having to perform a ceremony that was against that faith's core beliefs. However, the HD2 language allows for-profit public accommodations purchased and operated by churches a free pass on discrimination, weakening the civil union and public accommodations law. This new language launches Hawaii on a very slippery slope of legalizing discrimination against a certain class of people. This is not "aloha." This is not fair or just.

We respectfully request that these committees revert the public accommodations language back to the HD1 version and pass this bill.

RE SENATE BILL 2569 PROPOSED SD2
RELATING TO DOMESTIC RELATIONS
OPPOSE SUBJECT TO ADDITIONAL ADMENDMENTS

TO: COMMITTEE ON JUDICIARY AND LABOR

Senator Clayton Hee, CHAIR

My name is Jonathan Durrett, a private attorney with 30 years of civil experience and senior partner in the Honolulu law firm of Durrett, Rosehill & Ma, LLLP. I have a broad background in the representation of nonprofit and tax exempt organizations many of which are secular and others of which are faith based. Most of the organizations I have been affiliated with provide incalculable benefits to our community, relieving the burdens that government would otherwise have without the altruism of their respective missions.

Many charitable entities operate in affiliation with churches, synagogues or other religious organizations. As such they are duty bound by conscience to uphold the precepts of their sponsoring religions as they go about fulfilling their charitable work. Such organizations enjoy the strongest constitutional protections our country can accord by virtue of the First Amendment religious freedom liberties enunciated by our Founding Fathers.

I am giving this testimony to call your Committee's attention to the United States Supreme Court's most recent religious liberty decision in Hosanna-Tabor Evangelical Lutheran Church and School v. Equal Employment Opportunity Commission et al., 565 U.S. ____ 2012. In this January 11, 2012 decision, a **unanimous court** weighed the claim of a religious school teacher for wrongful termination under the Americans with Disabilities Act against the religiously affiliated school's First Amendment right to hire and terminate whomsoever it pleased for religiously related positions at the school. Citing a centuries old ministerial exception, the court held that Hosanna Tabor's right to terminate the religious teacher was within the province of the school's religious freedom of worship and that such a decision could not be overturned by what the EEOC perceived to be invidious discrimination under ADA regulations. Called by several commentators the most momentous religious liberty decision in our time, **Hosanna-Tabor** could not make more clear the import legislative bodies must give to

the civil rights interests of religious organizations to freedom of worship and association in enacting legislation which might conceivably violate these First Amendment interests.

Under the holding in *Hosanna-Tabor*, SB 2569, in its present version, is constitutionally infirm. This is due to the legislature's failure to ensure an unambiguous religious exception to religious organizations and their affiliates as it relates to use of their religious properties and facilities. Moreover, a federal civil rights action by a religious organization against the State or its Civil Rights Commission would most certainly lead to an order granting the religious organization injunctive relief and an award of attorney's fees under present federal civil rights statutes.

Fortunately your Committee's undertaking to implement necessary technical amendments to Act 1 through the vehicle of SB 2569 also provides a timely opportunity to amend the bill further to include a religious exception which will immunize its implementation from attack by religious organizations and their affiliated entities.

I implore your Committee to carefully review the ramifications of the *Hosanna-Tabor* decision before you pass out SB 2569 without a clear religious exception for the use of facilities and property owned by religions and their affiliated organizations.

Thank you for providing me this opportunity to give what I hope you will regard as constructive commentary to strengthen the pending legislation.

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: kahanakitty@gmail.com
Subject: Testimony for HB2569 on 3/20/2012 10:00:00 AM
Date: Monday, March 19, 2012 8:52:23 AM

Testimony for JDL/HTH 3/20/2012 10:00:00 AM HB2569

Conference room: 016
Testifier position: Support
Testifier will be present: Yes
Submitted by: Kahana Ho
Organization: Individual
E-mail: kahanakitty@gmail.com
Submitted on: 3/19/2012

Comments:
Testifying in Support of HB2569 HD2 With Amendments

Aloha, Chairmen Hee & Green, Vice Chairs Shimabukuro & Nishihara and members of the Senate Judiciary & Labor and Health committees:

My name is Kahana Ho and I testify in strong support of HB2569 HD2, WITH AMENDMENTS.

This bill represent critically important legislation to our community that strengthens Hawaii's civil unions law.

