

POLICE DEPARTMENT  
CITY AND COUNTY OF HONOLULU

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OUR REFERENCE

PO-LS

March 17, 2021

**LATE**

The Honorable Rosalyn H. Baker, Chair  
and Members  
Committee on Commerce  
and Consumer Affairs  
State Senate  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Baker and Members:

SUBJECT: House Bill No. 171, H.D. 1, Relating to Property Crimes

I am Captain Paul Okamoto of the Criminal Investigation Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD supports House Bill No. 171, H.D. 1, Relating to Property Crimes.

Currently, HPD officers are unable to conduct any meaningful enforcement when secondhand dealers purchase stolen goods. Mostly all enforcement actions have been recently unsuccessful in court, as the state of mind of determining "knowingly" has been too high a burden.

The purpose is not to punish those secondhand dealers that inadvertently misspells or occasionally commits a clerical error in their reporting but rather to hold those who are purposefully subversive in properly recording potentially stolen or suspicious items accountable for their actions. Some unscrupulous dealer can omit the description and willfully disregard other mandatory reporting fields in order to hide the purchase of questionable items. Such actions have previously been enforced via citations upon discovery by our detectives. However, recent efforts to bring dealers into compliance have been frustrated by the high state of mind standard. In the last five years that enforcement via citations were conducted, 2 were found not guilty and 20 plead guilty. The remainder, 30 out of 52, were dismissed because the state of mind of "knowingly" could not be sufficiently proved in court. There will be no incentive to properly follow the records of transaction statute if dealers cannot be prosecuted for it.

The Honorable Rosalyn H. Baker  
and Members  
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The HPD fully supports secondhand dealers that are recording items correctly and legitimately. It is in everyone's best interest (including the dealers) that we ensure that proper recordation of all items purchased or pawned is accurate.

Changing the state of mind required for Section 486M-7, Hawaii Revised Statutes, will allow the HPD to better conduct enforcement and eliminate pathways in which stolen goods are sometimes trafficked.

The HPD strongly urges you to support House Bill No. 171, H.D. 1, Relating to Property Crimes.

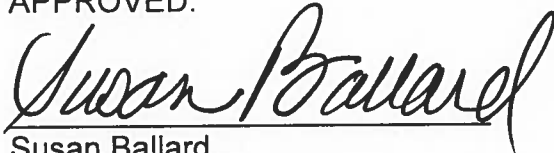
Thank you for the opportunity to testify.

Sincerely,



Paul Okamoto, Captain  
Criminal Investigation Division

APPROVED:



Susan Ballard  
Chief of Police

# Kamaaina Loan

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March 14, 2021

Senator Rosalyn H. Baker, Chair  
Senator Stanley Chang, Vice-Chair  
And Members of Senate Committee on Commerce and Consumer Affairs

FROM: Richard Dan, Kamaaina Loan

Dear Chair Baker, Vice-Chair Chang, and Members of Senate Committee on Commerce and Consumer Affairs,

SUBJECT:     **HB171, HD1 - RELATING TO PROPERTY CRIMES.**

My name is Richard Dan and I'm testifying in **OPPOSITION to HB171, HD1**. I've been a pawnbroker and licensed secondhand dealer in the state of Hawaii for over 40 years. I've served in multiple roles as a Member, Director and Officer of the Hawaii State Pawnbroker Association, the National Pawnbroker Association and several other related organizations.

Over the decades, I've have worked closely with the Maui Police Department, Honolulu Police Department, and other governmental agencies in setting regulatory standards for the protection of my business, my customers, my community, and the victims of crime. To better curb the criminal activity of trying to fence stolen property, it is a social good and in everyone's best interest to have effective laws in place.

HB171, HD1 proposes what to some, can be a simple insertion of two words, **"intentionally"** and **"recklessly"**. The word **"recklessly"** is vague and ambiguous, leading to too much subjectivity to an objective situation, and therefore should be removed from HB171, HD1.

