

SB1540

Measure Title: RELATING TO TAXATION.

Report Title: Tax Clearance; Professional or Vocational License

Description: Requires a tax clearance before a professional or vocational license may be issued or renewed. Applies to taxable years beginning after December 31, 2012.

Companion:

Package: None

Current Referral: CPN, WAM



NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
335 MERCHANT STREET, ROOM 310
P.O. Box 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
www.hawaii.gov/dcca

KEALI' S. LOPEZ
INTERIM DIRECTOR
EVERETT KANESHIGE
DEPUTY DIRECTOR

**PRESENTATION OF THE
PROFESSIONAL AND VOCATIONAL LICENSING DIVISION**

TO THE SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

TWENTY-SIXTH LEGISLATURE
Regular Session of 2011

Friday, February 11, 2011
8:30 a.m.

TESTIMONY ON SENATE BILL NO. 1540, RELATING TO TAXATION.

TO THE HONORABLE ROSALYN H. BAKER, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Celia Suzuki, Acting Licensing Administrator of the Professional and Vocational Licensing Division of the Department of Commerce and Consumers Affairs ("PVLD/DCCA"). I appreciate the opportunity to present testimony on S.B. No. 1540, Relating to Taxation, to ensure that the Committee is made aware of the impacts this bill will have on applicants for licensure, licensees, and PVLD/DCCA.

As the bill sets forth, in order for a person or entity to obtain a professional or vocational license or to renew such license, a tax clearance will be required. Currently, other than for Cemetery and Pre-Need Funeral Authorities, Contractors, and Pest Control Operators, a tax clearance is not required of the 115 remaining license types

regulated by PVLD/DCCA (see the Table starting on page 5 of this testimony for the exact listing of these license types). Based on FY 10 data and if such statistics remain steady going forward, this new requirement would affect, on an annual basis, a total of 13,310 applicants seeking licensure and approximately 68,000 licensees renewing their licenses. Thus, a significant population would be affected by this bill.

The merits of imposing this requirement on all PVLD/DCCA applicants and licensees should be thoroughly discussed with affected licensing boards and other affected stakeholders and all negative impacts addressed. Other policy issues to be resolved are:

- Tax clearances, as currently used for licensing purposes by PVLD/DCCA licensing authorities, are required to license a business where financial integrity is among the (statutory) qualifications to be licensed (as in the case of Cemetery and Pre-Need Funeral Authorities, Contractors, and Pest Control Operators). The other business license types that are regulated by PVLD/DCCA do not have a financial integrity component and thus requiring a tax clearance would appear to have no nexus to the basis for licensure;
- The majority of licensees of PVLD/DCCA are individuals who are licensed based on their competencies to practice. Competency is demonstrated through satisfying such requirements as education, experience, and passing a licensing exam. A tax clearance for such individuals would not appear to have a nexus to their competencies to practice and if there is no nexus to competency, it would appear inappropriate to impose this requirement for licensing purposes;

- Of the 115 license types to be subjected to the new tax clearance requirement, shortages exist in many of these areas and adding a requirement for a tax clearance could disincentivize licensing and practicing in Hawaii. In addition, if there is no nexus to or reason for them to obtain a tax clearance to demonstrate their competencies to practice, this could be regarded as a deterrent to licensing which would be contrary to all efforts by the PVLD/DCCA licensing authorities to make the licensing process free of restrictive requirements;
- PVLD/DCCA applicants for licensure and current licensees include practitioners who reside out-of-state, who may or may not actually work in Hawaii. The ability for such out-of-state applicants and licensees to obtain a tax clearance, or minimally obtain a meaningful tax clearance, is questionable;
- PVLD/DCCA expects that with the imposition of a tax clearance, processing of applications and renewals may be delayed. With current resources and the fact that checking for compliance with the tax clearance requirement may extend our review and processing time, delays may be expected with approving new licenses and renewing licenses. Whereas we strive to be timely to enable the newly licensed and renewed individual and business to practice in Hawaii – and thus make a living, this bill may work against that goal; and
- Our online renewal system is a user friendly tool for licensees to renew online and our overall user rate is 82.81%. As a tax clearance would be part of the

renewal process, DoTax's ability to confirm tax clearances through PVLD/DCCA online renewal system is critical. If they are unable to, PVLD/DCCA would have to reconsider whether online renewal is a workable option for these professionals.

Thank you for affording us the opportunity to share our concerns about the bill.

