

DAVID Y. IGE
GOVERNOR

JOSH GREEN
LT. GOVERNOR

**STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

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Testimony of the Department of Commerce and Consumer Affairs

**Before the
Senate Committee on Judiciary
Tuesday, June 30, 2020
9:46 a.m.
State Capitol, Conference Room 016**

**On the following measure:
H.B. 2317, H.D. 2, S.D. 1, RELATING TO SECURITIES**

WRITTEN TESTIMONY ONLY

Chair Rhoads and Members of the Committee:

My name is Ty Nohara, and I am the Commissioner of Securities of the Department of Commerce and Consumer Affairs' (DCCA or Department) Business Registration Division. The Department supports this administration bill.

The purpose of this bill is to protect elders and vulnerable adults from financial exploitation in relation to securities. S.D. 1 represents consensus language between the DCCA, the Securities Industry Association of Hawaii, the Securities Industry and Financial Markets Association, the Executive Office on Aging, the Department of Human Services' Adult Protective and Community Services Branch, and the National Association of Insurance Agents and Financial Advisors of Hawaii.

This bill allows a qualified person to report to the Commissioner of Securities upon a reasonable belief of suspected financial exploitation and authorizes the qualified person to notify an individual reasonably associated with the elder, the vulnerable adult,

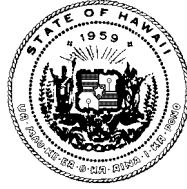
or the account, or any third party previously designated by the vulnerable adult, of the suspected financial exploitation. It also allows qualified persons to share records with the Commissioner of Securities, the Department of Human Services, or law enforcement in connection with any investigation of financial exploitation of an elder or a vulnerable adult and authorizes the temporary delay of a disbursement or a transaction from an account if financial exploitation of an elder or a vulnerable adult is suspected.

In addition, this bill provides immunity from civil or administrative liability to qualified persons who report suspected financial exploitation and delay disbursements in good faith and while exercising reasonable care. Consequently, this bill addresses existing privacy rules and concerns about potential legal exposure to liability that may make it difficult for securities professionals to contact regulators and other government authorities to report suspected financial exploitation.

This bill is especially critical during this time, as financial exploitation of the elderly and vulnerable adults has steadily increased during the COVID-19 pandemic. The financial consequences for those who fall victim to financial exploitation are often devastating and irreparable.

Thank you for the opportunity to testify, and we respectfully ask the Committee to pass this administration bill.

DAVID Y. IGE
GOVERNOR



PANKAJ BHANOT
DIRECTOR

CATHY BETTS
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES

P. O. Box 339
Honolulu, Hawaii 96809-0339

June 29, 2020

LATE

TO: The Honorable Karl Rhoads, Chair
Senate Committee on Judiciary

FROM: Pankaj Bhanot, Director

SUBJECT: **HB 2317 HD2 SD1 - RELATING TO SECURITIES**

Hearing: June 30, 2020, 9:46 a.m.
Conference Room 016, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) appreciates the amendments of the Senate Committee on Commerce, Consumer Protection, and Health and supports this bill.

PURPOSE: The purpose of this measure is to protect elders and vulnerable adults from financial exploitation in relation to securities. Effective upon its approval. (HD2 SD1)

DHS appreciates the efforts of the Legislature to strengthen efforts to address financial exploitation of elders and vulnerable adults; this measure is one step to building a more collaborative response. In the future, DHS does anticipate requiring more human resources and funding to address the demands of increasing numbers of investigations.

Thank you for the opportunity to provide testimony on this bill.

OFFICE OF INFORMATION PRACTICES

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To: Senate Committee on Judiciary

From: Cheryl Kakazu Park, Director

Date: June 30, 2020, 9:46 a.m.
State Capitol, Conference Room 016

Re: Testimony on H.B. No. 2317, H.D. 2, S.D. 1
Relating to Securities

Thank you for the opportunity to submit testimony on this bill, which would allow financial service providers to report suspected financial exploitation of vulnerable adults. The Office of Information Practices (OIP) had a concern regarding the proposed S.D. 1 version of this bill, but the S.D. 1 version of this bill as passed resolved that issue and OIP has no further concerns regarding this bill.

HB-2317-SD-1

Submitted on: 6/28/2020 10:55:21 AM

Testimony for JDC on 6/30/2020 9:46:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Tony Goodrum	Testifying for Securities Industry Association of Hawaii	Support	No

Comments:

The Securities Industry Association of Hawaii strongly supports the DCCA position of mandatory reporting regarding suspected elder financial abuse. For the vast majority of our firms, that is policy already and it would help tremendously if this were codified in the statute.



June 26, 2020

The Honorable Karl Rhoads, Chair
The Honorable Jarrett Keohokalole, Vice Chair
Senate Judiciary Committee
Hawaii State Capitol
415 South Beretania St.
Honolulu, HI 96813

RE: Support of HB 2317 HD 2 SD 1

Dear Chair Rhoads, Vice Chair Keohokalole, and Members of the Senate Judiciary Committee:

The Securities Industry and Financial Markets Association (“SIFMA”)¹ is a national trade association representing over 350 large, medium and small broker-dealers, investment banks and asset managers, many of whom have a strong presence in Hawaii. In fact, more than 16,000 people in the state work in the finance and insurance industries, 1,000 of them work at securities firms, and 5 broker-dealer main offices call Hawaii home.

