

**LATE**

American Cancer Society  
Cancer Action Network  
2370 Nuʻuanu Avenue  
Honolulu, Hawaiʻi 96817  
808.432.9149  
[www.acscan.org](http://www.acscan.org)

Senate Committee on Commerce and Consumer Protection  
Senator Roz Baker, Chair  
Senator Brian Taniguchi, Vice Chair

Hearing: January 29, 2014; 9:00 a.m.

**SB 2497 – RELATING TO TOBACCO REGULATION**

Cory Chun, Government Relations Director – Hawaii Pacific  
American Cancer Society Cancer Action Network

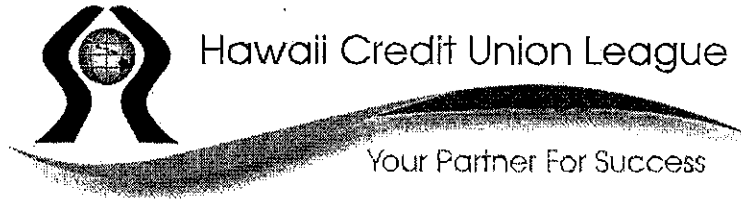
Thank you for the opportunity to provide testimony in support of SB 2497, which increases the fees for tobacco wholesalers and retailers in the State.

The American Cancer Society Cancer Action Network (ACS CAN) is the nation's leading cancer advocacy organization. ACS CAN works with federal, state, and local government bodies to support evidence-based policy and legislative solutions designed to eliminate cancer as a major health problem.

The current fee is \$2.50 for a tobacco wholesaler or distributor and \$20 for a tobacco retailer. We defer to the Coalition For a Tobacco Free Hawaii for a reasonable fee, as they have looked at similar tobacco wholesaler and retailer fees in other states. We would just like the committee to consider, when deciding these increases, that these licensing fees give these entities the privilege of selling the most dangerous consumer product sold - one that when used as directed can kill both the user and those around them.

Thank you for the opportunity to submit testimony on this matter.

# LATE



1654 South King Street  
Honolulu, Hawaii 96826-2097  
Telephone: (808) 941.0556  
Fax: (808) 945.0019  
Web site: [www.hcul.org](http://www.hcul.org)  
Email: [info@hcul.org](mailto:info@hcul.org)



Testimony to the Senate Committee on Commerce and Consumer Protection  
January 29, 2014

Testimony in support of SB 2825, Relating to Mortgage Rescue Fraud

To: The Honorable Rosalyn Baker, Chair  
The Honorable Brian Taniguchi, Vice-Chair  
Members of the Committee on Commerce & Consumer Protection

My name is Stefanie Sakamoto, and I am testifying on behalf of the Hawaii Credit Union League, the local trade association for 75 Hawaii credit unions, representing approximately 804,000 credit union members across the state.

We are in support of SB 2825, Relating to Mortgage Rescue Fraud. This bill expands the definition of "distressed property consultant", and clarifies the exemption section. We have had several credit unions report instances where their members have been victims of these types of fraudulent schemes. Further clarity to this law would serve consumers. We appreciate the efforts of the legislature regarding this important issue.

Thank you for the opportunity to testify.



**LATE**

January 28, 2014

**TO:** SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION  
Senator Rosalyn H. Baker, Chair  
Senator Brian Taniguchi, Vice Chair

**FROM:** Tiare Fullerton, President  
Hawaii Association of Mortgage Brokers

**RE:** SB 2817, Relating to Secure and Fair Enforcement for Mortgage Licensing Act  
Position: Comments

Dear Chair Baker, Vice Chair Taniguchi and members of the Committee:

I am Tiare Fullerton, President of the Hawaii Association of Mortgage Professionals (HAMB), a nonprofit organization dedicated to promoting high standards of professionalism in the mortgage industry through education and advocacy. We are a state affiliate of NAMB "The Association of Mortgage Brokers." HAMB's comments on the bill are limited to the proposed definition of sole proprietor and the hours of operation requirement. We have been in dialogue with the Commissioner of Financial Institutions, Iris Catalani, regarding our concerns

