



Collection Law Section

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Reply to: STEVEN GUTTMAN, CHAIR
220 SOUTH KING STREET SUITE 1900
HONOLULU, HAWAII 96813
TELEPHONE: (808) 536-1900
FAX: (808) 529-7177
E-MAIL: sguttman@kdubm.com

The Honorable Rep. Mele Carroll, Chair
The Honorable Rep. Bertrand Kobayashi, Vice Chair
Committee on Human Services

Dear Chair Carroll, Vice-Chair Kobayashi & Members:

RE: **HB 173 - RELATING TO DEBT COLLECTION PRACTICES**

Hearing Date: Tuesday, February 5, 2013
Hearing Time: 9:30 a.m.

POSITION: NOT IN SUPPORT

We join hundreds of professionals in the debt collection industry who strongly believe that the proposed amendments to HRS 443B-16 are unnecessary for the following reasons:

1. Federal law, under the Fair Debt Collection Practices Act, already provides clear restrictions on debt collectors contacting debtors at their place of employment.

The pertinent language of the relevant federal law is highlighted for your convenience:

§ 805. Communication in connection with debt collection [15 USC 1692c]

(a) COMMUNICATION WITH THE CONSUMER GENERALLY.

Without the prior consent of the consumer given directly to the debt collector or the express permission of a court of competent jurisdiction, a debt collector may not communicate with a consumer in connection with the collection of any debt --

(1) at any unusual time or place or a time or place known or which should be known to be inconvenient to the consumer. In the absence of knowledge of circumstances to the contrary, a debt collector shall assume that the convenient time for communicating with a consumer is after 8 o'clock antimeridian and before 9 o'clock postmeridian, local time at the consumer's location;

(2) if the debt collector knows the consumer is represented by an attorney with respect to such debt and has knowledge of, or can readily ascertain, such attorney's name and address, unless the attorney fails to respond within a reasonable period of time to a communication from the debt collector or unless the attorney consents to direct communication with the consumer; or

(3) at the consumer's place of employment if the debt collector knows or has reason to know that the consumer's employer prohibits the consumer from receiving such communication.

(b) COMMUNICATION WITH THIRD PARTIES. Except as provided in section 804, without the prior consent of the consumer given directly to the debt collector, or the express permission of a court of competent jurisdiction, or as reasonably necessary to effectuate a postjudgment judicial remedy, a debt collector may not communicate, in connection with the collection of any debt, with any person other than a consumer, his attorney, a consumer reporting agency if otherwise permitted by law, the creditor, the attorney of the creditor, or the attorney of the debt collector.

(c) CEASING COMMUNICATION. If a consumer notifies a debt collector in writing that the consumer refuses to pay a debt or that the consumer wishes the debt collector to cease further communication with the consumer, the debt collector shall not communicate further with the consumer with respect to such debt, except --

(1) to advise the consumer that the debt collector's further efforts are being terminated;

(2) to notify the consumer that the debt collector or creditor may invoke specified remedies which are ordinarily invoked by such debt collector or creditor; or

(3) where applicable, to notify the consumer that the debt collector or creditor intends to invoke a specified remedy.

If such notice from the consumer is made by mail, notification shall be complete upon receipt.

(d) For the purpose of this section, the term "consumer" includes the consumer's spouse, parent (if the consumer is a minor), guardian, executor, or administrator.

Therefore, based on existing federal law, the consumer simply needs to tell the debt collector that the employer has a policy against personal calls and the collector would need to stop. This should be more than adequate to address the concerns of the bill's Sponsor.

2. In this modern day of technology, many consumers no longer have land lines at their place of residence. More likely than not, the consumer's mode of communication is his/her cell phone and place of employment. Consequently, a debt collector should be able to contact a consumer through such means unless the consumer makes an objection. Furthermore, should the debt collector contact the consumer via cell phone and the consumer happens to be at his/her place of employment, the debt collector unfairly risks violating this proposed law.

Approximately one-half of the accounts placed with a debt collector only contain workplace information as the consumer's contact/location information. If our honorable state legislators would like to give consumers a chance to work out a payment plan, then the creditors need to

be able to utilize that contact information unless previously advised by the consumer not to contact him/her at work. Otherwise, the account will likely go straight to a lawsuit which consumers generally do not like. Additionally, filing suit increases the amount the consumer owes as the consumer will then be liable for court costs, which the state legislature increased two years ago, as well as attorney's fees.

As debt collectors generally work only normal business hours, it is oftentimes necessary to contact consumers via the consumer's contact information during the consumer's working hours. And, most times, consumers do not find it problematic to discuss settling their account during working hours. In fact, the majority of consumers readily give their workplace contact information as it is the best number to reach them while the debt collector is working and available to discuss the debt. Oftentimes, the debt collector does not know until the debt collector makes a call that the number is a work number. The bill does not address requests from the owners to contact them at work but prohibits any contact at work. Some debtors work the same hours as our office is open so the ability to obtain information would be curtailed if they are unable to receive calls from the debt collector at work.

The debt collector also sometimes needs to make service on the consumer at work because the consumer is dodging service at home, has a large dog blocking the door or the debt collector does not have a current home address. If the debt collector has the work information, the debt collector asks the process server to try to arrange voluntary service away from the workplace but if they don't cooperate, the debt collector has the process server make service at work. The bill does not address service of documents at the workplace and service of documents might be interpreted as attempts to communicate with the debtor at work.

We humbly urge you to not support this legislation.

Sincerely,



STEVEN GUTTMAN
Chairman,
Collection Law Section



TEL:
808-524-5161
FAX:
808-521-4120
ADDRESS:
1000 Bishop Street, Suite 301B
Honolulu, HI 96813-4203

Presentation To
Committee on Human Services
February 5, 2013 at 9:30am
State Capitol Conference Room 329

Testimony in Opposition to Bill H. B. 173

TO: The Honorable Mele Carroll, Chair
The Honorable Bertrand Kobayashi, Vice Chair
Members of the Committee

My name is Edward Pei and I am the Executive Director of the Hawaii Bankers Association (HBA). HBA is the trade association representing all FDIC insured depository institutions operating in the State of Hawaii.

The Hawaii Bankers Association is opposed to HB 1370, which prohibits a lender from contacting a borrower at the workplace to collect on delinquent loan payments. It is important to note that when a lender contacts a borrower about a delinquent payment, the objective is not just to collect a debt. Rather, the true objective is to retain the customer relationship. So, all lenders want to work closely with borrowers during their periods of temporary financial difficulty and it is important for both parties to maintain frequent contact to achieve that objective.

In today's environment, prohibiting contact at the borrowers work place can be difficult to achieve. Many borrowers only have cell phones, or use them more profusely than they use their home phones. With a cell phone, it is difficult to determine whether the borrower is at work or elsewhere. Further, many people today are self employed, with working hours they create at their discretion. It will be very difficult for a lender to determine when their borrower is working and when they are not.

We also believe that there is already an abundance of protections provided to the borrower by federal legislation, specifically the Fair Debt Collection Practices Act (FDCPA). The Act prohibits contact in the workplace if the lender has been advised that the borrower's employer prohibits such activity. The borrower may also at any time ask the lender not to contact them at work, a request with which lenders must comply. Furthermore, if the borrower submits a written request to the lender to cease further contact, the lender must comply. So, the federal legislation already provides the borrower many alternatives, should they not want to be contacted at work.

Thank you for the opportunity to submit this testimony and please let us know if we can provide further information.