An illustration of real-life impact that this bill will have includes - among other things - eliminating the "gap period" in between the time the RBR is terminated and the civil union is solemnized, causing the couple to forfeit all of their previous legal rights and protections, which could have potential catastrophic consequences relating to health care, inheritance, medical decision making, and real estate tenancy to name just a few examples.

I am in strong opposition, however, to the language in HD2 that grants public accommodations owned by religious institutions the right to discriminate.

No law should impede upon religious freedom and HD1 protected religious entities from having to perform a ceremony that was against that faith's core beliefs. However, the HD2 language allows for-profit public accommodations purchased and operated by churches a free pass on discrimination, weakening the civil union and public accommodations law.

This new language launches Hawaii on a very slippery slope of legalizing discrimination against a certain class of people. The proposed inclusion of private business entities for religious exemption will potentially lead to exemptions from other non-discrimination laws against sexual minorities. Conceivably, it will set a precedent for using religiously-based arguments to unconstitutionally ban access to public accommodations for anyone who does not comply with certain religious dogma or ideology. It is not far-fetched - such religion-based discrimination, including such denying sexual minorities access to basic public accommodations such as restrooms still exists and is being fought against in other states. Non-discriminatory, equal access to publicly available services and accommodations must NEVER be compromised by any kind of religious or any other institutionalized barriers. To create such barriers hearkens back to the Jim Crow laws that allowed for widespread racism and discrimination against persons of color. Such laws were ultimately found to be a violation of basic human civil rights and liberties, and were justly struck down.

It is shocking to find such language in any legislation of this State. Not only is it counter to the principle of Separation of Church and State, it is also antithetical to the very cultural foundations of this unique state of Hawai'i. The proposed religious exemption amendment of HB2569 HD2 is not "Aloha" for all citizens, it does not advance love and respect for all of us. It is not Pono. It is

not Hawaii.

As an Equality Hawaii member, I respectfully request that these committees revert the public accommodations language back to the HD1 version and pass this bill.

Mahalo ā nui loa, ā me ke
Aloha Pūmehana
Kahana Ho

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: kevinhawaii@hotmail.com
Subject: Testimony for HB2569 on 3/20/2012 10:00:00 AM
Date: Monday, March 19, 2012 8:08:45 AM

Testimony for JDL/HTH 3/20/2012 10:00:00 AM HB2569

Conference room: 016
Testifier position: Support
Testifier will be present: No
Submitted by: kevin kaneshiro
Organization: Individual
E-mail: kevinhawaii@hotmail.com
Submitted on: 3/19/2012

Comments:
Testifying in Support of HB2569 HD2 With Amendments

Aloha, Chairmen Hee & Green, Vice Chairs Shimabukuro & Nishihara and members of the Senate Judiciary & Labor and Health committees:

My name is Kevin Kaneshiro and I testify in strong support of HB2569 HD2, with amendments.

This bill represent critically important legislation to our community that strengthens Hawaii's civil unions law.

An illustration of real-life impact that this bill will have includes - among other things - eliminating the "gap period" in between the time the RBR is terminated and the civil union is solemnized, causing the couple to forfeit all of their previous legal rights and protections, which could have potential catastrophic consequences relating to health care, inheritance, medical decision making, and real estate tenancy to name just a few examples.

I am in strong opposition, however, to the language in HD2 that grants public accommodations owned by religious institutions the right to discriminate.

No law should impede upon religious freedom and HD1 protected religious entities from having to perform a ceremony that was against that faith's core beliefs. However, the HD2 language allows for-profit public accommodations purchased and operated by churches a free pass on discrimination, weakening the civil union and public accommodations law. This new language launches Hawaii on a very slippery slope of legalizing discrimination against a certain class of people. This is not "aloha." This is not Hawaii.

As an Equality Hawaii member, I respectfully request that these committees revert the public accommodations language back to the HD1 version and pass this bill.

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: kevin@rebelodesign.com
Subject: Testimony for HB2569 on 3/20/2012 10:00:00 AM
Date: Monday, March 19, 2012 7:47:11 AM

Testimony for JDL/HTH 3/20/2012 10:00:00 AM HB2569

Conference room: 016
Testifier position: Comments Only
Testifier will be present: No
Submitted by: Kevin Rebelo
Organization: Individual
E-mail: kevin@rebelodesign.com
Submitted on: 3/19/2012

Comments:
Testifying in Support of HB2569 HD2 With Amendments

Aloha, Chairmen Hee & Green, Vice Chairs Shimabukuro & Nishihara and members of the Senate Judiciary & Labor and Health committees:

My name is Kevin Rebelo and I testify in strong support of HB2569 HD2, with amendments.

