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DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

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Testimony of the Department of Commerce and Consumer Affairs

**Before the
House Committee on Consumer Protection and Commerce
Tuesday, February 12, 2019
2:00 p.m.
State Capitol, Conference Room 329**

**On the following measure:
H.B. 112, RELATING TO TAXATION**

Chair Takumi and Members of the Committee:

My name is Charlene Tamanaha, and I am the Acting Licensing Administrator of the Department of Commerce and Consumer Affairs' (Department) Professional and Vocational Licensing Division (PVL). The Department offers comments on this bill.

The purpose of this bill is to improve tax compliance by requiring a tax clearance before a professional or vocational license may be issued or renewed.

Currently, tax clearances are required for four professional and vocational business entities: cemeteries; pre-need funeral authorities; contractors; and pest control operators. The statutory and rule requirements of these entities require that they maintain financial integrity. A tax clearance is not required for the 123 remaining license types regulated by the PVL. The merits of imposing this requirement on all PVL applicants and licensees should be thoroughly discussed with affected licensing boards, licensing programs, and other stakeholders to address the possible impacts on the respective professions and the unintended consequences of this requirement.

In addition, the Department has concerns about the following issues:

- The majority of PVL licensees are individuals who are licensed based on their competency to practice. Competency is demonstrated through satisfying such requirements as education, experience, and passing a licensing exam. No nexus appears to exist between a tax clearance for these individuals and their competency to practice; therefore, it would be inappropriate to impose this requirement for licensing purposes.
- Of the 123 license types that would be subject to the new tax clearance requirement, shortages already exist in many of these areas. Adding this additional requirement could disincentivize an individual from becoming licensed and practicing in Hawaii. Should the Committee pass this bill, many professionals may see this requirement as a deterrent to licensure.
- PVL applicants for licensure and current licensees include practitioners who reside out-of-state and who may or may not actually work in Hawaii. The ability for these applicants and licensees to obtain a tax clearance, or to minimally obtain a meaningful tax clearance, is questionable.
- The licensing laws of the PVL's 51 boards and programs are designed to set forth the minimum requirements for licensure and are not designed for tax collection.

The PVL is mindful of its responsibility to licensees and the public to process licenses and license renewals timely and is uncertain how this measure will enable the division to accomplish this if tax clearances are first required.

Thank you for the opportunity to testify on this bill.

DAVID Y. IGE
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To: The Honorable Roy M. Takumi, Chair
and Members of the House Committee on Consumer Protection & Commerce

Date: Tuesday, February 12, 2019
Time: 2:00 P.M.
Place: Conference Room 329, State Capitol

From: Linda Chu Takayama, Director
Department of Taxation

Re: H.B. 112, Relating to Taxation

The Department of Taxation (Department) offers the following comments for the Committee's consideration.

H.B. 112 adds a new requirement for all applicants of new or renewed professional or vocational license issued by the Department of Commerce and Consumer Affairs (DCCA) to present a tax clearance from the Department. The measure is effective upon approval and applies to taxable year beginning after December 31, 2020.

The Department notes that paragraph (3) of Sections 2 and 3 of the bill allows the Department to issue a tax clearance certificate if an applicant of a professional or vocational license issued by DCCA is not subject to income tax in Hawaii. Generally, income earned from business activities in Hawaii is subject to Hawaii income tax. Therefore, if the Committee wishes to advance this bill, the Department requests that paragraph (3) of Sections 2 and 3 be deleted.

Finally, the Department notes that it has some concerns about the number of tax clearances that will need to be issued to professional or vocational license holders. One potential way to address this volume may be to mandate that the clearances required under this measure must be applied for through electronic means provided by the Department.

Thank you for the opportunity to provide comments on this measure.



HAWAII VETERINARY MEDICAL ASSOCIATION
P.O. Box 61309, Honolulu, Hawaii 96839-1309

February 10, 2019

Committee on Consumer Protection and Commerce
Representative Roy M. Takumi, Chair
Representative Linda Ichiyama, Vice Chair

RE: HB112 Relating to Taxation

Dear Committee on Consumer Protection and Commerce,

On behalf of the Hawaii Veterinary Medical Association, I would like to express our opposition to HB112 requiring a tax clearance before renewal or issuance of a professional or vocational license. We are concerned with the logistics of this requirement and the possibility of a lag between processing a tax clearance after April 15th and the standard veterinary license renewal date of June 30th causing a lapse in licensure of a valid veterinary professional license renewal request. Additionally, it is not clear in the bill how cases of an individual with an approved tax filing extension extending beyond the license renewal date will be resolved.

Until these issues are clarified and there is an accurate way of ensuring against inappropriate lapses in license renewal processing, please OPPOSE HB112. Thank you for the opportunity to submit testimony. Please contact me if I can be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Jill Yoshicedo". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Jill Yoshicedo, DVM
Executive Vice-President
Hawaii Veterinary Medical Association

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS, Requires Tax Clearance to Renew Any Professional License

BILL NUMBER: HB 112

INTRODUCED BY: LUKE, CULLEN

EXECUTIVE SUMMARY: Requires a tax clearance before renewal or issuance of a professional or vocational license.

SYNOPSIS: Adds new sections to chapters 231 and 436B, HRS, to the effect that no professional or vocational license issued by DCCA may be issued or renewed without a tax clearance.

EFFECTIVE DATE: Taxable years beginning after December 31, 2020.