As we understood the intention of the legislature, the fee exemption for sole proprietors was intended to allow Mortgage Loan Origination Companies (MLOC) controlled by a single Mortgage Loan Originator (MLO) to pay only the MLOC fee. However, the definition of sole proprietor limits the fee reduction to only those MLOCs organized for liability purposes as a sole proprietor. There are MLOCs owned and operated by single MLOs who have chosen to organize as Limited Liability Companies or S Corporations in an effort to protect the MLOs personal assets. This is the approach we prefer as it allows the single-MLO MLOCs to not have to pay registration fees twice. At this point, we are looking for clarification of the legislature's intent in the creation of the exemption for sole proprietors.

The other concern we have with the bill is the requirement that MLOCs maintain "regular business hours" that are defined in the bill as being from 8:00 am to 4:30 Monday through Friday. In an industry where clients are often met outside of the office and the principals must attend mortgage signings off-site, it is not practical to provide an office that remains open throughout the week. We were pleased that in our recent communication with Commissioner Catalani she was willing to work with us on a compromise that involves the posting of hours when an MLOC is open. At this time, we have not yet developed compromise language, but will continue to work with Commissioner Catalani to develop that language.

Thank you for this opportunity to testify. We look forward to working with the Committee to improve this bill as it moves through the process.

# HAWAII FINANCIAL SERVICES ASSOCIATION

c/o Marvin S.C. Dang, Attorney-at-Law

P.O. Box 4109

Honolulu, Hawaii 96812-4109

Telephone No.: (808) 521-8521

Fax No.: (808) 521-8522

**LATE**

#2

January 29, 2014

Senator Rosalyn H. Baker, Chair  
Senator Brian T. Taniguchi, Vice Chair  
and members of the Senate Committee on Commerce and Consumer Protection  
Hawaii State Capitol  
Honolulu, Hawaii 96813

Re: **Senate Bill 2817 (Secure and Fair Enforcement for Mortgage Licensing Act)**  
**Hearing Date/Time: Wednesday, January 29, 2014, 9:00 A.M.**

I am Marvin Dang, the attorney for the Hawaii Financial Services Association ("HFSA"). The HFSA is a trade association for Hawaii's consumer credit industry. Its members include Hawaii financial services loan companies (which make mortgage loans and other loans, and which are regulated by the Hawaii Commissioner of Financial Institutions), mortgage lenders, and financial institutions.

The HFSA opposes this Bill as drafted, and we are proposing an amendment.

The purposes of this Bill are to: (1) Add definitions for clarity; (2) Require a mortgage loan originator company to be open during specified regular business hours to the public and for examination or investigation by the commissioner; (3) Delete exemptions for individuals facilitating mortgage loans for their family members and family property; (4) Clarify that a branch manager may not oversee more than one branch office or principal place of business; and (5) Exclude certain information included in NMLS from confidentiality provisions of the law.

We were just made aware of a problem with a proposed new definition called "offers or negotiates terms of a residential mortgage loan" (see page 1, line 7). According to the Administration's "Justification Sheet" attached to the Bill, the new definition is to "add clarity". However, paragraph (3) of the definition is substantively broader than the purpose and intent for which this definition is being proposed.

