



IMANAKA ASATO

A LIMITED LIABILITY LAW COMPANY

Topa Financial Center
Fort Street Tower
745 Fort Street Mall
17th Floor
Honolulu, HI 96813

February 27, 2016

T: 808.521.9500
F: 808.541.9050

Representative Angus L.K. McKelvey, Chair
Representative Justin H. Woodson, Vice Chair
Members of the House Committee on Consumer Protection & Commerce
Twenty-Eighth Legislature
Regular Session of 2016

RE: SB 1010, SD1, HD1 Relating to the Unauthorized Practice of Law
Hearing date: February 29, 2016 at 2:05 pm

Aloha Chair, Vice-Chair and Members of the Committee,

Thank you for allowing me to submit testimony on behalf of Soleil Management (“Soleil”) in **SUPPORT** of Senate Bill 1010, SD1, HD1 Relating to the Unauthorized Practice of Law. Soleil is a financial services, condominium association and vacation ownership resort management company providing a full spectrum of management services to customers in Hawaii. Soleil retains local Hawaii counsel for legal issues relating to Hawaii law. However, it is our experience that companies often forego this practice with detrimental results.

Due to Hawaii’s unique legal system, it is difficult for out-of-state attorneys to provide accurate legal advice to clients on issues of Hawaii law. Companies and individuals doing business in Hawaii often rely on national law firms to do a majority of their legal work even for issues dealing exclusively with Hawaii law. This is sometimes more convenient because the mainland firm may be familiar with the company’s business practices and strategy, the company may have a longstanding relationship with the firm, or simply be unfamiliar with any Hawaii licensed attorneys. As result, however, individuals and companies often receive erroneous counsel or attempt to sidestep HRS § 605-14 by retaining local counsel only to do a cursory review of the legal documents or simply to file the documents in Hawaii courts. This practice is harmful to these individuals and companies, and often results in substantial financial losses.

SB 1010, SD1, HD1 clarifies what constitutes the unauthorized practice of law and provides an avenue for out-of-state lawyers to assist their clients on issues of Hawaii law, with the proper advice and assistance of counsel licensed in Hawaii. Specifically, SB 1010, SD1, HD1 allows an attorney licensed in another U.S. jurisdiction to temporarily provide legal services if the attorney (1) associates with a Hawaii licensed attorney or (2) serves as in-house counsel to an organization. By revising HRS § 605-14, companies and individuals can take advantage of the familiarity mainland counsel may have with a company’s business practices and strategy, while properly associating Hawaii counsel to provide expertise on issues of Hawaii law.



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Representative Angus L.K. McKelvey, Chair
Representative Justin H. Woodson, Vice Chair
Members of the House Committee on Consumer
Protection & Commerce
March 3, 2016
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The revisions will also help the Attorney General and Hawaii State Bar Association in enforcing violations of the HRS § 605-14.

For these reasons, Soleil supports Senate Bill 1010, SD1, HD1. Mahalo for your consideration.

Sincerely,

IMANAKA ASATO LLC

Michael N. Iosua



The Judiciary, State of Hawaii

**Testimony to the
House Committee on Consumer Protection and Commerce**
Representative Angus L.K. McKelvey, Chair
Representative Justin Woodson, Vice Chair

Monday, February 29, 2016, 2:05 p.m.
State Capitol, Conference Room 325

By
Elizabeth Zack
Supreme Court Staff Attorney

BILL TITLE: Senate Bill No. 1010, S.D. 1, H.D. 1, Relating to the Unauthorized Practice of Law.

PURPOSE: Allows a person who is not licensed or authorized to practice law in the State to provide legal services on a temporary basis in this State if the attorney provides services in association with or assists a Hawai'i licensed attorney or an in-house counsel to an organization in another jurisdiction or to an affiliated entity or employee of that organization in the State. Requires the clerk of the supreme court to maintain a registry of all attorneys who are not licensed or authorized in the State, but provide services for a matter that is not being litigated in any court of the State. Makes conforming amendments to attorney licensure requirements.

JUDICIARY POSITION:

When this legislation was heard during the 2015 legislative session, the Judiciary submitted comments in opposition. The following supplements that testimony to update the legislature on the steps being taken by the supreme court to address this important matter.

As noted in our prior testimony, the supreme court established a working group to propose amendments to Rule 1.9 of the Rules of the Supreme Court of Hawai'i, which governs pro hac vice admission of out-of-state attorneys. The goal of the working group was to propose amendments that would more effectively regulate out-of-state attorneys who practice in Hawai'i courts. The working group offered several amendments, and after publishing the proposed



Senate Bill No. 1010, S.D. 1, H.D. 1, Relating to the Unauthorized
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amendments for public comment, the supreme court implemented the amendments, which became effective July 15, 2015.

After the first amendments were adopted, the supreme court looked further at the rule and is considering additional possible amendments to address other concerns raised in discussions on the issue, such as appearances by out-of-state counsel before administrative agencies. Before publishing additional amendments for public comment, the issue is being reviewed by the supreme court's Commission on Professionalism to determine whether further amendments are needed to address this matter.

Thank you for allowing the Judiciary to submit this supplemental testimony.