

# SB 57

Measure Title: RELATING TO TAXATION.

Report Title: Taxation; Tax Clearance Certificate; Professional Licensure; Architect; Engineer; Land Surveyor; Landscape Architect

Description: Requires professional architects, engineers, land surveyors, and landscape architects to present a tax clearance certificate to licensing agency prior to issuance or renewal of the license.

Companion:

Package: None

Current Referral: CPN, WAM

Introducer(s): CHUN OAKLAND, Dela Cruz, Galuteria, Hee, Ihara, Shimabukuro, Solomon

<b><u>Sort by Date</u></b>		<b>Status Text</b>
1/17/2013	S	Introduced.
1/17/2013	S	Passed First Reading.
1/17/2013	S	Referred to CPN, WAM.
1/24/2013	S	The committee(s) on CPN has scheduled a public hearing on 01-30-13 8:30AM in conference room 229.

NEIL ABERGROMBIE  
GOVERNOR

SHAN TSUTSUI  
LT. GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF TAXATION**  
P.O. BOX 259  
HONOLULU, HAWAII 96809  
PHONE NO: (808) 587-1530  
FAX NO: (808) 587-1584

FREDERICK D. PABLO  
DIRECTOR OF TAXATION

JOSHUA WISCH  
DEPUTY DIRECTOR

To: The Honorable Rosalyn H. Baker, Chair  
and Members of the Senate Committee on Commerce and Consumer Protection

Date: Wednesday, January 30, 2013

Time: 8:30 a.m.

Place: Conference Room 229, State Capitol

From: Frederick D. Pablo, Director  
Department of Taxation

Re: S.B. 57 Relating to Taxation

The Department of Taxation (Department) appreciates the intent of S.B. 57 and provides the following information and comments. The Department defers to the Department of Commerce and Consumer Affairs (DCCA) on the merits of this measure.

S.B. 57 requires that professional architects, engineers, land surveyors, and landscape architects provide a tax clearance certificate to the licensing agency as a condition precedent to the issuance or renewal of their license.

This measure is patterned substantially after section 231-28, Hawaii Revised Statutes, which requires a tax clearance before any liquor license can be renewed. The Department notes that the DCCA, under its administrative rules, requires a contractor to obtain a tax clearance prior to the renewal of a contractor's license every two years.

Currently, the tax clearance review and issuance process is manual. The Department reviews over 1400 liquor license applications on an annual basis, and almost 8000 contractors on a bi-annual basis. If S.B. 57 is adopted, the Department recommends that the requirement be imposed on a staggered schedule or time frame which does not overlap with the other renewals. The annual tax clearance process not only increases the processing workload to issue the tax clearances, but requires sufficient staffing to assist noncompliant taxpayers become compliant again.

Thank you for the opportunity to provide comments.



## Hawaii Chapter of the American Society of Landscape Architects

Commerce and Consumer Protection  
Rosalyn Baker, Chair  
Senate District 6  
Hawaii State Capitol, Room 230

Hearing Date: Wednesday, January 30, 2013, 8:30 am

RE: SB57: Relating to Taxation – Tax Clearance Certificate for Architects, Engineers, Land Surveyors, and Landscape Architects

Chairperson and Committee Members,

On behalf of landscape architects and members of the Hawaii Chapter of the American Society of Landscape Architects, I am writing to inform you that our members oppose SB57 requiring licensed design professionals to present a tax clearance certificate for first time or renewal of licenses. We oppose this for several reasons:

1. Why are design professionals being targeted to supply a tax clearance certificate, but not other licensed professionals? The purpose of licensure is to protect the health, safety and welfare of the public. How is the tax clearance certificate related to this?
2. Right now the renewal process is efficient, being able to do it online. This requirement would slow the renewal time having to get the certificate, mail it to the licensing boards to verify, and then licenses would be renewed. How long will this process take?
3. The Executive Officer of the Engineer, Architect, Surveyor and Landscape Architect Board, James Kobashigawa, provided me with the following numbers this week on the number of professionals affected. There are about 8,757 licensees potentially affected by this bill of which 151 are landscape architects, 2,278 architects, 205 surveyors and 6,123 engineers. ALL design professional licenses expire every even numbered year on April 30<sup>th</sup> which is a bad time to be overburdening the State Tax Department with processing certificates. About half of the 8,757 licensees are not residents. How easy will it be for them receive certificates when some of them have not practiced here so there are no tax records?
4. What is the cost effectiveness of this bill? Will the extra costs be offset by enough additional tax revenue?
5. This bill may result in less licensed professionals by putting up unnecessary hoops to jump through considering that almost half of the licensees are not residents. The City and State should be encouraging business, not hindering it.

Thank you for considering our member's views and once again we oppose SB57.

Respectfully submitted,

Kyle Sasaki, ASLA  
ASLA Hawaii Chapter President

# ACEC

AMERICAN COUNCIL OF ENGINEERING COMPANIES  
of Hawaii

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January 28, 2012

## **Senate Committee on Commerce and Consumer Protection**

**Hearing Date: Wednesday, January 30, 8:30 a.m., Conference Room 229**

Honorable Senators Rosalyn H. Baker, Chair; Brickwood Galuteria, Vice Chair; and Members of the Senate Committee on Commerce and Consumer Protection

**Subject: SB 57, Relating to Taxation**  
**TESTIMONY IN OPPOSITION**

Dear Chair Baker, Vice Chair Galuteria, and Committee Members:

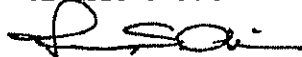
The American Council of Engineering Companies of Hawaii (ACECH) represents almost 70 member firms with over 1,300 employees throughout Hawaii. In Hawaii, Professional Engineer licensing is managed through the Department of Commerce and Consumer Affairs (DCCA), under regulation of the Board of Professional Engineers, Architects, Surveyors, and Landscape Architects. To become licensed, engineers must complete stringent exams administered by the National Council of Examiners for Engineering and Surveying (NCEES), which is made up of all the state licensure boards. Once receiving a license in any state, an applicant can apply for licensure by comity in another state.

We understand that this bill was motivated by one engineer's concern that out-of-state engineers or engineering firms are conducting work in Hawaii, but are not paying State taxes. While we appreciate the intent of the bill if this practice is occurring, ACECH has not identified this issue as a large concern, and is concerned about potential unintended consequences of the bill. Our questions and concerns include:

- Since the license is granted to an individual, should the individual receive the tax clearance? If the State would require the employer's tax clearance, is it fair to deny the individual a license if the company hasn't paid their taxes?
- Is Department of Taxation (DOTAX) prepared to process thousands of additional tax clearances every other spring when licenses are renewed?
- Is DCCA willing to police tax clearances as part of the license renewal process?
- Is the non-payment of State taxes by out-of-State individual design professionals or firms really a problem? Would the revenues collected offset the costs of the extra effort for DOTAX and DCCA?
- Would the requirement for a tax clearance be in conflict with the existing licensing agreements between states?
- Would there be any issues for the many engineers working for public agencies or who have retired to renew their licenses?

Because of these concerns, we respectfully oppose the bill. Alternatively, we request that you delay decision-making to give us more time to consult with the stakeholders to evaluate the potential benefits and unintended negative consequences of the bill. We appreciate the opportunity to provide testimony on this matter. Please do not hesitate to contact us if you have any questions.

Respectfully submitted,  
AMERICAN COUNCIL OF ENGINEERING COMPANIES OF HAWAII



Terrance Arashiro, P.E.  
President



AMERICAN SOCIETY OF CIVIL ENGINEERS

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**PRESIDENT**

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January 28, 2013

Honorable Rosalyn H. Baker, Chair,  
Honorable Brickwood Galuteria, Vice Chair,  
Honorable Members of the Senate Committee on Commerce and Consumer Protection,

**I am testifying in OPPOSITION to Senate Bill 57, Relating to Taxation**

Senate Bill 57 would require professional architects, engineers, land surveyors, and landscape architects to present a tax clearance certificate to the licensing agency prior to issuance or renewal of the license.

