

DAVID Y. IGE  
GOVERNOR

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MARIA E. ZIELINSKI  
DIRECTOR OF TAXATION

STATE OF HAWAII  
**DEPARTMENT OF TAXATION**  
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To: The Honorable Angus L.K. McKelvey, Chair  
and Members of the House Committee on Consumer Protection & Commerce

Date: Thursday, January 29, 2015  
Time: 2:00 P.M.  
Place: Conference Room 325, State Capitol

From: Maria E. Zielinski, Director  
Department of Taxation

Re: H.B. 109, Relating to Taxation

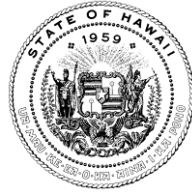
The Department of Taxation (Department) appreciates the intent of H.B. 109 and provides the following information and comments. The Department defers to the Department of Commerce and Consumer Affairs (DCCA) on the merits of this measure.

H.B. 109 requires that persons seeking to obtain or renew a professional or vocational license subject to the jurisdiction of the DCCA present a tax clearance certificate to the issuing 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 also notes that the DCCA, under its administrative rules, requires contractors to obtain tax clearance certificates prior to renewal of their contractor's licenses, which expire in even-numbered years.

Currently, much of the tax clearance review and issuance process is manual. In fiscal year 2014, the Oahu District Office processed approximately 39,500 tax clearances. If H.B. 109 is adopted, the Department anticipates a substantial increase in the number of tax clearance applications, as it is the Department's understanding that the DCCA currently regulates approximately 141,000 active licenses. The Department will require sufficient staffing to process these tax clearances and assist noncompliant taxpayers in becoming compliant. Additionally, the Department recommends that, if H.B. 109 is adopted, the deadlines to obtain tax clearance certificates for the various licenses are staggered so that they do not overlap.

Thank you for the opportunity to provide comments.



DAVID Y. IGE  
GOVERNOR  
SHAN S. TSUTSUI  
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STATE OF HAWAII  
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DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
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CATHERINE P. AWAKUNI COLÓN  
INTERIM DIRECTOR  
JO ANN M. UCHIDA TAKEUCHI  
DEPUTY DIRECTOR

## PRESENTATION OF THE PROFESSIONAL AND VOCATIONAL LICENSING DIVISION

TO THE HOUSE COMMITTEE ON  
CONSUMER PROTECTION & COMMERCE

TWENTY-EIGHTH LEGISLATURE  
Regular Session of 2015

Monday, February 2, 2015  
2:00 p.m.

### TESTIMONY ON HOUSE BILL NO. 109, RELATING TO TAXATION.

THE HONORABLE ANGUS L.K. MCKELVEY, CHAIR,  
AND MEMBERS OF THE COMMITTEE:

My name is Celia Suzuki, Licensing Administrator for the Professional and Vocational Licensing Division (“PVLD”), Department of Commerce and Consumer Affairs (“Department”). The Department appreciates the opportunity to submit testimony on House Bill No. 109, Relating to Taxation.

The purpose of House Bill No. 109 is to require that tax clearances provided by the State Department of Taxation be submitted with applications for initial licensure and at renewals for all professional and vocational licenses. The Department supports the intent of the bill and understands its significance but we do have concerns and request that this bill be held.

12,655 licensed contractors in the State were eligible to renew their licenses by September 2014 (a small segment of PVLD's licensee population). 11,176 renewed timely but not without incident with obtaining their tax clearances. Many of them had difficulties obtaining their original tax clearances required for renewal.

The PVLD, as of October 22, 2014, had 141,908 licensees. In FY 13, the PVLD licensed 9,678 applicants, and in FY14, the PVLD licensed 21,434 applicants. Thus, if this bill passes then the applicants and licensees would be required to provide proof of tax clearances for the nearly 150,000 new and renewed licensees every two to three years. Practically speaking, this would appear to be a daunting task for PVLD's applicants and licensees, as well as for the staff at the Department of Taxation. It could very well slow down the processing of PVLD's initial and renewal applications, which would prevent them from practicing their professions and vocations sooner than later.

We appreciate the intent of the bill but unless there are assurances that the process will be quick, simple, and fair to obtain tax clearances, we request that this bill be held.

Thank you for the opportunity to provide testimony on House Bill No. 109.

# TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: ADMINISTRATION, Tax clearance requirement

BILL NUMBER: HB 109

INTRODUCED BY: Choy

EXECUTIVE SUMMARY: Requires applicants of a professional or vocational license to obtain a tax clearance before a license is issued or renewed. The adoption of this measure would ensure that all tax liabilities are paid before a professional or vocational license is issued.

