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Testimony of the Department of Commerce and Consumer Affairs

Before the
Senate Committee on Commerce and Consumer Protection
Tuesday, February 4, 2025
9:35 a.m.

On the following measure:
S.B. 606, RELATING TO THE DEPARTMENT OF COMMERCE AND
CONSUMER AFFAIRS

Chair Keohokalole and Members of the Committee:

My name is Nadine Ando, and I am the Director of the Department of Commerce and Consumer Affairs (Department). The Department offers comments on this bill.

S.B. 606 seeks to amend section 26-9 of the Hawaii Revised Statutes (HRS) by requiring: (1) the Director of the Department to make all business registration applications available online, and (2) all applications to contain the name and contact information, including the phone number, electronic mail address, and mailing address, of the registering entity.

1. As an initial matter, HRS Chapter 26 sets forth the general organization of the State of Hawaii's executive and administrative departments, which include the Department. To this end, HRS section 26-9 describes generally the Department's purpose, structure, and organization, as well as the authority and duties of the Director and her appointees. Therefore, the bill's proposed amendments to HRS section 26-9, in specifically discussing the subject of business registration applications, and the information to include in applications, appear misplaced.

2. The Department's Business Registration Division (BREG) currently provides a wide variety of forms to the public to register a business entity in the State's business registry. Nearly all of BREG's forms, including business registration forms, are on its website for the public to use and review, and thus are already available online. BREG expects to make available online by February 7, 2025 those few remaining forms that are not currently on its website.

3. Clarification is needed as to (a) what is meant by making "all business registration applications available online"; (b) whether this language applies to the blank forms that are already available online, and/or the completed forms that an entity files with BREG; (c) whether the actual filed document must be uploaded to BREG's website¹; and (d) whether providing the information required by this bill on BREG's website, in lieu of the actual filed document, is sufficient.

4. Given that the HRS does not require business entities to file business registration applications, clarification is also needed as to what is meant by the term "applications," and whether a business entity must provide the information required by this bill only in its filings with BREG, or in all its filings with any division within the Department as covered under HRS Chapter 26.

5. The Department also has the following concerns:

(a) The HRS sets forth the specific information required of each business entity that registers with BREG, and consequently, the various HRS chapters pertaining to each business entity must also be amended to allow for the collection of the additional information proposed by this bill;

(b) The Department may violate personal privacy interests by making "available online" certain contact information that otherwise would be protected from disclosure to the public, such as the personal information of certain public servants which are protected under Act 187 (2024 Legislature)²; and

¹ BREG's website contains a portal known as "Hawaii Business Express," which provides online users with: (1) the ability to search for a business entity by name to determine whether the entity exists, and (2) basic information regarding that business entity.

² Act 187, entitled *Restrictions on Publication of Certain Public Servants' Personal Information*, became effective on October 1, 2024, and restricts publication of the protected personal information of a number of public servants, including members of the Legislature.

(c) The Department cannot ensure that such contact information, once made “available online,” will only be used in a manner that is consistent with the conditions or reasonable expectations of use and disclosure under which the business entity provided such information to BREG.

Thank you for the opportunity to testify on this bill.