TABLE

PROFESSIONAL AND VOCATIONAL LICENSING DIVISION
LICENSE TYPES

ACU	ACUPUNCTURIST
AD	ACTIVITY DESKS
ADB	ACTIVITY DESK BRANCH
AMD	CERTIFIED PHYSICIAN ASSISTANT
APRN	ADVANCED PRACTICE REGISTERED NURSE RECOGNITION
AR	ARCHITECT
AUC	AUCTION
AUD	AUDIOLOGIST
BAR	BARBER
BAS	BARBER SHOP
BEO	BEAUTY OPERATOR
BSC	BEAUTY SCHOOL
BSH	BEAUTY SHOP
CB	MOTOR VEHICLE BROKER
CCV	CONSUMER CONSULTANT VEHICLE
CGA	CERTIFIED GENERAL APPRAISER
CHO	CONDOMINIUM HOTEL OPERATOR
COLA	COLLECTION AGENCY
COLAX	EXEMPT OUT-OF-STATE COLLECTION AGENCY
COLB	COLLECTION AGENCY BRANCH LOCATION
CPA	CERTIFIED PUBLIC ACCOUNTANT
CRA	CERTIFIED RESIDENTIAL APPRAISER
CS	MOTOR VEHICLE SALESPERSON
CSDH	COMMUNITY SERVICE DENTAL HYGIENIST
CSDT	COMMUNITY SERVICE DENTIST
DC	CHIROPRACTOR
DH	DENTAL HYGIENIST
DIO	DISPENSING OPTICIAN
DIS	DISTRIBUTOR
DOS	OSTEOPATHIC PHYSICIAN AND SURGEON
DOSR	OSTEOPATHIC RESIDENT
DT	DENTIST
EJ	JOURNEYMAN ELECTRICIAN
EJI	JOURNEYMAN INDUSTRIAL ELECTRICIAN
EJS	JOURNEYMAN SPECIALTY ELECTRICIAN
EL	ELECTROLOGIST
EM	MAINTENANCE ELECTRICIAN
EMA	EMPLOYMENT AGENCY
EMP	PRINCIPAL AGENT OF EMPLOYMENT AGENCY
EMTB	EMERGENCY MEDICAL TECHNICIAN-BASIC
EMTP	EMERGENCY MEDICAL TECHNICIAN-PARAMEDIC
ES	SUPERVISING ELECTRICIAN
ESI	SUPERVISING INDUSTRIAL ELECTRICIAN
ESS	SUPERVISING SPECIALTY ELECTRICIAN
EVM	ELEVATOR MECHANIC
F	MANUFACTURER

GD	GUARD
GDA	GUARD AGENCY
HA	HEARING AID DEALER & FITTER
I	BEAUTY INSTRUCTOR
LA	LANDSCAPE ARCHITECT
LBSW	LICENSED BACHELOR SOCIAL WORKER
LCSW	LICENSED CLINICAL SOCIAL WORKER
LPN	LICENSED PRACTICAL NURSE
LS	LAND SURVEYOR
LSW	LICENSED SOCIAL WORKER
MAE	MASSAGE ESTABLISHMENT
MAT	MASSAGE THERAPIST
MC	CERTIFIED MECHANIC
MD	PHYSICIAN
MDA	PHYSICIAN-TEMPORARY (ABSENCE)
MDG	PHYSICIAN-LIMITED (GOVERNMENT)
MDR	PHYSICIAN-RESIDENT
MDS	PHYSICIAN-LIMITED (SPONSORSHIP)
MDT	MEDICAL BOARD TEACHER
MFT	MARRIAGE AND FAMILY THERAPIST
MHC	MENTAL HEALTH COUNSELOR
MR	REGISTERED MECHANIC
MRC	REGISTERED AND CERTIFIED MECHANIC
MVB	MOTOR VEHICLE BRANCH LOCATION
MVD	MOTOR VEHICLE DEALER
MXC	MIXED MARTIAL ARTS CONTESTANT
MXD	MIXED MARTIAL ARTS PHYSICIAN
MXJ	MIXED MARTIAL ARTS JUDGE
MXM	MIXED MARTIAL ARTS MANAGER
MXP	MIXED MARTIAL ARTS PROMOTOR
MXR	MIXED MARTIAL ARTS REFEREE
MXS	MIXED MARTIAL ARTS SECOND
ND	NATUROPATHIC PHYSICIAN
NHA	NURSING HOME ADMINISTRATOR
OD	OPTOMETRIST
OT	REGISTERED OCCUPATIONAL THERAPIST
PA	PUBLIC ACCOUNTANT
PCFR	FIELD REPRESENTATIVE
PD	PRIVATE DETECTIVE
PDA	PRIVATE DETECTIVE AGENCY
PE	PROFESSIONAL ENGINEER
PH	PHARMACIST
PHY	PHARMACY
PJ	JOURNEYMAN PLUMBER
PM	MASTER PLUMBER
PMP	MISCELLANEOUS PERMIT
PO	PODIATRIST
PP	PORT PILOT
PSY	PSYCHOLOGIST
PSYI	INDUSTRIAL PSYCHOLOGIST
PT	PHYSICAL THERAPIST

Testimony on Senate Bill No. 1540

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PWD	WHOLESALE PRESCRIPTION DRUG DISTRIBUTOR
RB	REAL ESTATE BROKER
RBO	REAL ESTATE BRANCH OFFICE
RD	MOTOR VEHICLE REPAIR DEALER
RDS	MOTOR VEHICLE REPAIR SALVAGE DEALER
RN	REGISTERED NURSE
RS	REAL ESTATE SALESPERSON
RX	APRN-RX ADVANCED PRACTICE RN PRESCRIPTIVE AUTHORITY
SLA	STATE LICENSED APPRAISER
SP	SPEECH PATHOLOGIST
TAR	TRAVEL AGENCY
TBR	TRAVEL AGENCY BRANCH OFFICE
TSA	ACQUISITION AGENT
TSAS	SALES AGENT & ACQUISITION AGENT
TSRA	RESALE AGENT
TSS	SALES AGENT
UAA	UNIFORM ATHLETE AGENT
VE	VETERINARIAN



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1136 12th Avenue, Suite 220
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February 10, 2011

The Honorable Rosalyn H. Baker, Chair
Senate Committee on Commerce and Consumer Protection
State Capitol, Room 229
Honolulu, Hawaii 96813

RE: S.B. 1540, Relating To Taxation

HEARING: Friday, February 11, 2011 at 8:30 a.m.

