

**LATE TESTIMONY**



## Collection Law Section

Reply to:

**STEVEN GUTTMAN, CHAIR**  
220 SOUTH KING STREET, SUITE 1900  
HONOLULU, HAWAII 96813  
TELEPHONE: (808) 536-1900  
FAX: (808) 529-7177 E-MAIL: sguttman@kdubm.com

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February 14, 2011

Senator Clayton Hee, Chair  
Maile S.L. Shimabukuro, Vice Chair  
Senate Judiciary Committee  
State of Hawaii

### TESTIMONY IN SUPPORT OF SB 1489

**RE: SB 1489 / RELATING TO ATTORNEY'S LIENS  
HEARING 2/15/11 @ 9:30 AM**

Dear Senator Hee and Committee Members:

The Collection Law Section of the Hawaii State Bar Association supports passage of SB 1139.<sup>1</sup> SB 1139 amends HRS 507-81 to delete the deadline for filing the lien with the court or arbitrator and generally improves the section by offering a more consistent use of terms therein. For background, this statute was enacted in 2004 in response to a double taxation issue concerning individuals who obtain a settlement or judgment. More specifically, the Internal Revenue Service ("IRS") had taken the position that certain parts of settlements or judgments recovered by individuals may be taxed without a deduction for attorney's fees necessary to obtain the settlement or judgment. After being taxed at that level, those same attorney's fees are again taxed by the IRS on the attorney's personal income tax return, amounting to effectively, double taxation. HRS 507-81 clearly defines the attorney's portion of the recovery to belong to the attorney and therefore provides assistance to a taxpayer looking to avoid having to pay taxes on the amount his or her attorney receives for services.

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<sup>1</sup> The opinions of the Collection Law Section are not necessarily the opinions of the Hawaii State Bar Association proper.

As currently written, if the attorney forgets to file a lien within one year or before the complaint is dismissed, or if an individual needs to go to another attorney to collect on the judgment, and more than one year has lapsed since the judgment's entry or dismissal of the case, the lien never is perfected; causing obvious taxation problems for the individual.

Thank you.

Respectfully,

/s/ Bill Plum

Bill Plum  
Vice Chair

cc: Steve Guttman  
Lyn Flanigan

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