



DAVID Y. IGE
GOVERNOR

SHAN S. TSUTSUI
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
335 MERCHANT STREET, ROOM 310
P.O. Box 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
cca.hawaii.gov

CATHERINE P. AWAKUNI COLÓN
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

**TO THE HOUSE COMMITTEE ON
CONSUMER PROTECTION AND COMMERCE**

TWENTY-NINTH LEGISLATURE
Regular Session of 2018

Friday, February 2, 2018
2:00 pm

TESTIMONY ON HOUSE BILL NO. 2343, RELATING TO HEALTH CLUBS.

**TO THE HONORABLE ROY M. TAKUMI, CHAIR, AND MEMBERS OF THE
COMMITTEE:**

The Department of Commerce and Consumer Affairs (“Department” or “DCCA”) appreciates the opportunity to testify on H.B. 2343, Relating to Heath Clubs. My name is Stephen Levins, and I am the Executive Director of the Department’s Office of Consumer Protection. The Department strongly supports this administration bill, which is a companion to S.B. 2770.

As currently written, Hawaii Revised Statutes (“HRS”) chapter 486N provides few protections for consumers when a health club ceases operations or becomes insolvent. Recently, Hawaii consumers experienced several health club closures. In those instances, consumers who paid for services had no recourse in recovering membership dues and initiation fees they paid in advance.

SECTION 1 of this bill adds a new section to HRS chapter 486N that requires health clubs to maintain a \$100,000 surety bond that names the Director of the DCCA (“Director”) as the obligee. Health clubs that do not collect payment for more than one month of service from a buyer; do not collect annual, initiation, enrollment, or other fees

that total more than \$200, and do not collect payments that are identified as payment for specific future monthly services are exempted from this requirement.

The surety bond would help consumers recover dues and fees they paid in advance to the health club when it goes out of business. The new section also defines which buyers may receive payment from the surety bond; authorizes the Director to adjudicate surety claims; outlines the form of the surety bond; establishes notice requirements for the release of the surety bond; and lists the information a health club must provide to the Director fifteen days after it ceases operation or has become insolvent.

SECTION 2 of this bill amends HRS section 486N-10 by adding a requirement that health clubs subject to chapter 486N must provide the Director with a surety bond before it may be considered fully operative.

Thank you for the opportunity to testify in strong support of this administration bill, and we ask for your favorable consideration.



International
Health, Racquet &
Sportsclub Association

Representative Roy Takumi
Chairman
House Committee on Consumer Protection & Commerce
Hawaii State Capitol, Room 320
415 South Beretania St.
Honolulu, HI 96813

RE: House Bill 2343 Relating to Health Clubs

Dear Chairman Takumi,

My name is Joe Moore. I am the CEO of the International Health, Racquet & Sportsclub Association (IHRSA), the leader in education, research and advocacy for the health and fitness industry, representing health clubs and fitness businesses worldwide, including in Hawaii. On behalf of our member health clubs located throughout Hawaii, I am writing to express the industry's opposition to imposing a financial security requirement for health clubs of \$100,000.

IHRSA opposes House Bill 2343 because we believe that the bill would create a significant barrier to businesses that wish to open new locations, create new jobs, and provide much-needed fitness services to an increasingly sedentary population.

House Bill 2343 would require clubs to maintain at least a \$100,000 bond except if offering solely month to month agreements with no initiation fees totaling more than \$200. The bond is intended to protect consumers against a perceived threat of health clubs closing without notice and keeping prepaid membership fees.

We do agree with the intent to protect consumers, and appreciate the flexibility of the exemption for clubs offering month to month agreements. However, we oppose this legislation on the basis that an excessive bond requirement acts as a barrier for fitness professionals seeking to provide greater access to a supportive and safe environment to improve health. Meanwhile, the \$100,000 figure does little to protect consumers dollar for dollar. The industry has established itself as a key force in combating rising incidences of obesity and chronic disease. Health clubs allow Hawaiians to invest in "primary prevention" to mitigate their health care expenditures in the long term. Today, Hawaii has 119 health clubs, employing almost 5,000 people and offering an increasingly wide range of physical fitness services to over 264,000 Hawaiians. The health club industry continues to mature, fueled by a growing set of consumers who seek effective ways to take a proactive, preventative approach to their health and well-being.

We urge you to oppose this bill, and reiterate our position that an excessive bond requirement acts as a barrier for small businesses and fitness professionals while doing little to protect consumers dollar for dollar.



International
Health, Racquet &
Sportsclub Association

Thank you for considering our letter. If you have questions or information requests, please do not hesitate to contact Jeff Perkins in our office at jdp@IHRSA.org or (617) 951-0055.

Sincerely,

A handwritten signature in black ink that reads 'Joe'. The signature is fluid and cursive, with a long horizontal stroke extending from the end of the word.

Joe Moore
CEO, IHRSA

HB-2343

Submitted on: 2/1/2018 11:15:56 PM

Testimony for CPC on 2/2/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Rise Doi		Support	No

Comments:

**Testimony to the House Committee on Consumer Protection & Commerce
Friday, February 2, 2018
Hawaii State Capitol, Room 325**

Re: Testimony in Support of HB 2343, Relating to Health Clubs

Chair Takumi, Vice-Chair Ichiyama, and members of the Committee:

My name is Kristine Reitan and I am in strong support of HB 2343, Relating to Health Clubs. This bill would require health clubs to cure losses to members due to the insolvency of a health club.

In November of 2016, I paid for a full year's membership to Climb to Fitness, a health club here in Honolulu. That membership cost \$550.00, which I paid by credit card. Later that month, I paid for 30 personal training sessions, which cost \$1800.00. I paid for that in cash. I was told at that time that if I paid for that many sessions at once, it would be a cheaper price.

By the following month (December 2016), the trainer was not showing up for scheduled sessions, and was not responding to my repeated calls and text messages. In January of 2017, I requested a reimbursement since the trainer was not providing any service. We came to an agreement that he would start to provide the training services, and that if he cancelled again, he would give me a full refund. In February of 2017, the gym shut down with no notice, and I was never able to get in touch with the trainer or anyone from the health club at all.

Since I paid for the initial membership (\$550.00) via credit card, I was able to recover that money from my credit card company. However, the \$1800.00 paid to the trainer in cash was never recovered.

This bill, should it become law, would help other victims like me recover money that was paid to a health club for services that were never received.

Thank you for the opportunity to share my story.