Edward Y. W. Pei
(808) 524-5161

HAWAII FINANCIAL SERVICES ASSOCIATION

c/o Marvin S.C. Dang, Attorney-at-Law

P.O. Box 4109

Honolulu, Hawaii 96812-4109

Telephone No.: (808) 521-8521

Fax No.: (808) 521-8522

February 5, 2013

Rep. Mele Carroll, Chair
and members of the House Committee on Human Services
Hawaii State Capitol
Honolulu, Hawaii 96813

Re: **House Bill 173 (Debt Collection Practices)**
Hearing Date/Time: Tuesday, February 5, 2013, 9:30 a.m.

I am Marvin Dang, the attorney for the **Hawaii Financial Services Association** (“HFSA”). The HFSA is a trade association for Hawaii’s consumer credit industry. Its members include Hawaii financial services loan companies (which make mortgage loans and other loans, and which are regulated by the Hawaii Commissioner of Financial Institutions), mortgage lenders, and financial institutions.

The HFSA opposes this Bill.

The purpose of this Bill is to prohibit contacting a person at the workplace in the debt collection practices.

The federal Fair Debt Collection Practices Act has restrictions on debt collectors contacting a person’s place of employment “if the debt collector knows or has reason to know that the consumer’s employer prohibits the consumer from receiving such communication.” 15 U.S.C. 1692 (c).

This Bill would unnecessarily broaden that restriction. It would effectively prohibit contacting a person on a wireless phone or any other phone when that person is at work even though that would be the only means and the only time to talk with that person, and even if the person agreed to be called in that manner during working hours. This prohibition would not be in that person’s best interest to resolve the debt.

Thank you for considering our testimony.



MARVIN S.C. DANG
Attorney for Hawaii Financial Services Association

(MSCD/hfsa)

**Testimony of ACA International
to the
Committee on Human Services
February 5, 2013**

Chairman Carroll and members of the Committee, thank you for the opportunity to share ACA International's (ACA) concerns on *H.B. 173*.

Founded in 1939, ACA International is a trade association representing more than 5,000 third-party collection agencies, credit grantors, attorneys, asset buyers, and vendor affiliates in the Accounts Receivables Management (ARM) industry.

ACA members, including those in the state of Hawaii, are required to comply with applicable federal and state laws and regulations governing the collection of consumer debt, along with the ethical standards and guidelines established by ACA. Specifically, the collection activities of ACA members are regulated primarily by the Federal Trade Commission ("FTC") and Consumer Financial Protection Bureau ("CFPB") and fall under the purview of the Fair Debt Collection Practices Act ("FDCPA"),¹ the Fair Credit Reporting Act (as amended by the Fair and Accurate Credit Transactions Act),² Telephone Consumer Protection Act (TCPA) and the Gramm-Leach-Bliley Act ("GLBA"),³ in addition to other federal and state laws, numerous federal and state regulators and law enforcement agencies.

Consumer debt collection is important to our national, state and local economies, which helps keep affordable credit available to consumers. The work of our members and their more than 300,000 employees to recover consumer debt nationwide on behalf of big and small business, non-profit and government organizations helps them keep credit available and affordable, pay bills, make payroll, reduces the need for tax increases, keep prices low and avoid layoffs. Moreover, collection agencies and their employees pay taxes, volunteer in their communities and contribute more than \$85 million to charity per year.

Members of the Hawaiian Collectors Association, a state affiliate of ACA, returned \$36 million⁴ to the economy. In addition, they pay federal, state and local taxes, along with being active community volunteers.

ACA asks this Committee to oppose *HB 173* due the negative impact it would have on consumers and the Hawaiian economy.

HB 173 states: "No collection agency shall contact a person at the person's place of employment for the purpose of collecting any claim alleged to be due and owing by the person."

¹ 15 U.S.C. § 1692 *et seq.*

² 15 U.S.C. § 1681 *et seq.*

³ 15 U.S.C. § 6801 *et seq.*

⁴ Ernst & Young, *The Impact of Third-Party Debt Collection on the National and State Economies*, February, 2012, available at <http://www.acainternational.org/files.aspx?p=/images/21594/2011acaeconomicimpactreport.pdf>.

This provision raises several areas of concern:

- What if the only contact number a consumer provided was a work number?
- What if the consumer supplied a cell phone number that was issued by the employer?
- What if a consumer answers a personal cell phone call while at work?
- What if the consumer works from home or works non-traditional days or hours?
- How would garnishment issues be handled?

ACA supports efforts to protect consumers from abusive calls and condones only the legitimate, legal collection of consumer debt, which should be done respectfully and in compliance with federal and state law. This legislation however does not protect consumers. In fact if implemented the legislation would have the complete opposite effect.

Consumers need to have the ability to receive collection calls to be notified of overdue accounts, which can result in service termination, legal action and negatively impact their credit score. This legislation would effectively eliminate many of these necessary and informative calls.

Federal law already provides protection from abusive debt collection calls. *The Federal Debt Collections Practices Act* (FDCPA) states that without prior consent a collector may not contact a consumer “at the consumer’s place of employment if the debt collector knows or has reason to know that the consumer’s employer prohibits the consumer from receiving such communication.”

Additionally the FDCPA requires a collector to cease communications at the request of the consumer.

ACA strongly believes that these federal regulations provide adequate protection to consumers while allowing these important calls to continue especially when the caller does not know the consumer’s location when the call is received.

ACA respectfully urges the Committee to avoid new restrictions that would make notifying consumers and collecting rightfully owed debt more difficult.

Submitted by:

Andrew Madden
Director, State Government Affairs
ACA International
509 2nd Street NE,
Washington, D.C 20815
(202)547-2670



February 4, 2013

The Honorable Rep. Mele Carroll, Chair
The Honorable Rep. Bertrand Kobayashi, Vice Chair
Committee on Human Services

Dear Chair Carroll, Vice-Chair Kobayashi & Members:

RE: **HB 173 - DEBT COLLECTION PRACTICES**
 Hearing Date: Tuesday, February 5, 2013
 Hearing Time: 9:30 a.m.
 Hearing Location: Conference Room 329

POSITION: NOT IN SUPPORT

My name is George Shimada, Chairman of the Board for Credit Associates of Hawai'i, a debt collection agency operating in Hawai'i for the past 50 years.

I have witnessed first hand the evolution of consumer protection. In 1978, the US Congress addressed the rampant debtor abuse which prevailed at that time, especially in the Chicago area resulting in enactment of FDCPA, Federal Debt Collection Practices Act.

I strongly believe this law to be comprehensive as well as equally fair to consumers, the business sector and debt collectors alike. It firmly addresses the intent of HB 173.

Consequently, I humbly urge you to not support this legislation.

Sincerely,

A handwritten signature in black ink, appearing to read 'George S. Shimada', with a long, sweeping flourish extending to the right.

George S. Shimada
Chairman of the Board

Serving the debt collection needs of Hawaii since 1954

1221 Kapiolani Boulevard, Suite 245 • Honolulu, Hawaii 96814 • Tel (808) 597-8922 • Fax (808) 597-8912

1817 Wells Street • Wailuku, Hawaii 96793 • Tel (808) 244-3711 • Fax (808) 242-5501

www.creditassoc.com

February 1, 2013

To: Representative Mele Carroll, Chair
Representative Bertrand Kobayashi, Vice Chair
Representative Delia au Belatti
Representative Rid T.R. Cabanilla
Representative Jo Jordan
Representative Dee Morikawa
Representative Justin H. Woodson
Representative Beth Fukumoto
House Committee on Human Services

From: Kevin Shiinoki
Guardian Capital Management Hawaii LLC

Re: HB 173 RELATING TO DEBT COLLECTION PRACTICES

Honorable Chairs & Committee Members:

I oppose HB 173, which prohibits collection agencies from making contact with a person at their place of employment. Individuals are already protected by the Fair Debt Collections Practices Act (FDCPA), 15 U.S.C. 1601 which governs the debt collection practices of all agencies nationwide along with the newly established Consumer Financial Protection Bureau (CFPB). These established laws protect individuals from being harassed or abused. The current language of the FDCPA provides the individual the opportunity to prevent further contact made at the workplace by simply telling the collection agency not to call them at work at the consumer's place of employment if the debt collector knows or has reason to know that the consumer's employer prohibits the consumer from receiving such communication. 15 U.S.C. 1692c(a)(3).

