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PRESENTATION OF
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
REGULATED INDUSTRIES COMPLAINTS OFFICE

TO THE HOUSE COMMITTEE
ON INTRASTATE COMMERCE

TWENTY-NINTH LEGISLATURE
Regular Session of 2018

Wednesday, January 31, 2018
11:00 a.m.

TESTIMONY ON HOUSE BILL NO. 2571, RELATING TO GUARDS.

TO THE HONORABLE TAKASHI OHNO, CHAIR, AND MEMBERS OF THE
COMMITTEE:

The Department of Commerce and Consumer Affairs (“Department”) appreciates the opportunity to testify on H.B. 2571, Relating to Guards. My name is Daria Loy-Goto, and I am the Complaints and Enforcement Officer for the Department’s Regulated Industries Complaints Office (“RICO”). As the agency charged with enforcing the State’s licensing laws, including private investigator and guard law, RICO is concerned this bill poses practical enforcement challenges that will complicate enforcement of unlicensed guard activity. As such, RICO offers the following comments relating to enforcement.

H.B. 2571 creates a category under Hawaii Revised Statutes (“HRS”) chapter 463 called “watchperson.” A watchperson is an unregistered person who is responsible only for the safekeeping of a client’s real property within contractually prescribed boundaries and for observation and reporting relative to such safekeeping. This definition is narrower than the current definition of a guard, who can also safekeep personal property and persons in addition to real property.

This bill permits an individual who is not registered as a guard to be hired as a watchperson upon the submission of information to the Board of Private Detectives and Guards (“Board”) by the individual’s employer. The bill permits individuals to act as watchpersons for sixty days from the date they are hired **provided that** they fulfill the requirements for licensure within the sixty day period.

The bill further provides that upon the Board’s determination that the individual has satisfied the documentation requirements, the individual’s status shall be changed from watchperson to guard.

The law appears to require the individual seeking to act as a watchperson to provide specific documentation within sixty days of being hired as a watchperson. It is unclear from the bill what consequences result if an individual fails to fulfill the documentation requirements. As currently drafted, the bill could be interpreted to retroactively nullify the individual’s ability to act as a watchperson. The bill also does not limit the number of times an individual may claim the exemption.

In addition, it is unclear how RICO would readily confirm an individual has submitted required documentation and is acting as a verified watchperson. Relying

on an employer's records in this area would be time-consuming and require independent verification.

While RICO recognizes market factors are driving an interest in permitting unregistered activity to occur, the watchperson exemption as proposed in this bill should be approached with caution, to ensure RICO's enforcement efforts in the area are not negatively affected.

RICO otherwise defers to the Board on the issue of whether this bill furthers the interests of the public.

Thank you for the opportunity to testify on H.B. 2571. I will be happy to answer any questions the Committee may have.

LATE

**PRESENTATION OF THE
BOARD OF PRIVATE DETECTIVE AND GUARDS**

TO THE HOUSE COMMITTEE ON
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TO THE HONORABLE TAKASHI OHNO, CHAIR, AND MEMBERS OF THE COMMITTEE:

My name is Kenneth Chang, and I am the Applications Chairperson of the Board of Private Detectives and Guards (“Board”). Thank you for the opportunity to testify on H.B. 2571. The board opposes this measure.

This measure proposes to create a subcategory of security guards called “watchpersons” who are allowed to be unregistered for sixty days but must meet all of the requirements of a guard to continue working in a guard capacity after the sixty-day period. As written, this measure will allow “watchpersons” to act as guards without first being vetted by the Board to determine that all statutory requirements have been met, including the criminal history background check. Since the availability of its online application process in May 2016, the Board has observed that performing criminal record checks on each applicant prior to Board approval and issuance of a license is one of the most important and most informative steps in the application process, often revealing essential criminal conviction information about an applicant. Without having the checks performed prior to an applicant working, the Board is concerned about the potential harm to the public if unfit guard applicants were allowed to work without first being vetted.

If the bill’s intent is to narrowly define “watchpersons” duties, the definition in section 2 of the bill would need to provide additional guidance as to the scope and nature of allowable activity.

The Board is also concerned about the potential regulatory precedent the provisions in this measure, if passed, would set for professional licensing. For example, the Board is concerned about the impracticality of requiring monitoring and determining whether an applicant has met the requirements within sixty days from the individual's date of hire. No other licensed profession allows an individual to engage in the practice without first having been vetted by the Board or Program. Further, the Board is concerned that members of the public will be unable to distinguish between a "watchperson" and a guard.

The Board would like to note that the Department of Commerce and Consumer Affairs ("DCCA") continues to work hard at addressing the concerns of the security guard industry concerning the regulatory process, including making process improvements to cut down application processing times and ensuring that resources and personnel are dedicated to keep any backlogs minimal. DCCA remains open to continuing to work with the industry and other stakeholders to find improvements that would make the licensure process less onerous, while still leaving adequate public safeguards in place.

Thank you for the opportunity to testify on H.B. 2571.



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H.B. No. 2571
Hearing on January 31st, 2018 at 11:00 a.m.

State of Hawaii House of Representatives
Committee on Intrastate Commerce
State Capitol
415 South Beretania Street
Honolulu, HI 96813

Due to market demand, Jan-Guard Hawaii has paid out hundreds of thousands of dollars in overtime over this past year alone, due to our inability to keep up with market demands for personnel acting in a guard capacity. Currently, applicants must wait 2-4 weeks before obtaining their guard card and being allowed to work. During this time period, applicants are often forced to find other jobs, limiting or eliminating their ability to work for us. Many of our current and prospective clients have voiced frustration with our inability to provide service, due to a lack of certified guards. We are seeking means to move forward with hiring, and we believe House Bill 2571 will assist with this. Jan-Guard Hawaii is in favor of House Bill 2571, providing it is amended to require training according to the ACT 208, and to require the FBI Field Print fingerprint, or comparable background check before applicants are granted the status of watchperson. This will allow security companies to utilize trained and vetted watchpersons to help meet the market demand for 60 days, or until they receive the status of guard from the DCCA.

On behalf of Jan-Guard Hawaii,

Dannielle Vierra
General Manager
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Jan-Guard Hawaii is in favor of House Bill No. 2571, and would like to propose an amendment to include language ensuring that along with the already defined requirements, all classroom training as pursuant to ACT 208 is mandatory before a guard company employee receives the status of watchperson as described in House Bill No. 2571. This amendment should also require a fingerprint through an FBI Field Print, or comparable background check before granting the status of watchperson. After these items have been submitted to the Department of Commerce and Consumer Affairs, the employee will be "Activated" and granted the status of watchperson as described in House Bill No. 2571 for 60 days, or until the status is changed to licensed guard.

On behalf of Jan-Guard Hawaii,

Frank Commendador
President and Owner
Jan-Guard Hawaii Inc.