



DAVID Y. IGE
GOVERNOR

JOSH GREEN
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

Testimony of the Department of Commerce and Consumer Affairs

**Before the
House Committee on Consumer Protection and Commerce
Friday, February 5, 2021
2:00 p.m.
Via Videoconference**

**On the following measure:
H.B. 940, RELATING TO SECURITIES**

Chair Johanson and Members of the Committee:

My name is Ty Nohara, and I am the Commissioner of Securities of the Department of Commerce and Consumer Affairs' (Department) Business Registration Division. The Department supports this administration bill.

The purpose of this bill is to protect elders and vulnerable adults from financial exploitation in relation to securities. Financial exploitation has been described as the fastest growing form of elder abuse, and the financial consequences for those who fall victim to financial exploitation are often devastating and irreparable.

Based upon a securities model act¹, this bill expands the State's securities law, Hawaii Revised Statutes chapter 485A, to require a qualified person (defined as any agent, broker-dealer, investment adviser representative, investment adviser, or person

¹ This bill is based upon the North American Securities Administrators Association's (NASAA) Model Act to Protect Vulnerable Adults from Financial Exploitation, which NASAA members adopted on January 22, 2016. As of July 30, 2020, 28 jurisdictions have enacted legislation based upon NASAA's Model Act, and one jurisdiction has adopted NASAA's Model Act by regulation.

who serves in a supervisory or compliance capacity for a broker-dealer or an investment adviser) to report any reasonable belief of financial exploitation of an elder or a vulnerable adult to the Commissioner of Securities. This bill also provides immunity from civil or administrative liability for good faith reporting and authorizes the delay of disbursements and transactions. Consequently, this bill addresses existing privacy rules and concerns about potential legal exposure to liability that may make it difficult for securities professionals to contact regulators and other government authorities to report suspected financial exploitation.

This measure will allow the Department to better protect Hawaii's elders and vulnerable adults from financial exploitation, and it is especially critical during this time, as financial exploitation of the elderly and vulnerable adults has steadily increased during the COVID-19 pandemic.

Thank you for the opportunity to testify, and we respectfully ask the Committee to pass this administration bill.

OFFICE OF INFORMATION PRACTICES

STATE OF HAWAII
NO. 1 CAPITOL DISTRICT BUILDING
250 SOUTH HOTEL STREET, SUITE 107
HONOLULU, HAWAII 96813
TELEPHONE: 808-586-1400 FAX: 808-586-1412
EMAIL: oip@hawaii.gov

To: House Committee on Consumer Protection & Commerce

From: Cheryl Kakazu Park, Director

Date: February 5, 2021, 2:00 p.m.
Via Videoconference

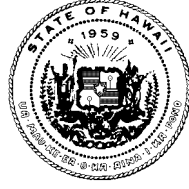
Re: Testimony on H.B. No. 940
Relating to Securities

Thank you for the opportunity to submit testimony on this bill, which would mandate reporting of suspected financial exploitation of elderly and vulnerable adults. The Office of Information Practices (OIP) takes no position on the substance of this bill, but has commented on confidentiality language in versions of this measure in previous years. OIP has no concerns regarding the confidentiality provision at page 7, lines 9-10, as OIP believes the records in question would fall under multiple exceptions to disclosure under chapter 92F, the Uniform Information Practices Act.

Thank you for the opportunity to testify.

LATE

DAVID Y. IGE
GOVERNOR



CATHY BETTS
DIRECTOR

JOSEPH CAMPOS II
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES

P. O. Box 339
Honolulu, Hawaii 96809-0339

February 4, 2021

TO: The Honorable Representative Aaron Ling Johanson, Chair
House Committee on Consumer Protection & Commerce

FROM: Cathy Betts, Director

SUBJECT: **HB 940 – RELATING TO SECURITIES.**

Hearing: Friday, February 5, 2021, 2:00 p.m.
Via Videoconference, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) appreciates the intent of this administration measure, provides comments, and requests amendments. DHS has discussed these proposed amendments with the Department of Commerce and Consumer Affairs (DCCA), and we understand a proposed HD1 is forthcoming that reflects our amendments. We appreciate the collaborative efforts to address the exploitation of elders and vulnerable adults.