The idea that pawnbrokers could be liable of imprisonment if they are victimized by a criminal, raises the most serious questions of fairness and decent behavior. I **strongly recommend not removing** the word **"knowingly"** from the existing law.

It is my understanding that the HD1 revision originates from the Honolulu Police Department and appears, from prior discussion of the bill language, that the only purpose of adding the term **"recklessly"** is to absolve investigators of any responsibility for establishing that in fact a crime has been committed.

An important reminder as you consider the crippling of one of the State's essential businesses, is that our governor included pawnshops as essential businesses during this pandemic, because in Hawaii 30% of citizens are un-banked and do not have a conventional bank account. When they need financial support, they often turn to a trusted pawn lender for financial assistance.

Senator Rosalyn H. Baker, Chair  
Senator Stanley Chang, Vice-Chair  
And Members of Senate Committee on Commerce and Consumer Affairs  
**HB171, HD1 - RELATING TO PROPERTY CRIMES**  
March 14, 2021  
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Probably most second-hand transactions today are not conducted by licensed agents, so the HB171, HD1 attack on pawnbrokers is misguided at best.

Many of Kamaaina Loan's clients are well-known to us. In establishing a customer relationship, significant personal information is required, including a thumbprint, a driver's license, seller's signature and photo, telephone number and a local address. Customers are required to affirm in writing that they are the legitimate owners of the merchandise being pawned or sold.

If someone should be so bold as to try to pass off stolen goods, it is comparatively simple for the police to track them with the information we provide electronically (including video of transactions).

Contrast this with transactions in stolen goods mediated over social media, which is certainly now the most usual method of fencing just about anything. The sponsors of this bill seem not to have offered any statistics to back up their assertions about stolen property and pawnshops.

Consider in the realm of reckless behavior which is more reckless: my long-established, well-known business with its detailed procedures for establishing legitimacy; or some unlicensed person meeting some unknown person in a parking lot after hooking up on the internet.

It seems to me that the way this bill is written simply defines my business as reckless without any attention being paid to whether it is operated in a serious and legitimate manner with detailed and accessible records available to the authorities. There are good reasons why the police are required to meet minimum standards in conducting investigations.

These are just a few comments leading to my **opposition** of this bill. If I can be of assistance in crafting more equitable, accountable and safe legislation as it relates to the matter of pawnbroking and secondhand dealing in Hawaii, please contact me at Tel: (808) 242-5555.

Sincerely,  
*Richard Dan*  
Richard Dan, Manager  
Kamaaina Loan

March 15, 2021

707 Richards Street, Suite 610  
Honolulu, Hawaii 96813  
Telephone (808) 523-3900  
Facsimile (808) 526-9829  
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Honorable Rosalyn H. Baker, Chair  
Honorable Stanley Chang, Vice Chair  
Senate Committee on Commerce and Consumer Protection

**Re: H.B. 171- RELATING TO PROPERTY CRIMES**

Dear Chair Baker, Vice Chair Chang & Committee Members,

On behalf of the Hawaii Pawnbrokers Association, we respectfully **oppose H.B. 171.**

Pawnbrokers and Secondhand Dealers are licensed by their respective counties to buy and give loans on secondhand items. Buying and loaning on secondhand items is not reckless behavior. We take a government issued I.D., fingerprint and submit all information to law enforcement. Hawaii Revised Statutes requires us to do this and there is nothing reckless about this.

If an item is purchased in good faith and the legal requirements for completing the purchase are followed but the item turns out to be stolen, this is not reckless behavior on the part of the pawnbroker or secondhand dealer.

**The definition of “reckless” is the conscious disregard of a substantial and unjustifiable risk that the person’s conduct is of the specified nature.** Reckless behavior would be firing a firearm into the air or driving 90 miles per hour in a 25 miles per hour zone.

