



**TESTIMONY OF THE STATE ATTORNEY GENERAL
TWENTY-FIFTH LEGISLATURE, 2009**

ON THE FOLLOWING MEASURE:

S.B. NO. 1349, S.D. 1, RELATING TO NOTARIES PUBLIC.

BEFORE THE:

HOUSE COMMITTEES ON JUDICIARY AND ON CONSUMER PROTECTION & COMMERCE

DATE: Friday, April 3, 2009 **TIME:** 3:00 PM

LOCATION: State Capitol, Room 325

TESTIFIER(S): Mark J. Bennett, Attorney General,
or Shari Wong, Deputy Attorney General

Chairs Karamatsu and Herkes and Members of the Committees:

The Department of the Attorney General supports this measure.

The purpose of this bill is to improve the regulation of notaries by: (1) clarifying which types of changes may be made to a document after notarization; (2) clarifying how a notarized document may be altered by ratification of all parties to the document before the document is submitted to a third party or public servant, or before a third party or public servant is invited to rely upon the document; and (3) requiring a notary public to include the notary public's commission number on the notary public's stamp or seal.

The Department recognizes that the processes of recording documents at the bureau of conveyances or land court may require information to be corrected or added to a document after it has been notarized. Thus, the Department supports the clarification of sections 710-1069 and 710-69.5, Hawaii Revised Statutes. Similarly, the Department understands that documents may need to be altered after notarization and has no objection to such alteration so long as all parties to the document ratify the alteration before the document is submitted to a third party or public servant, or before a third party or public servant is invited to rely upon the document.

The Department also strongly supports section 2 of this bill, which requires a notary public to include the notary public's commission number on the notary public's stamp or seal. This requirement will help to deter the fraudulent use of notary stamps or seals in that the commission number can be used to quickly ascertain whether the notary public was properly commissioned in this State.

In addition, notarized documents are frequently copied numerous times so that subsequent generations of the originals are blurry or difficult to read. Given the sometimes small size of notary stamps or seals, the names of the notaries public are difficult to read or ascertain. Names are often similar. The additional identifying information of the commission number is unique and will assist in ascertaining the correct notary public.

In other instances, a notary public may marry or change the notary public's name. Because the commission number is unique, our office will be able to better track the notary public, regardless of change in name or marital status.

Lastly, commission numbers are assigned to notaries public according to the year in which they are commissioned. Thus, the inclusion of this identifying number on a notary public's stamp or seal may help in locating that notary public's record books.

Several other states, such as California, Oregon, and New York, similarly require the commission number on the notary public's stamp or seal.

We respectfully urge passage of this bill.



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April 2, 2009

Via Email: JUDTestimony@Capitol.hawaii.gov

The Honorable Jon Riki Karamatsu, Chair
The Honorable Ken Ito, Vice Chair
Members of The House Committee On Judiciary
415 South Beretania Street, Conference Room 325
Honolulu, Hawaii 96813

The Honorable Robert N. Herkes, Chair
The Honorable Glenn Wakai, Vice Chair
Members of The House Committee On Consumer Protection and Commerce
415 South Beretania Street, Conference Room 325
Honolulu, Hawaii 96813

Re: Senate Bill 1349, SD1 Relating to Notaries Public
Hearing Date: April 3, 2009
Hearing Time: 3:00 p.m.

Dear Representatives Karamatsu, Ito, Herkes, and Wakai, and Members of the House Committees on Judiciary and Consumer Protection and Commerce:

I am writing in support of Senate Bill 1349 Relating to Notaries Public. We very much appreciate the consideration being given by the Committees.

Act 175 of the 2008 Regular Session of the Legislature had the admirable purpose of targeting fraud with respect to notarized documents. We agree with and support the philosophy behind that law.

The processing of real estate transactions involves the coordination of many moving parts. Documenting the transaction requires the participation of many different parties, attorneys, lenders, escrow, title insurance, and other real estate professionals, some of whom may be located in other states and countries. Moreover and ultimately, the documents must be acceptable to the bureau of conveyances and the office of the assistant registrar of the Land Court.

Circumstances often require that transaction documents be signed and notarized before the date of closing is determined, and the parties therefore leave the document undated at the time of signing. Many documents require the insertion of recording information to be supplied by the bureau of conveyances. This information must be filled

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in at the time of closing, but this necessarily must occur after the document has been signed and notarized. Other times, there are inadvertent typographical errors that are later detected and must be corrected in order for the documents to be acceptable for recording, or updated pages and exhibits must be inserted. When this happens and there is insufficient time to return the documents to the parties for re-signing, costly delays may occur.

The purpose of Senate Bill 1349, SD1 is to provide a practical way for the parties to conform their transaction documents to the form which they intend them to be without the specter of a criminal sanction against them. It allows the parties to ratify a correction or a change that may be necessitated by their agreement or by a requirement of the bureau of conveyances or the Land Court. The bill will greatly facilitate the processing of real estate transactions without adversely affecting the intent of last year's Act 175.

The second part of Senate Bill 1349, SD1 is also a beneficial addition to the statute. A commission number is issued when a notary public has satisfied the requirements of Chapter 456, Hawaii Revised Statutes and is issued a commission by the Attorney General's office. The requirement of including only the notary public's name, commission number, and the words "notary public" and "State of Hawaii" on the notary seal will improve accountability and reduce the chance that a fraudulent notary seal will be used to mislead someone.

We respectfully urge the Committees to view this measure favorably and to recommend its passage.

Thank you very much for your consideration and attention to this matter.

Sincerely,



Lorrin Hirano
Sr. Vice President and Legal Counsel