PURPOSE: The purpose of the bill is to mandate reporting of suspected financial exploitation of elders and vulnerable adults in relation to securities and provide immunity for good faith reporting and authorize the delay of disbursements and transactions.

DHS recommends the following amendments to ensure that instances of financial exploitation regarding securities are referred to the appropriate party that is equipped to respond to such referrals.

DHS recommends deleting reference to section 346-222, Hawaii Revised Statutes, from the proposed definition of "vulnerable adult," (page 3, lines 1-2), as follows,

(3) Protect oneself from abuse, ~~as defined in section 346-222.~~

DHS also requests deleting reference to the department of human services (page 7, line 3) as a recipient of referrals from “qualified persons” as defined in this measure, as follows.

§485A-H Records. A broker-dealer or an investment adviser shall provide access to or copies of records that are relevant to the suspected or attempted financial exploitation of an elder or a vulnerable adult to the commissioner, ~~department of human services,~~ or law enforcement, either as part of a referral to the commissioner, department of human services, or law enforcement, or upon request of the commissioner, department of human services, or law enforcement pursuant to an investigation.

DHS prefers to obtain the relevant financial records upon request instead of being an automatic recipient of records for every referral. DHS prefers to minimize the amount and kinds of records in our care and custody.

DHS appreciates that the intent of this measure strengthens efforts to address financial exploitation of elders and vulnerable adults in relation to securities by utilizing the Department of Commerce and Consumer Affairs’ Securities Enforcement Branch, which investigates and prosecutes violations of Hawaii’s securities laws. Investigation of financial exploitation regarding securities is currently beyond the capacity and expertise of DHS. Investigation of such referrals would require more human resources to address the demands of increasing numbers of investigations as well as qualified staff with the required skill set to do so.

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



February 3, 2021

Representative Aaron Ling Johanson, Chair
Representative Lisa Kitagawa, Vice Chair
Committee on Commerce and Consumer Protection
Hawaii State Capitol
415 Beretania St.
Honolulu, HI 96813

RE: HB 940 An Act Protecting Vulnerable Adults from Financial Exploitation.
Support.

Dear Chair Johanson and Vice Chair Kitagawa:

The Securities Industry Association of Hawaii (SIAH) was formed over 20 years ago to foster communications among Hawaii securities firms, regulators, and the legislature.

The SIAH strongly supports efforts to protect our Kupuna. The bill is based on a five-year old model rule that has, over time, been enacted by more than two-dozen states.

The SIAH appreciates the opportunity to provide support and suggestions. Please do not hesitate to contact me at 808-625-2596 with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Tony Goodrum", written in a cursive style.

Tony Goodrum
President.



House Consumer Protection & Commerce Committee
February 5, 2021 2:00 pm

House Bill 940: Relating to Securities

Chair Johanson, Vice Chair Kitagawa, and members of the Committee, NAIFA Hawaii is an organization of life insurance agents and financial advisors throughout Hawaii who primarily market life, annuity, long term care and disability income insurance products.

HB 940, an admin bill adds a new section to Chapter 485A, HRS – “Protection of Elders and Vulnerable Adults From Financial Exploitation”. We support the efforts to protect seniors and/or vulnerable persons from financial exploitation.

We are in strong support of HB 940.

To ensure that seniors are protected 28 jurisdictions have enacted and more are considering model legislation from the National Association of State Securities Administrators (NASSA) that requires financial advisors and their firms to report suspected financial exploitation of a senior client to state authorities.

It also provides advisers and firms with immunity from liability for taking steps to protect their clients’ financial assets. The measure allows for advisors and firms to delay suspicious disbursements/transactions to provide authorities time to investigate possible fraudulent activity with specific time frames.

Mahalo for allowing us to testify and urge your passage of this measure..

Cynthia Takenaka
Legislative Director



House Committee on Consumer Protection and Commerce
February 5, 2021, 2:00 pm
Hawaii State Capitol
Via Videoconference

In Support of HB 940, Relating to Securities

To: The Honorable, Aaron Johanson, Chair
The Honorable , Vice-Chair
Members of the Committee

My name is Stefanie Sakamoto, and I am testifying on behalf of the Hawaii Credit Union League, the local trade association for 51 Hawaii credit unions, representing over 800,000 credit union members across the state. We offer the following testimony in support of HB 940, Relating to Securities.