**But if the small business owner is arrested because law enforcement deemed that purchase to be reckless, what defines “reckless” when pawnshops and secondhand dealers followed the proper purchase or loan procedure and cooperated with law enforcement?**

If an item turns out to be stolen, the suspect can be identified and arrested and the property is returned to the owner. Then the pawnbroker becomes the victim and suffers the financial loss.

If “reckless state of mind” is added to the statute, then can the pawnbroker be arrested for the innocent purchase of property? It’s impossible to apply “reckless” to these types of transactions. Adding “reckless” creates an atmosphere of fear among the small business owners. How do they buy secondhand merchandise without being afraid of being arrested? How are you supposed to know if an item is stolen? Do we profile people or stereotype them based on their race, where they live, or how they dress?

Even when a small business owner does his/her due diligence, inadvertently they could still buy something stolen and the consequence is a prison sentence and then the loss of their business license.

There is a reason why “reckless” is not in the statute to regulate pawnbrokers and secondhand dealers. It doesn’t work. It is impossible to apply that standard to businesses that are licensed by the

Honorable Rosalyn H. Baker, Chair  
Honorable Stanley Chang, Vice Chair  
Senate Committee on Commerce and Consumer Protection  
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respective counties to buy secondhand merchandise.

The bill promotes fear, stereotyping and profiling of minorities. We treat our customers with respect and dignity. Do we treat customers like criminals because they are a minority, and deny them service in our business?

The addition of the element of reckless behavior eliminates the necessary element of malicious intent which is necessary to establish a criminal intent in the commission of a crime with the knowledge that a criminal event is occurring. The term "reckless" gives the police and prosecution the power to charge whomever they wish in the pawnbroker/secondhand dealer industry so that a crime carries the loss of freedom and property as a consequence. This is a violation of due process rights in the United States Constitution 5<sup>th</sup> Amendment.

"Reckless" cannot be applied and that is why it is not in the statute now.

We ask that you do not pass this Bill in its current form. Thank you.

Very truly yours,

A handwritten signature in black ink that reads "Jonathan E. Spiker". The signature is written in a cursive, flowing style.

Jonathan E. Spiker  
for

Hawaii Pawnbrokers Association

**LATE**

Statement of Robert Thue,

My name is Robert Thue and I am the owner of Aloha Tax Service and a resident of Waikiki, City and County of Honolulu, State of Hawaii. I am in support of House Bill No. 171 and Senate Bill No. 397.

On January 30, 2021, at about 8:00 a.m., I received an Ebay notification of a painting for sale by artist Peter Hayward. I clicked on the notification and observed that there were pictures of an oil painting depicting a "barn in Connecticut".

After viewing the pictures on the Ebay notification, I immediately recognized the oil painting as my painting. I viewed the photographs of the back of the oil painting and recognized the Velcro strap and tape that I placed on the back of the painting. I placed the Velcro straps and tape so that I could secure it to a wooden frame within my residence.

I knew that I stored my Peter Hayward painting of a "Barn in Connecticut" in my storage unit. On January 30, 2021, at about 12:00 p.m., I went to the Public Storage located at 2888 Waialae Avenue where I have a rented storage unit #2205.

The lock appeared intact and it appeared that there were no signs of forcible entry. I opened the storage unit #2205 and found that a neat search was conducted.

I checked the area in the storage unit where I had placed my collection of oil paintings and found them missing. I then called the Honolulu Police Department and Officer Mochizuki was dispatched.

I did not give anyone permission to enter into my storage #2205 at the Public storage, and take my art paintings and personal property.

The oil painting that was stolen and offered up for sale on Ebay by Waikiki Gold and Silver was the oil painting by artist Peter Hayward of a Connecticut Barn with size 4 feet by 2 feet. The Ebay listing in which Waikiki Gold and Silver valued the oil painting at \$3,999 dollars, however, I valued the oil painting at \$7,0000 dollars.

(Thue stated that he does not know who took his property and his art paintings, but is willing to go to court, testify, and pursue criminal prosecution.)

Officer Mochizuki then initiated a Burglary in the Second Degree under HPD report number 21-043468.