BRIEF SUMMARY: Adds a new section to HRS chapter 231 and HRS chapter 436B to require an applicant of a professional or vocational license to obtain a tax clearance before any license is issued or renewed. Directs the department of taxation to prepare the necessary forms to effectuate this act.

EFFECTIVE DATE: Tax years beginning after December 31, 2016

STAFF COMMENTS: The adoption of this measure would require applicants for any professional or vocational license to obtain a tax clearance, which is a certification by the Department of Taxation that all tax returns that are due have been filed, and that any taxes shown on those returns have been paid.

Current law, in HRS 103-53 and 103D-328, also allows for a contractor with the state to obtain a tax clearance if: (a) the contractor is in good standing under an installment plan for the payment of delinquent taxes, penalties, or interest; or (b) the validity of the taxes, penalties, or interest is being contested in an administrative or judicial appeal.

The bill allows for an exception if the taxpayer is current under an installment agreement, similar to (a).

The bill does not allow for an exception if the taxpayer is contesting the tax, similar to (b). We would recommend that a similar exemption be added.

The bill allows for a third exception, if the taxpayer is “not subject to income tax in Hawaii,” which is not in current law. Clearances are now granted if the taxpayer is not subject to *any* taxation in Hawaii. It is possible for a taxpayer to be subject to taxation generally, but immune from income taxation (immunity under Public Law No. 86-272, for example). Unless there is a specific reason to focus on income taxation, the third exception does not seem to be needed.

Although the intent of the law appears to be to ensure that licensed professionals pay their taxes, there are circumstances where the proposed law could backfire. Suppose that Husband and Wife file a joint return. Wife is a doctor. Husband suffers financial reverses and the couple is unable to pay its bills including income taxes. The bill’s effect would be that Wife would lose her medical license; we wonder if that was the intent.

HB 109 - Continued

We also caution that unless the department of taxation is given sufficient resources and staff to accommodate the additional burden and workload created by the adoption of this measure, the large influx of requests for tax clearances may overwhelm the department's staff.

Digested 1/28/15

**Re: HB 109, HD1 RELATING TO TAXATION-TAX CLEARANCE FOR PROFESSIONAL OR VOCATIONAL LICENSE**

**Committee on Consumer Protection and Commerce**

Representative August McKelvey, Chair

Representative Justin Woodson, Vice Chair

Date: February 2, 2015

Time: 2:00pm

Place: House Conference Room 325

**Dear Honorable Representative McKelvey, Chair; Honorable Representative Woodson, Vice Chair, and Members of the Committee on Consumer Protection and Commerce:**

This testimony is in **opposition** of **HB 109**.

My name is Diane Brucato-Thomas, RDH, EF, BS, FAADH. I have been a practicing Dental Hygienist in good standing on the island of Hawaii since 1992. I live in Hilo, have practiced in Kona and presently practice dental hygiene in Hilo.

The practice of Dental Hygiene is under direct supervision of dentists in private practice and under general supervision of dentists in public health settings. Dental hygienists are disallowed to own their own practice. It does not make sense that dental hygienists would have to provide such information for licensure. Dental Hygienists should be exempt, as their practice is exceptional, in that it is dependent on another profession.

HB109 should not pass, unless there is an exemption for Dental Hygienists. Thank you for your consideration.

Sincerely,

Diane Brucato-Thomas, RDH, EF, BS, FAADH

d.bt@live.com (808) 937-7282

Past President, American Academy of Dental Hygiene

Past President, Hawaii Dental Hygienists' Association

ADHA/Hu-Friedy Master Clinician Award 2008

Sunstar/RDH Award of Distinction 2002



**LATE**

## **Hawaii Association of Public Accountants**

P.O. Box 61043  
Honolulu, HI 96839

**Before the House Committee on Consumer Protection and Commerce**

**Monday, February 2, 2015 at 2:00 p.m.  
Conference Room 325**

**Re: Support of HB 109**

**Chair McKelvey, Vice Chair Woodson and Committee Members:**

I am a Hawaii CPA and attorney with over 35 years of public accounting experience in Hawaii. I also serve as Legislative Committee Co-chairperson of the Hawaii Association of Public Accountants (HAPA). HAPA is a statewide organization consisting primarily of small to mid-sized Hawaii CPA firm owners and managers located throughout Hawaii.