Professional licensure is required to assure the design of public and private facilities meet design standards and codes of applicable agencies to assure the safety and well-being of the public. A license is earned by an engineer only after meeting rigid requirements for education and experience in the specialty he or she is seeking. When licensed, the engineer is permitted to seal drawings and specifications prepared under his supervision and the responsibility for such plans have the potential for liability if improperly completed.

Licensed engineers are employed as private entrepreneurs, by consulting firms, or government agencies. When a plans are prepared by a consultant for the state a tax clearance must be obtained before final payment is received. This is considered a part of doing business with the state and not because the consultant employs the services of a licensed engineer. When plans are prepared for a government project by engineers employed by the agency does not obtain a tax clearance before receiving payment from the budget department.

It is unreasonable and unfair to expect a tax clearance only for professional architects, engineers, land surveyors, and landscape architects and not from other professionals licensed by the Professional and Vocational Licensing Division of the Department of Commerce and Consumer Affairs. SB 57 would also add a huge administrative burden to the Department of Taxation.

We strongly urge your tabling of Senate Bill 57. Thank you for the opportunity to testify on this legislation

Owen Miyamoto, P.E.  
Local Legislative Liaison  
ASCE Hawaii Section  
3209 Paty Drive  
Honolulu, HI 96822-1439  
(808) 988-6029  
Email: [owen@hawaii.edu](mailto:owen@hawaii.edu)



Civil Engineers – Designers and Builders of the Quality of Life

# AMERICAN INSTITUTE OF ARCHITECTS

CPN  
8:30 am

January 30, 2013

Honorable Rosalyn Baker, Chair  
Senate Committee on Commerce & Consumer Protection

Re: **Senate Bill 57**  
**Relating to Taxation**

Dear Chair Baker and Members of the Committee,

My name is Daniel Chun, Government Affairs Chair of the American Institute of Architects (AIA) Hawaii State Council. AIA **OPPOSES** SB 57 requiring a tax clearance for renewal of architect licenses. We do not agree that a professional licensing process regulated under the DCCA is the place to enforce payment of appropriate state taxes. AIA is in general agreement with the opposing testimony presented by other organizations.

Under HRS 237-6 tax law architectural services are considered "contracting services" just like many other construction-related services subject to Hawaii GET. GET is an "honor-based self-reporting" tax system. Our understanding is that a tax clearance only covers what income has been reported and the status of the resulting tax obligation to the state of Hawaii. Our further understanding is that this bill was prompted by the possibility of some design professionals resident in another state who may not be paying appropriate GET; thus enjoying an unfair price advantage over local Hawaii taxpayers. Or the design service may be on a cash-basis, potentially avoiding payment of GET.

Several years ago this legislature passed HRS 237-29.53 that exempted "exported contracting services" from GET to allow Hawaii design professionals to better compete for out-of-state clients. While "exported contracting services" are exempt, "imported contracting services" are subject to GET just as if these services had been sold by a Hawaii-based architect or other design professional.

When I import a contracting service from the US Mainland for my own business, I report and pay the GET on my own return because I am the Hawaii-based "user" of that service and I collected the service fee from my client. Maybe there is not enough reporting, auditing and enforcement of GET on "imported contracting services." Thank you for this opportunity to **OPPOSE** Senate Bill 57.



**LANDSCAPE INDUSTRY COUNCIL OF HAWAII**

January 28, 2013

**TESTIMONY FOR SENATE BILL N.O. 57**

**SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION**

The Landscape Industry Council of Hawaii opposes Senate Bill 57 Relating to tax clearance certificate prior to issuance or renewal of the professional license.

Senate Bill 57 places another unnecessary administrative burden on individual licensed professionals in Hawaii during these tough economic times.

