

TESTIMONY BY KALBERT K. YOUNG
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE SENATE COMMITTEE ON WAYS AND MEANS
ON
HOUSE BILL NO. 2361, H.D. 2, S.D. 1

March 28, 2012

RELATING TO DEBT COLLECTION

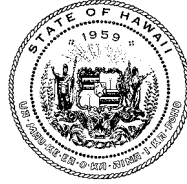
House Bill No. 2361, H.D. 2, S.D. 1, allows the Department of the Attorney General to assume the collection of delinquent accounts for Executive departments, excluding the Department of Taxation and University of Hawaii, having an account delinquent for more than 90 days. House Bill No. 2361, H.D. 2, S.D. 1, creates the Civil Recoveries Fund to defray costs associated with the collection of delinquent accounts that includes training and appropriate filing fees and litigation costs.

The Department of Budget and Finance takes no position on the role of the Department of the Attorney General in collecting delinquent accounts. However, as a matter of general policy, the department does not support the creation of any fund which does not meet the requirements of Section 37-52.3 of the Hawaii Revised Statutes. Special or revolving funds should: 1) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries of the program; 2) provide an appropriate means of financing for the program or activity; and 3) demonstrate the capacity to be financially self-sustaining. In regards to House Bill No. 2361, H.D. 2, S.D. 1, it is difficult to determine if the new fund will be self-sustaining.

I encourage the Legislature to scrutinize the fiscal and operational plan for this program to ensure that it does conform to the requirements of Section 37-52.3, Hawaii Revised Statutes.

NEIL ABERCROMBIE
GOVERNOR

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To: The Honorable David Y. Ige, Chair
and Members of the Senate Committee on Ways and Means

Date: Wednesday, March 28, 2012

Time: 9:30 a.m.

Place: Conference Room 211, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: H.B. No. 2361 H.D. 2 S.D. 1 Relating to Debt Collection

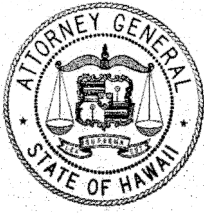
The Department of Taxation (Department) defers to the Department of the Attorney General on the merits of this measure, but offers comments.

This measure provides that executive departments, other than the Department and the University of Hawaii, may refer accounts that are more than 90 days delinquent to the Attorney General, which would then have the responsibility for collection. An unspecified portion of any monies recovered will be deposited in a to-be-established fund to be used to pay for the costs of collection, with the balance being returned to the department from which the claim arose. The measure also amends the definition of "uncollectible account" with respect to debts discharged in bankruptcy.

The Department would note it is not necessary to be listed as a creditor in a no asset bankruptcy case in order for a debt to be discharged. In a no asset bankruptcy case for which no claims deadline has been set, a discharge of debtor will discharge all dischargeable debts, whether or not the creditor is listed in the bankruptcy and regardless of whether the creditor is even aware of the bankruptcy. The Department suggests changing the language of section 2 in defining "uncollectible account" to read:

(4) The debt has been discharged in bankruptcy;

Thank you for the opportunity to provide comments.



**WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-SIXTH LEGISLATURE, 2012**

ON THE FOLLOWING MEASURE:

H.B. NO. 2361, H.D. 2, S.D. 1, RELATING TO DEBT COLLECTION.

BEFORE THE:

SENATE COMMITTEE ON WAYS AND MEANS

DATE: Wednesday, March 28, 2012

TIME: 9:30 a.m.

LOCATION: State Capitol, Room 211

WRITTEN COMMENTS: For more information, call Michael S. Vincent, Deputy Attorney General, Phone no. 586-1100

Chair Ige and Members of the Committee:

The Department of the Attorney General (the "Department") supports the intent and purpose of this bill, but would like to make a few suggestions.

The purpose of this bill is to provide that the Department collect delinquent accounts for executive departments, excepting the Department of Taxation and the University of Hawaii. The bill also creates a fund to be used for collection-related expenditures, as well as for training, education, and appropriate non-litigation collection methods, filing fees, and litigation costs. This bill's provisions are similar to those of H.B. No. 2442. The main difference, however, is the provision that requires the Department to assume the collection of all delinquent accounts for any executive department, excepting the Department of Taxation and the University of Hawaii, that are delinquent more than ninety days.

The Department would like to have all new debt referred to us for collection, with some discretion given to the Department, and would support including this additional provision from H.B. No. 2442, but only if the other provisions of that measure are implemented, as these provisions would ensure that additional resources will be available to properly pursue those outstanding debts. We suggest the effective date be changed from July 1, 2030, to upon signing of this bill.