On January 30, 2021, at about 1:30 p.m., I went to the Waikiki Gold and Silver pawn shop located at 1421 Kalakaua Avenue. I spoke with male identified as Zach about the sale of my oil painting by artist Peter Hayward of a Connecticut Barn with size 4 feet by 2 feet which was being offered up for sale on his Ebay website. I told Zach that the oil painting by artist Peter Hayward of a Connecticut Barn with size 4 feet by 2 feet was stolen from my storage locker #2205 at the Public Storage located at 2888 Waialae Avenue. Zach then became uncooperative and I decided to call for HPD assistance.

Officer Critchlow was dispatched to the Waikiki Gold and Silver and later arrived on scene. I met Officer Critchlow and informed her that I came to the Waikiki Gold and Silver because I received an Ebay notification in which Waikiki Gold and Silver was offering up for sale an oil painting by artist Peter Hayward of a Connecticut Barn with size 4 feet by 2 feet. I informed Officer Critchlow that it was my painting that was stolen from my storage unit #2205 at the Public Storage located at 2888 Waialae Avenue. I informed Officer Critchlow that I came to the Waikiki Gold and Silver to retrieve my property.

Officer Critchlow spoke with Zach and informed him of the facts and circumstances that I had explained. Officer Critchlow asked for the oil painting by artist Peter Hayward of a Connecticut Barn with size 4 feet by 2 feet from Zach in which she was going to recover the oil painting and place it into Evidence under this HPD report number 21-043468.

Officer Critchlow stated that Zach opened the security door and passed the oil painting by artist Peter Hayward of a Connecticut Barn with size 4 feet by 2 feet to her while she was in the public holding area.

Officer Critchlow completed a receipt and gave it Zach. Officer Critchlow recovered the oil painting by artist



Peter Hayward of a Connecticut Barn with size 4 feet by 2 feet and informed me that she going to submit it into Evidence under report number 21-043468.

There were several other oil paintings that were stolen from storage unit that I had reported to the Honolulu Police Department. I was later informed by Detective Campbell that he was able to obtain a search warrant from a Judge and had recovered fifteen (15) more oil paintings that are mine from the Waikiki Gold and Silver pawn shop.

\*\*\*\*\* MR. THUE PLEASE INSERT YOUR FEELINGS HERE OF WHAT YOU WENT THROUGH \*\*\*\*\*

My experience in dealing with the Waikiki Gold and Silver pawn shop person Zach was not successful, until I called HPD to handle my claim that my painting was for sale in that pawn shop. I identified the oil painting by artist Peter Hayward of a Connecticut Barn with size of 4 feet by 2 feet in the secured area of the pawn shop.

This oil painting was a special part of my collection of paintings by Peter Hayward because of the large size and its value.

I attended prep school in Connecticut, and my parents lived in Connecticut for many years. We were familiar and admired Peter Hayward's paintings since he lived and painted on the East Coast. There were several other oil paintings by Peter Hayward that were missing from the Public Storage facility that were just as special and valuable. We hope to retrieve these paintings back.

Hopefully there will be State regulation and requirements for pawn shop businesses to operate legitimate and ethical businesses and more accountability for protection to the consumer. Regulation by the State of pawn shop businesses is very important and urgently needed for the safety of both seller and buyer.

\*\*\*\*\* PLEASE SUMMARIZE \*\*\*\*\*

These oil paintings mean a lot to me.... They are my life's treasure... I want these pawn shop and second hand dealers to vet their clientele better. This bill will help to legitimize these pawn shops and secondhand dealers. I don't want to kill business, I am a business owner myself, but I want these businesses to be legitimate and accountable.

**Testimony Opposing HB171**  
**Submitted by John Spiker, Owner – Hawaii Gold & Silver Company**

My name is John Spiker. I am the owner of Hawaii Gold & Silver Company and have been in business for over 40 years. I am the President of the Hawaii Pawnbroker's Association. I have been giving testimony at the Hawaii State Legislature since 1981.

