

NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
FAX NO: (808) 587-1560

FREDERICK D. PABLO
DIRECTOR OF TAXATION

RANDOLF L. M. BALDEMOR
DEPUTY DIRECTOR

To: The Honorable Gilbert S. C. Keith-Agaran, Chair
and Members of the House Committee on Judiciary

Date: Thursday, February 2, 2012

Time: 2:00 p.m.

Place: Conference Room 312, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: H.B. No. 2361 Relating to Debt Collection

The Department of Taxation (Department) defers to the Department of the Attorney General on the merits of this measure, but recommends that the Department of Taxation be excluded from this measure along with the University of Hawaii.

This measure provides that executive departments, other than the University of Hawaii, must refer accounts that are more than 90 days delinquent to the Department of the Attorney General, which then has responsibility to collect the accounts. 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 allows the Attorney General (AG) to determine and to write off accounts deemed uncollectable based upon certain criteria.

While the Department understands the purpose of the measure, we note that the Department of Taxation has the exclusive authority to collect all taxes imposed under Title 14 of the Revised Statutes of Hawaii. This collection function also includes the ability to work with individual taxpayers, on a case-by-case basis, to develop payment plans to encourage collection of outstanding tax liabilities. Handling the collection function of the Department would also require AG employees to have access to tax data; AG employees would be subject to the same high confidentiality requirements that current Department employees must meet.

The Department also notes that H.B. 2361 provides for an account to be deemed uncollectible if the debtor has filed for bankruptcy protection and has listed the State as a creditor. However, the mere filing of a petition in bankruptcy does not necessarily discharge the debtor from a debt. The debtor must receive a discharge of debtor, and the debt must be a dischargeable debt under the bankruptcy code. Most tax debts, however, are not dischargeable tax debts.

Thank you for the opportunity to provide comments.



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

ON THE FOLLOWING MEASURE:
H.B. NO. 2361, RELATING TO DEBT COLLECTION.

BEFORE THE:
HOUSE COMMITTEE ON JUDICIARY

DATE: Thursday, February 2, 2012 **TIME:** 2:00 p.m.
LOCATION: State Capitol, Room 325
TESTIFIER(S): David M. Louie, Attorney General, or
Michael S. Vincent, Deputy Attorney General

Chair Keith-Agaran 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 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 is very similar to the provisions of H.B. No. 2442, which was heard and considered by this Committee on January 31, 2012. However, the main difference is the provision that requires the Department to assume the collection of all delinquent accounts for any executive department, excepting the University of Hawaii, that are delinquent more than ninety days.

The Department would like to have all new debt referred for collection and would support including this additional provision in H.B. No. 2442, but only if the other provisions of those measures are implemented as these provisions would ensure that additional resources will be available to properly pursue those outstanding debts.

The provisions of this bill relating to section 40-82, Hawaii Revised Statutes, (HRS) would not need to be amended with the passage of H.B. No. 2442.

Therefore, we respectfully request that if you pass this measure, that the proposed addition of section 28-B, HRS, in section 1 of the bill and section 2 of the bill be deleted. Sections 1 and 2 of H.B. No. 2442 should then be inserted before section 4.