

LATE

TESTIMONY OF ROBERT TOYOFUKU ON BEHALF OF THE HAWAII ASSOCIATION FOR JUSTICE (HAJ) IN OPPOSITION TO H.B. NO. 2497

DATE: Monday, February 10, 2014

TIME: 2:45 pm

To: Chairman Angus McKelvey and Members of the House Committee on Consumer Protection and Commerce:

My name is Bob Toyofuku and I am presenting this testimony on behalf of the Hawaii Association for Justice (HAJ) in OPPOSITION to H.B. No. 2497, Relating to Liability:

HAJ is opposed to this bill because of its vagueness and the fact that it could immunize the successor corporation from any tort suit that has been filed or has not yet been filed against the predecessor corporation. Although the bill provides that the successor corporation may be held liable if the purpose is to escape debt liability it requires proof by clear and convincing evidence which is the highest degree of proof and very difficult to show. This puts too much of a burden on third parties who may have a claim against the predecessor as well as the successor corporation.

It is not clear whether the problem this measure seeks to address has anything to do with tort liability. The laws relating to tort liability for successor corporations are already established. It is requested that this measure, if it is to move forward, be amended to state: "This section does not apply to any liability based in tort."

Further although there is a savings clause that may protect certain rights, HAJ questions the need for this bill and reiterates its opposition.

Thank you for the opportunity to testify on this measure. Please feel free to contact me should there be any questions.

LATE



Representative Angus McKelvey, Chair
Representative Derek Kawakami, Vice Chair
Committee on Consumer Protection and Commerce

HEARING Monday, February 10, 2014
 2:45 pm.
 Conference Room 325
 State Capitol, Honolulu, HI

RE **HB2497 Relating to Corporate Successor Liability; Eliminated; Exceptions**

Chair McKelvey, Vice Chair Kawakami, and Members of CPC Committee:

Retail Merchants of Hawaii (RMH) is a not-for-profit trade organization representing 200 members and over 2,000 storefronts, and is committed to support the retail industry and business in general in Hawaii. The retail industry is one of the largest employers in the state, employing 25% of the labor force.

RMH supports HB2497, which eliminates corporate successor liability except under specific conditions.

The retail industry has experienced slow but steady growth over the past year or so, with existing companies opening new locations and new retailers entering the marketplace. We believe it would be prudent to protect successor corporations in order to eliminate corporate successor liability issues.

Our economy remains vulnerable. Our focus should be on stabilizing our businesses so as to enable increasing employment and hastening recovery.

We urge your passing of HB2497. Thank you for your consideration and for the opportunity to comment on this measure.

Sheri Sakamoto

Sheri Sakamoto, President

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