This bill would mandate reporting of suspected financial elder abuse in relation to securities. Unfortunately, financial elder abuse is a crime that occurs often, and is often difficult to uncover. Hawaii's credit unions have long worked with law enforcement to investigate and prosecute these types of crimes. With our elder population growing, this bill will further help protect our elderly members and their assets.

Thank you for the opportunity to provide comments on this issue.



February 4, 2021

The Honorable Aaron Ling Johanson, Chair
The Honorable Lisa Kitagawa, Vice-Chair
House Committee on Consumer Protection & Commerce
Hawaii State Capitol
415 South Beretania St.
Honolulu, HI 96813

RE: Support of HB 940, Relating to Securities

Dear Chair Johanson, Vice Chair Kitagawa and Members of the Consumer Protection and Commerce Committee:

The Securities Industry and Financial Markets Association (“SIFMA”)¹ is a national trade association representing over 350 large, medium and small broker-dealers, investment banks and asset managers, many of whom have a strong presence in Hawaii. In fact, more than 16,000 people in the state work in the finance and insurance industries, 1,000 of them work at securities firms, and 5 broker-dealer main offices call Hawaii home.

SIFMA is proud to be a vocal advocate in the fight against senior financial exploitation. Among other things, SIFMA has worked to educate policymakers and the general public on the need for increased senior protections and founded a large working group for member firms to share ideas and best practices. SIFMA has also worked with federal and state legislatures and regulators on various “Report and Hold” proposals that would allow reporting firms to place temporary holds on suspicious transactions and/or disbursements. Such laws are now in place in 31 states, and the Financial Industry Regulatory Authority (the industry’s national regulator) has had similar rules in effect for three years.²

We are writing today in strong support of HB 940. Americans lose approximately \$2.9 billion annually in media-reported cases of financial exploitation.³ Sadly, these numbers are quite low as it is estimated that only 1 out of every 44 instances of financial abuse is reported to the authorities, much less in the media.⁴ Moreover, the devastating impact of abuse is not just

¹ SIFMA is the leading trade association for broker-dealers, investment banks and asset managers operating in the U.S. and global capital markets. On behalf of our industry's nearly 1 million employees, we advocate for legislation, regulation and business policy, affecting retail and institutional investors, equity and fixed income markets and related products and services. We serve as an industry coordinating body to promote fair and orderly markets, informed regulatory compliance, and efficient market operations and resiliency. We also provide a forum for industry policy and professional development. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association (GFMA). For more information, visit <http://www.sifma.org>.

² Financial Industry Regulatory Authority Rule [2165](#).

³ MetLife Study of Elder Financial Abuse: Crimes of Occasion, Desperation, and Predation Against America’s Elders (2011).

⁴ National Adult Protective Services Association, “Elder Financial Exploitation,” available at: <https://www.napsa-now.org/get-informed/exploitation-resources/>.

economic. Financial exploitation can result in a loss of independence, a reduced quality of life and even death.⁵

HB 940 helps protect investors in a variety of ways. It provides firms that suspect exploitation with a reporting pathway to the Securities Division which can then investigate the financial exploitation. It also permits firms to notify third parties reasonably associated with the vulnerable adult of the suspected exploitation so that they can be aware of and assist in stopping the suspected abuse. Perhaps most importantly, HB 940 would give firms the ability to place a temporary hold on suspicious transactions or disbursements while the suspected exploitation is being investigated - so that the investor is not irreparably harmed before the investigation is completed.

We thank the Hawaii Securities Division and state legislators for introducing this bill and encourage this Committee to favorably report it.

Please do not hesitate to contact me at 202-962-7411 with any questions.

Sincerely,

A handwritten signature in black ink that reads "Kim Chamberlain". The signature is written in a cursive, slightly stylized font.

Kim Chamberlain
Managing Director and Associate General Counsel
State Government Affairs

⁵ Burnett, Jason, "Elder Financial Exploitation: More than Just Financial [Loss](#)," SIFMA, February 2019.