HAPA is in support of HB 109 but wishes to note that Hawaii General Excise taxes are the largest single category of tax collections for the State of Hawaii. In order to increase tax compliance for professional and vocational licensees, their firms and businesses (if applicable) should also have tax clearances since Hawaii General Excise taxes are assessed on business income. Tax clearance applicable to licensees will not capture Hawaii General Excise tax compliance unless the individual licensee is operating as a sole proprietor.

Thank you for considering the above. Please call me at (808) 242-4600, ext. 3 if you have any questions.

**Respectfully,**

*Marilyn M. Niwao, J.D., CPA, ATA, CGMA*

**Legislative Committee Co-chairperson  
Hawaii Association of Public Accountants**



## Taketa, Iwata, Hara & Associates, LLC

Certified Public Accountants & Consultants

101 Aupuni Street, Suite 139

Hilo, Hawaii 96720-4260

### Before the Committee on Consumer Protection & Commerce

Monday, February 2, 2015 at 2:00 p.m.  
Conference Room 325

**LATE**

### Re: Support for HB 109 Relating to Taxation

#### Testimony of Gregg M. Taketa

Chair McKelvey, Vice Chair Woodson and committee members:

I respectfully ask that you vote YES on HB 109.

I am testifying as a practicing CPA from Hilo. I am also a member of the Hawaii Society of Certified Public Accountants (HSCPA), Hawaii Association of Public Accountants (HAPA) and the American Institute of Certified Public Accountants (AICPA). I support HB 109 that requires holders of professional or vocational licenses to provide a tax clearance certificate as a condition to license issuance or renewal for the following reasons:

- HB109 will provide an effective means to enforce compliance with the general excise tax laws among the professional and vocational licensees. This will help maintain the integrity of a broader tax base for the general excise tax, resulting in a fair and equitable tax policy.
- Holding a professional or vocational license in Hawaii is a privilege, not a right. Obtaining a tax clearance certificate does not create an undue burden on the applicant. Most tax clearances can be obtained electronically.
- This requirement will bring the State closer to a "level playing field" as independent contractors entering contracts with the state in excess of \$25,000 and liquor license holders fulfill similar requirements.
- The income generated by Hawaii's professional and vocational license holders is significant and full compliance with the general excise tax laws will have an impact on the State's finances.

To strengthen this legislation further, I suggest that HB 109 be amended to include "or permit(s)" after all references to "license(s)". The additional language is necessary because certified public accounting firms must also obtain firm permits from the department of commerce and consumer affairs in order to practice public accounting.

Thank you for this opportunity to testify.

Respectfully submitted,

Gregg M. Taketa, CPA



From: mailinglist@capitol.hawaii.gov  
Sent: Sunday, February 01, 2015 1:14 PM  
To: CPCtestimony  
Cc: powerten@aol.com  
Subject: Submitted testimony for HB109 on Feb 2, 2015 14:00PM



**HB109**

Submitted on: 2/1/2015

Testimony for CPC on Feb 2, 2015 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
John W. Roberts	Niwao & Roberts, CPAs, a P. C.	Support	No

Comments: Hawaii's tax collection system has more holes than Swiss cheese, placing an excessive burden on those who voluntarily comply and acting as a tax haven for those who do not. A comprehensive review of tax compliance by out-of-state based professional service providers is needed similar to the study performed by the Hawaii Association of Public Accountants on out-of-state CPAs receiving temporary permits to practice in Hawaii. In the interim, this bill addresses some of the revenues being lost due to lack of compliance and enforcement. It will generate substantial tax revenues in excess of its cost of implementation. Please pass HB 109. Thank you for your consideration.

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 2, 2015

**LATE**

**The Honorable Angus McKelvey, Chair**

House Committee on Consumer Protection & Commerce  
State Capitol, Room 325  
Honolulu, Hawaii 96813

**RE: H.B. 109, Relating to Taxation**

**HEARING: Monday, February 2, 2015, at 2:00 p.m.**

Aloha Chair McKelvey, Vice Chair Woodson, and Members of the Committee:

I am Aron Espinueva, Government Affairs Analyst, here to testify on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its 8,400 members. HAR raises **concerns** on H.B. 109, which requires a Tax Clearance Certificate before a professional or vocational license may be issued or renewed.

The State of Hawai'i Department of Commerce and Consumer Affairs ("DCCA") Professional and Vocational Licensing Division ("PVL") Geographic Report (current licenses) indicates that there were 141,908 licensees as of as of October 22, 2014, or presumably about 70,000 licensees for each two-year renewal period. Of the total current licenses, 18,719 were Real Estate Commission licensees (principally active and inactive real estate brokers and salespersons.)

