

Honolulu, Hawaii

March 12, 2010

RE: S.B. No. 2863  
S.D. 2  
H.D. 1

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Fifth State Legislature  
Regular Session of 2010  
State of Hawaii

Sir:

Your Committee on Transportation, to which was referred S.B. No. 2863, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO THE TAX LIEN AND ENCUMBRANCE RECORD,"

begs leave to report as follows:

The purpose of this measure is to expand the ability of state and county agencies to pursue reimbursement of outstanding debts by:

- (1) Allowing the county Director of Finance to record the notice of judgments as an encumbrance payable to a county on any registered motor vehicle;
- (2) Requiring the county Director of Finance to establish the payment of judgments payable to the State or county as a condition precedent to the vehicle's renewal, registration, or transfer of ownership; and
- (3) Prohibiting the State, county, or any political subdivision from being charged a fee for any entry made in the tax lien and encumbrance record.

The Department of the Attorney General testified in support of this bill. Catrala Hawaii supported this bill with amendments. The Hawaii Automobile Dealers Association testified in opposition



to this measure. The Division of Motor Vehicle, Licensing and Permits, of the City and County of Honolulu (DMVLP) provided comments.

Hawaii, like the rest of the nation, is facing economic conditions that have not been experienced for some time, which has necessitated a search for ways of increasing revenues. One way of accomplishing this is to pursue reimbursements of outstanding debts owed to the State and counties that have not been recoverable because the debtor either did not meet their payment obligations or simply ignored the recovery efforts by state and county agencies. Placing encumbrances on motor vehicles is an effective mechanism to significantly increase the likelihood of recovering these outstanding debts.

Your Committee notes that currently, agencies may record liens or claims with the Director of Finance of each county, but are required to pay a statutory fee that is deposited into the general fund. This fee may be hindering some agencies from using the tax lien and encumbrance record to assist in the recovery of outstanding debts owed the agency. Exempting the State and counties from the fee requirement will further facilitate the recovery of those debts.

However, your Committee understands concerns raised regarding the possible unintended consequences this measure may have on automobile dealers who unknowingly purchase used vehicles with tax liens on the vehicle and concerns raised by car rental companies that lengthy judicial procedures may negatively impact their companies through no fault of their own. Your Committee also understands the concerns raised by DMVLP that waiver of the fee for entries into the encumbrance record would cause a fiscal strain if it were not limited to entries for computer files. Accordingly, your Committee has amended this bill by:

- (1) Requiring the Director of Finance to waive payments for and record the transfer of ownership of a vehicle if the existing owner or prospective new owner for the vehicle provides evidence, satisfactory to the Director of Finance, that at the time ownership of the vehicle was taken, there were no notices of liens or judgments as to the vehicle on the motor vehicle registration computer file;
- (2) Providing the State or any county with the absolute right, power, and authority to settle, discharge,



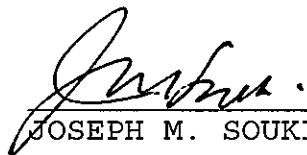
release, and resolve any and all such judgments, claims, liens and encumbrances for an amount not less than what the debtor would have paid the State or county had the debtor made timely payment or taken appropriate action prior to such judgment, lien, or encumbrance in instances where payments are not more than \$500 as of the effective date of this bill, for a period of 18 months from the effective date of this bill; and

- (3) Limiting the prohibition against fees to searches of the motor vehicle registration computer file.

Technical, nonsubstantive amendments have also been made for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2863, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2863, S.D. 2, H.D. 1, and be referred to the Committee on Judiciary.

Respectfully submitted on  
behalf of the members of the  
Committee on Transportation,

  
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JOSEPH M. SOUKI, Chair



State of Hawaii  
House of Representatives  
The Twenty-fifth Legislature

**HSR 709-10**

**Record of Votes of the Committee on Transportation**

<b>Bill/Resolution No.:</b> SB 2863 SD2 (SSCR2468)	<b>Committee Referral:</b> TRN, JUD, FIN	<b>Date:</b> March 10, 2010		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
<b>The recommendation is to:</b> <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
TRN Members	Ayes	Ayes (WR)	Nays	Excused
1. SOUKI, Joseph M. (C)	/			
2. AWANA, Karen Leinani (VC)	/			
3. AQUINO, Henry J.C.	/			
4. HANOHANO, Faye P.	/			
5. KEITH-AGARAN, Gilbert S.C.	/			
6. LEE, Marilyn B.	/			
7. NAKASHIMA, Mark M.	/			
8. RHOADS, Karl				/
9. SAIKI, Scott K.	/			
10. TAKUMI, Roy M.				/
11. YAMASHITA, Kyle T.	/			
12. PINE, Kymberly Marcos	/			
<b>TOTAL (12)</b>	<b>10</b>	<b>0</b>	<b>0</b>	<b>2</b>
<b>The recommendation is:</b> <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <small>committee acronym(s)</small>				
<b>Vice Chair's or designee's signature:</b> <i>Karen Awana</i>				
<b>Distribution:</b> Original (White) – Committee    Duplicate (Yellow) – Chief Clerk's Office    Duplicate (Pink) – HMSO				