HB 173 is detrimental to all businesses both small and large in the State of Hawaii. Collection agencies serve businesses that need the money that has not been paid to them, but are no longer able to collect it due to the cost of trying to collect it themselves. The ability to make contact with individuals at the workplace or wherever they may be is essential for collection agencies. The alternative to this would be for agencies to damage consumer's credit score and sue them for even small amounts.

The reduction in recoveries if HB 173 were to pass would reduce the bottom line for all companies who use collection agencies. A large business may be able to absorb the loss, but the vast majority of our clients are small businesses: doctors, dentists, printers, attorneys, property owners, and homeowner associations are just some of the industries we serve. Loss of revenue for these small businesses will mean the loss of jobs and/or pay for individuals. Loss of jobs and business revenue will result in less taxes paid to government agencies: excise taxes, payroll taxes, and income taxes.

Individuals are already well protected by the FDCPA and now by the CFPB. This legislation will result in very minimal benefit to consumers since businesses will be forced to increase costs to compensate for reduced collection revenue and harsher consequences for consumers since most businesses will have to increase litigation in order to recover the money that is owed to them.

Thank you for the opportunity to submit testimony in opposition to HB 173.

Maui Collection Service, Inc.

A Debt Collection Agency

1885 Main Street Suite 106 • P O Box 14 • Wailuku, Hawaii 96793

Phone (808) 242-9771 Fax (808) 242-8929

February 3, 2013

RE: HB 173 – DEBT COLLECTION (COMMUNICATIONS)

POSITION: NOT IN SUPPORT

Dear

Thank you for the opportunity to share my concerns on HB 173. My name is Patricia Tomita and I am the President of Maui Collection Service, Inc. (MCS) MCS is a family owned and operated business, founded by my mom, Rose Ohashi, in 1977. We are a third-party debt collection agency, providing a service to large and small private businesses and individuals as well as public and non-profit businesses.

We provide an invaluable service to those businesses and individuals who have neither the ability nor the tools to pursue the collection of past due accounts. Collection of these past due accounts are important and necessary to businesses as they have already provided the goods and services to the delinquent consumer.

I strongly believe that proposed amendments to HRS 443B-16 are unnecessary for the following reasons:

1. The Federal Fair Debt Collection Practices Act (FDCPA) already provides clear restrictions on debt collectors contacting consumers at their place of employment. Without prior consent, a collector may not contact a consumer “at the consumer’s place of employment if the debt collector knows or has reason to know that the consumer’s employer prohibits the consumer from receiving such communication”. Furthermore, the FDCPA requires a collector to cease and desist any communication at the consumers request.
2. Contact at employment may be the only means of communication if the consumer has moved and his/her phone number is not in service or has been changed. Consumers need to have the ability to receive collection communication to be notified of overdue accounts as they can result in termination of service, legal action and a negative impact on their credit score. This legislation would eliminate many of these necessary and informative calls.
 - a. Without the ability to contact the consumer at work (as a last resort effort), the next step in the collection process is to take legal action. This results in additional costs which are passed on to the consumer: filing fees, process server’s fees, attorney fees.

3. In this modern electronic world, consumers oftentimes only have cell phones, having given up their land lines at their residences. They provide their cell numbers to the client and this is the contact number that is attached to the account. When the account is assigned to our agency, the collector makes calls during our working hours, oftentimes reaching the consumer at work. This bill would unknowingly place us in violation of the law, even if the consumer gives us permission to discuss the debt.

Again, I urge you not to support this bill as the federal regulations provide adequate protection to consumers while allowing these important calls to continue especially when the collector doesn't know the consumer's location when the call is made.

Sincerely,

Patricia R. Tomita

To: Representative Beth Fukumoto
Email: repfukumoto@capitol.hawaii.gov

From: Franklin Pang
Pacific Collections
Fax: 537-3059

Re: H.B. 173 Debt Collections (Communications)
Hearing February 5, 2013 Tuesday, 9:30 am; Conference Room 329

Position: OPPOSE – NOT IN SUPPORT – This bill should be squashed.

My name is Franklin Pang, president of Pacific Collections and Doctors Business Bureau of Hawaii. I am also treasurer of the Hawaiian Collectors Association. I have been in the collection business over 40 years .

I oppose this HB 173 for the following reasons:

1. HB 173 is REDUNDANT. Federal Law under the Fair Debt Collection Practices Act., Sec 805, already provides clear restrictions on debt collectors contacting debtors at their place of employment.
2. The issue of telephone calls, harassment, abusive language are already addressed on the federal level under the Fair Debt Collection Practices Act.
3. Hawaii should follow the federal laws because collection of debts crosses state lines. Hawaii should be in accordance with federal guidelines as with other states.
4. This bill does not work with cellular technology. In this modern day of technology many consumers no longer have land lines at their place of residence. More likely than not, the consumer's mode of communication is his/her cell phone and who knows where he might be. It could be at his/her place of employment. Should the debt collector contact the consumer via cell phone and the consumer happens to be at his/her place of employment, the debt collector unfairly risks violating this proposed law.

I urge you not to support this legislation.

Very truly yours,

Pacific Collections

Franklin Pang, president

Lynn A.S. Araki-Regan
Stephen E. Pike

Christopher R. Dang
Garrick L.H. Goo
Of Counsel

ARAKI-REGAN
& associates, llc
a limited liability law company

1823 Wells Street Suite 2A / Wailuku / Hawai'i / 96793
tel: (808) 244-6042 fax: (808) 249-2872

February 2, 2013

The Honorable Rep. Mele Carroll, Chair
The Honorable Rep. Bertrand Kobayashi, Vice Chair
Committee on Human Services

Dear Chair Carroll, Vice-Chair Kobayashi & Members:

RE: **HB 173 - RELATING TO DEBT COLLECTION PRACTICES**
Hearing Date: Tuesday, February 5, 2013
Hearing Time: 9:30 a.m.
Hearing Location: Conference Room 329

POSITION: NOT IN SUPPORT

While the proposed legislation attempts to protect the consumers by restricting debt collectors from contacting debtors at their place of employment, federal law already and amply provides clear restrictions on such activity.

The relevant section of the federal law is as follows:

§ 805. Communication in connection with debt collection [15 USC 1692c]

(a) COMMUNICATION WITH THE CONSUMER GENERALLY. Without the prior consent of the consumer given directly to the debt collector or the express permission of a court of competent jurisdiction, a debt collector may not communicate with a consumer in connection with the collection of any debt –

...

(3) at the consumer's place of employment if the debt collector knows or has reason to know that the consumer's employer prohibits the consumer from receiving such communication.

(c) CEASING COMMUNICATION. If a consumer notifies a debt collector in writing that the consumer refuses to pay a debt or that the consumer wishes the debt collector to cease further communication with the consumer, the debt collector shall not communicate further with the consumer with respect to such debt, except --

(1) to advise the consumer that the debt collector's further efforts are being terminated;

(2) to notify the consumer that the debt collector or creditor may invoke specified remedies which are ordinarily invoked by such debt collector or creditor; or
(3) where applicable, to notify the consumer that the debt collector or creditor intends to invoke a specified remedy. If such notice from the consumer is made by mail, notification shall be complete upon receipt.

(d) For the purpose of this section, the term "consumer" includes the consumer's spouse, parent (if the consumer is a minor), guardian, executor, or administrator.

