

BOARD OF WATER SUPPLY

CITY AND COUNTY OF HONOLULU
630 SOUTH BERETANIA STREET
HONOLULU, HI 96843



April 2, 2014

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ERNEST Y. W. LAU, P.E.
Manager and Chief Engineer

ELLEN E. KITAMURA, P.E.
Deputy Manager and Chief Engineer

The Honorable Sylvia Luke, Chair
and Members
Committee on Finance
House of Representatives
Hawaii State Capitol, Room 308
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair and Members:

Subject: Senate Bill 3094, SD2, HD1, Relating to Counties

The Board of Water Supply, City and County of Honolulu (BWS) supports Senate Bill No. 3094, SD2, HD1, relating to the empowerment of counties to impose and enforce liens on unpaid water or sewer charges and the revisions to paragraph (23) (A) as described below.

The amendments to paragraph (23) (B) to remove the dollar threshold for the imposition and enforcement of liens, are consistent with the other provisions of the chapter and that any liens would be implemented in accordance with the counties ability to enact or adopt laws, rules and ordinances.

Additionally, we support the amendments to paragraphs (23) (A) of this chapter that removed language to allow counties to take over State water systems. This amendment would ensure that our ratepayers and counties would not be unfairly burdened with the additional cost to maintain, improve, enlarge, and develop a State water system.

BWS water rate payers are currently assessed the cost of operating and maintaining water system infrastructure through established water rates as allowed by statutes and City charter. BWS rates are established by conducting a rate study that takes substantial amount of time, as many issues have to be addressed and vetted to ensure that the proposed water rate revenues are adequate to recover the projected future water supply operating and capital costs. A cost of service analysis is then performed to properly allocate the revenue requirements to the various customer classes in a fair and equitable manner.

Thank you for your consideration of our testimony on Senate Bill 3094, SD2, HD1.

Very truly yours,


ERNEST Y. W. LAU, P.E.
Manager and Chief Engineer



DEPARTMENT OF WATER SUPPLY • COUNTY OF HAWAII

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TELEPHONE (808) 961-8050 • FAX (808) 961-8657

April 1, 2014

The Honorable Sylvia Luke, Representative
25th House District
Chair, House Committee on Finance

RE: SB 3094, SD2, HD1 (HSCR1200-14), RELATING TO COUNTIES

The Department of Water Supply and the Water Board (DWS) County of Hawaii **supports** S.B. NO. 3094 which seeks to impose and enforce liens upon the premises served for any unpaid water or sewer charges where the premises owner fails, after reasonable notice to the owner or owner's authorized agent/property manager, including the providing of account information to the extent permitted under the law, to make payment and after being given an opportunity for a hearing pursuant to Chapter 91; provided that the lien may be enforced against the entire unpaid amount.

The DWS sees the need to place property liens for unpaid water bills as an additional tool to assist the DWS' current and active attempts to collect on 1.2 million dollars in delinquent charges for water service which are in arrears past 90 days.

Although a portion of this total amount is anticipated to be collected through previously arranged payment plans or pending water leak adjustments, the majority of the delinquent accounts remain in the collection process for long periods of time. This collection process includes correspondence, phone calls, and taking legal action against customers, when they can be located. This process can be time and resource consuming. When customers do not pay their bills, the cost of operating the water system has to be borne by the other water customers.

Oftentimes when a lawsuit is filed, the defendant does not respond, and a default judgment will be entered. It is assumed that defendants do not appear because there is no defense—the customer knows it used the water service and did not pay. Yet, the time and resources it takes to obtain a judgment may exceed the amount collected. Having the ability to place a lien against a property, after due process is given, shortens the collection time period. Additionally, customers who may be intimidated by the court process, or find the court process too costly, may be more inclined to raise legitimate defenses within the administrative hearing process. Basically, this bill is an effort to shorten collection timelines while affording customers due process and using fewer resources.

However, we need your specific attention to amend the **effective date of this bill to 2015** because as it is written now the effective date is 2112.

Also, despite concerns raised by the Realtor's Association, it is important to note this bill helps realtors

... Water, Our Most Precious Resource ... Ka Wai A Kāne ...

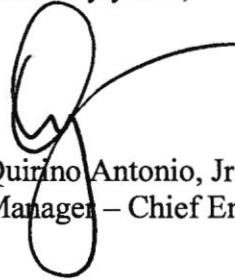
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The Honorable Sylvia Luke, Representative
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insure the transference of a "clean title" and does not impede a sale of a property. As previously mentioned, the lien will only be placed after notice and an opportunity to be heard via Chapter 91 by the property owner.

In closing, the DWS has a public trust responsibility. It is important for all who use water to pay for and protect water as our most precious resource. The DWS requests your support of S.B. NO. 3094 and asks you to pass this measure.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Quirino Antonio, Jr.', with a long horizontal flourish extending to the right.

Quirino Antonio, Jr., P.E.
Manager – Chief Engineer

copy - Honorable William P. Kenoi, Mayor, County of Hawai'i
Kenneth Kaneshiro, Chairperson, Water Board
Ernest Lau, Manager and Chief Engineer, Honolulu Board of Water Supply
Dave Taylor, Director, Maui Department of Water Supply
Kirk Saiki, Acting Manager and Chief Engineer, Kauai Department of Water Supply

April 2, 2014

The Honorable Sylvia Luke, Chair

House Committee on Finance
State Capitol, Room 308
Honolulu, Hawaii 96813

RE: S.B. 3094, S.D.2, H.D.1, Relating to Counties

HEARING: AGENDA #1 - Wednesday, April 2, 2014 at 2:00 p.m.

Aloha Chair Luke, Vice Chair Nishimoto, Vice Chair Johanson and Members of the Committee:

I am Myoung Oh, Government Affairs Director, here to testify on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its 8,300 members. HAR **offers comments** on S.B. 3094, S.D.2, H.D.1 which authorizes counties to impose and enforce liens upon premises served for unpaid water or sewer charges after notice and an opportunity to appeal and repeals county authority to take over existing state waterworks and sewer systems.

As a brief summary, HAR's concern is that property owners and property managers would become liable for large delinquencies with no knowledge of, or opportunity to react to, delinquencies created by their tenants. We believe that if a tenant does not pay their water bill, the property owner must be notified prior to a lien being placed and that such notification that is timely to ensure that the owner may cure any non-payment. It's simply a matter of transparency and adequate notice. This notice is critical because there is a very short time (14 days) after a tenant vacates that an owner can correct delinquencies from the tenant's security deposit. The owner cannot wait for the water board to send a notice.

Although progressive amendments were made in House Draft 1, we respectfully offer additional changes to ensure that the owners duly receive notice of delinquencies. Specifically, the amendment provides that account information including the amount of the delinquency must be disclosed to property owners in situations where there is a delinquency.

HAR have been in collaborative discussions with water board representatives from Hawaii Island and have come to a compromise to include the following amendments.

Mahalo for the opportunity to testify.

PROPOSED AMENDMENT TO S.B. 3094, S.D.2, H.D.1

Page 11, Lines 4-15

(B) Each county may impose and enforce liens upon the premises served for any unpaid water or sewer charges where the premises owner fails, ~~after receiving a timely pre-lien notice of delinquency,~~ to make payment, after reasonable notice to the owner or agents including the providing of access to account information to the extent permitted by law, and after being given an opportunity for a hearing pursuant to chapter 91; provided that the lien may be enforced against the entire unpaid amount; ~~and provided further that the delinquent charges that may be the basis of such liens shall not commence or accrue until the date of the pre-lien notice of delinquency;~~ and