This bill represent critically important legislation to our community that strengthens Hawaii's civil unions law.

An illustration of real-life impact that this bill will have includes - among other things - eliminating the "gap period" in between the time the RBR is terminated and the civil union is solemnized, causing the couple to forfeit all of their previous legal rights and protections, which could have potential catastrophic consequences relating to health care, inheritance, medical decision making, and real estate tenancy to name just a few examples.

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As an Equality Hawaii member, I respectfully request that these committees revert the public accommodations language back to the HD1 version and pass this bill.

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: krisdb@earthlink.net
Subject: Testimony for HB2569 on 3/20/2012 10:00:00 AM
Date: Monday, March 19, 2012 9:53:23 AM

Testimony for JDL/HTH 3/20/2012 10:00:00 AM HB2569

Conference room: 016
Testifier position: Support
Testifier will be present: No
Submitted by: Kris DeBode
Organization: Individual
E-mail: krisdb@earthlink.net
Submitted on: 3/19/2012

Comments:
Testifying in Support of HB2569 HD2 With Amendments

Aloha, Chairmen Hee & Green, Vice Chairs Shimabukuro & Nishihara and members of the Senate Judiciary & Labor and Health committees:

My name is Kris DeBode and I testify in strong support of HB2569 HD2, with amendments. I appreciate the changes made regarding closing the gap between the RPR and civil union commitments, the recognition of other-state civil unions, and the maintenance of property protections upon the solemnization of a civil union.

I am in strong opposition, however, to the language in HD2 that grants public accommodations owned by religious institutions the right to discriminate. While I fully support the rights of churches to choose whose relationships they wish to validate in their own church buildings, I STRONGLY feel that for-profit public accommodations, even if owned by churches, need to be open to all. Discriminating against any Hawaiian in public accommodations is illegal, and just because that discrimination is done by a church does not make it right.

As an Equality Hawaii member, I respectfully request that these committees revert the public accommodations language back to the HD1 version and pass this bill.

LEE M. YARBROUGH

ATTORNEY AT LAW AND CERTIFIED PUBLIC ACCOUNTANT
P.O. BOX 4157
HONOLULU, HAWAII 96812-4157

Tuesday, March 20, 2012 Time: 10:00 a.m.

Senate Judiciary and Labor and Health Committees
Conference Room 016
415 South Beretania Street
Honolulu, HI 96813

RE: House Bill 2569 HD2 - Relating to Civil Unions – Support with Amendments

To: Senator Clayton Hee, Chair; Senator Maile Shimabukuro, Vice Chair
 Senator Josh Green, Chair; Senator Clarence Nishihara, Vice Chair
 Members of the JDL and Health Committees

My name is Lee M. Yarbrough. I am an attorney and CPA practicing in the areas of Estate Planning and Taxes. I have been an active participant in the process of passing Act 1 Relating to Civil Unions over the past few years and have offered frequent testimony on bills affecting Reciprocal Beneficiaries and Civil Unions.

I favor the clarification of some aspects of the implementation of Act 1, as proposed by HB2569, HB2569HD1, and now HB2569 HD2, a bill which had a significant amount of input from the Civil Unions Task Force -- made up of staff members from the Attorney General's office, personnel from the Department of Health, and members of the legislature, the Hawaii Tourism Authority and LGBT organizations.

Along with the implementation process, the task force was also able to discuss areas within Act 1 that could be made clearer, consistent and more appropriate. It is my understanding that a sub-committee was also established to look into various Statutes that relate to Act 1 and to propose clarifying legislation, which is being presented here in HB 2569 HD2.

I support the passage of HB2569 HD2, but I would like to suggest that perhaps that 6 month period of time allowed in Section 3 of HB2569 HD2 (regarding HRS Section 572B - on page 3), for continuation of equivalent rights and benefits when the same two people transition from a Reciprocal Beneficiary (RB) relationship to a Civil Union, is too long and should be shortened somewhat. Even allowing just a one (1) month period, would allow a reasonable time frame for past and present RB participants to formally terminate their RB when required to do so (previously and up to the date of enactment of this bill), upon receipt of their Certificate of Termination of RB immediately to apply for a Civil Union license, and then have their Civil Union solemnized during the one month validity period of the Civil Union license.