Therefore, based on existing federal law, the consumer simply needs to tell the debt collector that the employer has a policy against personal calls and the collector would need to stop.

This proposed legislation also raises several areas of concern:

- What if the only contact number a consumer provided was a work number?
- What if the consumer supplied a cell phone number that was issued by the employer?
- What if a consumer answers a personal cell phone call while at work?
- What if the consumer works from home or works non-traditional days or hours?

While I wholeheartedly support efforts to protect consumers from abusive calls and condone only the legitimate, legal collection of consumer debt, this proposed legislation does not protect consumers. In fact, if implemented, the legislation would have the complete opposite effect.

Consumers need to have the ability to receive collection calls to be notified of overdue accounts, which can result in service termination, legal action and negatively impact their credit score. This legislation would effectively eliminate many of these necessary and informative calls.

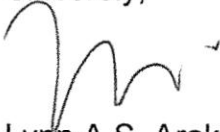
As debt collectors generally work only normal business hours, it is oftentimes necessary to contact consumers via the consumer's contact information during the consumer's working hours. And, most times, consumers do not find it problematic to discuss settling their account during working hours. In fact, the majority of consumers readily give their workplace contact information as it is the best number to reach them while the debt collector is working and available to discuss the debt. Oftentimes, the debt collector does not know until the debt collector makes a call that the number is a work number. The bill does not address requests from the owners to contact them at work but prohibits any contact at work. Some debtors work the same hours as our office is open so the ability to obtain information would be curtailed if they are unable to receive calls from the debt collector at work.

The debt collector also sometimes needs to make service on the consumer at work. If the debt collector has the work information, the debt collector asks the process server to try to arrange voluntary service away from the workplace but if they don't cooperate, the debt collector has the process server make service at work. The bill does not address service of documents at the workplace and service of documents might be interpreted as attempts to communicate with the debtor at work.

In conclusion, I assure you that, should the State Legislature pass the above-referenced bill, it will literally destroy Hawai'i's debt collection industry which employs hundreds of kama'aina throughout the four counties. The proposed legislation, if made into law, would make any telephone collecting to consumers too risky, thereby resulting in companies no longer needing debt collectors, and would result in debt collection firms proceeding straight to litigation. As you are well aware, litigation inevitably results in higher costs and fees imposed on the consumers who are least able to pay.

I humbly urge you to not support this troubling legislation.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lynn A.S. Araki-Regan', with a stylized flourish at the end.

Lynn A.S. Araki-Regan
Attorney at Law



February 4, 2013

The Honorable Rep. Mele Carroll, Chair
The Honorable Rep. Bertrand Kobayashi, Vice Chair
Committee on Human Services

Re: HB 173 – Relating to Debt Collection Practices

Ladies and Gentlemen:

I represent Unifund CCR, LLC, and its affiliates (“Unifund”). Unifund writes today in opposition to HB 173.

HB 173 prohibits debt collectors from contacting a consumer at his or her place of employment for the purpose of debt collection. While Unifund understands and supports the legislature’s purpose in protecting consumers from abusive debt collection practices, HB 173 simply goes too far and would also prohibit legitimate communication with consumers, sometimes at the consumer’s request.

For example:

- Many consumers no longer have landline telephones and operate only with a cell phone. If a debt collector were to call a consumer on that cell phone number and the consumer answered the call while at work, the call would violate HB 173, even if the consumer requested the call.
- Many consumers receive email on their cell phones. If a consumer requests communication via email and a debt collector then emails the consumer, as requested, and the consumer reads that email while at work, the email would also violate HB 173.
- A consumer may provide his or her work telephone number or email address because it is the best method to reach the consumer during business hours. Again, even if the consumer stated that this is his or her preferred method of communication, HB 173 would prohibit the debt collector from using that contact information for the consumer.
- Many consumers now work from home. HB 173 does not define “place of employment” and, as such, a call to a consumer at home could violate HB 173 if the consumer works at home.
- Further, a consumer may provide his or her work telephone number, email, or even work address as a preferred method of contact, without identifying it as such to the debt

collector. In that case, a debt collector would face liability for using the consumer's preferred means of communication without even realizing that it was contacting the consumer at work.

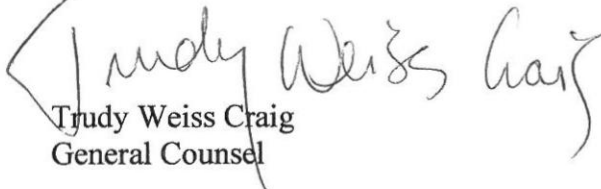
- Debt collectors are permitted to contact a consumer's place of employment to confirm employment. Particularly in small businesses, it is not unusual for the consumer to answer the telephone when the debt collector calls to confirm employment, even the debt collector is not calling for the consumer. Again, under HB 173, this would be a violation of the law.

As stated above, Unifund is in favor of prohibiting abusive debt collection practices in order to protect consumers. However, HB 173 is drafted in such a way that it goes beyond prohibiting abusive calls at work and prohibits perfectly legitimate attempts at communication, including those requested by the consumer.

We also note that the federal Fair Debt Collection Practices Act requires a debt collector to cease communication at a consumer's place of employment if it knows or has reason to know that the consumer's employer prohibits such calls, or at any time or place which is known or should be known to the debt collector to be inconvenient to the consumer. 15 U.S.C. § 1692c (a)(1) and (3). Thus, under federal law, a consumer already has the absolute right to tell a debt collector not to contact the consumer at his or her place of employment.

For these reasons, we would urge this Committee and the Hawai'i legislature to reject HB 173 in its current form.

Sincerely,



Trudy Weiss Craig
General Counsel



Mortgage Bankers Association of Hawaii
P.O. Box 4129, Honolulu, Hawaii 96812

February 4, 2013

The Honorable Mele Carroll, Chair,
The Honorable Betrand Kobayashi, Vice Chair, and
Members of the House Committee on Human Services
State Capitol, Room 329
Honolulu, Hawaii 96813

Re: House Bill 173 Relating to Debt Collection Practices

Chair Carroll, Vice Chair Kobayashi, and Members of the House Committee on Human Services:

I am Linda Nakamura, representing the Mortgage Bankers Association of Hawaii ("MBAH"). The MBAH is a voluntary organization of real estate lenders in Hawaii. Our membership consists of employees of banks, savings institutions, mortgage bankers, mortgage brokers, and other financial institutions. The members of the MBAH originate the vast majority of residential and commercial real estate mortgage loans in Hawaii. When, and if, the MBAH testifies on legislation, it is related only to mortgage lending.

MBAH opposes House Bill 173 Relating to Debt Collection Practices.

House Bill 173 amends Section 443B-16 of the Hawaii Revised Statutes to prohibit contacting a person at their place of employment for collection purposes. There is Federal Legislation, called the Fair Debt Collection Practices Act (FDCPA) that protects consumers from abusive, deceptive and unfair collection practices. The Act specifically states that a debt collector may not contact the consumer at his or her place of employment if the collector has reason to believe the employer prohibits such communications. The Act also states that when a consumer refuses, in writing, to pay a debt or requests that the debt collector cease further communication, the collector must cease all further communication.

In many instances, the consumer's business is the only place a collector is able to make contact as many consumers change their home telephone number and cell phone numbers frequently. The FDCPA already covers the consumer with respect to making contact at their place of employment.

Further, if the collector is unable to make contact with the consumer, the collector will not be able to work with the consumer on loan modifications or other loss mitigation efforts to prevent further collection activity which may include foreclosure.

In summary, we believe that House Bill 173 will have the unintended consequence of decreased loan modification and loss mitigation efforts for the consumer.


Thank you for the opportunity to present this testimony.

