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To: The Honorable Aaron Ling Johanson, Chair;
The Honorable Lisa Kitagawa, Vice Chair;
and Members of the House Committee on Consumer Protection & Commerce

From: Isaac W. Choy, Director
Department of Taxation

Date: March 18, 2021
Time: 2:00 PM.
Place: Via Video Conference, State Capitol

Re: S.B. 148 S.D. 1, Relating to Taxation

The Department of Taxation (Department) offers the following comments regarding S.B. 148, S.D. 1, for your consideration.

S.B. 148, S.D. 1, requires that landlords, lessors, or plaintiffs in a summary possession action to provide proof of a general excise tax (GET) license in good standing as a condition of the issuance of a writ of possession. The measure has a defective effective date of May 6, 2137.

The Department notes that there may be unusual circumstances where a GET license would not be required-for example, where a parent lets out a property to a close family member for no consideration but later disputes arise such that the parent desires return of the property, or where a bank becomes the owner through foreclosure and the bank itself has not rented the property, or where squatters move into a property unbeknownst to the owner.

In addition, it is important to note that a GET license in “good standing” does not necessarily mean that a taxpayer has actually reported properly or paid all GET owed by law. For example, if a taxpayer reported only one-half of their income and paid the GET due, the license would be deemed to be in good standing until the Department conducts an examination and additional taxes are assessed.

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



CATHOLIC CHARITIES HAWAII

Testimony in Support of SB 148 SD1: Relating to Taxation

TO: House Committee on Consumer Protection and Commerce

FROM: Rob Van Tassell, President and CEO, Catholic Charities Hawai'i

Hearing: **Thursday, 3/18/21; 2:00 pm; via videoconference**

Chair Johanson, Vice Chair Kitagawa, and Members, Committee on Consumer Protection and Commerce:

Thank you for the opportunity to provide testimony **in support** of **SB148 SD1**, which requires certain landlords in a summary possession action to provide a general excise tax license in good standing. I am Rob Van Tassell, with Catholic Charities Hawai'i.

Catholic Charities Hawai'i (CCH) is a tax exempt, non-profit agency that has been providing social services in Hawai'i for over 70 years. CCH has programs serving elders, children, families, homeless, and immigrants. Our mission is to provide services and advocacy for the most vulnerable in Hawai'i. Catholic Charities Hawai'i has a long history of working in the areas of affordable housing and homelessness.

Catholic Charities Hawai'i helps many struggling families to find housing and keep housing. We are very concerned that after the pandemic rent moratoriums end, there may be a wave of evictions of good renters who fell behind in rent due to the extreme economic crisis faced by our state. In 2020, a State program provided rental assistance to impacted tenants through Catholic Charities Hawaii and Aloha United Way. Millions of dollars were not able to be awarded due to landlords either refusing or not responding and providing the documentation needed to provide these funds directly to the landlord. While we do not know why landlords would ignore "free money" some assume that perhaps taxes were not being paid by some of these landlords.

In a court eviction situation, landlords have a great advantage. They usually are represented by a lawyer or have professional property management agents represent them. They should know the rules and should follow them. Landlords who are not paying taxes due or are in an irregular landlord-tenant situation should not use tax payer funded courts to obtain a writ of summary possession to evict tenants. While we recognize that most landlords are good citizens who pay the required taxes, we ask your committee to pass this bill for those who are not paying their taxes on rent revenues received or are in other irregular situations.

Please contact our Legislative Liaison, Betty Lou Larson at (808) 373-0356 or bettylou.larson@catholiccharitieshawaii.org if you have any questions.



TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS, Require tax clearance before allowing enforcement of lease

BILL NUMBER: SB 148, SD1

INTRODUCED BY: Senate Committee on Judiciary

EXECUTIVE SUMMARY: Requires certain landlords, lessors, or plaintiffs in a summary possession action to provide a general excise tax license in good standing.

SYNOPSIS: Adds a new section to chapter 666, HRS, stating that a landlord, lessor, or plaintiff in a summary possession action shall submit to the issuing court a general excise tax license in good standing as a prerequisite to getting a writ of possession.

EFFECTIVE DATE: 5/6/2137.

STAFF COMMENTS: Unlike section 103D-328, HRS, the section in the Procurement Code requiring tax clearances for bidding and final payment on State jobs, the proposed new section does not contain an exception for debts the validity of which is being contested in an administrative or judicial appeal, or where the taxpayer is current on a payment plan with the Department of Taxation. We suggest that these exceptions be added, as a minimum, to maintain parity and to ensure fairness.

Other exceptions may be appropriate when the writ of possession is being requested for reasons unrelated to nonpayment of rent, such as when the tenant is conducting illegal activities (chicken fights on the premises, for example) or otherwise endangering health and safety.

Digested 3/16/2021

SB-148-SD-1

Submitted on: 3/17/2021 1:39:39 PM

Testimony for CPC on 3/18/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kristen Alice	HOPE Services Hawai'i	Support	No

Comments:

Hope Services Hawai'i supports this bill.

SB-148-SD-1

Submitted on: 3/16/2021 6:28:43 PM

Testimony for CPC on 3/18/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Lois Crozer	Individual	Comments	No

Comments:

Takes effect 2137? That's random.