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

I am Craig Hirai, a member of the Subcommittee on Taxation and Finance, here to testify on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its 8,500 members in Hawai'i. HAR has the following **comments** and concerns with respect to S.B. 1540, Relating to Taxation, which requires a Tax Clearance Certificate before a professional or vocational license may be issued or renewed.

The State of Hawai'i Department of Commerce and Consumer Affairs ("DCCA") Professional and Vocational Licensing Division ("PVL") Geographic Report (current Licenses) as of January 31, 2011, indicates that there were 124,482 licensees as of that date, or presumably about 60,000 licensees for each biennial renewal period. Of the 124,482 licensees, 20,378 were Real Estate Commission licensees (principally active and inactive real estate brokers and salespersons.)

Real estate licenses can currently be renewed online, with continuing education course attendance inputted on the DCCA PVL website. Many individual real estate licensees may never have had to obtain a Tax Clearance Certificate from the State of Hawaii Department of Taxation ("DoTax"). DoTax currently does not charge taxpayers for Tax Clearance Certificates, and HAR questions whether DoTax will have the resources to: (a) process the initial wave of tens of thousands of Tax Clearance Certificate applications required under S.B. 1540 (especially those of licensees who have never applied for a Tax Clearance Certificate before); and (b) link approved Tax Clearance Certificates to the DCCA PVL website so that licensees can renew their licenses online in a timely manner.

HAR also notes that Tax Clearance Certificates require confidential taxpayer information (Federal Employer ID Numbers and Social Security Numbers). HAR therefore respectfully requests assurance that this information will be protected if it is transferred electronically (or otherwise) from DoTax to the DCCA PVL website.

Mahalo for the opportunity to submit comments.



**HAWAII ASSOCIATION OF PUBLIC ACCOUNTANTS**

Organized August 7, 1943
P.O. BOX 61043
HONOLULU, HAWAII 96839



Before the Committee on Commerce and Consumer Protection

Friday, February 11, 2011 at 8:30 a.m.

Conference Room 229

Re: Support for SB1540, with Amendments

Relating to Taxation

John W. Roberts, MBA, CPA

Chair Baker, Vice Chair Taniguchi, and committee members:

I am a CPA and the State President of the Hawaii Association of Public Accountants (HAPA). HAPA is a statewide organization representing local public accounting practitioners (i.e., primarily local firm CPAs and staff, EAs, and tax practitioners). I am also a principal of Niwao & Roberts, CPAs, a P.C.

HAPA supports SB1540 for the following reasons:

1. All licensees should comply with Hawaii tax laws and pay their fair share of taxes. If there was more tax compliance, there would be less of a need to raise taxes for those individuals and businesses who presently do comply with Hawaii tax laws. Tax rates can be lower if there is a broader base of people paying taxes.
2. Submitting a tax clearance certificate from the State is a relatively simple process, assuming the requisite tax returns have been filed and any outstanding taxes paid. There is currently no fee to request a tax clearance (see attached Form A-6 and instructions, with note that a mailed-in or electronically filed tax clearance application generally takes 10-15 days to process. Same day "walk-in" tax clearance is also generally available for those who have complied with Hawaii tax laws).
3. A recent study by the Hawaii Association of Public Accountants (HAPA) showed that approximately 70% of out-of-state CPA firms (where individual CPAs were granted temporary permits to practice in Hawaii during 2007 and 2008) did not obtain Hawaii

General Excise tax license numbers for work done in Hawaii. Presumably they did not file income tax returns also for work done in Hawaii.

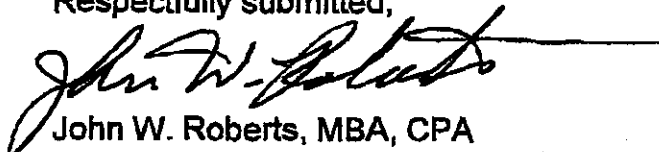
5. Even though there will be additional administrative costs in handling tax clearance requests, those costs are likely to be outweighed by additional taxes that will be collected by previously noncompliant individuals and businesses. In addition, less effort would have to be spent by the Hawaii Department of Taxation in finding and auditing noncompliant licensees.

Amendments Requested and Other Considerations

1. Since CPA firms will receive permits, not licenses, and out-of-state CPAs receive permits, not licenses, the language should be expanded to require tax clearances not only for professional and vocational licenses, but also for permit holders. Therefore, it should be "tax clearance before issuance and renewal of professional and vocational licenses and permits." Note: out-of-state CPAs only receive temporary permits, not licenses.
2. The State tax department should be given additional resources to allow for expedited issuances of tax clearance certificates.
3. If obtaining tax clearances would be too much of a burden for the tax department, an alternative would be to require licensees and permit holders to attest under penalties of perjury in their initial or renewal license or permit application that they 1) do not owe the State any delinquent taxes, penalties, or interest, or 2) have entered into and are complying with an installment agreement with the Department of Taxation for the payment of delinquent taxes in installments, or 3) are not subject to income or Hawaii General Excise taxation in Hawaii.

Thank you for your consideration of the above testimony.