LINDA NAKAMURA
President, Mortgage Bankers Association of Hawaii

RE: HB 173 DEBT COLLECTION (Communications)

POSITION: Not In Support

As a debtor collector for over 50 years, I firmly believe that the proposed amendments HRS 443B-16 are unnecessary as the Federal Law, under the Fair Debt Collection Practices Act, already provides clear restrictions on debt collectors contacting debtors at their place of employment.

A handwritten signature in cursive script, reading "Anthony Deakia". The signature is written in black ink and is centered on the page.

February 4, 2013

The Honorable Rep. Mele Carroll, Chair
The Honorable Rep. Bertrand Kobayashi, Vice Chair
Committee on Human Services

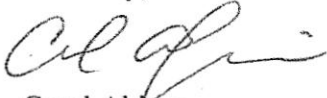
Dear Chair Carroll, Vice-Chair Kobayashi & Members:

RE: HB 173 - RELATING TO DEBT COLLECTION PRACTICES

POSITION: Not in Support

My name is Carol Akima and I have been in the collections industry for 15 years. I stand alongside with my cohorts and also agree that FDCPA already provides clear restrictions when contacting debtors at their place of employment. I also feel that this bill could be a potential threat to my employment. I humbly request that you not support this legislation.

Sincerely,



Carol Akima
951 Alakai St
Wailuku, HI 96793

February 4, 2013

The Honorable Rep. Mele Carroll, Chair
The Honorable Rep. Bertrand Kobayashi, Vice Chair
Committee on Human Services

Dear Chair Carroll, Vice-Chair Kobayashi & Members:

RE: **HB 173 - DEBT COLLECTION PRACTICES**
 Hearing Date: Tuesday, February 5, 2013
 Hearing Time: 9:30 a.m.
 Hearing Location: Conference Room 329

POSITION: **NOT IN SUPPORT**

The proposed legislation to protect persons' from being contacted at their place of employment and from being harassed and abused is not only unnecessary but also difficult to enforce.

It is unnecessary because under the Fair Debt Collection Practices Act alleged debtors are already protected from "abusive, deceitful, and abusive" conduct by a debt collector. This includes protection from threats, misleading information, and false accusations. Under the FDCPA debt collectors are already required to cease communication if sent a request by an alleged debtor.

The legislation is also difficult to enforce. What stops an alleged debtor from answering their personal phone at work? What if the person claims that he/she is at work, when really they're not? What if the person works from home?

People should be protected from abusive calls, and under the FDCPA, they are. Going any further would harm Hawaii's debt collection practices.

Yours truly,



Colin Martins
362 Hololani St.
Pukalani Hi 96768

A R Recovery Solutions of Hawaii

808-678-8100

February 4, 2013

H.B. 173 - Oppose

Harassment and abuse[-]; contacting a person at place of employment prohibited

First off, I take professional exception to the practice of simply attaching the word “harassment” TO the act of “contacting a person” at their workplace. It implies and portrays that the act of contacting is one and the same as harassment and abuse when it is not.

While everyone will start reading the header of this bill nod their heads in agreement that harassment is indeed bad, attaching the phrase “contacting a person at a place of employment” before the heads stop nodding – doesn't mean agreement should be reached on these two – separate – actions as being related or the same.

Dictionary.com defines harassment as;

verb (used with object)

1. to disturb persistently; torment, as with troubles or cares; bother continually; pester; persecute.
2. to trouble by repeated attacks, incursions, etc., as in war or hostilities; harry; raid.

Or from [http://www.webster-dictionary.org/definition/harass.....](http://www.webster-dictionary.org/definition/harass)

Har'ass Pronunciation: hă'as or hă`rās'

v. t. 1. To fatigue; to tire with repeated and exhausting efforts; esp., to weary by importunity, teasing, or fretting; to cause to endure excessive burdens or anxieties; - sometimes followed by out.

The common theme with both definition are words like persistent, repeated, continually, and exhaustive. Most of the Hawaii collection agencies work on commission. Repeated, unproductive contacts do not help us achieve success on behalf of our clients. Such behavior would result in lawsuits under existing consumer protection as currently provided under the Federal Debt Collection Practices Act. In the absence of any Federal lawsuits, why is this bill proposing even more restrictive guidelines?

As it is today, when their phone numbers have changed, their mail has been returned, and all we have is their employment phone number, we call them at their employment to get their updated contact information. Approval of this bill will remove our ability to do so and we will have to direct our process servers to serve consumers their court papers at their only remaining known place – their

employer. What do think the impact of that is in comparison to a phone call?

For many of us, “our clients” are the government agencies within Hawaii who utilize our collection services. This bill would result in less conversations with consumers, less voluntary resolutions, and less resulting revenue for the State itself. It would reduce the State's revenue from our G.E.T. tax and the G.E.T. tax revenue of our clients. It would also result in decreased need for us to have as many employees which results in further local unemployment and less State income tax while increasing the State's liability of unemployment compensation. It would also result in more overhead for the State in processing higher volumes of lawsuits resulting from reducing our points of contacts to seek voluntary debt resolution. Consumers would lose the opportunity to negotiate payments and, instead, be faced with even higher balances due to additional legal/attorney fees. We already contend with having to file suits against some consumers when we have no way to reach them. The result is always the same. An unhappy consumer who feels they weren't given the chance to work things out. This bill will only serve to expand the number of consumers who will feel that they weren't given a chance because they were not made aware of upcoming legal action.

Collection agencies are already regulated by Federal law to assure that this is done in a civil manner. Under Federal regulations (FDCPA) when a consumer merely indicate that such calls are not convenient, we are obliged to cease such communication or risk getting sued. End of story. If this bill is enacted into law, Hawaii would be the only state to have such a restrictive law. This is not business friendly to the businesses who hire us to collect their money or to the collection agencies who do so within Hawaii.

None of the Hawaii collection agencies have been presented with a complaint from our State regulatory agencies that there is a problem in this area. I'm at a loss as to why this bill has come to be. That, in and of itself, has me believing that this has come about due to someones personal agenda/motivation. I will look into such possibilities further for future testimony as I am grasping for the reasoning of this in the absence of complaints.

We have not abused our rights granted under the FDCPA and further restrictive measures have not been presented as being warranted.

February 4, 2013

The Honorable Rep. Mele Carroll, Chair
The Honorable Rep. Bertrand Kobayashi, Vice Chair
Committee on Human Services

Dear Chair Carroll, Vice-Chair Kobayashi & Members:

RE: HB 173 - RELATING TO DEBT COLLECTION PRACTICES

POSITION: Not in Support

My name is Don Medina and I have been in the collections industry for 27 years. I feel that the FDCPA already provides clear restrictions when contacting debtors at their employment. Moreover, I feel that this bill could be a possible threat to my employment. I humbly request that you not support this bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Don Medina". The signature is written in a cursive style with a large, sweeping initial "D".

Don Medina
44-A Polani St
Kahului, HI 96732

kobayashi1-Joni

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 04, 2013 9:35 AM
To: HUS testimony
Cc: e177z@hotmail.com
Subject: Submitted testimony for HB173 on Feb 5, 2013 09:30AM

Categories: Maroon

HB173

Submitted on: 2/4/2013

Testimony for HUS on Feb 5, 2013 09:30AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
E	Individual	Oppose	No

Comments: February 4, 2013 Re: Opposition to Bill # H.B. No. 173: Relating to Debt Collection Practices Members of the Committee: Thank you for this opportunity to testify in opposition to Bill #H.B. No 173. There is no harm in contacting a person regarding a debt collection. Due to the busy schedules of individuals, there is not a predictable time in which debt collection agencies can call a person at work. There is already a time limit as specified by the FDCPA from 8:00AM – 9:00PM for collection calls. Therefore, to banish the ability to call would severely limit calls and in essence, eliminate many hard working debt collectors' jobs. Let us not forget that these very jobs help businesses and health care practices recover the expenses for the services/products that were received by the individual.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

February 4, 2013

Dear Chair Carroll, Vice-Chair Kobayashi & Members:

RE: **HB 173 - RELATING TO DEBT COLLECTION PRACTICES**
 Hearing Date: Tuesday, February 5, 2013
 Hearing Time: 9:30 a.m.
 Hearing Location: Conference Room 329

POSITION: NOT IN SUPPORT

I am writing this in opposition to the proposed bill HB 173. I would like to voice my concern in consideration of the far reaching effects that this bill would soon have if implemented.

