

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

January 31, 2012

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

Date: Tuesday, January 31, 2012

Time: 2:00 p.m.

Place: Conference Room 312, State Capitol

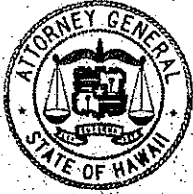
From: Frederick D. Pablo, Director
Department of Taxation

Re: H.B. No. 2446 Relating to the Probate Code

The Department of Taxation (Department) supports this measure.

H.B. 2446 provides that the time for any State agency to file a claim in a probate estate would not expire unless the State agency receives actual written notice of the probate estate.

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. 2446, RELATING TO THE PROBATE CODE.

BEFORE THE:

HOUSE COMMITTEE ON JUDICIARY

DATE: Tuesday, January 31, 2012 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Room 325

TESTIFIER(S): David M. Louie, Attorney General, or
Elton Au, or Michael Vincent, Deputy Attorneys General

Chair Keith-Agaran and Members of the Committee:

The Department of the Attorney General strongly supports this measure.

The purpose of this bill is to clarify that the statute of limitations in probate proceedings only applies to a state agency claim against a decedent's estate if the agency receives actual notice of the commencement of the decedent's probate case. Under existing law, claims against a decedent's estate must be made within four months after a notice to creditors has been published in the newspaper or within sixty days of delivering actual notice to the creditor (whichever is later), or within eighteen months of the date of death if notice was not published or delivered.

Frequently, state agencies are not notified of the death of individuals and do not receive actual notice of probate cases. Currently, a state agency must check the obituary and legal notices in the daily newspapers and then somehow compare these names with beneficiaries to determine if a claim needs to be submitted by the agency. As a result, the State often misses the filing deadline in many probate cases for submitting a creditor's claim to the personal representative of a decedent's estate. Not knowing about the commencement of a probate case has deprived state agencies of the opportunity to file a claim in the probate of the decedent's estate, resulting in the loss of potential revenues to the State.

We respectfully request passage of this bill.