

DAVID Y. IGE  
GOVERNOR OF HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621  
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**SUZANNE D. CASE**  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

**KEKOA KALUHIWA**  
FIRST DEPUTY

**JEFFREY T. PEARSON P.E.**  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

**Testimony of  
SUZANNE D. CASE  
Chairperson**

**Before the House Committees on  
INTRASTATE COMMERCE  
and  
CONSUMER PROTECTION & COMMERCE**

**Monday, February 13, 2017  
2:30 P.M.  
State Capitol, Conference Room 329**

**In consideration of  
HOUSE BILL 403  
RELATING TO SECURITY INTERESTS IN REAL PROPERTY**

House Bill 403 proposes to authorize title insurers or underwritten title companies to execute the reassignment or release of mortgagee's security interest in leases and rents on behalf of the mortgagee or record assignee, under certain conditions and upon full satisfaction of the mortgage and discharge of the secured debt. **The Department of Land and Natural Resources supports this measure.**

Thank you for the opportunity to testify on this measure.



## Title Guaranty of Hawaii, Inc.

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LEGAL DEPARTMENT TEL: (808) 533-5842 • FAX: (808) 521-0287

February 9, 2017

The Honorable Representative Takashi Ohno, Chair  
The Honorable Representative Isaac W. Choy, Vice Chair  
Members of the House Committee On Intrastate Commerce

The Honorable Angus L. K. McKelvey, Chair  
The Honorable Linda Ichiyama, Vice Chair  
Members of the House Committee On Consumer Protection & Commerce

Conference Room 329, State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

Re: Hearing Date: Monday, February 13, 2017 at 2:30 p.m.  
Testimony IN SUPPORT of House Bill 403 Relating To Security Interests In Real Property

Dear Representative Ohno, Representative Choy, Representative McKelvey, Representative Ichiyama, and Members of the House Committee On Intrastate Commerce and the House Committee on Consumer Protection & Commerce:

Thank you very much for considering this testimony in support of House Bill 403. The important public purpose to be addressed by this bill is to clear the public records of assignments of leases and rents to a lender that remain of record after a loan is satisfied and paid.

In our experience, there are many instances where the parties will make sure to record a release of the mortgage when the loan is paid, but sometimes the loan is also secured by a security interest in leases and rents and the parties overlook the need to record a release/reassignment of that security interest. The result is that there are many of these recorded but unenforceable assignments that continue to be found in subsequent title searches involving the property.

Title companies currently have authority under Hawaii Revised Statutes Section 506-8 to institute a procedure for releasing a satisfied mortgage if the lender has failed to do so. However, there is no corresponding mechanism for clearing the public record of the assignments of leases and rents. House Bill 403 is designed to allow this.

The benefit to the public will be that title companies will be better able to facilitate clearing extraneous security interests from titles to real property, and will improve the processing of real estate transactions.

I respectfully request that your Committees vote in favor of the Bill, and I thank you again very much for your consideration.

Respectfully submitted,

Lorrin Hirano, Sr. Vice President



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The Honorable Representative Isaac W. Choy, Vice Chair  
Members of the House Committee On Intrastate Commerce

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Re: Hearing Date: Monday, February 13, 2017 at 2:30 p.m.  
Testimony IN SUPPORT of House Bill 403 Relating To  
Security Interests in Real Property

Dear Representative Ohno, Representative Choy, Representative McKelvey, Representative Ichiyama, and Members of the House Committee On Intrastate Commerce and the House Committee On Consumer Protection & Commerce:



In behalf of the (HLTA) Hawaii Land Title Association we support this measure because this would promote closing real estate transactions in a timely manner without any unforeseen and additional costs, and negative impact to the consumer. This Bill will primarily provide a simple remedy, or a "ways and means," industry wide to remove these security interests from the public records that are no longer enforceable, but continue to "cloud" the titles to real property. The benefit to the consumer ( And to the public) would surely outweigh any other alternatives, if any.


Thank you for this opportunity, and your time. And thank you for considering this testimony in support of House Bill 403.