Pennsylvania enacted a law in 2013 which has an exemption that is similar to one that we are proposing for this Bill. Hawaii Revised Statutes Sec. 454F-2 (Exemptions) should be amended in this Bill to add a new paragraph (10) on page 6 after line 11 to read as follows:

"(10) An individual who is all of the following:

(A) An employee of a broker-dealer registered under section 485A-401 of the Hawaii Uniform Securities Act;

(B) Registered as an agent under section 485A-402 of the Hawaii Uniform Securities Act;

(C) Engaged in recommending, referring or steering a borrower or prospective borrower in the manner provided under paragraph (3) of the definition of "offer or negotiates terms of a residential mortgage loan" to an insured depository institution in a manner incidental to and in the normal course of the individual's securities brokerage activities;

(D) Not otherwise acting as a mortgage loan originator as defined in section 454F-1; and

(E) Not in receipt of any compensation or gain for such activities from the person making ~~or brokering~~ the loan, or a borrower or prospective borrower."

Thank you for considering our proposed amendment.

from the person offering, negotiating, or taking an application for the loan,

*Marvin S.C. Dang*

MARVIN S.C. DANG

Attorney for Hawaii Financial Services Association

(MSCD/hfsa)

**LATE**



**Testimony to the Senate Committee on Commerce and Consumer Protection  
Wednesday, January 29, 2014 at 9:00 a.m.  
State Capitol - Conference Room 229**

**RE: SENATE BILL NO. 2705 RELATING TO ADMINISTRATIVE PROCEDURE**

Chair Baker, and Vice Chair Taniguchi, and members of the committee:

The Chamber **opposes** S.B. 2705 which would amend Chapter 91 HRS and repeals provisions that require agencies to develop rules which would provide for automatic application approval or require an application to be deemed complete for an agency's failure to act within established time periods on applications for business and development-related permits and licenses.

The Chamber is the largest business organization in Hawaii, representing more than 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of its members, which employ more than 200,000 individuals, to improve the state's economic climate and to foster positive action on issues of common concern.

The existing language holds agencies accountable to process permits on a timely basis. The land use entitlement process in Hawaii is a costly and lengthy process which is a major reason why the median cost of a single family residence on Oahu is \$685,000.00. Removing the automatic approval process will not improve the entitlement process.

Serious reforms are needed to the land use entitlement process to ensure a consistent and sustainable supply of new construction (i.e. residential, commercial, industrial, resort, etc.) in our economy. Without additional hotel rooms, the visitor industry cannot expand and air lift is limited. Without new residential construction, demand outstrips supply and drives prices beyond what is deemed affordable to middle class families in Hawaii.

If we cannot support two of the major drivers of our economy, tourism and construction, what does the legislature believe will fill that void?

Thank you for the opportunity to express our views on this matter.

**LATE**



TO: Senate Committee on Commerce and Consumer Protection

DATE: Wed., January 29, 2014, 9:00 a.m.  
Conference Room 229

RE: **SB 2229 – RELATING TO THE UNIFORM POWER OF ATTORNEY ACT**

Chair Baker, Vice-Chair Taniguchi and Members of the Committee:

My name is Barbara Kim Stanton, State Director of AARP Hawaii. AARP is a membership organization of people 50 and older with approximately 148,000 members in Hawaii. AARP fights on issues that matter to Hawaii families, including the high cost of long-term care; access to affordable, quality health care for all generations; providing the tools needed to save for retirement; and serving as a reliable source of information on issues critical to Americans age 50+.

AARP strongly supports enactment of SB 2229, the Uniform Power of Attorney Act (UPOAA) in Hawaii as well as in every state.

Powers of attorney (POA) are essential tools for delegating authority to others to handle financial matters in many situations. It is a legal document used by an individual (the principal) to name someone else (the agent) to make financial decisions and act on the principal's behalf. To be useful as an incapacity planning tool, a POA must give broad authority to the agent.

A power of attorney, whether general or durable, is private; there is no oversight by a court as there is supposed to be for a guardian or conservator. State laws often are unclear about the duty owed by the agent to the principal. This combination of broad consent, lack of oversight, and unclear duties makes it possible for agents to misuse their authority.

