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TO THE
HOUSE COMMITTEE ON JUDICIARY
THE TWENTY-FIFTH STATE LEGISLATURE
REGULAR SESSION OF 2010

Thursday, March 25, 2010
2:45 p.m.

WRITTEN COMMENTS ON S.B. NO. 2921, S.D.1, H.D.1 - RELATING TO ESCROW
DEPOSITORIES

THE HONORABLE JON RIKI KARAMATSU, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Nick Griffin, Commissioner of Financial Institutions, and I appreciate the opportunity to submit written comments on behalf of the Department of Commerce and Consumer Affairs ("Department") on Senate Bill No. 2921, S.D.1, H.D.1. The Department supports the measure in its present form.

This measure would amend Section 449-5, Hawaii Revised Statutes ("HRS"), to add a new subsection (b). The Department is not opposed to new subsection (b), which will have the result of requiring persons who wish to act from an out-of-state location as an escrow depository as to property located in this State to obtain an escrow depository

license from the Commissioner. In order to do so, an out-of-state person would be required, pursuant to other provisions of Chapter 449, HRS, to incorporate a domestic Hawaii corporation as the entity that would apply to be licensed as a Hawaii escrow depository, and that company would also be required to maintain a principal office in Hawaii. The practical result of these requirements is that out-of-state entities for the most part, may likely be deterred from applying for a Hawaii escrow depository license in view of the significant costs that will be involved over and above the application and initial license fees. From a regulatory and consumer protection standpoint, that result might well be salutary, given the fact that Hawaii consumers are currently exposed to the possibility that other states that regulate escrow companies may, and occasionally do, decline to assist a Hawaii consumer if either the consumer's legal residence or property is located outside the state where the escrow company is licensed. Under the proposed amendment, Hawaii consumers would know with certainty that the Hawaii Division of Financial Institutions will be available to assist any consumer anywhere who has a complaint against a licensed Hawaii escrow depository, regardless of whether the licensee is headquartered within or outside the State of Hawaii.

Thank you for the opportunity to provide written comments on this measure.



Title Guaranty Escrow Services, Inc.

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March 24, 2010

The Honorable Jon Riki Karamatsu, Chair
Members of the House Committee on Judiciary
Hawaii State Capitol
415 South Beretania Street, Room 325
Honolulu, HI 96813

Re: Senate Bill 2921, HD1 Relating to Escrow Depositories

Dear Representative Karamatsu and Members of the House Committee on Judiciary:

We submit this testimony on behalf of Title Guaranty Escrow Services, Inc. in support of Senate Bill No. 2921, HD1.

Escrow transactions involve large sums of money and the handling of documents affecting title to real property. Escrow companies are charged with fiduciary duties to the parties to the transaction. Because of this, Hawaii has implemented statutes and DCCA regulations and requirements for the protection of these parties.

Escrow transactions concerning Hawaii real estate should therefore be handled by escrow depositories licensed in this State and subject to Hawaii regulations. Since in-State escrow companies are subject to regulation by the DCCA then in all fairness out of State escrow companies performing escrow services for Hawaii transactions should also be subject to Chapter 449. Under Chapter 449, in-State escrow companies are required to maintain an escrow depository bond with the Commissioner, a fidelity bond, and errors & omissions insurance. In-State escrow depository also must submit to the commissioner an annual financial statement. Presently, these requirements are not applicable to out of State companies or entities who perform closing or escrow services because Chapter 449 is only applicable to in-State escrow companies. This Bill will increase protection for the consumer and allow consistency for all companies performing escrow services relating to Hawaii real property.

We respectfully request that the Committee pass this Bill as set forth in HD1. We would be happy to answer any further questions that the Committee may have. Thank you for this opportunity to submit this testimony.

Very truly yours,

David T. Pietsch, Jr.
President