

## TESTIMONY OF MICHAEL TANOUE

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HOUSE COMMITTEE ON JUDICIARY  
Rep. Karl Rhoads, Chair  
Rep. Sharon E. Har, Vice Chair

Tuesday, January 29, 2013  
2:00 p.m.

### ***HB 88***

Chair Rhoads, Vice Chair Har, and members of the Committee, my name is Michael Tanoue, counsel for the Hawaii Insurers Council, a non-profit trade association of property and casualty insurance companies licensed to do business in Hawaii. Member companies underwrite approximately 40% of all property and casualty insurance premiums in the state.

The Hawaii Insurers Council **opposes** HB 88.

HB 88 seeks to repeal Section 1-18 of the Hawaii Revised Statutes, which provides that “[e]ach of the terms ‘or’ and ‘and’ has the meaning of the other or of both.” HB 88, on its face, seems logical, eliminating the seemingly ungrammatical construction that the word “or” can mean “or,” “and” or “and/or,” and the word “and” can also mean “or,” “and” or “and/or.”

However, Section 1-18 of the Hawaii Revised Statutes does allow the courts to consider which meaning of the words “and” and “or” in statutes “harmonizes best with the whole context of the statute and promotes in the fullest manner the apparent policy and objects of the legislature.” *In Re City & County of Honolulu Corporation Counsel*, 54 Haw. 356, 374 (1973). Repeal of Section 1-18 may impair the courts’ ability to harmonize the literal wording of statutes with their policies and objectives.

HB 88 may also have unintended and wide-ranging consequences. Because the words “and” and “or” are commonly used in statutes, and owing to the long history of Section 1-18, many statutes may have been enacted without careful attention to the uses and meanings of the words “and” and “or.” Without a detailed review of all statutes, repeal of Section 1-18 could have unforeseen consequences.

In the event this Committee supports the ultimate repeal of Section 1-18, the Hawaii Insurers Council recommends, as a preliminary step, that an independent organization be retained to conduct a thorough review of all existing statutes regarding the usage and intent of the words “and” and “or.”

Based on the foregoing, the Hawaii Insurers Council respectfully requests that HB 88 be held. Thank you for the opportunity to testify.