Compliance with tax rules is a worthy goal in these times of tight budgets, but this method of enforcement penalizes those businesses/professionals in compliance. The State Department of Taxation should perform their function of enforcing state tax laws than imposing their responsibility on individual taxpayers.

If you have questions, please contact me at me at 799-3101 or email address [chris.dacus@gmail.com](mailto:chris.dacus@gmail.com).

Chris Dacus  
President  
Landscape Industry Council of Hawaii  
P. O. Box 22938, Honolulu, Hawaii 96823-2938

Landscape Industry Council of Hawaii

Hawaii's landscape industry has an economic impact of over \$520 million annually and full time employment of over 11,000 landscape professionals. Formed in 1986, LICH is a statewide alliance representing Hawaii's landscape trade associations. LICH can be found online at [www.landscapehawaii.org](http://www.landscapehawaii.org)

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January 28, 2013



**Senate Committee on Commerce and Consumer Protection**  
**Hearing Date: Wednesday, January 30, 8:30 a.m., Conference Room 229**

Honorable Senators Rosalyn H. Baker, Chair; Brickwood Galuteria, Vice Chair; and Members of the Senate Committee on Commerce and Consumer Protection

**Subject: SB 57, Relating to Taxation**  
**TESTIMONY IN OPPOSITION**

Dear Chair Baker, Vice Chair Galuteria, and Committee Members:

Brown and Caldwell is one of the members of the American Council of Engineering Companies of Hawaii (ACECH) that represents about 70 member firms with over 1,300 employees throughout Hawaii. We understand that ACECH is opposed to the subject bill because there has not been sufficient time to properly evaluate the merits and consequences of this bill that may negatively affect licensing of professional engineers in the State. We support ACECH's position in opposition of the bill, and respectfully ask you to hold this bill. Alternatively, we request that you delay any decision-making to provide ACECH more time to consult with the stakeholders to evaluate both the merits and unintended negative consequences of this bill. We appreciate the opportunity to provide testimony on this matter.

Respectfully submitted,

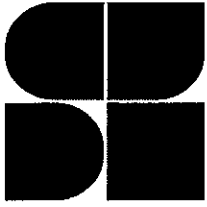
Brown and Caldwell

A handwritten signature in black ink, appearing to read "Douglas B. Lee".

Douglas B. Lee, P.E.  
Vice President



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## SHIGEMURA, LAU, SAKANASHI, HIGUCHI AND ASSOCIATES, INC.

January 28, 2012

**Senate Committee on Commerce and Consumer Protection**  
**Hearing Date: Wednesday, January 30, 8:30 a.m., Conference Room 229**

Howard K.C. Lau  
Craig H. Sakanashi  
Wayne K. Higuchi  
Beverly Ishii-Nakayama

Honorable Senators Rosalyn H. Baker, Chair; Brickwood Galuteria, Vice Chair; and Members of the Senate Committee on Commerce and Consumer Protection

**Subject: SB 57, Relating to Taxation**  
**TESTIMONY IN OPPOSITION**

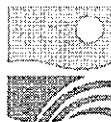
Dear Chair Baker, Vice Chair Galuteria, and Committee Members:

Shigemura, Lau, Sakanashi, Higuchi and Associates is a member firm of ACECH. We understand that ACECH is opposed to this bill because there has not been sufficient time to evaluate the potential benefits versus potential unintended consequences that may affect engineering licensure.

We are in agreement with ACECH's position and support ACECH's opposition of this bill.

Respectfully submitted,  
Beverly Ishii-Nakayama

American Council of Engineering Companies of Hawaii - President-Elect  
Shigemura, Lau, Sakanashi, Higuchi - Principal



THE LIMTIACO CONSULTING GROUP  
CIVIL ENGINEERING AND ENVIRONMENTAL CONSULTANTS

January 28, 2013

**Senate Committee on Commerce and Consumer Protection**  
**Hearing Date: January 30, 2013, 8:30 am, Conference Room 229**

Honorable Senators Baker, Chair; Galuteria, Vice Chair; and Committee Members

**Subject: SB 57, Relating to Taxation, STRONG OPPOSITION**

Chair Baker, Vice Chair Galuteria, and Committee Members:

As a professional and community-minded civil engineer registered in the State of Hawaii, I strongly oppose SB 57. The requirement to obtain a tax clearance prior to license issuance or renewal makes no sense. Obtaining a tax clearance is a time-consuming process and I doubt the Department of Taxation will be able to process the overwhelming wave of tax clearance requests in a responsible and timely manner; engineers renew their professional license all at the same time every other year.