The power of attorney has been called a "license to steal" and this misuse of authority is a form of financial exploitation. This concerns us greatly and why we think it's critical that state laws help prevent, detect and redress power of attorney abuse. Power of attorney abuse can take many forms, including:

- Forging the principal's signature on a power of attorney or making a fraudulent document;
- Spending the principal's money for the benefit of the agent;

- Making gifts when the power of attorney does not provide authority to do that; and
- Undermining the principal's estate plan by giving assets to unintended recipients.

Additionally, a power of attorney will not be useful if third parties, such as financial institutions, refuse to honor an agent's directions. Third parties that refuse to honor a power of attorney because they believe the agent is misusing authority may help prevent exploitation of the principal. Sometimes, however, third parties refuse to honor the POA for less legitimate reasons, such as because it is old or from another state.

While the Act can't prevent bad actors from committing theft and other forms of abuse, it does set forth clear agent duties and prohibitions that will make civil actions and criminal prosecutions more effective. Highlights include provisions that:

- Contain mandatory and default duties that prohibit self-dealing and mandate preservation of the principal's estate plan;
- Makes clear that a power of attorney terminates when the principal dies;
- Set forth the powers that an agent cannot exercise unless the power of attorney expressly authorizes such actions;
- Establish liability for agents who violate the power of attorney law;
- Address third-party acceptance of and reliance upon a power of attorney; and
- List circumstances under which a third party may legitimately refuse to accept a power of attorney and provide sanctions for unlawful refusals.

To date, thirteen states have enacted the Uniform Power of Attorney Act, and Alaska, Connecticut, Mississippi, and the Virgin Islands are considering it now. By enacting the UPOAA, Hawaii could strengthen its power of attorney law to better protect its residents and to benefit its businesses and courts.

Thank you for the opportunity to testify.

# **BIA-HAWAII**

**BUILDING INDUSTRY ASSOCIATION**

THE VOICE OF THE CONSTRUCTION INDUSTRY

# LATE

## **2014 Officers**

### **President**

Brian K. Adachi  
BKA Builders, Inc.

### **President-Elect**

Richard Hobson, Jr.  
Gentry Homes, Ltd.

### **Vice President**

Craig Washofsky  
Servco Home & Appliance Distribution

### **Treasurer**

Guy J. Shindo  
First Hawaiian Bank

### **Secretary**

Evan Fujimoto  
Graham Builders, Inc.

### **Special Appointee-Builder**

Paul D. Silen  
Hawaiian Dredging Construction Co., Inc.

### **Special Appointee-Builder**

Mark Kennedy  
HASEKO Construction Management  
Group, Inc.

### **Special Appointee-Associate**

Dean Uchida  
SSFM International, Inc.

### **Immediate Past President**

Greg Thielen  
Complete Construction Services Corp.

### **Chief Executive Officer**

Karen T. Nakamura  
BIA-Hawaii

## **2014 Directors**

### **Anthony Borge**

RMA Sales

### **Carleton Ching**

Castle & Cooke Hawaii, Inc.

### **Chris Cheung**

CC Engineering & Construction, Inc.

### **Clifton Crawford**

C&J Contracting, Inc.

### **Eric Bass**

D.R. Horten, Schuler Division

### **Gary T. Okimoto**

Honolulu Wood Treating

### **Lili Shintani**

Alan Shintani, Inc.

### **Mark Hertel**

Inter-Island Solar Supply, Oahu-Maui-  
Hawaii-Kauai

### **Marshall Hickox**

Homeworks Construction, Inc.

### **Michael Watanabe**

JW, Inc.

### **Ryan Engle**

Bays Lung Rose & Holma

### **Stephen Hanson**

simplicityHR by ALTRES

## **TESTIMONY TO THE SENATE COMMITTEE ON COMMERCE & CONSUMER PROTECTION**

**WEDNESDAY, JANUARY 29, 2014**

**9:00 A.M.**

**HAWAII STATE CAPITOL - ROOM 229**

### **SUBJECT: S.B. 2260 - RELATING TO WAGES AND HOURS ON PUBLIC WORKS**

Dear Chair Baker, Vice-Chair Taniguchi, and members of the Committee:

My name is Gladys Marrone, Government Relations Director for the Building Industry Association of Hawaii (BIA-Hawaii), the Voice of the Construction Industry. We promote our members through advocacy and education, and provide community outreach programs to enhance the quality of life for the people of Hawaii. BIA-Hawaii is a not-for-profit professional trade organization chartered in 1955, and affiliated with the National Association of Home Builders.