Real estate licenses can currently be renewed online, with continuing education course attendance inputted on the DCCA PVL website. Many individual real estate licensees may never have had to obtain a Tax Clearance Certificate from the State of Hawai'i Department of Taxation ("DoTax"). HAR questions whether DoTax will have the resources to: (a) process the initial wave of tens of thousands of Tax Clearance Certificate applications required under H.B. 109 (especially those of licensees who have never applied for a Tax Clearance Certificate before); and (b) link approved Tax Clearance Certificates to the DCCA PVL website so that licensees can renew their licenses online in a timely manner.

HAR also notes that Tax Clearance Certificates require confidential taxpayer information (Federal Employer ID Numbers and Social Security Numbers). HAR therefore respectfully requests assurance that this information will be protected if it is transferred electronically (or otherwise) from DoTax to the DCCA PVL website.

Mahalo for the opportunity to testify.

Brian Iwata  
101 Aupuni St., #139  
Hilo, HI 96720



January 28, 2015

Committee on Consumer Protection and Commerce  
The Honorable Representative Angus L. K. McKelvey, Chair  
The Honorable Representative Justin H. Woodson, Vice Chair  
Hawaii State Capitol, Conference Room 325  
415 South Beretania Street  
Honolulu, Hawaii 96813

**Re: Support for HB109, Relating to Taxation**

Dear Representatives McKelvey and committee members:

HB109 will provide an effective means to enforce compliance with the general excise tax laws among all licensees. This will help level the playing field for licensees that now require a tax clearance before their license is renewed. This bill will also help maintain the integrity of a broader tax base for the general excise tax.

**I support HB109.** Thank you for your consideration on this matter.

Respectfully submitted,

Brian Iwata

PETER L. FRITZ  
200 NORTH VINEYARD BOULEVARD, #430  
HONOLULU, HAWAII 96817  
TELEPHONE (SPRINT IP RELAY): (808) 568-0077  
E-MAIL: PLFLEGIS@FRITZHQ.COM



HOUSE OF REPRESENTATIVES  
THE TWENTY-EIGHTH LEGISLATURE  
REGULAR SESSION OF 2015

COMMITTEE ON CONSUMER PROTECTION & COMMERCE  
Testimony on H.B. 109  
Hearing: February 2, 2015

(RELATING TO TAXATION)

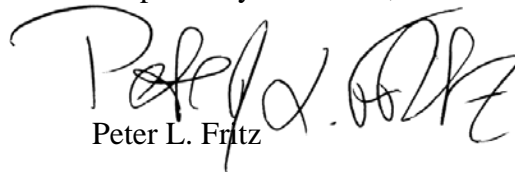
Chair McKelvey, Vice Chair Woodson, and members of the Committee. My name is Peter Fritz. I am an attorney and a former rules specialist with the Department of Taxation. I am testifying **in support**.

This bill requires a tax clearance before a professional or vocational license may be issued or renewed.

I offer the following for the Committee's consideration:

- The Hawaii legislature recognized that individuals and businesses should not receive benefits from the State if they are not complying with state tax laws when it amended 103D-310 in 2004.
- Individuals and businesses holding Professional and Vocational licenses should be held accountable to comply with tax laws.
- The Hawaii Compliance Express ("HCE"), a portal that is used by contractors to show compliance with tax laws generates a "Certificate of Vendor Compliance", can be used by the DCCA's Professional and Vocational Licensing ("PVL") on line licensing system.
- The PVL system can be modified to check with HCE to determine if an individual renewing a PVL has paid their taxes based on my conversations with Hawaii Information Consortium ("HIC") the company that operates the state portal, PVL system used by the DCCA and HCE.
- NO COST: There would not be any cost to the State to modify the online licensing system because the PVL system is self-funded. PVL online registration could automatically check for a tax clearance and notify the applicant of the problems that need to be resolved.

Respectfully submitted,



Peter L. Fritz

From: mailinglist@capitol.hawaii.gov  
Sent: Sunday, February 01, 2015 11:59 PM  
To: CPCtestimony  
Cc: nipmyknees@hotmail.com  
Subject: Submitted testimony for HB109 on Feb 2, 2015 14:00PM



**HB109**

Submitted on: 2/1/2015

Testimony for CPC on Feb 2, 2015 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
tami masuda	Individual	Support	No

Comments: Everyone has to pay their fair share of taxes so any method of accountability needs to be pursued.

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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