Once the requirement for terminating a RB (for obtaining a Civil Union license is removed in Section 5 of the bill (regarding HRS Section 572-B (2) on page 5), and the provisions of Section 12 are in force (regarding the HRS Section 572-7 provisions for automatic termination upon solemnization are effective), there should be no gap period for people having their RB automatically terminated by entering into a CU in Hawaii or entering into a substantially equivalent union out of state (which is then recognized as a CU in Hawaii). Future RB terminations ought to be able substantially concurrent, but a 1 month maximum time frame for present and past RB to CU transitions should permit timely and reasonable transitions from one status to another in order to receive continuous equivalent benefits under the law.

Please consider reducing the 6 month time frame to a 1 month period, which would still ensure that the gap period of benefits and protections which a couple would experience upon termination of the RB relationship would be bridged. It would also still require a timely transition to a CU (through solemnization) in order to continue those previous benefits uninterrupted.

Finally, I am **STRONGLY OPPOSED** to the changes made, in Section 2 of HB2569 HD2, relating to an expanding of the religious exemptions from Hawaii's Public Accommodation Laws. I believe that these exemptions are broader than required under the circumstances. I also believe that they are contrary to the Public Policy considerations and protections codified in the Public Accommodations Law. I believe the wording proposed in Section 2 of this draft is overbroad, is unnecessary, and that the wording previously provided, in HB2569 HD1 Section 1 (relating to Section 572B-B) adequately addresses the concerns of the religious community for their protection. I would suggest reverting to the wording in HB2569 HD1 in this regard, and the complete deletion of Section 2 of this HD2. I would also like to point out that the retroactive application of the provisions of Section 2 (as currently worded and in conjunction with the retroactive effective date of the entire bill), back to January 1, 2012, might be unconstitutional, in that the bill, as worded, could extinguish a valid legal claim that may currently exist (for discrimination in violation of the Public Accommodation Laws from January 1, 2012 up to the date of enactment of this bill), should it pass out in current form.

HB 2569 HD2 has done a good job in addressing concerns of the CUTF members and other related State Departmental concerns. I write in support of HB 2569 HD2 overall and ask that you consider my comments regarding reducing the length of time for bridging the gap period for benefits when transitioning from a Reciprocal Beneficiary Relationship to a Civil Union and that you completely remove the unnecessary and potentially unconstitutional provisions of Section 2 when passing out this bill.

Thank you for this opportunity to testify in support of HB 2569 HD2 (with amendments as noted).

Lee M. Yarbrough
Attorney at Law/CPA

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: pwaring@hpu.edu
Subject: Testimony for HB2569 on 3/20/2012 10:00:00 AM
Date: Monday, March 19, 2012 8:32:50 AM

Testimony for JDL/HTH 3/20/2012 10:00:00 AM HB2569

Conference room: 016
Testifier position: Support
Testifier will be present: No
Submitted by: Patrick Waring
Organization: Individual
E-mail: pwaring@hpu.edu
Submitted on: 3/19/2012

Comments:

Aloha Committee Chair and Members,

My name is Patrick Waring and I am a long-time Hawaii Resident in a civil union by virtue of my marriage during a vacation in D.C. and I testify in strong support of HB2569 HD2, with amendments.

This bill represent critically important legislation to our community that strengthens Hawaii's civil unions law.

An illustration of real-life impact that this bill will have includes - among other things - eliminating the "gap period" in between the time the RBR is terminated and the civil union is solemnized, causing the couple to forfeit all of their previous legal rights and protections, which could have potential catastrophic consequences relating to health care, inheritance, medical decision making, and real estate tenancy to name just a few examples.

I am in strong OPPOSITION TO HD2 , however, the language in HD2 that grants public accommodations owned by religious institutions the right to discriminate. When a religious organization opens its doors to the public as a public accommodation, as opposed to a place of worship, they should be subject to the same laws as everyone else. They may always choose to close the facility to the public and reserve its use to members only.

No law should impede upon religious freedom and HD1 protected religious entities from having to perform a ceremony that was against that faith's core beliefs. However, the HD2 language allows for-profit public accommodations purchased and operated by churches a free pass on discrimination, weakening the civil union and public accommodations law. This new language launches Hawaii on a very slippery slope of legalizing discrimination against a certain class of people. This is not "aloha." This is not Hawaii.