Respectfully submitted,


John W. Roberts, MBA, CPA
HAPA State President

Enclosures

FORM A-6
(REV. 2009)

STATE OF HAWAII — DEPARTMENT OF TAXATION
TAX CLEARANCE APPLICATION
PLEASE TYPE OR PRINT CLEARLY

1. APPLICANT INFORMATION: (PLEASE PRINT CLEARLY)

Applicant's Name _____

Address _____

City/State/Postal/Zip Code _____

DBA/Trade Name _____

2. TAX IDENTIFICATION NUMBER:

HAWAII TAX ID # W _____

FEDERAL EMPLOYER ID # _____
(FEIN)

SOCIAL SECURITY # (SSN) _____

3. APPLICANT IS A/AN: (MUST CHECK ONE BOX)

- CORPORATION
- INDIVIDUAL
- LIMITED LIABILITY COMPANY
- Single Member LLC disregarded as separate from owner; enter owner's FEIN/SSN _____
- Subsidiary Corporation; enter parent corporation's name and FEIN _____
- S CORPORATION
- PARTNERSHIP
- LIMITED LIABILITY PARTNERSHIP
- TAX EXEMPT ORGANIZATION
- ESTATE
- TRUST

4. THE TAX CLEARANCE IS REQUIRED FOR: (MUST CHECK AT LEAST ONE BOX)

- CITY, COUNTY, OR STATE GOVERNMENT CONTRACT IN HAWAII *
- REAL ESTATE LICENSE
- FINANCIAL CLOSING
- HAWAII STATE RESIDENCY
- SUBCONTRACT
- CONTRACTOR LICENSE
- PROGRESS PAYMENT
- FEDERAL CONTRACT
- OTHER _____
- LIQUOR LICENSE *
- BULK SALES**
- PERSONAL
- LOAN

* IRS APPROVAL STAMP IS ONLY REQUIRED FOR PURPOSES INDICATED BY AN ASTERISK.

** ATTACH FORM G-8A, REPORT OF BULK SALE OR TRANSFER

5. NO. OF CERTIFIED COPIES REQUESTED:

6. SIGNATURE:

SIGNATURE DATE TELEPHONE FAX

PRINT NAME PRINT TITLE: Corporate Officer, General Partner or Member, Individual (Sole Proprietor), Trustee, Executor

FOR OFFICE USE ONLY
BUSINESS START DATE IN HAWAII IF APPLICABLE / /
HAWAII RETURNS FILED IF APPLICABLE 20__ 20__ 20__
STATE APPROVAL STAMP (Not valid unless stamped)
*IRS APPROVAL STAMP
CERTIFIED COPY STAMP

POWER OF ATTORNEY. If submitted by someone other than a Corporate Officer, General Partner or Member, Individual (Sole Proprietor), Trustee, or Executor, a power of attorney (State of Hawaii, Department of Taxation, Form N-848) must be submitted with this application. If a Tax Clearance is required from the Internal Revenue Service, IRS Form 8821, or IRS Form 2848 is also required. Applications submitted without proper authorization will be sent to the address of record with the taxing authority. **UNSIGNED APPLICATIONS WILL NOT BE PROCESSED.**
PLEASE TYPE OR PRINT CLEARLY — THE FRONT PAGE OF THIS APPLICATION BECOMES THE CERTIFICATE UPON APPROVAL.
SEE PAGE 2 ON REVERSE & SEPARATE INSTRUCTIONS. Failure to provide required information on page 2 of this application or as required in the separate instructions to this application will result in a denial of the Tax Clearance request.

FORM A-6
(REV. 2009)

APPLICANT'S NAME FROM PAGE 1 _____

7. CITY, COUNTY, OR STATE GOVERNMENT CONTRACT: Bid/Entering Into or Ongoing Contract Completion/Final Payment
For completion/final payment of contract, please provide the name and telephone number of the contact person at the State or County Agency.
Name: _____ Telephone Number: _____

8. LIQUOR LICENSING: Initial Renewal Transfer-Seller Transfer-Buyer Special Event

9. CONTRACTOR LICENSING: Initial Renewal

10. STATE RESIDENCY: DATE APPLICANT ARRIVED OR RETURNED TO HAWAII _____

11. ACCOUNTING PERIOD: Calendar year Fiscal year ending _____
(MM/DD)

12. TAX EXEMPT ORGANIZATION:

A) Provide the Internal Revenue Code Section that applies to your exemption (e.g., 501(c)(3)). _____

B) Does your organization file:

- Federal Form 990, Return of Organization Exempt from Income Tax,
- Federal Form 990-T, Exempt Organization Business Income Tax Return, or
- None of the above.

13. INDIVIDUAL: Spouse's Name _____ SSN _____

14. IF YOU DO NOT HAVE A GENERAL EXCISE TAX LICENSE AND REQUIRE A TAX CLEARANCE FOR A GOVERNMENT CONTRACT:

- A) Has your firm had any previous business income in Hawaii? YES NO
- B) Does your firm have an office, inventory, property, employees, or other representatives in the State of Hawaii? YES NO
- C) Has your firm provided any services within the State of Hawaii (e.g., servicing computers, training sessions, etc.)? YES NO

Note: If you answer "Yes" to any of the above questions, you are required to apply for a general excise tax license.

15. FILING THE APPLICATION FOR TAX CLEARANCE:

The completed application may be mailed, faxed, or submitted in person to the Department of Taxation, Taxpayer Services Branch. Applications which require an Internal Revenue Service Tax Clearance will be forwarded to the Internal Revenue Service after processing is completed by the Department of Taxation. Allow up to 10 to 15 business days for processing between the Department of Taxation and the Internal Revenue Service.

