



DAVID Y. IGE
GOVERNOR

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LT. GOVERNOR

**STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

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Testimony of the Department of Commerce and Consumer Affairs

**Before the
Senate Committee on Judiciary
Tuesday, March 30, 2021
9:50 a.m.
Via Videoconference**

**On the following measure:
H.B. 940, H.D. 2, S.D. 1, RELATING TO SECURITIES**

WRITTEN TESTIMONY ONLY

Chair Rhoads 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' (DCCA or 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

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 February 1, 2021, 28 jurisdictions have enacted legislation based upon NASAA's Model Act, and one jurisdiction has adopted NASAA's Model Act by regulation.

agent, broker-dealer, investment adviser representative, investment adviser, or person 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.

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

March 28, 2021

TO: The Honorable Senator Karl Rhoads, Chair
Senate Committee on Judiciary

FROM: Cathy Betts, Director

SUBJECT: **HB 940 HD2 SD1 – RELATING TO SECURITIES.**

Hearing: March 30, 2021, 9:50 a.m.
Via Videoconference, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) supports this administration measure.

The House Committee on Consumer Protection & Commerce (DCCA) amended the measure by defecting the effective date and by making technical amendments. DHS appreciates the amendments of the House Committee on Judiciary & Hawaiian Affairs,

- (1) Deleting the reference to section 346-222, Hawaii Revised Statutes, from the definition of "vulnerable adult";
- (2) Deleting references to the Department of Human Services as a recipient of records that are relevant to the suspected or attempted financial exploitation of an elder or a vulnerable adult;
- (3) Changing the effective date to July 1, 3021, to encourage further discussion; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

The Senate Committee on Commerce and Consumer Protection amended the measure by making the measure effective upon approval and making additional technical amendments.

PURPOSE: The purpose of the bill Mandates reporting of suspected financial exploitation of elders and vulnerable adults in relation to securities. Provides immunity for good faith reporting. Authorizes the delay of disbursements and transactions in situations of suspected financial exploitation. (SD1)

DHS appreciates that the intent of this measure strengthens efforts to address financial exploitation of elders and vulnerable adults in relation to securities by DCCA's Securities Enforcement Branch, which investigates and prosecutes violations of Hawaii's securities laws. DHS will continue to work cooperatively with DCCA on financial exploitation cases of vulnerable adults that involve securities.

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



Invested in America

March 26, 2021

The Honorable Karl Rhoads, Chair
The Honorable Jarrett Keohokalole, Vice Chair
Senate Judiciary Committee
Hawaii State Capitol
415 South Beretania St.
Honolulu, HI 96813

RE: Support of HB940 HD2 SD1, Relating to Securities

Dear Chair Rhoads, Vice Chair Keohokalole and Members of the Judiciary 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 HB940 HD2 SD1. Financial exploitation of older adults by family members, scammers, caregivers and others has grown exponentially in the last decade. Estimates of annual losses vary significantly, ranging from \$2.9 billion to \$36.5 billion, depending on terminology and methodology.³ The numbers are staggering regardless of which ones are used and result in devastating economic consequences for many victims. The impact, however, is not just economic. Financial exploitation can result in fear, a loss of independence, a reduced quality of life and even death.⁴

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 Office of Financial Protection for Older Americans. Suspicious Activity [Report](#) on Elder Exploitation: Issues and Trends, (2019, February).

⁴ Burnett, Jason, “Elder Financial Exploitation: More than Just Financial [Loss](#),” SIFMA, February 2019.

HB940 HD2 SD1 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. 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, HB940 HD2 SD1 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 cursive script that reads "Kim Chamberlain".

Kim Chamberlain
Managing Director and Associate General Counsel
State Government Affairs



HAWAII

Senate Committee on Commerce and Consumer Protection

March 30, 2021

9:50 am

RE: HB 940, HD2, SD1: Relating to Securities

Chair Rhoads, Vice Chair Keohokalole, and members of the committee, the National Association of Insurance and Financial Advisors Hawaii is an organization made up of life insurance agents and financial advisors throughout Hawaii who primarily market life, annuity, long term care and disability income insurance products.

HB 940, HD2, SD1, an admin bill adds a new section to §485A, HRS – “Protection of Elders and Vulnerable Adults From Financial Exploitation”.

We support HB 940, HD2, SD1, that will protect seniors and/or vulnerable adults from financial exploitation.

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 the 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 ask for your favorable consideration.

Cynthia Takenaka
Legislative Director

HB-940-SD-1

Submitted on: 3/26/2021 4:58:31 PM

Testimony for JDC on 3/30/2021 9:50:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Dara Carlin, M.A.	Individual	Support	No

Comments:

Stand in support



March 29, 2021

The Honorable Karl Rhoads, Chair
The Honorable Jarrett Keohokalole, Vice Chair
Senate Committee on the Judiciary.
Hawaii State Capitol
415 Beretania St.
Honolulu, HI 96813

RE: HB 940, HD2, SD1 An Act Protecting Vulnerable Adults from Financial Exploitation. STRONGLY SUPPORT

Dear Chair Rhoads, Vice Chair Keohokalole, and Members of the Committee on the Judiciary.

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

The SIAH strongly supports efforts to protect our Kupuna, and thanks the securities division and state legislators for introducing this bill. HB 940 HD2 SD1 is based upon a five year-old securities model act that has since been enacted by more than two-dozen states. The SIAH requests that this committee pass HB 940, HD2, SD1 which will certainly enhance investor protection, and make it easier for firms and regulators to administer and implement the law.

The SIAH appreciates the opportunity to provide support. 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

HB-940-SD-1

Submitted on: 3/29/2021 9:48:09 AM

Testimony for JDC on 3/30/2021 9:50:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Victor K. Ramos	Testifying for Maui Police Department	Support	No

Comments:

Maui Police Department continues to support the passage of this bill.