If the intent of the bill is to protect local businesses by making sure mainland companies pay Hawaii taxes, I'm sure there's a more effective way to do that. Why punish all the local professionals in the process?

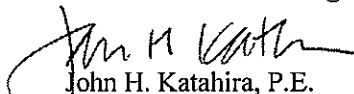
If the underlying goal is to raise more State revenue, I suggest simply raising the Professional and Vocational Licensing cost. This would result in much lower administration costs, which would allow for more "net profit" to the State.

I strongly suggest speaking to local professionals before advancing this bill. I am positive you will find strong opposition and the cost to administer this program will be a tremendous expense to the State.

The Limtiaco Consulting Group is an active member of ACECH and supports the organization's position in opposition of the bill.

Thank you for this opportunity.

Best always,  
*The Limtiaco Consulting Group, Inc.*

  
John H. Katahira, P.E.  
President



## THE LIMTIACO CONSULTING GROUP

January 28, 2013

**Senate Committee on Commerce and Consumer Protection**  
**Hearing Date: January 30, 2013, 8:30 am, Conference Room 229**

Honorable Senators Baker, Chair; Galuteria, Vice Chair; and Committee Members

**Subject: SB 57, Relating to Taxation, STRONG OPPOSITION**

Chair Baker, Vice Chair Galuteria, and Committee Members:

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If the intent of the bill is to protect local businesses by making sure mainland companies pay Hawaii taxes, I'm sure there's a more effective way to do that. Why punish all the local professionals in the process?

I strongly suggest speaking to local professionals before advancing this bill. I am positive you will find strong opposition and the cost to administer this program will be a tremendous expense to the State.

Thank you for this opportunity.

Best always,  
*The Limtiaco Consulting Group, Inc.*

Melanie Mak, P.E.  
Project Engineer

**miyabaraassociates llc**

*Landscape Architects and Planners*

January 25, 2013

Commerce and Consumer Protection Committee  
Hawaii State Senate  
Hawaii State Capitol  
Honolulu, HI 96813

SUBJ: **SB57 – BILL TO REQUIRE TAX CLEARANCE FOR LICENSE RENEWAL**

ATTN: Senator Rosalyn H. Baker, Chair

Dear Chair Baker and Committee Members,

I am writing in opposition to this bill which will require providing a Hawaii State Tax Clearance Certificate as a prerequisite for my bi-annual renewal of my professional license. While I have never been delinquent and am current on all of my taxes, passage of this bill simply adds another unnecessary action requiring time and effort and thereby adding to the cost of my business and practice.

Collection of taxes and renewal of licenses to practice are unrelated. If this type of unnecessary procedure continues, where does it stop? Shall anyone renewing their automobile driver's license be similarly required to provide a tax clearance certificate? This is another example of governmental interference to free enterprise.

Please do not move forward with this bill.

Mahalo and Aloha,



Michael T. Miyabara, FASLA

*Clifford Center  
810 Richards Street, Suite 808  
Honolulu, HI 96813*

*Telephone: 808.531-1306  
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**SB57**

Submitted on: 1/25/2013

Testimony for CPN on Jan 30, 2013 08:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
JOHN FELDMAN	Ecocentrix, Inc.	Oppose	No

