



LATE

Collection Law Section

Chair:
Steven Guttman

Vice Chair:
William J. Plum

Reply to:

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March 31, 2008

Senator Rosalyn H. Baker Chair
and Fellow Committee Members
Senate Ways and Means Committee
Hawaii State Capital

RE: HB 3422 INCREASING FEES TO FUND INDIGENT LEGAL SERVICES
SENATE JUDICIARY COMMITTEE HEARING 4/1/08 @ 10:15 A.M.

Dear Chair and Committee Members:

The Collection Law Section of the Hawaii State Bar Association¹ urges you to oppose the increases in the filing fees/surcharges proposed under HB 3422 and carefully consider the impact and nature of this proposal. Under HB 3422, as originally proposed, surcharge fees in the District Court would increase by 150% and the surcharge would be extended to a new class of lawsuit comprising annually of approximately 8,500 cases (based on last FY reported by the Judiciary). Currently, in the District Court, only summary possession cases pay the fee (approximately 2,400 annually based on last FY reported by the Judiciary). In the Circuit Court, the surcharge, as originally proposed, would double on the approximately 3,500 cases filed annually (based on last FY reported by the Judiciary). All told, these are big increases both in dollar terms and in the number of cases the fee is going to be levied upon.

Furthermore, if a person looks closely, the surcharge is not a one time fee, but a fee that can be charged multiple times in the same case. This is because the surcharge applies to any filing of a cross-claim, counter-claim and third party complaint. Should any of those events occur in a case, and they often do, the surcharge is again collected. In Circuit Court, it is common for the case to contain multiple parties and multiple claims of this nature. For example, if only the complaint and four other claims are filed, the total of "surcharge fees" will equal the filing fee of \$250 collected by the Judiciary for accepting the case.

¹ The opinions of the Collection Law Section are not necessarily those of the Hawaii State Bar Association proper.

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Additionally, this surcharge is in essence, a tax on a class of individuals who are trying to get access to the state courts and justice. In other words, a relatively small number of citizens end up paying a large share of the operational budgets for non-profit legal services groups. To compound matters, since most citizens do not know whether they will have to file a lawsuit until the future arrives, they are a class that becomes an easy class to tax. Opposition is less likely to form when citizens who do not yet see any impact to their own wallet. We ask that you resist the temptation to levy these additional fees simply because it is easy.

Lastly, HB 3422 contains no oversight as to how the money will be spent.

Thank you.

Sincerely,



William J. Plum

\hb3422-3.wjp

LATE

testimony

From: dbbh2000@aol.com
Sent: Monday, March 31, 2008 8:19 PM
To: testimony
Cc: Cherry Torres; keith.regan@creditassoc.com
Subject: HB3422, HD2 Related to Surcharge for Indigent Legal

Date: March 31, 2008

TO: Senate Committe on Ways & Means
Hearing: April 1, 2008
Time: 10:15 am
Place: Conference Room 211

Re: Testimony - HB3422, HD2 Related to Surcharge for Indigent Legal Services

Position: Do Not Support

This bill appears to be noble but realistically it increases the indebtedness to the indigent. These increased fees are directly passed on to the indigent. On the surface this increse my give the appearance of being positive but it's not. Indigents are helping other indigents to pay for these indigent legal services. There must be other sources of monies where the indigent is not penalized but truly helped. The small business man should be treated fairly and not be solely burdened with helping the indigent.

Please DO NOT SUPPORT HB3422, HD2

Please feel fre to contact me should you have questions at 808-532-8363.

Respectfully sumbitted,

**Franklin Pang, President
Pacific Collections, Established 1968
Honolulu, Hawaii**

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**MEMBER:
HAWAIIAN COLLECTORS ASSN
AMERICAN COLLECTORS ASSN**

April 1, 2008

Committee on Ways and Means

Hearing date: Tuesday, April 1, 2008

TIME: 10:15 a.m. (or immediately following completion of the 10:00 a.m. agenda)

**PLACE: Conference Room 211
State Capitol
415 South Beretania Street**

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HB 3422, HD2 RELATED TO SURCHARGE FOR INDIGENT LEGAL SERVICES

POSITION: DO NOT SUPPORT

While the intention of this bill is noble: to help indigent citizens pay for legal services that they are unable to otherwise afford, increasing the filing fees for both District and Circuit Court is not the right and fair way to go about achieving that goal. **Increasing the filing fees, AGAIN, clearly targets selected small businesses and industries. This is, in effect, a tax on small business.**

It is important to consider the **unintended results** of increasing the indigent eligibility by such drastic percentages as it may in fact have a **negative impact on the available resources for the truly indigent populace**. On the surface this increase may give the appearance of being positive but **beware of the slippery slope** that may be created. What will happen when the legal service providers tasked with serving the indigent require more funds because of an increase in users? Will another increase in surcharges be required in order to meet the need for more resources?

I respectfully and strongly urge you to not approve HB 3422, HD2.

Respectfully submitted,

Michael H. Kobayashi
President