As I read it the goal is to protect the consumer from constant and unnecessary calls at their place of employment which can be deemed a nuisance and could possibly jeopardize their employment but I would like for you to consider the snowball effect passing this bill would occur which would include higher fees for the consumer in the long run with additional court fees and would greatly hamper the collection efforts of the agencies here in Hawaii by not allowing them to contact consumers in the most quickest and efficient way possible – by picking up the phone and talking with them.

So please add this short note to those that are in opposition of the bill as described.

Thank you very much,



Ellie Leialoha
133 Lulukua Pl
Kihei, HI 96753

February 4, 2013

RE: HB 173 DEBT COLLECTION (COMMUNICATIONS)

POSITION: NOT IN SUPPORT

Dear Committee members:

As the owner of MEDCAH, a Hawaii collection agency established in 1974, I have a staff of 21 full-time employees on two islands and provide collection services for over 450 businesses in the State of Hawaii.

The following are my views on this proposed bill from a number of perspectives:

My Business: The restriction proposed in this bill is already addressed in the Federal Fair Debt Collections Practices Act which governs collection activity in the State of Hawaii. Further restriction on our ability to contact debtors (consumers) will cripple our ability to workout payment arrangements. Debtors rely on us to coach them to resolve their legitimate debt obligations. If this proposed bill is made law, I would have to downsize my staff.

My Clients: The businesses that engage our collection services do so because they are seeking recovery of money owed to them. Our ability to reach their customers (our debtors) will be impeded by this proposed bill. That creates a disadvantage to both our client's business and to their customer (our debtor). Both of whom benefit from our services.

The Consumer (debtor): Many of the debtors with whom my staff contacts regularly want to pay the bills we are hired to collect. The debts are valid and legitimate. The debtor simply needs us to help them meet their obligations with appropriate repayment plans. Our ability to contact them is paramount to the process. By doing so, we provide debtors the opportunity to pay their debts without engaging legal action and thereby tarnishing their credit rating.

The State of Hawaii: As legislators, it is important for you to note the disadvantages this proposed bill poses to the State of Hawaii.

- This bill unduly burdens small businesses in the State
- Increased unemployment and related tax losses
- The lost revenue to Hawaii businesses due to reduced bad debt recoveries translates to lost Gross Excised Tax revenue
- Due to the encumbrance created by this proposed bill, there will be increase in the number of claims filed in the courts to resolve debt obligations. This is a burden to the State, businesses and consumers (taxpayers).

The only beneficiary of this bill is the person who is trying to dodge a legitimate and valid debt obligation.

kobayashi1-Joni

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 02, 2013 12:25 PM
To: HUS testimony
Cc: mendezj@hawaii.edu
Subject: *Submitted testimony for HB173 on Feb 5, 2013 09:30AM*

Categories: Maroon

HB173

Submitted on: 2/2/2013

Testimony for HUS on Feb 5, 2013 09:30AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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kobayashi1-Joni

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 04, 2013 9:37 AM
To: HUS testimony
Cc: jrob2470@hawaii.edu
Subject: Submitted testimony for HB173 on Feb 5, 2013 09:30AM

Categories: Maroon

HB173

Submitted on: 2/4/2013

Testimony for HUS on Feb 5, 2013 09:30AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Jeremy Robinson	Individual	Oppose	No

Comments: This Bill will negatively affect a lot of the local collection agencies. Why limit their ability to collect, and restore balance to the economy. A lot of people try to run away from their financial obligations, so why give them another tool to neglect their responsibility. How is it fair for the companies that they are in debt to? What kind of message are we sending the debtor? Who are we protecting? The debtor who has a financial obligation? Passing a law is supposed to protect the rights of the American people, not hurt them. This will deprive people/employees from their livelihoods; from the owner of the company, all the way down to the janitor. we will be affecting more lives than "protecting" debtors that are being "harassed" about a debt they want to hide from.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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February 4, 2013

The Honorable Rep. Mele Carroll, Chair
The Honorable Rep. Bertrand Kobayashi, Vice Chair
Committee on Human Services

Dear Chair Carroll, Vice-Chair Kobayashi & Members:

RE: **HB 173 - RELATING TO DEBT COLLECTION PRACTICES**
 Hearing Date: Tuesday, February 5, 2013
 Hearing Time: 9:30 a.m.
 Hearing Location: Conference Room 329

POSITION: NOT IN SUPPORT

I am writing you on behalf of Collectors and Debtors.

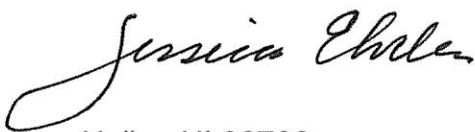
I am currently a legal assistant in a law firm which handles debt collection.
This proposed legislation also raises several areas of concern:

- What if the only contact number a consumer provided was a work number?
- What if the consumer supplied a cell phone number that was issued by the employer?
- What if a consumer answers a personal cell phone call while at work?
- What if the consumer works from home or works non-traditional days or hours?

While I wholeheartedly support efforts to protect consumers from abusive calls and condone only the legitimate, legal collection of consumer debt, this proposed legislation does not protect consumers. In fact, if implemented, the legislation would have the complete opposite effect.

In addition I believe we already have laws in place to protect the consumer.

Sincerely your,



Haiku, HI 96708

February 4, 2013

The Honorable Rep. Mele Carroll, Chair
The Honorable Rep. Bertrand Kobayashi, Vice Chair
Committee on Human Services

Dear Chair Carroll, Vice-Chair Kobayashi & Members:

RE: **HB 173 - RELATING TO DEBT COLLECTION PRACTICES**
 Hearing Date: Tuesday, February 5, 2013
 Hearing Time: 9:30 a.m.
 Hearing Location: Conference Room 329

POSITION: NOT IN SUPPORT

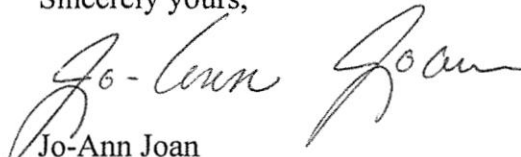
I am writing you on behalf of Collectors and Debtors.

I am currently a debt collector and call debtors on a daily basis, I have many debtors ask me to call them at work and give me their work numbers as well as their cell numbers so they may resolve their debt. Many people have no home numbers and you can only reach them on their cell phones.

Many tell me they never at home so reach them at work. It will not be in the best interest of the debtor to pass this law. I help debtors to resolve their debt on a daily basis and many are at work and I would say 85% is on their cell numbers, and many tell me thank you for reaching me to resolve this they will have a better day. If the debtor ask me not to call them at work, I do not, and they always give me another number to call and what time.

Please DO NOT pass this law for it will not be in the best interest of the debtor..