As an Equality Hawaii member, I respectfully request that these committees revert the public accommodations language back to the HD1 version and pass this bill.

Yours with Aloha and Mahalo Plenty,

Patrick Waring

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: droda_7@yahoo.com
Subject: Testimony for HB2569 on 3/20/2012 10:00:00 AM
Date: Monday, March 19, 2012 8:20:18 AM

Testimony for JDL/HTH 3/20/2012 10:00:00 AM HB2569

Conference room: 016
Testifier position:
Testifier will be present: No
Submitted by: Rachel Donahue
Organization: Individual
E-mail: droda_7@yahoo.com
Submitted on: 3/19/2012

Comments:
Testifying in Support of HB2569 HD2 With Amendments

Aloha, Chairmen Hee & Green, Vice Chairs Shimabukuro & Nishihara and members of the Senate Judiciary & Labor and Health committees:

My name is Rachel Donahue and I testify in strong support of HB2569 HD2, with amendments.

This bill represent critically important legislation to our community that strengthens Hawaii's civil unions law.

An illustration of real-life impact that this bill will have includes - among other things - eliminating the "gap period" in between the time the RBR is terminated and the civil union is solemnized, causing the couple to forfeit all of their previous legal rights and protections, which could have potential catastrophic consequences relating to health care, inheritance, medical decision making, and real estate tenancy to name just a few examples.

I am in strong opposition, however, to the language in HD2 that grants public accommodations owned by religious institutions the right to discriminate.

No law should impede upon religious freedom and HD1 protected religious entities from having to perform a ceremony that was against that faith's core beliefs. However, the HD2 language allows for-profit public accommodations purchased and operated by churches a free pass on discrimination, weakening the civil union and public accommodations law. This new language launches Hawaii on a very slippery slope of legalizing discrimination against a certain class of people. This is not "aloha." This is not Hawaii.

As a concerned Social Work student and advocate, I respectfully request that these committees revert the public accommodations language back to the HD1 version and pass this bill.

REV. CAROLYN MARTINEZ GOLOJUCH, MSW

92-954 Makakilo Drive #71 • Makakilo, Hawai`i 96707-1340
cell: 808 779-9078 • fax: 808 672-6347 • e-mail: gomama808@gmail.com

March 18, 2012

TO: Senate Health and Judiciary Committee

RE: AGAINST Religious Waivers in HB 2751 HD2 Relating to Civil Unions

Aloha Senate Health and Judiciary Committee Chair, Vice Chair and members,

HB 2569 HD2 is a bill written under the theory that some members of our community are fair game for discrimination by some religions with the waivers that support this discrimination. Item (2) of the recent House Finance Committee report states: "Expanding the exemption for religious facilities from prohibitions against discrimination in public accommodations." By expanding the exemption for religious facilities from prohibitions against discrimination in public accommodations is discrimination in and of itself. While this bill started out to clean up the flawed Civil Unions Act of 2011, it has taken on a life of it's own determined to promote and support discrimination for churches who only want to degrade our GLBT children and their relationships.

Alas, Item (3) and Item (5) continue to support and promote religion over the dignity of human relationships. (3) "Clarifying the term "facilities" with respect to the exemption from prohibitions against discrimination in public accommodations for religious organizations;" and Item (5) "Clarifying that a person who refuses to perform a solemnization of a civil union will not be subject to civil actions."

Again, this is just one more example of how those churches and ministers who are hell bent on discrimination would be supported by a legislature that is suppose to treat all citizens fairly without persecution of any minority. Stop this desecration of our laws meant to protect and defend the quality of life for all citizens.

Because of this, I am asking you as law abiding US citizens to delete items 2, 3, and 5 from HB2569 HD2 in order to retain the dignity of the original bill. Anything else is a travesty and promotion of discrimination.

Thank you for the opportunity to speak to the dignity of the original intent of HB2569.

Sincerely,

Rev. Carolyn M. Golojuch, MSW
PFLAG-Oahu President
Native American Spiritualist

"If more people believed in justice, equality would be reality." CMG

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March 18, 2012

Tuesday, March 20, 2012 - 10:00 a.m.

Senate Health Committee
Senate Judiciary Committee
State Capitol – Room 016
415 South Beretania Street
Honolulu, HI 96813

RE: House Bill 2569 HD 2

Aloha Chair Green, Chair Hee and fellow committee members,

Honolulu Pride is Hawaii's oldest and largest pride and advocacy organization in the State of Hawai'i.