BIA-Hawaii **opposes** S.B. 2260, which proposes to extend the suspension period from three to five years for a third violation of a person or firm who fails to pay the prevailing wage under a public work contract.

Under current law, a contractor who inadvertently pays an employee working on multiple projects at the same time under an erroneous classification could potentially face a three year suspension for three notice of violations. This contractor would have insufficient notice or a lack of opportunity to correct the violation before being penalized.

Increasing the period from three to five years is unreasonable and will not resolve the delay in processing these violations, which is the real problem. Perhaps this Committee could review S.B. 3039, which would fund two permanent full time labor law enforcement specialist IV positions to help enforce the existing prevailing wage law.

Based on the foregoing reasons, BIA-Hawaii **opposes** S.B. 2260.

We appreciate the opportunity to share with you our views.



**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, January 28, 2014 10:38 PM  
**To:** CPN Testimony  
**Cc:** lardizabal@local368.org  
**Subject:** Submitted testimony for SB2260 on Jan 29, 2014 09:00AM

**SB2260**

Submitted on: 1/28/2014

Testimony for CPN on Jan 29, 2014 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Al Lardizabal	Hawaii Laborers' Union	Support	No

Comments: Senator Baker, Chair and members of the Commerce and Consumer Protection Committee: The proposed amendment will bolster the enforcement of the Prevailing Wage law. Workers are entitled to proper and timely wage payments under the law, anything less is akin to stealing from the worker. The Hawaii Laborers' Union supports the bill.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, January 28, 2014 9:43 PM  
**To:** CPN Testimony  
**Cc:** john-a-morris@juno.com  
**Subject:** Submitted testimony for SB2363 on Jan 29, 2014 09:00AM

## SB2363

Submitted on: 1/28/2014

Testimony for CPN on Jan 29, 2014 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
John Morris	Individual	Comments Only	No

Comments: 888 Mililani Street Second Floor Honolulu ph 599 7226 My name is John Morris and I am testifying to express concerns about some of the provisions of SB 2363. I work as an attorney representing condominium and other homeowner associations. Section 514A-A proposes to add a new section requiring board members to disclose conflicts of interest prior to awarding any contract with a value of \$200,000 and more. The current law, section 514B-125 (f) already requires a director to disclose all conflicts of interest. Therefore, this proposed addition to the condominium law seems to reduce the obligations of a director and give the false impression that conflicts involving contracts with the value of less than \$200,000 do not require disclosure prior to a vote. Moreover, to the extent of the section would apply to agents managing the property, section 514B-132 (c) already imposes a fiduciary duty on managing agents. Therefore, requiring them to disclose conflicts of interest seems to be superfluous because the managing agent's fiduciary duty would require the disclosure of conflicts of interest anyway. In addition, managing agents are already subject to the provisions of chapter 467, HRS, because every managing agent must have a broker's license. Therefore, the requirements of chapter 467 also control the conduct of a managing agent. Section 514A-B may serve a purpose if the benefits of collecting the information on owner complaints justify the burden on the real estate commission in collecting the information. I served as the first condominium specialist with the real estate commission from 1988 to 1991 and am familiar with the process by which the complaints would be collected and processed under this bill. Often the complaints are not verified. Moreover, the complaints are often just brief questions that may require considerable effort to categorize for the report required under this section. Therefore, it is not clear whether the benefits would justify the burdens. Sections 3 through 6 of the bill propose to amend the existing laws to authorize the real estate commission to enforce section 514A-A relating to conflicts of interest. When I served as the condominium specialist from 1988 to 1991, having the commission enforce the law was the ultimate goal of most people registering complaints with the commission. Unfortunately, that goal overlooks the considerable burden on the commission of investigating the complaints -- a burden that would probably require considerably more staff and resources than the commission currently has at its disposal. (That circumstance is one reason the law has always required that owners self enforce the condominium law, except in very limited circumstances relating to availability of information and financial resources.) In other words, as a state agency, without a thorough investigation, the commission could not lightly undertake action against a board member alleged to have a conflict-of-interest. Such an investigation would require considerable time and effort to meet due process standards, as well as the personnel necessary to undertake the investigation. Even allowing the commission to recover its legal fees for the cost of enforcement would not necessarily fund a