Sincerely yours,


Jo-Ann Joan
Makawao HI 96768

JOEL C. ACOSTA

377 Nihoa Street

Kahului, HI 96732

Email: joelacosta808@yahoo.com

February 4, 2013

The Honorable Rep. Mele Carroll, Chair
The Honorable Rep. Bertrand Kobayashi, Vice Chair
Committee on Human Services

RE: **HB 173 - RELATING TO DEBT COLLECTION PRACTICES**
Prohibits contacting a person at the workplace in debt collection practices

Dear Chair Carroll, Vice-Chair Kobayashi & Members:

I am currently employed at a firm that practices debt collections in the state of Hawaii. I am in opposition to this proposed bill. The federal law has already existing restrictions as follows:

§ 805. Communication in connection with debt collection [15 USC 1692c]

(a) COMMUNICATION WITH THE CONSUMER GENERALLY. Without the prior consent of the consumer given directly to the debt collector or the express permission of a court of competent jurisdiction, a debt collector may not communicate with a consumer in connection with the collection of any debt.

(b) at the consumer's place of employment if the debt collector knows or has reason to know that the consumer's employer prohibits the consumer from receiving such communication.

(c) CEASING COMMUNICATION. If a consumer notifies a debt collector in writing that the consumer refuses to pay a debt or that the consumer wishes the debt collector to cease further communication with the consumer, the debt collector shall not communicate further with the consumer with respect to such debt, except --

(1) to advise the consumer that the debt collector's further efforts are being terminated;
(2) to notify the consumer that the debt collector or creditor may invoke specified remedies which are ordinarily invoked by such debt collector or creditor; or

(3) where applicable, to notify the consumer that the debt collector or creditor intends to invoke a specified remedy. If such notice from the consumer is made by mail, notification shall be complete upon receipt.

Based on the current federal law, the consumer or employer simply needs to tell the debt collector that the employer has a policy against personal calls and the collector would need to stop. I truly believe that prohibitions of contacting a consumer at work environment should be decided by the employers and not by politicians.

I thank you for your consideration in not passing this proposed bill.

Sincerely yours,

A handwritten signature in blue ink, appearing to read "Joel Acosta", with a long, sweeping underline that extends to the left and then curves back under the name.

Joel Acosta

February 4, 2013

The Honorable Rep. Mele Carroll, Chair
The Honorable Rep. Bertrand Kobayashi, Vice Chair
Committee on Human Services

Dear Chair Carroll, Vice-Chair Kobayashi & Members:

RE: HB 173 - RELATING TO DEBT COLLECTION PRACTICES

POSITION: Not in Support

My name is Karen Shinsato and I have been in the collections industry for 25 years. I completely agree that the FDCPA already provides clear restrictions when contacting debtors at their employment. I also feel that this bill could be a possible threat to my employment. I humbly request that you not support this legislation.

Sincerely,

A handwritten signature in cursive script that reads "Karen Shinsato". The signature is written in black ink and is positioned above the typed name.

Karen Shinsato
70 Kunihi Lane #435
Kahului, HI 96732

February 4, 2013

The Honorable Rep. Mele Carroll, Chair
The Honorable Rep. Bertrand Kobayashi, Vice Chair
Committee on Human Services

Dear Chair Carroll, Vice-Chair Kobayashi & Members:

RE: **HB 173 - RELATING TO DEBT COLLECTION PRACTICES**
 Hearing Date: Tuesday, February 5, 2013
 Hearing Time: 9:30 a.m.
 Hearing Location: Conference Room 329

POSITION: NOT IN SUPPORT

The general public has grown accustomed to integrating their cellular telephones into their daily lives. The cellular telephone has become so integrated in the general public, for some, their lives and livelihood depends on it. The cellular telephone has become, to most individuals, a primary point of contact over landlines for both personal and business purposes. I may even go a step ahead to further state the cellular telephone has become a major tool in National Security as well. Not by choice, but by convenience through technology. When the housing and financial markets fell in 2008, the only ones that paid for it was the general public. For most people during that period of time up until today, their cellular telephone are just as important as their electric bill. The general public does and still do whatever it takes to keep that line of communication going because it is cost efficient, has multiple uses as a telephone, alarm, text messaging, e-mail, hand-held computer, and a lot easier to carry around than a landline telephone.

With that being said, a cellular telephone is the number one telephone number an individual will provide as a point of contact. Should HB173 be passed and entered into law, the legislators will be enabling a behavior; granting permission to those who would abuse that knowledge and hide from creditors they may owe to avoid paying an outstanding balance. Many individuals have outstanding student loans with the Federal government and its entities, and the cellular telephone is the only point of contact for most former students, now professional individuals. This bill would affect those that owe the Federal government as well. Legislators in support of this bill would be saying to businesses who deal with debt collection on a daily basis, "We don't need your business collecting on monies people owed to us. We allow our people of Hawaii to hide from paying their financial obligations and debts".

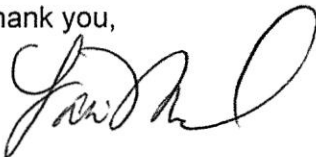
Besides major players such as Cable, Electric, and the Board of Water supply where people fall behind all the time, mortgage companies, automobile financiers, insurance companies, even a friendly call from one neighbor to another if the neighbor owed \$20.00 from the week before would be a problem collecting should HB173 pass.

If an individual provides their personal cellular telephone number to a business contact, by providing their cellular telephone number, that individual has already given their explicit permission for that business contact to reach them on their cellular telephone number, even if that individual is at a place of employment. The caller does not know if the individual is truly at work or not, therefore HB173 cannot and should not be considered into law because it does not take into consideration that the party trying to make contact cannot determine whether individual is at work or not. It will impose a major disruption in the current financial arena because the appropriate parties will not be able to make contact with the individual at the cellular telephone number provided because of HB173.

The Federal Trade Commission already has rules implemented to ensure the safety of the general public is not imposed, yet gives businesses involved in debt collection practices rights, rules and regulations as well. Not just for those businesses involved, but for the consumers rights and as well. It is not certain if all individuals are aware of their rights, or the rules and regulations that these businesses are required to comply with, however they are in place for the betterment of both the general public as well as the businesses involved in debt collection practices that it is not being abused in any way, shape or form. I believe HB173 would be contradicting a lot that has been implemented already on a Federal level and should not be implemented on the State level.

Please consider the consequences of your actions before supporting HB173.

Thank you,

A handwritten signature in black ink, appearing to read 'Lani Manuel', with a large, stylized flourish at the end.

Lani Manuel
308 A South Papa
Kahului, HI 96732

kobayashi1-Joni

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 04, 2013 9:31 AM
To: HUS testimony
Cc: mkchong@hawaii.edu
Subject: Submitted testimony for HB173 on Feb 5, 2013 09:30AM

Categories: Maroon

HB173

Submitted on: 2/4/2013

Testimony for HUS on Feb 5, 2013 09:30AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Mahina Chong	Individual	Oppose	No

Comments: I oppose HB 173. Most times, the best time to contact a debtor is at work. Passing this proposed bill would make it more difficult for companies to collect on valid claims. This would cause hardship on business who rely on our company to recovery their losses on valid services that were rendered.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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MARK T. SHKLOV
Attorney at Law
A Limited Liability Law Company

American Savings Bank Tower
1001 Bishop Street, Suite 790
Honolulu, Hawaii 96813

Telephone: (808) 585-8858
Fax: (808) 599-4198
E-mail: mark@shklovlaw.com

February 4, 2013

The Honorable Rep. Mele Carroll, Chair
The Honorable Rep. Bertrand Kobayashi, Vice Chair
Committee on Human Services

RE: **HB 173 - RELATING TO DEBT COLLECTION PRACTICES**
Hearing Date: Tuesday, February 5, 2013
Hearing Time: 9:30 a.m.

