



Title Guaranty Escrow Services, Inc.

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February 1, 2012

Via CPNTestimony@Capitol.Hawaii.gov

The Honorable Rosalyn Baker, Chair
The Honorable Brian Taniguchi, Vice Chair
Members of the Senate Committee on Commerce and Consumer Protection
Hawaii State Capitol
415 South Beretania Street, Room 229
Honolulu, Hawai`i 96813

Re: Senate Bill 2760 Relating to Escrow Depositories
Hearing Date: February 3, 2012
Hearing Time: 9:00 a.m.

Dear Senator Baker, Senator Taniguchi, and Members of the Senate Committee on Commerce and Consumer Protection:

Thank you very much for allowing us to testify on Senate Bill 2760. As Title Guaranty Escrow Services, Inc. ("TGES") testified on House Bill 2498, we are generally in support of the intent of the Bill, but wish to comment on the fee increases and express our opposition to some of the proposed provisions.

TGES opposes the proposed change to Section 449-4 in Section 3 of HB 2498. The Bill would delete the word "willfully" with respect to violations of Chapter 449 that may result in administrative fines. The imposition of fines for non-willful violations of the statute is too harsh. If the Bill is adopted with this provision, negligent or even unsubstantial incidents of non-compliance may subject an escrow depository to a \$10,000 fine.

With respect to Section 5, page 6, line 6 of the Bill, TGES respectfully requests that a clause be added as follows: ". . . but only in the event of the escrow depository's insolvency." The reason for this suggestion is that the Bill appears to allow any escrow customer to make a direct claim against the surety bond without first resolving the claim with the escrow depository. This would be burdensome to the Division of Financial Institutions and unnecessarily increases administrative costs for escrow depositories who would have to renew or replace the bonds if such a claim were sustained.

With respect to the proposed fee increases, TGES understands and agrees that with the increasing size of real estate transactions, it is important that escrow companies that handle the

parties' moneys be financially stable. TGES further understands that some of the statutory charges currently set forth in Chapter 449 need to be adjusted. TGES, however, respectfully contends that some of the proposed increases are burdensome, and TGES requests a revision of the following items:

In Section 7, page 8, line 7, TGES requests that the amount of the deductible be increased to \$100,000 instead of \$10,000. It is TGES' experience that it has become increasingly difficult to obtain a \$10,000 deductible at higher amounts of errors and omissions coverage for a reasonable premium.

In Section 7, page 9, line 12, TGES' position is that a \$500 fee for an application for approval to relocate an existing office or branch is too high. The fee for an application for an initial branch office license is \$100, and relocating a branch should not be subjected to a fee higher than this.

In Section 8, page 11, subsection (d), these renewal fees are too high and there is no justification for creating tiers based on trust account balances. The current renewal fee is \$100 for the main escrow office plus \$50 for each branch office. TGES' renewal fee for 2011 was therefore \$950. The proposed renewal fee by comparison, even at the proposed lowest level of \$5,000 would be a nearly 500% increase and could be as high as a 1500% increase. This amount is excessive and TGES respectfully requests that these increases be deleted.

Thank you again for your attention to Senate Bill 2760. If you have any questions, we would be happy to make ourselves available to address them.

Respectfully submitted,



Dale Hastie

Sr. Vice President/Regional Manager