**I oppose HB171.**

**HB171** implies that large amounts of stolen property are sold to pawnshops and secondhand dealers. This is very misleading and inaccurate. Pawnshops and secondhand dealers are one of the most heavily regulated industries in the country. Less than  $\frac{1}{10}$  of one percent of stolen property is found at pawnshops and secondhand dealers. That is a national statistic from the National Pawnbrokers Association. Local businesses also report the same low percentage. This statistic has been consistent for many years.

The current state of mind in HRS 486M-7 of “knowingly” is fair and just. It does not make sense to add “recklessly” to the state of mind in HRS 486M-7. In other contexts, it makes sense.

To change the state of mind to reckless for small businesses will easily and often result in small business owners being prosecuted for innocent and harmless clerical errors or a simple typo. These errors have nothing to do with identifying a criminal or identifying and recovering stolen property. Extensive information and details are recorded about each customer and the property pawned or sold to our business. If some information is missing or misspelled, it does not affect law enforcement's ability to identify a person selling property and the identification of the property sold because of the amount of detailed personal and merchandise information that is recorded. Pawnshops and secondhand dealers are very helpful and cooperate with law enforcement.

**Applying the reckless standard can result in a small business owner being arrested for a clerical error, spending a year in prison and the loss of his business. The arrest and punishment have nothing to do with stolen property.** There is no incentive for a small business to buy stolen property. Stolen property is recovered by the police with no compensation to the business owner. In over 40 years of business and 30,000 to 40,000 transactions, I have only encountered 8 stolen items. The heavy burden **HB171** places on business owners is not rationally related to a decrease in property crime sought by this Bill.

I respectfully submit this testimony and thank you for your serious consideration to not pass this Bill which unfairly affects our struggling pawn and secondhand dealers' industry that provides a much-needed service to our community. Thank you for always supporting small businesses.

Sincerely,

John Spiker

**LATE**

The Honorable Rosalyn H. Baker, Chair and Members  
Committee on Commerce and Consumer Protection

Hawaii State Senate  
Hawaii State Capitol  
415 South Beretania Street, Room 229  
Honolulu, Hawaii 96813

Dear Chair Baker and Members:

SUBJECT: Senate Bill No. 397, Relating to Property Crimes

My name is Amy Ogasawara and I currently reside in Wahiawa. I am a victim of a Burglary case in which my residence was burglarized and my personal jewelry was stolen from within my residence. My jewelry collection that was taken from my home, in June of 2020, included many vintage Edwardian and Victorian pieces that I have been collecting for over 20 years. It has been a passion of mine to collect vintage, one of a kind pieces from the early 1900's. Edwardian and Victorian jewelry are not commonly sold here in Hawaii. I made majority of my purchases online, from reputable jewelry sites. The most common jewelry here in Hawaii is Hawaiian jewelry.

In August of 2020, I was checking Ebay for my stolen jewelry and found my "one of a kind" 14k vintage, Edwardian rose cut diamond bangle bracelet listed on Waikiki Gold and Silver's Ebay store. After I viewed the sales post by Waikiki Gold and Silver Ebay store, I was positive that the "one of a kind" 14k vintage, Edwardian rose cut diamond bangle bracelet was my property taken from my residence when I was burglarized by the unique design, style, and markings on it. I purchased this Edwardian rose cut diamond bangle from a jewelry dealer, Natasha Cebek. I have been purchasing vintage pieces from her for a few years. I have pictures of the bangle as well as the receipt of purchase from Natasha Cebek.

I went to Waikiki Gold and Silver pawn shop on the day I viewed their listing of the Edwardian, rose cut diamond bangle to inquire if I could see it in person. I spoke with a man inside the pawn shop who claimed he was just an employee. He stated his name was Zach and that the owner of the pawn shop was not working that day. The pawn shop had no items out to view. Everything was behind a door and a glass window, including Zach. When I asked Zach if I could see the bangle that they had listed on Ebay, that I believed that it was an item that had been taken from my home when I was burglarized, he would not let me. Zach said it was by appointment only that they allowed their items/goods to be viewed. Zach then proceeded to pry, ask questions about my items that were taken and suggested that I leave him a list of the items with detailed descriptions. He claimed that he would let me know if he came across anything that matched the descriptions. I declined his offer. I let him know that I was going to work with HPD and left the property.