STAFF COMMENTS: The number of current licenses as of July 17, 2018, according to a report by DCCA (https://cca.hawaii.gov/pvl/files/2018/07/WebGeo_071718.pdf), exceeds 150,000. If each of these licenses need to be renewed every year, the Department of Taxation will need to issue many times more tax clearances than are done now. For comparison, the Department of Taxation's most recent Annual Report (<http://files.hawaii.gov/tax/stats/stats/annual/18annrpt.pdf>) states that all of the Neighbor Island offices collectively processed fewer than 4,000 clearances in the whole year.

We question whether the benefit is worth the burden on the departments and on the public.

As a technical matter, paragraph (3) of both proposed new sections states that a tax clearance can be issued if the applicant is "not subject to income tax in Hawaii." Because we have several different taxes here, we suggest that the word "income" be removed.

Digested 2/10/2019

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February 11, 2019

House Committee on Consumer Protection & Commerce

Hearing Date: Tuesday, February 12, 2:00 p.m., Conference Room 329

Subject: Comments on HB112, Relating to Taxation

Dear Chair Takumi, Vice-Chair Ichiyama, and Members of the Committee:

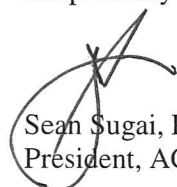
The American Council of Engineering Companies of Hawaii (ACECH) represents more than 60 engineering consulting firms with over 1,500 employees throughout Hawaii. Most of our member firm engineers are licensed to practice engineering in the State of Hawai'i. ACECH supports the intent of this bill, but offers the following comments that are pertinent to the business interests of our member firms and to the State in the continued progress of their infrastructure projects.

Prior to the enactment of this bill into law, the Department of Taxation must have the appropriate forms and processes in place and functional. For example:

1. Our firms currently use Hawaii Compliance Express for tax certifications needed prior to executing a contract with State or County agencies. Most of us have experienced receiving an inaccurate "not in compliance" notice that was due to an error by the tax department. It is sometimes difficult to get such errors resolved in a timely manner. These errors hold up contract awards and cannot be allowed to interfere with professional licensing.
2. Many of our firms have mainland offices with employees licensed in Hawai'i that are not residents and not subject to paying Hawai'i income tax. The bill allows for these employees to be able to show that they are not subject to paying income tax in Hawai'i; however, we are uncertain if the Department of Taxation currently provides such a certificate.
3. Tax compliance certificates are currently available to vendors (companies) doing business with the government. Professional licenses are granted to individual practitioners. Is the Tax Department prepared to grant compliance certificates to individuals?

Please contact us if you have any questions about our testimony on HB112.

Respectfully submitted,



Sean Sugai, PE
President, ACECH

Ginny M. Wright
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THE SENATE
THE THIRTIETH LEGISLATURE
REGULAR SESSION OF 2019

COMMITTEE ON COMMERCE, CONSUMER PROTECTION

Testimony on H.B. 112
Hearing: February 12, 2019

(RELATING TO TAXATION)

Chair Takumi, Vice Chair Ichiyama, 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**.

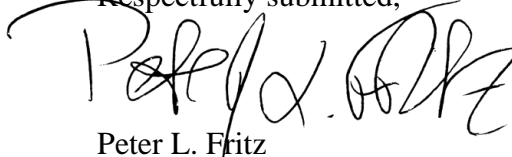
This bill creates a requirement to submit a tax clearance to renew a professional or vocational license (“PVL”) that is similar to the requirement for contractors bidding on state contracts.

To move this bill forward, the Department of Taxation and the Department of Consumer Affairs (“DCCA”) should meet to determine what additional PVL categories should be added to the current six categories that are required to obtain a tax clearance. Such a discussion would address the concerns of the DCCA regarding administration of such a requirement and number of PVL. This recommendation should be included in the Committee’s report.

- Contractors are currently required to submit tax clearances when bidding on state contracts. 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.
- A professional or vocational license (“PVL”) authorizes someone to engage in a particular profession. An individual that does not hold a license can be prosecuted. Why should a holder of a PVL enjoy the benefits from holding a license while flaunting state tax laws?
- The update to the Tax System Modernization (“TSM”) has automated the issuance of tax clearances according to testimony by the DOTAX Director at the Information before the Senate Wage and Means committee. The concern expressed in prior years by DOTAX that this requirement must wait until the TSM system is operational is no longer applicable.
- Self-identification facilitates the administration of tax laws. A PVL license holder must contact DOTAX to resolve outstanding tax issues. DOTAX does not find the individual.
- Upon information and belief DOTAX is currently using the new TSM system to cross check GET licenses against income tax and other tax filings. However, if someone holding a PVL does not have a GET license, how will the TSM system not identify such an individual.
- The state data portal used by the DCCA is updated. The SPO is preparing to release and RFP for a new portal. This portal can be designed to issue a certificate of compliance.

I respectfully request that the Committee pass this bill and include a recommendation that the DOTAX and DCCA meet to determine what new categories be added to current list required to obtain a tax clearance.

Respectfully submitted,



Peter L. Fritz

February 12, 2019

The Honorable Roy M. Takumi, Chair

House Committee on Consumer Protection and Commerce
State Capitol, Room 329
Honolulu, Hawaii 96813

RE: H.B. 112, Relating to Taxation

HEARING: Tuesday, February 12, 2019, at 2:00 p.m.

Aloha Chair Takumi, Vice Chair Ichiyama and Members of the Committee,

I am Ken Hiraki Government Affairs Director, testifying on behalf of the Hawai'i Association of REALTORS® (“HAR”), the voice of real estate in Hawai'i, and its over 9,500 members. HAR **expresses concerns with** House Bill 112 which requires a tax clearance before renewal or issuance of a professional or vocational license.

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 158,296 licensees as of July 13, 2018, or presumable 79,000 licensees (half the total) for each two-year renewal period. Of the total current licensees, 19,793 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 this measure (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.