

**TESTIMONY OF ROBERT TOYOFUKU ON BEHALF OF THE HAWAII ASSOCIATION FOR JUSTICE (HAJ) IN OPPOSITION TO H.B. NO. 2686**

Date: Tuesday, February 21, 2012

Time: 2:00 pm

To: Chairman Gilbert Keith-Agaran and Members of the House Committee on Judiciary:

My name is Bob Toyofuku and I am presenting this testimony on behalf of the Hawaii Association for Justice (HAJ) in OPPOSITION to H.B. No. 2686, relating to Civil Liability.

This bill gives immunity to landowners whose negligence injures or kills those who provide emergency services and deprives firemen, police, ambulance attendants and others helping in emergency situations the basic protections available to all other citizens. This is bad public policy.

Consider this example: A FedEx delivery is made in the morning. The delivery person is protected against injury caused by the landowner's negligence under current law. A fire breaks out in the afternoon and the landowner is overcome by smoke. Firemen who come to save the house from the fire and ambulance attendants who come to save the landowner's life have no protection under this bill. The firemen and ambulance attendants who are risking their lives to save the landowner's life and home are treated worse than the FedEx delivery person. This result is unreasonable and unfair. The work that our police, fire, ambulance, national guard, civil defense, and other emergency personnel do is dangerous enough. We don't need to increase the danger to them or decrease the protection afforded them under current law.

A landowner's responsibility under current law is to use "reasonable care under the circumstances" for the protection of those reasonably anticipated to be on the

premises. Landowners are not automatically liable for any injury and are not required to take extraordinary precautions. It is more a matter of common sense. Someone who owns a store where people are constantly visiting is expected to exercise greater vigilance to discover and correct hazardous conditions than a landowner with many acres of wilderness land that is not open to the public. There is no need for this proposed legislation.

Thank you very much for allowing me to testify in OPPOSITION to this measure. Please feel free to contact me should you have any questions or desire additional information.