Comments: I am writing in opposition to SB57. I of course believe in paying my taxes, and do, but do not feel that this should be unconditionally tied to the renewal of one's professional license or even it's status of "standing". Without my License I would be unable to legally practice as a Landscape Architect. The set of professional skills and business relationships that I have diligently cultivated for nearly 20 years as a Landscape Architect, after 8 arduous years of college resulting in my earning a BLA, that provide for the singular way I choose to make my living, would be stymied or worse. I would have no way to make money and therefore pay off delinquent taxes. "We" have received similar threats in California, the State of my primary practice, in the last year. Taxation here seems ridiculously high considering our continued lower revenue in a stale downturned economy, contrary to our overhead spikes, etc. The small firm continues to get beaten up pretty badly here as others of my peers continue to relay to me. I know small and large firms who have closed, and most other reputable mid to large sized firms who have downsized by considerable margins. I can understand the "incentive" for a licensed practitioner (often a firm owner) to make good on paying State taxes particularly if licensure is held over ones head through this "Strong Armed" tactic. If that firm owner is taken down by SB57, and there is not another licensed practitioner on staff, or can not afford to then hire one, then that business and all its employees would be severely impacted. With Taxes so high such that paying them becomes problematic, and under these bills, the State will force its practitioners out of licensure and then will loose renewal revenues therein. A State who would diminish its pool of licensed Landscape Architects through a bill like SB57, is one that encourages the sea of non-licensed designers to compete for our work illegally, who further create havoc on the safety, health, and welfare of it's consumers. Landscape Architects educate and protect its consumers, and less so the State from my experience. Regarding the issue of being a licensed Landscape Architect in Hawaii, living in California, with no current or past work in Hawaii. How difficult will proof of taxation be made for non-locals like me? A Lesser Compromise: If ever my license was suspended for a taxation issue, I would hope that would not preclude my being able to: 1. Pay my renewal fees to keep the license in otherwise good standing, and so as not to become expired and/or requiring retesting! Or 2. Keep the license in a suspended status, so as not to become expired and/or requiring retesting, with the option to pay the accumulated renewal fees at a later date when State taxes have been paid or w/ a payment plan. Those are a few of my thoughts. Thank you for your consideration.

**Allan & Pamela Schildknecht**

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Kaneohe, Hawaii 96744  
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January 26, 2013

Senator Rosalyn Baker  
Chairperson Commerce and Consumer Protection Committee  
House of Representatives  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, HI 96813

Testimony Opposing SB 57 Relating to Taxation

Honorable Chairperson & Committee Members,

I am writing in opposition to SB 57 relating to Taxation of Professional Architects, Engineers, Land Surveyors and Landscape Architects to obtain a tax clearance certificate prior to renewing their licensing. I oppose this for several reasons;

1. The vast majority of Architects, Engineers, Land Surveyors and Landscape Architects are employees of firms and receive compensation in the form of wages only. The firm they work for in turn pays the General Excise Tax on what the firm invoices and not the individual licensee.
2. To require each licensee to obtain a clearance, when they most likely do not pay any taxes other than what is withheld on their employee taxes, will only burden the State Tax Department which is already over-burdened. This is especially true since all of these two-year licenses expire on April 30<sup>th</sup> of the even numbered years, which is prime tax time within the state.
3. The time required to obtain a tax clearance averages 4 to 6 weeks when solicited by mail and while it can be obtained in one day by physically going down to the tax office, this causes a burden on both the tax office and the licensee, especially those neighbor island.

If the intent is to make sure the firms are paying the taxes, this will not guarantee this but will only cost both the licensee and the State of Hawaii money for this futile exercise.

Again, I am in opposition to this Bill.

Respectfully submitted by;



Allan G. Schildknecht

**SB57**

Submitted on: 1/29/2013

Testimony for CPN on Jan 30, 2013 08:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Gavin Hirano	Individual	Oppose	No

Comments: How does this affect individuals that work for private companies? Will the tax status of the company negatively affect the person applying for the license? And why single out Engineers, Surveyors, et al? What about other occupations that require licenses? Will all jobs that require PVL renewals at the DCCA be held to the same standard?

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Raymond Higa	Individual	Oppose	No