

February 9, 2009

The Honorable Rosalyn H. Baker, Chair

Senate Committee on Commerce and Consumer Protection
State Capitol, Room 229
Honolulu, Hawaii 96813

RE: S.B. 1044 Relating to Attorneys

Hearing date: February 11, 2009 @ 8:30 a.m.

Aloha Chair Baker, Vice Chair Ige, and Members of the Committee:

I am Robert G. Klein, attorney with McCorriston Miller Mukai MacKinnon, here to testify on behalf of the Hawai'i Association of REALTORS® (HAR) and its 9,600 members. HAR **supports the intent of S.B. 1044** which allows licensed professionals to provide services within the scope of their license without violating the prohibition on the unauthorized practice of law.

This measure clarifies that licensed and regulated professionals acting within the scope of their licenses will not be considered to be engaged in the practice of law.

In 2007, a proposed unauthorized practice of law rule was submitted by the Hawaii State Bar Association (HSBA) and circulated for consideration by the Hawai'i Supreme Court. The draft rule put many organizations and industries in jeopardy of practicing law without a license, which is a criminal violation. Fortunately, the Hawai'i Supreme Court asked the HSBA to rewrite and resubmit the Rule.

HAR understands that the review and decision processes of the Supreme Court create a level of uncertainty for many licensed professionals that only a clean statutory amendment can address. We have also learned that the State Attorney General, Hon. Mark J. Bennett, has written to the Hawai'i Supreme Court in opposition to the new draft Rule largely because of the numerous industry exemptions it affords.

Because of the uncertainty that presently exists, HAR supports the intent of S.B. 1044, but believes that S.B. 1219 is the preferred measure for licensed real estate brokers and salespersons.

For these reasons, HAR urges the passage of S.B. 1219. This measure would make clear that real estate brokers and salespersons licensed, regulated, and in good standing under HRS § 467 and Hawaii Administrative Rules Chapter 99 would not be deemed to be practicing law without a license.

Mahalo for the opportunity to testify.