SIFMA is proud to be a vocal advocate in the fight against senior financial exploitation. Among other things, SIFMA has worked to educate policymakers and the general public on the need for increased senior protections and founded a large working group for member firms to share ideas and best practices. SIFMA has also worked with federal and state legislatures and regulators on various “Report and Hold” proposals that would allow reporting firms to place temporary holds on suspicious transactions and/or disbursements. Such laws are now in place in 29 states, and the Financial Industry Regulatory Authority (the industry’s national regulator) has had similar rules in effect for over two years.²

We are writing today in strong support of HB 2317 HD 2 SD 1. Americans lose approximately \$2.9 billion annually in media-reported cases of financial exploitation.³ Sadly, these numbers are quite low as it is estimated that only 1 out of every 44 instances of financial abuse is reported to the authorities, much less in the media.⁴ Moreover, the devastating impact of abuse is not just economic. Financial exploitation can result in a loss of independence, a reduced quality of life and even death.⁵

¹ SIFMA is the leading trade association for broker-dealers, investment banks and asset managers operating in the U.S. and global capital markets. On behalf of our industry's nearly 1 million employees, we advocate for legislation, regulation and business policy, affecting retail and institutional investors, equity and fixed income markets and related products and services. We serve as an industry coordinating body to promote fair and orderly markets, informed regulatory compliance, and efficient market operations and resiliency. We also provide a forum for industry policy and professional development. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association (GFMA). For more information, visit <http://www.sifma.org>.

² Financial Industry Regulatory Authority Rule [2165](#).

³ MetLife Study of Elder Financial Abuse: Crimes of Occasion, Desperation, and Predation Against America’s Elders (2011).

⁴ National Adult Protective Services Association, “Elder Financial Exploitation,” available at: <https://www.napsa-now.org/get-informed/exploitation-resources/>.

⁵ Burnett, Jason, “Elder Financial Exploitation: More than Just Financial [Loss](#),” SIFMA, February 2019.

HB 2317 HD 2 SD 1 helps protect investors in a variety of ways. It provides firms that suspect exploitation with a reporting pathway to the Securities Division which can then investigate the financial exploitation. It also permits firms to notify third parties reasonably associated with the vulnerable adult of the suspected exploitation so that they can be aware of and assist in stopping the suspected abuse. Perhaps most importantly, HB 2317 HD 2 SD 1 would give firms the ability to place a temporary hold on suspicious transactions or disbursements while the suspected exploitation is being investigated - so that the investor is not irreparably harmed before the investigation is completed.

We believe HB 2317 HD 2 SD 1 is a fair and balanced tool that will help curb both the economic and psychological damage associated with financial exploitation. We thank you both for your commitment to assisting vulnerable adults and for your willingness to consider our views.

Please do not hesitate to contact me at 202-962-7411 with any questions.

Sincerely,

A handwritten signature in black ink that reads "Kim Chamberlain". The signature is written in a cursive, flowing style.

Kim Chamberlain
Managing Director and Associate General Counsel
State Government Affairs



Senate Committee on Judiciary
June 30, 2020 – 9:46 am

House Bill 2317, HD2, SD1: Relating to Securities

Chair Rhoads and Vice Chair Keohokalole, NAIFA Hawaii is an organization of life insurance agents and financial advisors throughout Hawaii who primarily market life, annuity, long term care and disability income insurance products.

HB 2317, HD2, SD1, adds a new section to Chapter 485A, HRS – “Protection of Vulnerable Adults From Financial Exploitation”. We support the efforts to protect seniors and/or vulnerable persons from financial exploitation.

We want to limit our comments to Section 485A-B as it appeared in initial HB 2317 to request an important amendment to HB 2317, HD2, SD1.

To ensure that seniors are protected a number of states have enacted or are considering model legislation from the National Association of State Securities Administrators (NASSA) that requires financial advisors and their firms to report suspected financial exploitation of a senior client to authorities. It also provides advisers and firms with immunity from liability for taking steps to protect their clients’ financial assets.

We, however, request that an amendment be made on page 3, line 8 – Section 485A-B, changing the word “may” to “shall notify the commissioner in a timely manner”.

When HB 2317 was initially heard in the House Human Service & Homelessness Committee, we asked the Committee to change “shall notify the commissioner” to “may”, which was done in HB 2317, HD1. After conferring with the Office of the Commissioner of Securities when the measure was moved to the House’s CPC and JUD committees, we agreed to mandatory (shall) rather than discretionary (may) reporting in Section 485A-B (see testimony of the Office of Commissioner of Securities for “proposed HD2”). We failed to note the change in Section 485A-B in our testimony to the House’s CPC, JUD, and Finance Committees, that was an **unintended** omission. We should have included that change.

We realized after the Senate CPH standing committee report 3679 and HB 2317, HD2, SD1, were posted on Friday, that our initial request for “may” was never changed to “shall” in 485A-B as the measure moved forward.

We fully support the mandatory reporting and urge you to support our amendment for mandatory reporting. The measure allows for advisors and firms to have flexibility in disbursements/transactions when reviewing suspicious transactions leading to actual financial exploitation which is a good balance for consumer protection.

Mahalo for allowing us to testify and offer our amendment.

Cynthia Takenaka, Legislative Director

LATE

HB-2317-SD-1

Submitted on: 6/29/2020 3:17:32 PM

Testimony for JDC on 6/30/2020 9:46:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Danielle Bergan	Individual	Support	No

Comments:

Short and sweet. Our Kupuna are our beloved and need to be protected. Please pass this bill!

Danielle Bergan