State Dept. of Taxation
TAXPAYER SERVICES BRANCH
P.O. BOX 259
HONOLULU, HI 96809-0259
TELEPHONE NO.: 808-587-4242
TOLL FREE: 1-800-222-3229
FAX NO.: 808-587-1488

or
830 PUNCHBOWL STREET, RM 124
HONOLULU, HI 96813-6094

Internal Revenue Service
WAGE & INVESTMENT DIVISION
-TC M/S H214
FIELD ASSISTANCE GROUP 582
300 ALA MOANA BLVD., #50089
HONOLULU, HI 96850
TELEPHONE NO.: 808-539-1555
FAX NO.: 808-539-1573

or
TAXPAYER ASSISTANCE CENTER
HONOLULU:
300 ALA MOANA BLVD., RM 1-128

Applications are available at Department of Taxation and IRS offices in Hawaii, and may also be requested by calling the Department of Taxation on Oahu at 808-587-4242 or toll-free at 1-800-222-3229. The Tax Clearance Application, Form A-6, can be downloaded from the Department of Taxation's website (www.hawaii.gov/tax).

-----FOR OFFICE USE ONLY-----

TYPE OF TAX	TAX RETURNS FILED STATUS	Clerk's Initials	ITEMS RECEIVED
INCOME			
GENERAL EXCISE/USE/ COUNTY SURCHARGE TAX			
HAWAII WITHHOLDING			
TRANSIENT ACCOMMODATIONS			
RENTAL MOTOR/TOUR VEHICLE			
UNEMPLOYMENT INSURANCE			
OTHER TAXES			

**INSTRUCTIONS
FORM A-6
(REV. 2009)**

**STATE OF HAWAII — DEPARTMENT OF TAXATION
INSTRUCTIONS FOR FORM A-6
TAX CLEARANCE APPLICATION**

GENERAL INSTRUCTIONS

- This form is used to obtain a **State Tax Clearance**. (If you are reporting a bulk sale of business assets, you must also complete and attach Form G-8A, Report of Bulk Sale or Transfer.)
- This form may only be used to obtain a **Federal Tax Clearance** for the purpose of liquor licensing or entering into contracts/submitting bids with and/or seeking final payment of contracts from state or county agencies in Hawaii. Contractors winning the bids are not required to have their subcontractors obtain a tax clearance.
- The current version of Form A-6 must be used. Type or print clearly with a pen. After approval, the front page of the application will be your tax clearance certificate.
- Applications (Form A-6) are available at Department of Taxation and Internal Revenue Service (IRS) offices in Hawaii, and may also be requested by calling the Department of Taxation on Oahu at 808-587-4242 or toll free at 1-800-222-3229. This form can be downloaded from the Department of Taxation's website (www.hawaii.gov/tax).

LINE-BY-LINE INSTRUCTIONS

Line 1 — Applicant Information

Applicant's Name. — Enter your legal name. The name appearing on your application must match the name on file with the State Department of Taxation, IRS, and, if applicable, the State Department of Commerce and Consumer Affairs.

Address. — Enter the address to which correspondence regarding this application for tax clearance should be mailed. In most cases, the address should be that which is on file with the Department of Taxation and/or IRS.

DBA (Doing Business As)/Trade Name. — If you have a trade or business name which is different from your legal/registered name, enter that name here.

Line 2 — Tax Identification Numbers

Hawaii Tax ID #. — Enter your Hawaii tax identification number. Enter "NONE" if you do not have one.

Federal Employer ID #. — Enter your 9-digit federal employer identification number (FEIN). Enter "NONE" if you do not have one.

Social Security #. — If you are an individual/sole proprietor, enter your social security number (SSN).

Line 3 — Applicant Is a/an

Check the box which best describes your entity type.

If you are a Single Member LLC disregarded as separate from the owner, enter the owner's FEIN/SSN in the space provided.

If you are a Subsidiary Corporation, enter the parent corporation's name and FEIN in the space provided.

Line 4 — The Tax Clearance is Required For

Check the box(es) which correspond to your reason(s) for obtaining the tax clearance. The asterisks (*) indicate reasons for which a state and federal clearance is required.

Check the "Other" box if you are required to obtain a tax clearance for the credit for school repair and maintenance or for the purchase of cigarette tax stamps at the reduced rate.

Line 5 — No. of Certified Copies Requested

Enter the number of certified copies you are requesting. Please retain the copy of the tax clearance that is stamped with the green certification stamp. When you require additional copies prior to the expiration date of the tax clearance certificate, submit the copy of the tax clearance that is stamped with the green certification stamp with a request for the number of copies required. Each copy will bear an original green certified copy stamp.

Line 6 — Signature

Signature. — The application must be signed by an individual/sole proprietor/owner, trustee, executor, corporate officer (president, vice-president, secretary, treasurer, etc.) or general partner or member. An employee of your company or authorized agent may sign the application if he/she possesses a valid power of attorney. Power of attorney forms are available at the Department of Taxation (Form N-848) and IRS (Form 8821 or Form 2848) as indicated on page 1 of the application. Unsigned or unauthorized signatures on applications will be returned.

Print Name. — Enter the name of the person signing the application.

Print Date/Telephone/Fax/Title. — Enter the date the application is signed, and the telephone/fax number which the Department of Taxation or IRS can call during business hours should any questions arise while processing the application for tax clearance. Also enter the title of the person signing the application.

Line 7 — City, County, or State Government Contract

Indicate whether you are submitting a bid for a contract, entering into a contract, have an ongoing contract, completing a contract, and/or waiting for final payment on a contract.

If you are requesting a tax clearance for a completion/final payment of contract, please provide the name and telephone number of the contact person at the State or County Agency in the spaces provided.

Line 8 — Liquor Licensing

For liquor licensing purposes, indicate whether you are applying for an initial liquor license, renewing your current liquor license, transferring a liquor license, or applying for a one time special event license.