POSITION: **NOT IN SUPPORT**

Dear Chair Carroll, Vice-Chair Kobayashi & Members:

I respectfully submit my opposition to the proposed amendments to Haw. Rev. Stat. § 443B-16 for the following reasons:

1. Federal law, under the Fair Debt Collection Practices Act, already provides clear restrictions on debt collectors contacting debtors at their place of employment, and the proposed amendments would be unnecessarily duplicative and confusing.
2. A debt collector should be able to contact a consumer through normal communication means, and in a reasonable and appropriate manner, unless the consumer makes an objection, without the risk of unknowingly or inadvertently violating a vague and ambiguous law.

I respectfully request that this legislation be denied.

Very truly yours,



Mark T. Shklov

February 4, 2013

The Honorable Rep. Mele Carroll, Chair
The Honorable Rep. Bertrand Kobayashi, Vice Chair
Committee on Human Services

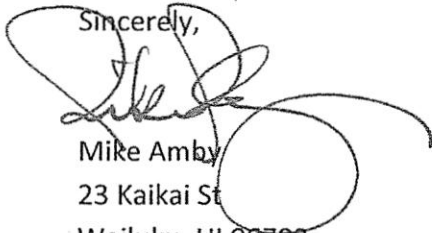
Dear Chair Carroll, Vice-Chair Kobayashi & Members:

RE: HB 173 - RELATING TO DEBT COLLECTION PRACTICES

POSITION: Not in Support

My name is Mike Amby and I have been in the collection industry for 7 years. I serve as an office manager at Credit Associates of Maui, Ltd. and one of more important many duties include training my employees of the federal law, Fair Debt Collections Practices Act (FDCPA). The FDCPA already provides clear restrictions when dealing with consumers at their place of employment. I humbly request that you not support this legislation.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mike Amby', with a large circular flourish at the end.

Mike Amby
23 Kaikai St
Wailuku, HI 96793
808-281-9444

FEBRUARY 4, 2013

RENEE A. MATSUI
395 ELILANI STREET
PUKALANI, HI 96768

Dear Chair Carroll, Vice-Chair Kobayashi & Members:

RE: HB 173-RELATING TO DEBT COLLECTION PRACTICES
Hearing Date: Tuesday, February 5, 2013
Hearing Time: 9:30a.m.
Hearing Location: Conference Room 329

POSITION: **NOT IN SUPPORT**

I am writing to you on behalf of Collectors and Debtors,

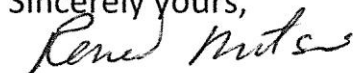
I am currently working for a law office that does debt collection. As the receptionist I answer incoming calls. About 90% of the incoming calls are from people on cell phones. If a collector is unable to take a call the contact number being left for the collector to call back is a cell phone. Messages left on the company voice mail will be a cell phone number. I know this because of the read-out on my caller I.D. screen.

Many people do not have any other means of calling us. I know this because I also give out a toll-free contact number for the office. I have been told time after time that they do not use a "land line" or have no access to one, and that they will be using their cell phones with free inter-island calling.

If the debtor leaves a message they usually stress if they are not to be contacted during work hours. Many will stress when we are able to contact them. Our representatives will adhere to the wishes of the caller.

Please DO NOT pass this law: it is not in the best interest of debtor who is trying to get this debt resolved.

Sincerely yours,



Renee Matsui
Pukalani, HI 96768

February 4, 2013

The Honorable Rep. Mele Carroll, Chair
The Honorable Rep. Bertrand Kobayashi, Vice Chair
Committee on Human Services

Dear Chair Carroll, Vice-Chair Kobayashi & Members:

RE: **HB 173 - RELATING TO DEBT COLLECTION PRACTICES**
 Hearing Date: Tuesday, February 5, 2013
 Hearing Time: 9:30 a.m.
 Hearing Location: Conference Room 329

POSITION: NOT IN SUPPORT

As debt collector the majority of our consumer's primary contacts are their cell phone numbers and direct contact numbers at their work place. I am a debt collector and I call debtors on a daily basis. Many consumers no longer have home phone numbers; the only way we can contact debtors are by calling their personal cell phone or place of work. Some debtors have their home phone number listed but they never home or they don't bother to check their voicemail messages. Under Federal Law; we cannot call debtors at their place of employment if they say not to call but most of the time debtors request to call them at work.

I humbly urge you to not support this troubling legislation.

Sincerely,



Rowena Seavers
Po Box 6136
Kahului, Hawaii 96733

kobayashi1-Joni

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 04, 2013 9:31 AM
To: HUS testimony
Cc: jhiroa@gmail.com
Subject: Submitted testimony for HB173 on Feb 5, 2013 09:30AM

Categories: Maroon

HB173

Submitted on: 2/4/2013

Testimony for HUS on Feb 5, 2013 09:30AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Sean Lee	Individual	Oppose	No

Comments: I do not support this bill because it will allow individuals to hide behind their employment and force agencies to proceed in legal action in order to collect their debt. Currently if an individual informs an agency not to call them at their place of employment the agency must comply with their request accordingly to the FDCPA (Fair Debt Collection Practice Act). The only people that this bill will hurt are business owners. Here in Hawaii most of the business owners are small businesses. This bill will hurt and possibly force many of them to close due to it passing.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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Tonya-Anne H. Murray
436 Nihoa Street
Kahului, HI 96732

February 4, 2013

The Honorable Rep. Mele Carroll, Chair
The Honorable Rep. Bertrand Kobayashi, Vice Chair
Committee on Human Service

Dear Chair Carroll, Vice-Chair Kobayashi & Members:

RE: **HB 173 - RELATING TO DEBT COLLECTION PRACTICES**
Hearing Date: Tuesday, February 5, 2013
Hearing Time: 9:30 a.m.
Hearing Location: Conference Room 329

POSITION: Not in support

The proposed legislation would make it very hard for my co-workers (debt collectors) to do their job. It would drastically reduce their ability to help the consumer. Many debtors are at work during normal business hours and are only able to discuss their account during that time. Rules are already in place that disallow collectors from calling the debtor's workplace when requested by the consumer. Many problems could arise from consumer provided contact numbers. What if it is a work number or a personal cell phone used at work? What if they have a home business?

I am against abusive collector practices, but consumers need to be able to receive notification of their past due accounts. Many times collectors do not know the contact number is a work number until they call. In addition, many consumers do request that they be contacted via their work number. In general, the proposed bill would create too much of a risk for a collector to call a consumer, thereby eliminating their jobs and causing collections firms to head directly into litigation. Most consumers would rather try to make arrangements to settle their debts than go to court and our collectors always try to help them out to prevent legal action.

Please do not support this legislation.

Sincerely,


Tonya-Anne H. Murray

kobayashi1-Joni

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 04, 2013 9:35 AM
To: HUS testimony
Cc: stephen.gushiken@gmail.com
Subject: Submitted testimony for HB173 on Feb 5, 2013 09:30AM

Categories: Maroon

HB173

Submitted on: 2/4/2013

Testimony for HUS on Feb 5, 2013 09:30AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
STEPHEN GUSHIKEN	Individual	Oppose	No

Comments: RE:HB 173 Please do not pass the HB 173 regarding collection agency calls to debtors at their workplaces. The Fair Debit Collection Practices Act and other Federal laws already provide good oversight of both Hawaii and Mainland collection agencies. The FDCPA prohibits the use of profanity and threats to debtors. Calls to the workplace are already limited to 2x's a week, and are necessary when debtors refuse to give their current cell/home phone#'s to their creditors, and also refuse to give their contact#'s when they are first contacted at work. HB 173 would hurt the banks, credit unions, businesses, doctors, dentist and others who provide important services to the people of Hawaii, as well as substantial tax revenue to our state. This bill would hamper the legitimate efforts of collection agencies in Hawaii, which employ many people, including myself. Mahalo! Steve Gushiken
Guardian Capital Management of Hawaii

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