

SB2368

**TESTIMONY OF THE
COMMISSION TO PROMOTE UNIFORM LEGISLATION**

ON S.B. NO. 2368

RELATING TO THE PROTECTION OF CHARITABLE ASSETS

**BEFORE THE SENATE COMMITTEE ON
JUDICIARY AND LABOR**

DATE: Tuesday, February 4, 2014 at 10:00 a.m.
Conference Room 016, State Capitol

PERSON(S) TESTIFYING: KEN TAKAYAMA,
Commission to Promote Uniform Legislation

Chair Hee, Vice Chair Shimabukuro, and Members of the Committee:

My name is Ken Takayama, and I am testifying on behalf of the Commission to Promote Uniform Legislation (the "Commission"), in support of S. B. No. 2368, Relating to **THE PROTECTION OF CHARITABLE ASSETS**.

This measure formally authorizes the Attorney General to protect charitable assets. In this regard, the section 2 of the measure also specifically authorizes the Attorney General to conduct investigations, issue subpoenas, and adopt rules. As such, this measure enacts section 3 of the Model Protection of Charitable Assets Act (MPOCAA) ("the Act"), which was developed by the Uniform Law Commission (ULC) and made available to the states in 2011.

The comments to section 3 of the Act state that one of the major goals of the Act is to articulate the Attorney General's duty to represent the public interest in the protection of charitable assets. The duty exists in the common law and in statutes in many states, but the scope of the duty is sometimes uncertain. The Act declares and clarifies the scope of the duty and what the Attorney General is authorized to do to fulfill it, although the Act does not limit the authority or powers that already exist. In other words, this measure formalizes and statutorily codifies the powers, duties, and responsibilities of the Attorney General with regard to charitable assets in this state.

While it may appear odd that this measure is enacting only a single section of an act produced by the Uniform Law Commission, there is nothing in the least that is untoward or inappropriate about this. While most of the products developed by the ULC are developed as "uniform" acts that the ULC believes are best enacted in as uniform a manner as possible throughout the nation, this is by no means true of all measures. There is a second category of ULC products developed as "model" legislation with the realization that states are likely to enact only certain elements of that product. Perhaps the best known example of a model act is the Model State Administrative Procedure Act, which Hawaii has enacted as chapter 91, Hawaii Revised Statutes.

Thank you very much for the opportunity to testify in support of this measure.