Please Note: If you are renewing your liquor license or transferring the business to another entity (or person), the federal tax clearance requires compliance with the Bureau of Alcohol, Tobacco, and Firearms (ATF).

Line 9 — Contractor Licensing

Indicate whether you are applying for your initial contractor's license or renewing your current license.

Line 10 — State Residency

Enter the date you arrived in the State of Hawaii or returned to the State of Hawaii if your reason for applying is residency status.

Line 11 — Accounting Period

If you file your tax returns on a calendar year basis (1/1 — 12/31), check the first box. If you file your tax returns on a fiscal year basis other than a calendar year, check the second box, and enter the month and day your fiscal year ends. For example, a corporation whose tax year is July 1st through June 30th would write "06/30" on the line provided.

Line 12 — Tax Exempt Organization

Tax exempt organizations must enter the Internal Revenue Code section that applies to your exempt status. For example: IRC §501(c)(3). Also, check the box to indicate whether your organization files federal Form 990, Return of Organization Exempt from Income Tax; federal Form 990-T, Exempt Organization Business Income Tax Return; or none of the above.

Line 13 — Individual

If you are an individual/sole proprietor who is married, enter your spouse's name and social security number on the lines provided.

Line 14 — If You Do Not Have a General Excise Tax License and Require a Tax Clearance for a Government Contract

If you do not have a general excise tax license and require a tax clearance for a government contract, you must complete this section. Contact the State Department of Taxation if you have additional questions. Refer to page 2 of Form A-6 for the telephone number or mailing address.

Line 15 — Filing the Application for Tax Clearance

Applications may be submitted either in person, fax or by mail. Mailing addresses for the State Department of Taxation and the IRS are provided on page 2 of the application.

A "mailed-in" tax clearance application generally takes 10 - 15 business days to process.

If all required returns have been filed and all required taxes, penalties, and interest have been paid, a "walked-in" tax clearance to any district tax office will generally be processed the same business day.

Form A-6 also can be filed electronically through the State's Internet portal. An electronically filed tax clearance application generally takes 10 - 15 business days to process. For more information, go to www.ehawaii.gov/efile.

**Taketa, Iwata, Hara & Associates, LLC**

Certified Public Accountants & Consultants

101 Aupuni Street, Suite 139

Hilo, Hawaii 96720-4260

Before the Committee on Commerce and Consumer Protection

**Friday, February 11, 2011 at 8:30 a.m.
Conference Room 229**

**Re: Support for SB 1540
Relating to Taxation**

Testimony of Gregg M. Taketa

Chair Baker, Vice-Chair Taniguchi and committee members:

I respectfully ask that you vote YES on SB 1540.

I am a CPA and the immediate past State President of the Hawaii Association of Public Accountants (HAPA). I am also a member of the Hawaii Society of Certified Public Accountants (HSCPA) and the American Institute of Certified Public Accountants (AICPA). I support SB 1540 that requires holders of professional or vocational licenses to provide a tax clearance certificate as a condition to license issuance or renewal for the following reasons:

- Holding a professional or vocational license in Hawaii is a privilege, not a right. Obtaining a tax clearance certificate does not create an undue burden on the applicant.
- This requirement will bring the State closer to a "level playing field" as independent contractors doing business with the state and liquor license holders fulfill similar requirements.
- The Hawaii Association of Public Accountants (HAPA) conducted a study of the demand and process involved with the issuance of temporary CPA permits to out-of-state CPAs during 2007 and 2008. In conjunction with that study, HAPA found that approximately 70% of out-of-state CPA firms had not obtained Hawaii General Excise Tax licenses.
- Requiring a tax clearance certificate as a condition to license issuance or renewal is an effective way to enforce compliance with the income and general excise tax laws among the professional and vocational license holders in this State.
- The income generated by Hawaii's professional and vocational license holders is significant and full compliance with the general excise tax laws will have an impact on the State's finances.

I urge the committee to support SB 1540 for these reasons.

To strengthen this legislation further, I suggest that SB 1540 be amended to include "or permits" to line 13 of page 1 and line 4 of page 2 after "license" and lines 10 and 11 of page 2 and lines 5, 6 and

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18 of page 3 after "vocational licenses". The additional language regarding permits is necessary because certified public accountants must also obtain a permit to practice from the department of commerce and consumer affairs in order to practice public accounting. Also, the rules changes approved by the Board of Public Accountancy in 2010 require firm permits. It would be appropriate to include accounting firms under this legislation as the firms are usually the taxpaying entity for general excise taxes.

SB 1540 should be amended by deleting the sentence on line 14 through 16 of page 1, "In addition, limiting the tax clearance to income tax will ensure that the information can be provided in a timely manner." The tax clearance should include the general excise tax to ensure that applicants for Hawaii's professional and vocational licenses or permits are in compliance with the payment of general excise taxes.

Expanding the scope of the tax clearance to include general excise taxes is important because the general excise tax is the largest source of revenue for the State.

Thank you for this opportunity to testify.

Respectfully submitted,


Gregg M. Taketa, CPA

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THE SENATE
THE TWENTY-SIXTH LEGISLATURE
REGULAR SESSION OF 2011

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Hearing date: February 11, 2011
Testimony on S.B. 1540
(Relating to Taxation)

Chair Baker, Vice-Chair Tanaguchi, and Members of the Committee, thank you for the opportunity to testify **in support** of Senate Bill 1540 and offer comments.

