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TESTIMONY RE: HB 717 – Notaries Public; Limited Purpose Driver’s License

COMMITTEE: HOUSE COMMITTEE ON JUDICIARY

TESTIFIER: WRITTEN AND ORAL COMMENTS

Cheryl Kaster, President, at 348-1892

Mary A. Olson, Treasurer

Chair Nishimoto and Committee Members:

Under current Hawaii law, Notaries Public must accept the Limited Purpose Driver’s License (“LPDL”) as identification for notarization. The Association of Hawaii Notaries (the “Association”) requested the introduction of this bill for the protection of consumers of Hawaii Notarial services here and in other states and countries, of Hawaii Notaries, themselves, and ultimately the integrity of the notarial process in Hawaii.

Notaries Public are public officers. The Notarial Acts we perform are official acts, our signatures are official signatures, our seal is an official seal, and yet our law requires that we accept I.D. that does not comply with federal standards and cannot be used to board a plane, or vote.

The Association’s position is that if the LPDL is not acceptable federal identification, why should Notaries Public, whose duty it is to protect a transaction from fraud, be required to accept the LPDL for notarization?

The Association is not suggesting that those who possess an LPDL are more likely to commit fraud. What we ARE suggesting is that by failing to comply with requirements of the REAL ID Act, there is an increased potential for the use of fraudulent documentation to obtain that I.D.

Without this amendment to HRS 456-20, the National Notary Association, the Attorney General's Notary Office, and Hawaii Law (*HRS 502-48; HAR 5-11-7*) require that we accept the LPDL for notarization because it is 1) government-issued, 2) with a picture, and 3) a signature, and if it has an expiration date it must be current.

Before creation and implementation of the LPDL, a Hawaii driver's license carried with it an understanding there was a reasonable, even more than reasonable, some would say, standard of proof of the holder's identity. Because the standard for issuing the LPDL is below that same federal standard required for a regular driver's license, how can we, as Notaries, dependent upon that license to identify the signer, be reasonably confident of the holder's identity for the purpose of notarization?

Countless transactional documents are done every day that originate here or in another state or country. Once notarized, many are then then sent back across state lines, and sometimes even internationally. Is it reasonable to ask other states and countries to accept the notarization from Hawaii when that I.D. may not meet the minimum federal standard?