

**SENATE COMMITTEE ON
INTERGOVERNMENTAL AFFAIRS**

February 7, 2006

Senate Bill 2403 Relating to Exceptions to Tort Actions

Chair Ige and members of the Senate Committee on Intergovernmental Affairs, I am Rick Tsujimura, representing State Farm Insurance Companies, a mutual company owned by its policyholders.

State Farm opposes Senate Bill 2403 Relating to Exceptions to Tort Actions as currently drafted. We understand that this measure was introduced by Hawaii County and may have been intended to be limited to county officers or employees. However, as drafted, the bill would exclude all of certain enumerated torts in proposed subsection (4) of the newly proposed section to be added to Chapter 663. We are unsure whether the drafters assumed this to be limited to county officers or employees, but the subsection does not limit the inapplicability to this set of individuals. The result would be that a State Farm insured who is sued could be faced with joint and several liability with no limit on punitives. This section should be limited only to the identified county employees and officers as in subsection (1). We ask your support for this proposed amendment. A proposed Senate Draft 1 is attached.

Thank you for the opportunity to present this testimony.

A BILL FOR AN ACT

RELATING TO EXCEPTIONS TO TORT ACTIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 663, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§663- Exceptions. This chapter shall not apply to:

5 (1) Any claim based upon an act or omission of a
6 county officer or employee exercising due care,
7 in the execution of a statute or regulation,
8 whether or not the statute or regulation is
9 valid, or based upon the exercise or performance
10 or the failure to exercise or perform a
11 discretionary function or duty on the part of a
12 county officer or employee, whether or not the
13 discretion involved has been abused;

14 (2) Any claim arising in respect of the assessment or
15 collection of any tax, or the detention of any
16 goods or merchandise by law enforcement officers;

- 1 (3) Any claim for which a remedy is provided
2 elsewhere in the laws of the county; and
- 3 (4) Any claim made against a county officer or
4 employee arising out of assault, battery, false
5 imprisonment, false arrest, malicious
6 prosecution, abuse of process, libel, slander,
7 misrepresentation, deceit, or interference with
8 contract rights."

9 SECTION 2. This Act does not affect rights and duties that
10 matured, penalties that were incurred, and proceedings that were
11 begun, before its effective date.

12 SECTION 3. New statutory material is underscored.

13 SECTION 4. This Act shall take effect upon its approval.