This bill would require that applicants for a professional or vocational license obtain a tax clearance before a professional or vocational license could be issued or renewed. This bill would require individuals that were not in compliance with the tax laws to come to the Department of Taxation to correct tax issues before the license could be renewed. Requiring a tax clearance is not a new concept, tax clearances are already required for state contracts and for liquor licenses.

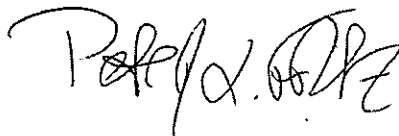
It is more efficient to find non complying taxpayers when they must come to the Department of Taxation. It is a better allocation of resources than hiring six new employees to attempt to find non complying taxpayers by terrorizing vendors at flea and farmer's markets. It is a program that will cost less than the computer contract that matches federal data with state data.

However, I suggest that the bill be modified to require a certificate that license applicants only provide proof of filing an income tax return in the form of a certificate from the Department of Taxation. The Department of Taxation has many tools available to collect amounts due and owing from non complying taxpayers. It does not need the additional power of withholding the issuance or renewal of a license to obtain concessions.

I have attached a proposed draft of this measure changing the requirements for a license issuance or renewal from a tax clearance to a certificate of filing of an income tax return.

Thank you for the opportunity to testify.

Very truly yours,



Peter L. Fritz

TWENTY-SIXTH
LEGISLATURE, 2011
STATE OF HAWAII

A BILL FOR AN ACT

Relating to Taxation.

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

SECTION 1. The legislature finds that all taxpayers are required to pay taxes on the income that they earn from business conducted under a professional or vocational license. However, some taxpayers file general excise tax returns, but not income tax returns, and some taxpayers fail to file any tax returns. This may result in a shift of tax obligations to other taxpayers since tax rates may have to be increased to ensure adequate funding for state programs.

Currently, a tax clearance is required for certain state contracts, including those over \$25,000, for procuring a liquor license, and in certain other instances. Requiring a tax clearance to be submitted with the application for or renewal of a license insures that the holder of a license granted by the State is in compliance with state tax laws. In addition, limiting the tax clearance to income tax will ensure that the information can be provided in a timely manner. Professional or vocational license holders who reside in another state and do not have any Hawaii income can certify that the license holder is exempt from the tax clearance requirement.

The purpose of this Act is to require a tax clearance before a professional or vocational license may be issued or renewed.

SECTION 2. Chapter 231, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§231- Tax clearance for issuance and renewal of professional and vocational licenses.

The department of taxation shall issue a tax clearance signed by the director of taxation, confirming that all income tax returns due for the prior three year period have been filed or the taxpayer files a certification with the department of taxation that the taxpayer is not subject to income taxation in Hawaii for the purpose of the issuance or renewal of a professional or vocational license issued by the department of commerce and consumer affairs, "

SECTION 3. Chapter 436B, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§436B- Tax clearance before issuance and renewal of professional and vocational licenses.

No professional or vocational licenses issued by the department of commerce and consumer affairs shall be issued or renewed unless the applicant presents to the proper licensing authority, a tax clearance signed by the director of taxation, showing that all income tax returns

have been filed or the taxpayer presents the certificate filed with the department of taxation that the taxpayer is not subject to income taxation in Hawaii."

SECTION 4. The department of taxation shall prepare any forms that may be necessary for the tax clearance for the renewal of professional or vocational licenses.

SECTION 5. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 6. New statutory material is underscored.

SECTION 7. This Act, upon its approval, shall apply to taxable years beginning after December 31, 2012.

Ronald I. Heller
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**TESTIMONY BEFORE THE SENATE COMMITTEE
ON COMMERCE & CONSUMER PROTECTION**

Re Senate Bill 1540

**Friday, February 11, 2011 at 8:30 am
State Capitol, Conference Room 229**

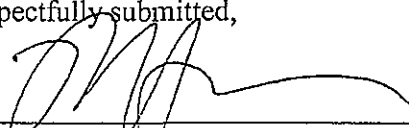
Chair Baker, Vice-Chair Taniguchi, and Members of the Committee:

Thank you for the opportunity to testify. My name is Ronald Heller. I am a practicing attorney, and also licensed as a Certified Public Accountant. I have some concerns about the practical effects of SB 1540.

I support the basic concept that everyone should pay his or her taxes, and I generally favor measures that will improve compliance. SB 1540, however, will create a substantial amount of additional work for taxpayers and for the Department of Taxation.

If this bill passes, the Legislature should fund additional positions at the Department of Taxation to handle the increased workload of processing thousands of additional clearance applications.

Respectfully submitted,



Ronald I. Heller

Testimony for CPN 2/11/2011 8:30:00 AM SB1540

Conference room: 229
Testifier position: oppose
Testifier will be present: No
Submitted by: Shirley Daniel
Organization: Individual
Address: 4121 Black Point Road Honolulu
Phone: 808-735-8481
E-mail: sdaniel442003@yahoo.com
Submitted on: 2/1/2011

Comments:

I oppose this bill because it places yet another unnecessary administrative burden on businesses.

The process of getting a tax clearance will delay the licensing process and create unnecessary work for the State Dept of Taxation as well. This will be particularly problematic at license renewal time.

While compliance with tax rules and collection of taxes is a worthy goal in these times of tight budgets, this method of enforcement penalizes those businesses/professionals most likely to already be in compliance. The time of the State Tax Department Personnel is better spent going after delinquent tax payers in more direct fashion, rather than imposing another regulatory requirement on all businesses.

