



**STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

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January 28, 2009

To: The Honorable Karl Rhoads, Chair
and Members of the House Committee on Labor & Public Employment

Date: Friday, January 30, 2009

Time: 8:30 a.m.

Place: Conference Room 309
State Capitol

From: Darwin L.D. Ching, Director
Department of Labor and Industrial Relations

Re: H.B. 479 Relating to Employment

I. OVERVIEW OF PROPOSED LEGISLATION

H.B. 479 proposes to amend Act 5, First Special Session Laws of Hawaii 2007, by adding a section to require a report on the effectiveness of Act 5. The report shall include date on:

1. the number of businesses that came under the scope of the Act;
2. the number of businesses that complied with the law;
3. the number of businesses penalized for noncompliance; and
4. the fiscal impact of the Act.

II. CURRENT LAW

Chapter 394B, HRS, provides employment and training assistance for workers who were faced with termination due to a sudden closure or partial closing as a result of a sale, transfer, merger, bankruptcy or other business transactions. Act 5 amended the law by adding the definition of "divestiture"; amending the definition of "closing", including penalties for non-compliance; and allowing for an extension of the notification period under certain circumstances.

III. HOUSE BILL

The Department of Labor and Industrial Relations supports this bill for the following reasons:

1. The Department finds that a report on the effectiveness of Act 5 to the Legislature would demonstrate some of the Act's inherent problems.
2. Although Act 5 intends to protect employees from the effects of unexpected and sudden layoffs or terminations, the Department believes that it actually results in earlier business closures and less monetary benefit for the employee. This happens when financial institutions stop extending credit or refuse to grant loans to businesses after they post a public notice of impending closure pursuant to Act 5.
3. Act 5 does provide a notice requirement exemption to owners actively seeking a buyer for their business, but fails to provide a similar exemption for an owner actively renegotiating a lease, seeking refinancing, seeking additional credit, or making other last minute efforts to save a business that is in imminent danger of closure. This creates a situation whereby the owner's efforts to reconstitute their business are undermined by Act 5.

The Twenty-Fifth Legislature
Regular Session of 2009

HOUSE OF REPRESENTATIVES
Committee on Labor and Public Employment
Rep. Karl Rhoads, Chair
Rep. Kyle T. Yamashita, Vice Chair

State Capitol, Conference Room 309
Friday, January 30, 2009; 8:30 a.m.

**STATEMENT OF THE ILWU LOCAL 142 ON H.B. 479
RELATING TO EMPLOYMENT**

The ILWU Local 142 is opposed to H.B. 479, which amends Act 5, First Special Session Laws 2007. Act 5 amended the Dislocated Worker Law to include under the definition of "divestiture" the "transfer of any covered establishment from one employer to another because of the sale, transfer, merger, bankruptcy, or other business takeover or transaction of business interests that causes the covered establishment's employees to become dislocated workers." Act 5 also provides that notice of a proposed sale is not required until the employer has entered into a binding agreement for the sale, transfer, or merger.

We do not see the need for this legislation. Act 5 has not been in place long enough to assess its impact on businesses and workers.

The ILWU urges that H.B. 479 be shelved. Thank you for the opportunity to provide testimony on this measure.



Representative Karl Rhoads, Chair
Representative Kyle Yamashita, Vice Chair
Committee on Labor & Public Employment
State Capitol, Honolulu, Hawaii 96813

HEARING Friday, January 29, 2009
 8:30 am
 Conference Room 309

RE: HB479, Relating to Employment

Chair Rhoads, Vice Chair Yamashita, and Members of the 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.

RMH supports HB479, which amends Act 5, First Special Session Laws 2007.

Act 5 created yet another hurdle for a business owner attempting to divest, sell or transfer that business operation, and imposed considerable penalties for violation. HB 479 provides a mechanism for accountability and a measurement of relevance of government regulations.

The members of the Retail Merchants of Hawaii respectfully request that you pass HB479 out of committee. Thank you for your consideration and for the opportunity to comment on this measure.

A handwritten signature in cursive script, appearing to read 'Carol Prejile'.

President

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