DAVID W.H. CHEE

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March 16, 2021

HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE
Rep. Aaron Ling Johanson, Chair
Rep. Lisa Kitagawa, Vice Chair

Re: S.B. No. 148, SD 1 - RELATING TO TAXATION

Dear Representatives:

I am an attorney who practices in the field of landlord/tenant law, including residential matters. I have over 28 years' experience in the area. I am writing regarding the above-referenced bill.

This legislation would require that a Plaintiff, Landlord or Lessor in a summary possession proceeding provide a general excise tax license in good standing to the Court before a Writ of Possession could be issued. The Writ of Possession is the document that allows a property owner to regain possession of the premises.

While I agree that all persons or entities required to pay taxes should do so, this bill has unintended consequences that should be considered by the legislature before it proceeds.

Under Hawaii Revised Statute §521-21 Rent. (a) The landlord and tenant may agree to any consideration, not otherwise prohibited by law, as rent. This means that in Hawaii, rent is not required to be solely monetary. For instance, a tenant could agree to be the groundskeeper for a property or provide caregiver services to the landlord in exchange for a residency. In these instances, no money is being received by the landlord. Since the landlord is not receiving money, they are unlikely to have a general excise tax license.

If this bill were passed, as drafted, a landlord suing to regain possession of a premises because a tenant has failed to provide the services agreed to, would never be successful. They would not meet the minimum requirement of having a general excise tax license in good standing.

Similarly, I have had several instances where squatters have moved into a client's property without their permission. Attempts to have squatters removed by law enforcement are often unsuccessful because squatters can simply claim to have an agreement with the property owner that allows them to live at the property. When this occurs, a property owner must file a Court action to remove the unauthorized occupants. These actions are called Ejectment actions, but property owners often file them as actions for "Ejectment or in the Alternative, Summary Possession". The inclusion of a Summary Possession action is done just in case the squatter claims to have a tenancy.

HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

Rep. Aaron Ling Johanson, Chair

Rep. Lisa Kitagawa, Vice Chair

Re SB 148, SD 1- Relating to Taxation

March 16, 2021

Page 2

In these proceedings, where a Plaintiff claims there is no tenancy and no exchange of money has ever occurred, they would still be required to have a general excise license in good standing in order to have the paperwork necessary to regain possession of their property issued by a Court. That would be an absurd result.

Finally, there are also instances where the health and safety of other residents should override concerns about the payment of taxes. For instance, if a landlord owned a small rental complex with 6 units, the health and safety of all residents are somewhat interdependent. In this situation, if one tenant makes threats to burn down the building and harm all other residents, a landlord would be compelled to evict the tenant to prevent such harm. If that landlord does not have a general excise tax license in good standing, they would be prevented from obtaining the necessary paperwork to remove the tenant that threatens harm. In this scenario, the health and safety of the other residents should be considered first, before any tax implications.

To address these concerns, I suggest the current bill be modified as follows:

"§666- Writ of possession; general excise tax license. As a condition to the issuance of a writ of possession a landlord, lessor, or plaintiff in a summary possession action based on non-payment of monetary rent shall submit to the issuing court a general excise tax license in good standing."

Please let me know if you have any questions.

Very truly yours,

/s/ David Chee

David W.H. Chee

SB-148-SD-1

Submitted on: 3/17/2021 9:59:23 AM

Testimony for CPC on 3/18/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kaikea K. Blakemore	Individual	Support	No

Comments:

We stand in solidarity with those who are vulnerable to mass evictions during the pandemic. While economic downturns affect both landlords and tenants, the impacts are not equal. If a landlord is behind on their mortgage for a second home, they do not face homelessness impacting their health or other long term outcomes. When a tenant faces eviction without social safety nets, they risk not only short term but possible long term homelessness, risks to existing or remaining employment, shortened lifespan from poverty and increased risk to disease and violence. Let's make sure that those who operate businesses as landlords are paying into our community before risking homelessness for local renters.

Millions of US residents are facing eviction due to job loss during the pandemic, they are not at fault, are not irresponsible workers or renters, and need our help remaining stable during challenging times. As a housing provider agency we were inundated with requests for assistance while disseminating CARES Act funding for rental and mortgage assistance. NLIHC estimates 30-40 million American households are facing waves of homelessness this year due to economic downturns and lack of social safety nets.

Please protect our local residents from a wave of mass homeless crisis by ensuring less people are evicted in these times. Maintaining housing gives our local community members an easier chance at finding new employment and remaining healthy and stable during the pandemic. If we allow landlords to divest from the stability of our local community, we are more likely to see tent cities and gentrification in Hawai'i as more waves of local families are evicted. Landlords should not be permitted to seek more profits during the pandemic, especially if they are found to be behind on taxes and are therefore not giving back to our community as a whole.

Mahalo for hearing this testimony

Kaikea Kaleikini Blakemore

Community Development Specialist

Neighborhood Place of Puna

Awareness Chair

Community Alliance Partners

SB-148-SD-1

Submitted on: 3/17/2021 3:58:58 PM

Testimony for CPC on 3/18/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Tanya Aynessazian	Individual	Support	No

Comments:

My name is Tanya Aynessazian and I live in Pahoia on Hawaii Island. Mahalo for the opportunity to submit testimony. I write in support of SB148 relating to evictions. This bill seems like common sense to me - how can anyone in good conscience evict another human being if they themselves are not paying taxes and on the up and up in regard to their own situation?