Sincerely,

Shirley Daniel

Natalie J. Iwasa, CPA, Inc.
1331 Lunalilo Home Road
Honolulu, HI 96825
808-395-3233

TO: Committee on Commerce and Consumer Protection

HEARING

DATE: Friday, February 11, 2011, 8:30 a.m.

RE: SB 1540 Requiring Professionals to Obtain Tax Clearances - OPPOSE

Aloha Chair Baker, Vice Chair Taniguchi and Members of the Committee,

This bill would require professional and vocational licensees to obtain tax clearances in order to renew their licenses. There are currently 47 different types of professions and vocations licensed in Hawaii, according to the state's Department of Commerce and Consumer Affairs website. Some of my clients who are required to get tax clearances have told me they've had to get clearances in person because they were not sure they would receive the clearance on time if they requested it via mail or electronically. (Processing time according to the state's website is 10 - 15 business days.) Will more staff be hired in order to handle the extra volume of requests this bill would require?

According to lines 15 and 16 of the bill, a tax clearance will only be required for income tax returns to "ensure that the information can be provided in a timely manner." If one of the concerns is that some licensees are not paying their income tax AND/OR general excise tax (GET), shouldn't clearances be required for both types of taxes? How does requesting only the income tax clearance ensure information will be provided in a timely manner?

Implementing this bill will require additional resources at the state level as well as for businesses. I would like to suggest that rather than adding to the burdens of our licensees, the state take information it already has and use it to determine who is not filing. For example, state GET and income tax returns should be matched to determine who is not filing one or the other or filing incorrectly. Or how about checking into cases of non-registration and non-licensure when they are brought to the attention of the state, e.g., for subcontractors working on the Honolulu rail project as has been brought up by Councilmember Ann Kobayashi on several occasions?

Please vote "no" on this bill.

Michael T. McEnerney
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Before the Senate Committee on

COMMERCE & CONSUMER PROTECTION

Friday February 11, 2011
8:30 am in Conference Room 229

Re: SB GM 1540

Relating to Taxation

Chair Baker, Vice Chair Taniguchi and Committee Members:

Thank you for the opportunity to provide testimony to this Committee. I would like to respond to the proposal to require a tax clearance for renewal of any vocational or professional license *issued by the department of commerce and consumer affairs*. As a preliminary comment I note that a profession missing from such a requirement would be attorneys, many of whom are members of this legislative body.

By way of background, I am both a CPA and an attorney here in Hawaii and have been practicing in Hawaii for over 30 years. I am a graduate of the University of Hawaii at Manoa. I have been active in the Hawaii Bar Association and in the Hawaii Society of CPAs (HSCPA). I am a long time member of the advisory committee of the Regulated Industries Complaints Office (RICO) of DCCA. Much of the professional work I am engaged in involves forensic examination of accounting and tax records of companies in Hawaii. I am familiar with Hawaii tax law and compliance issues. I appear today in my own behalf and not as a representative of any professional organization or my own firm.

I am concerned about this proposed law on several levels. As noted above, if such a law is implemented the absence of attorneys as a profession requiring such clearance is questionable and distressing. Second, there would be an increased burden on the Department of Taxation to comply with the significant increase in clearance processing. Third, to date I have seen no indication that all professional and vocational license holders as a group have significant compliance problems. If compliance is a problem with specific

holders I would think addressing an identified problem group would be a reasonable first step.

DCCA provides a list of professional and vocational licenses geographic report. The January 31, 2011, report shows 42 separate boards. These boards have 124,482 separate licenses issued of which 25,760 are identified as mainland, 717 as foreign and 33 as other holders such that there are 97,974 potential additional tax clearances to be issued by the Department of Taxation (124,484 less 25,760 and 717 and 33). Some of these 97,974 will be inactive not requiring such clearances but even if further reduced the total increase is significant. I was unable to ascertain the number of tax clearances issued by the Department of Taxation but assume that 90,000 additional clearances would be a material increase in their work load. This is a period of reduced budgets and workforce.

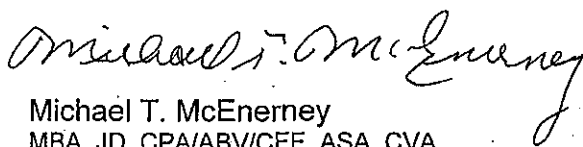
I point out to this committee that arbitrary increases in required paperwork can place a material burden on business. Witness the federal example of dramatic increases in the annual 1099 filing requirement for rental property owners (starting in 2011) and businesses (starting in 2021). Both requirements have met with significant opposition based on the material increase in cost with little evidence of a resulting increase in tax revenues.

Finally I would remind this committee that the purpose of professional and vocational licensing is to protect the public not to raise revenue. To the extent that barriers to licensing and regulation are created for revenue purposes the number of individuals who are willing to comply with such licensing will decrease and unlicensed activity will increase. Enforcement activity at the Department of Regulated Industries would have to increase with related budget increases to continue to protect the public from unlicensed activity and such activity would be harder to uncover.

I would suggest a compressive study involving the Department of Taxation and the Department of Professional and Vocational Licensing to cross check the names on the Hawaii Gross Excise Licenses file, already in searchable electronic form, with the professional and vocational licenses files of DCCA. Such a study would show if there is any significant non-compliance involving specific license holders. Following such a study consideration can be given to requiring tax wavers prior to renewal of specific licenses.

I thank you for your time and the opportunity to address this committee.

Sincerely,



Michael T. McEnerney
MBA, JD, CPA/ABV/CFF, ASA, CVA