We wish we could say we are in total support on House Bill 2569 HD 2 but given the addition by the House Finance Committee that carves out an exemption to the Public Accommodations law we cannot support this bill in its current form.

The language that was inserted allows all religious organizations that rent their property to those outside their congregation permission to discriminate against those seeking to rent those properties for a Civil Union. This attempt to circumvent the public accommodations law cannot be allowed to proceed. This is a dangerous precedent to allow this bill to move forward in its current form. This will set civil rights back decades and that is not the way to move this state forward.

HB 2569 should have never been allowed to move forward from the House and we are sorry that is left up to you to fix the mistake made by the Attorney General's representative at the House Finance hearing on February 29, 2012.

The law already states that as long as these narrow-minded churches or any private organization for that matter do not rent their properties to anyone outside their congregation or group members they can discriminate against anyone they want to. But the minute they offer their property to general public they become a public accommodation and as such they NEED to be subject to the public accommodation laws. It appears from the testimony that was submitted to the House Judiciary Committee on behalf of the narrow minded religious organizations here in Hawaii they want their cake and the ability to rent it to.

HONOLULU PRIDE – HB 2569 HD 2

If this bill is allowed to become law what will be next? Next year will you carve out a special exemption so these narrow-minded churches can discriminate against other religions or race? This exemption is the pathway to total discrimination.

We ask that you strike this exemption and ensure that all other changes to HB 2569 HD2 only strengthen Act 1 – 2011 and not weaken it.

Mahalo for the chance to testify and please do the correct thing, the honorable thing and remove this exemption and strengthen the Civil Unions law.

Rob Hatch
Honolulu Pride
Legislative Representative

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: scrawford2@aol.com
Subject: Testimony for HB2569 on 3/20/2012 10:00:00 AM
Date: Monday, March 19, 2012 9:49:24 AM

Testimony for JDL/HTH 3/20/2012 10:00:00 AM HB2569

Conference room: 016
Testifier position: Support
Testifier will be present: No
Submitted by: Sarah
Organization: Individual
E-mail: scrawford2@aol.com
Submitted on: 3/19/2012

Comments:

Aloha, Chairmen Hee & Green, Vice Chairs Shimabukuro & Nishihara and members of the Senate Judiciary & Labor and Health committees:

My name is Sarah Crawford. I live in Holualoa, a rural village on the Big Island, and I testify in strong support of HB2569 HD2, with amendments.

This bill is critically important legislation that strengthens Hawaii's civil unions law.

In my case, I have a reciprocal beneficiary relationship (RBR) entered into in about 2000. Of course, this was a step up from our "mere" relationship, entered into in 1990. Just one of the several results that this bill will have is eliminating the "gap period" in between the time the RBR is terminated and the civil union is solemnized, causing the couple to forfeit all their previous legal rights and protections, which could have potential catastrophic consequences relating to health care, inheritance, medical decision making, and real estate tenancy to name just a few examples.

I am in strong opposition, however, to the language in HD2 that grants public accommodations owned by religious institutions the right to discriminate.

No law should impede upon religious freedom. HD1 protected religious entities from having to perform a ceremony that was against that faith's core beliefs. However, the HD2 language allows for-profit public accommodations purchased and operated by churches a free pass on discrimination, weakening the civil union and public accommodations law. This new language launches Hawaii on a very slippery slope of legalizing discrimination against a certain class of people. This is not "aloha." This is not Hawaii. This is not constitutional.

I respectfully request that your committees revert the public accommodations language back to the HD1 version and pass this bill.

Thank you for your consideration of this matter.

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: capitolist@tomaitken.net
Subject: Testimony for HB2569 on 3/20/2012 10:00:00 AM
Date: Sunday, March 18, 2012 11:22:32 PM

Testimony for JDL/HTH 3/20/2012 10:00:00 AM HB2569

Conference room: 016
Testifier position: Oppose
Testifier will be present: No
Submitted by: Tom Aitken
Organization: Individual
E-mail: capitolist@tomaitken.net
Submitted on: 3/18/2012

Comments:

I would support this bill if the religious exemptions are removed ("~489- Exception; religious organizations.") For the life of me, I cannot understand why my government continues to support special rights for religions and their non-profits, which DON'T pay taxes and thus depend on MY taxes to fund the infrastructure they need to function. Do I have a right to withhold that portion of my taxes? No exemptions, please!