Sincerely and Respectively,

Harry Kanehailua – HLTA President



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February 13, 2017

**The Honorable Takashi Ohno, Chair**  
House Committee on Intrastate Commerce

**The Honorable Angus L.K. McKelvey**  
Committee on Consumer Protection & Commerce  
State Capitol, Room 329  
Honolulu, Hawaii 96813

**RE: H.B. 403, Relating to Security Interests in Real Property**

**HEARING: Monday, February 13, 2017, at 2:30 p.m.**

Aloha Chair Ohno, Chair McKelvey, and Members of the Committee.

I am Myoung Oh, Director of Government Affairs, here to testify on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its 9,000 members. HAR **supports** H.B. 403, which:

1. Requires a mortgagee or record assignee to provide to a mortgagor or borrower, upon full satisfaction of the mortgage and discharge of the secured debt, a reassignment or release of security interests in leases and rents that served as additional security for the mortgage;
2. Authorizes title insurers or underwritten title companies to make demands on mortgagees and, in the absence of compliance, to reassign or release mortgagees' security interests in leases and rents on behalf of the mortgagee or record assignee, under certain conditions; and
3. Authorizes certain entities to institute an action in any circuit court to obtain the release or reassignment instrument in the absence of compliance of a mortgagee or record assignee.

HAR believes that title companies currently have authority under Hawaii Revised Statutes Section 506-8 to institute a procedure for recording a release of a satisfied mortgage; however, there is no corresponding mechanism for clearing the public record of unreleased mortgages.

The benefit to the public will be that unenforceable assignments will no longer to exist in public record to ensure clean title to real estate.

Mahalo for the opportunity to testify.



# HAWAII FINANCIAL SERVICES ASSOCIATION

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

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Honolulu, Hawaii 96812-4109

Telephone No.: (808) 521-8521

February 13, 2017

Rep. Takashi Ohno, Chair; Rep. Isaac W. Choy, Vice Chair; and members of the  
House Committee on Intrastate Commerce  
Rep. Angus L.K. McKelvey, Chair; Rep. Linda Ichiyama, Vice Chair; and members of the  
House Committee on Consumer Protection & Commerce  
Hawaii State Capitol  
Honolulu, Hawaii 96813

Re: **H.B. 403 (Security Interests in Real Property)**  
**Hearing Date/Time: Monday, February 13, 2017, 2:30 p.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 **supports the intent** of this Bill.

This Bill: (a) requires a mortgagee or record assignee to provide to a mortgagor or borrower, upon full satisfaction of the mortgage and discharge of the secured debt, a reassignment or release of security interests in leases and rents that served as additional security for the mortgage; (b) authorizes title insurers or underwritten title companies to make demands on mortgagees and, in the absence of compliance, to reassign or release mortgagees' security interests in leases and rents on behalf of the mortgagee or record assignee, under certain conditions; and (c) authorizes certain entities to institute an action in any circuit court to obtain the release or reassignment instrument in the absence of compliance of a mortgagee or record assignee.

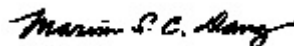
Lenders sometimes secure a loan to a borrower with an assignment of the borrower's rights in leases and rents involving a real property. That assignment would then be recorded in the Bureau of Conveyances and/or in the Office of the Assistant Registrar of the Land Court. When the loan is later paid off, there are instances when a release or a reassignment of the security interest in the leases and rents is not recorded. At that point, even though the assignment is unenforceable when the loan is paid off, the assignment stays on the public record at the Bureau and/or Land Court and affects that real property.

Currently, if a mortgage loan is paid off, but a release of the mortgage isn’t recorded, title insurers and underwritten title companies are authorized under Hawaii Revised Statutes Sec. 506-8 to sign and record a release of the mortgage under certain limited circumstances.

But there is no statutory provision for title insurers and underwritten title companies to sign and record a release or reassignment of the security interest in the leases and rents when the loan is paid off.

This Bill would amend HRS Sec. 506-8 to enable title insurers and underwritten title companies to do that. Unenforceable assignments will then be released from the public record.

We ask that your Committee pass this Bill. Thank you for considering our testimony.



MARVIN S.C. DANG

Attorney for Hawaii Financial Services Association