

TESTIMONY OF THE AMERICAN COUNCIL OF LIFE INSURERS
IN SUPPORT OF SENATE BILL 2238, RELATING TO TAXATION

February 23, 2012

Via e mail

Hon. David Y. Ige, Chair
Committee on Ways and Means
State Senate
Hawaii State Capitol, Room 211
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Ige and Committee Members:

Thank you for the opportunity to testify in Support of SB 2238, relating to Taxation.

Our firm represents the American Council of Life Insurers (“ACLI”), a national trade association, who represents more than three hundred (300) legal reserve life insurer and fraternal benefit society member companies operating in the United States. These member companies account for 90% of the assets and premiums of the United States Life and annuity industry. ACLI member company assets account for 91% of legal reserve company total assets. Two hundred thirty-five (235) ACLI member companies currently do business in the State of Hawaii; and they represent 93% of the life insurance premiums and 92% of the annuity considerations in this State. Four fraternal benefit society member companies operate in the State of Hawaii.

SB 2238 repeals Act 155 which requires all businesses that are exempt from Hawaii’s general excise tax to register to do business in the State file their general excise tax returns and affirmatively claim their exemptions.

A fraternal benefit society is exempt from Hawaii’s general excise tax under Section 237-23(a) and (b), HRS.

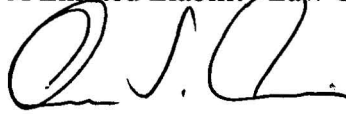
Under Act 155, if a fraternal benefit society fails to file its annual general excise tax return (form G-49) within 12 months of its due date it forfeits its excise tax exemption.

The severe penalty of the forfeiture of a fraternal’s exemption solely because it fails to file the required return and to claim its exemption is unwarranted and is out of proportion to the Act’s stated purpose – to capture relevant information on claims for the general excise tax benefits. The loss of a fraternal society member company’s exemption would reduce its ability to provide the kinds and level of services and programs to its members and the members of their communities in which they live.

On behalf of its fraternal benefit society member companies, therefore, ACLI supports the repeal of Act 155 and supports passage of SB 2238.

Again, thank you for the opportunity to testify in support of SB 2238.

LAW OFFICES OF
OREN T. CHIKAMOTO
A Limited Liability Law Company

A handwritten signature in black ink, appearing to read "O.T. Chikamoto", written over the text "A Limited Liability Law Company".

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February 22, 2012

Senator David Ige
Chair, Committee on Ways and Means
Hawaii State Senate
State Capitol, Room 016
Honolulu, HI 96813

RE: SB 2238, Relating to General Excise Tax

Dear Chair Ige and members of the Senate Committee on Ways and Means:

The Hawai'i Alliance of Nonprofit Organizations (HANO) supports SB 2238, which repeals Act 155. HANO is a statewide, sector-wide professional association for nonprofits. HANO member nonprofits provide essential services to every community in the state. Our mission is to unite and strengthen the nonprofit sector as a collective force to improve the quality of life in Hawai'i.

Act 155 stipulates possible tax-exemption revocation for a nonprofit that willfully neglects to file the annual G-49 form within 12 months of the due date. This policy does not provide sufficient due process, as it is a significant departure from the existing tax law and will most likely cause confusion among nonprofits in terms of their tax reporting requirements and tax obligations.

The proposed sec. 237(c) of Act 155 gives the Director the power to "waive the denial of the GET benefit....if the failure to comply is due to reasonable cause and not willful neglect." It is not clear how "reasonable cause" is defined. At the very least, it should be clear to nonprofit organizations what constitutes reasonable cause.

Section 237(b) holds "any officer, member, manager, or other person.." personally liable who does not fulfill the organization's general excise tax obligation.. It is not clear whom this broad application extends to. More specificity is required. Personal liability will hinder board volunteerism in our sector when it is already very challenging for nonprofits to find good volunteers.

Personal liability and possible revocation of an organization's tax-exempt status are disproportionate and severe ramifications for an unclear tax policy and will distract from our ability to deliver on our missions to improve the quality of life in our community.

Thank you for the opportunity to provide written comment on SB 2238.

Mahalo,
Lisa Maruyama
President and CEO