I contacted HPD for assistance and Detective Tang and Campbell assisted me. Detective Campbell later informed me that he had gone to the Waikiki Gold and Silver pawn shop, recovered my stolen Edwardian bangle, and placed it into evidence.

A few weeks later, I was again browsing Waikiki Gold and Silver pawn Ebay store and I found another jewelry item that was taken from my residence when it was burglarized. I found my "one of a kind" 18k Victorian Spinel rose cut diamond ring that was being offered up for sale by Waikiki Gold and Silver Ebay store. This ring is white and yellow gold with eighteen rose cut diamonds and a faceted blue gemstone bezel set in the center. The inside of the ring is stamped 750 which indicates that it is 18k gold. I also purchased this ring from vintage jewelry dealer, Natasha Cebek. I have the "Paypal" receipt showing proof of purchase to Natasha Cebek for that "one of a kind" 18k Victorian Spinel Rose cut diamond ring. I compared the "snap shots" of the Ebay sales post of the "one of a kind" 18k Victorian Spinel rose cut diamond ring by Waikiki Gold and Silver and the images that Natasha Cebek sent to me prior to making my purchase from her. After comparing all images, I determined that it was a perfect match of the stolen 18k Victorian Spinel and rose cut diamond ring that was taken from my residence and reported in my Burglary case. I then notified Detective Tang and Detective Campbell of this situation. Detective Campbell informed me that he had gone to the Waikiki Gold and Silver pawn shop, recovered my stolen Victorian Spinel Rose cut diamond ring, and placed it into evidence.

Since these two incidents, I have witnessed 3 other items that were taken from my home listed on Waikiki Gold and Silver Ebay store. I have been working closely with the detectives on retrieving these other pieces.

Currently, I am in the Interpleader process. I am awaiting City and County of Honolulu's corporation counsel's decision to move this case to the Small claims court.

This has been a rough 8 months. I had only been in my residence for 2 weeks when it was burglarized. I was heartbroken, scared and felt victimized. My privacy and security was invaded by these perpetrators. Knowing that someone has been in your home leaves you unsettled, paranoid and it's hard to recover from an incident like that.

Every time I view an item listed on Ebay that I KNOW is mine, I have to relive the night that the burglary took place. I have to write another statement, call the detectives and have the police pick up the documentation. I will continue to pursue this though because I worked hard to collect these items. They were pieces that I treasured and they were taken from me in one night.

Where are my rights to get my property returned to me that is rightfully mine? Does this State not care about VICTIM rights?

This incident has left me questioning the integrity of pawn shops and secondhand dealers. If they are running an honest business, they should have no problem cooperating with laws that protect the victims of burglary related crimes. If they want to be compared to financial institutions, then they should also be held to the high

standards of maintaining accurate, complete, and accountable record keeping of each item/goods that come into their possession.

I am in support of Senate Bill 397, House Bill 171. I believe this proposed legislation will legitimize Pawnshop and Secondhand dealers businesses and keep these businesses transparent. I would not want anyone else to go through what I went through.

Respectfully,

Amy Ogasawara

**HB-171-HD-1**

Submitted on: 3/17/2021 9:55:24 AM

Testimony for CPN on 3/17/2021 9:30:00 AM

**LATE**

| Submitted By   | Organization | Testifier<br>Position | Present at<br>Hearing |
|----------------|--------------|-----------------------|-----------------------|
| Royce Haitsuka | Individual   | Support               | No                    |

## Comments:

I am a second hand buyer and I am in support of this because it will keep all pawn shops and second hand dealers honest.