satisfactory state investigation procedure. Section 7 of the bill proposes to implement similar conflict-of-interest and commission investigation procedures in chapter 514B. Again, the conflict-of-interest provision will actually lower the standard that exists at the current time by focusing only on contracts over \$200,000. The burden on the commission under this proposed change would also be similar to the burden outlined above – the work would require considerable more time and staff devoted to the investigation process. Finally, last year, the legislature established procedures to fund qualified, professional mediators so they could assist owners in resolving their own disputes. That process has not been given the opportunity to succeed, since it is still in the process of being established. It seems that rather than creating a whole new procedure for real estate commission enforcement, the resources of the state would be better served by allowing the interested parties to first establish an effective, professional mediation program. Thank you for this opportunity to testify. John Morris

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

**LATE**

**From:** Merv Ahana <merv@pixi.com>  
**Sent:** Tuesday, January 28, 2014 11:21 PM  
**To:** CPN Testimony  
**Subject:** \*\*\*\*\*SPAM\*\*\*\*\* Senate Bill 2363, Condominium Transparency

**January 27, 2014**

**Dear Sirs:**

**I am an owner of a condominium in the Marco Polo, 2333 Kapiolani Blvd., Honolulu, Hawaii and has been informed of possible instances of conflict of interests between members of our Board of Directors, Management Company and vendors. Present law has made it almost impossible to conduct an inquiry when instances of conflict is suspected.**

**In 2013, the Hawaii State Data Book notes that Hawaii has 156,846 condominium units. At \$200 per monthly maintenance fee, this amounts to \$31,369,200 and twelve times that amount per year. This large sum with future increases a certainty, stricter oversight is warranted.**

**Therefore I strongly support Senate Bill 2363. I would like to make/add/change the following:**

- 1. If evidence shows a possible conflict, the inquiry should be retroactive for five years.**
- 2. Conflicts of interest of any type, monetary, relationship, etc., no matter how inconsequential, should be reported to the entire Board/Owners immediately, owners be given at least a week for input to the board members, before a full Board votes to either allow/disallow participation of the person/persons of interest. The vote and reasons should be in the minutes of the meeting. The \$200,000 trigger is too simple to circumvent and should be removed from the Bill.**
- 3. Disclosure of past conflicts must be made before serving on any other Condominium Boards.**

4. **Penalty should include reimbursement to the Owners Associations equal to 10% of the funds involved, as well as the \$10,000 and one year incarceration.**
5. **Management companies found associated with any conflict of interest should also be censured and the violation made public. Any additional violations should result in their license be revoked for doing business in Hawaii for at least a year.**

**Thankyou for interest in the matter.**

**Yours very truly,**

**Mervin Ahana  
Apartment #1106  
Marco Polo Condominium  
merv@pixi.com**

Barbara  
Shedman

SB 2363

The sky above; what  
little there is\* of it  
to see.

↓ left

Pat hapes below: the trash  
that ends up out  
into the sea.

Concrete, graft, greed &  
corruption surrounds us

Aw~we! Where did our  
Hawaii go?