



February 2, 2021

Senate Committee on Judiciary
SB566 Relating to Homestead Exemptions
Friday, February 5th, 2021 at 9:30am

Re: **IN SUPPORT OF SB566**

Aloha Chair Senator Rhoads, Vice Chair Senator Keohokalole, and members of the Committee,

My name is Garrett W. Marrero, I live in Kihei, HI. Maui Brewing Co. has locations on Maui in Lahaina and Kihei, and on Oahu in Waikiki and Kailua. We distribute across Hawai'i, 23 other States, and 10 countries. We began in 2005 with 26 team members and have added more than 700 to our team, pre-COVID of course. I was selected as the National Small Business-Person of the year in 2017 for my work at Maui Brewing Co.

I am writing on behalf of myself and our local family-operated business in support of **SB566** which will protect all our Citizens and small-business owners and entrepreneurs in particular, in the event of bankruptcies and/or closures due to the COVID-19 pandemic by increasing the homestead exemption in Hawai'i.

The current Homestead exemption is not sufficient as it was last adjusted 42 years ago. The year was 1978 and the median price of a home was around \$100,000, in today's world the median price home is \$830,000. With the onset of the COVID-19 pandemic and subsequent shutdowns that followed many businesses are struggling to survive. Virtually of us have signed personal guarantees on leases and loans and with little to no help to cure credit issues such as lease obligations we are left at a severe disadvantage in negotiating with landlords and other creditors. When a landlord, many of whom are foreign corporations of out-of-state investors, simply say "so what, I'll just take your house" an entrepreneur has no recourse yet the massive losses experienced this year came from an inability to work.

Businesses find themselves in dire straits through, in large part, no fault of their own but are faced with losing their homes. The current law excludes only \$20,000 of home value for the 64 and under, and \$30,000 for those 65 and up. Are we to make homeless the business owners that took the risk to start a business generated tax revenue and created jobs for our State?

Hawai'i should join other states in setting realistic homestead exemptions that are fair to all parties. Florida has a \$10,000,000 homestead exemption when the median home price is just \$269,000. By that math Hawai'i should be nearly \$40,000,000 however we support this Homestead exemption recalibration to \$2,000,000. This is a responsible request that can help to level the playing field, stimulate new entrepreneurs to start businesses, and protect our State. Another potential benefit is that we can attract new investment in the State by small business startups away from States that have poor Homestead Exemption laws (like ours) to help stimulate our economy as we recover, together, from COVID-19.

Thank you for the opportunity to offer these comments in support of the passage of **SB566**, a commonsense bill that supports small businesses and entrepreneurs.

Sincerely,

Garrett W. Marrero
CEO/Founder

Handcrafted Ales & Lagers Brewed with Aloha
605 Lipoa Parkway, Kihei, HI 96753
808.213.3002

SB-566-SD-1

Submitted on: 3/16/2021 2:47:15 PM

Testimony for HSG on 3/18/2021 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Barbara L Franklin	Barbara L Franklin, Esq., Attorney at Law	Support	No

Comments:

I support SB566 SD1 and urge passage of the homestead exemption as long overdue. Homeowner's must be able to provide housing for their families even when financial reverses result in loss of a home. This measure would allow those with equity to stay in the housing market and transfer the exemption to a suitable residence. As the bill points out, the current exemption is the hardest on those elderly persons who have paid for their house over decades and are now living on pensions and social security; they should not be deprived of their hard earned equity when they cannot make a living by working for others.

Presentation to The
Committee on Housing
March 18, 2021, 9:15 AM
Conference Room 423, Via Video Conference

Testimony in Opposition to SB 566, SD 1

TO: The Honorable Nadine K. Nakamura, Chair
The Honorable Troy N. Hashimoto, Vice Chair
Members of the Committee

My name is Neal Okabayashi, Executive Director of the Hawai`i Bankers Association (HBA). HBA represents eight Hawai`i banks and two banks from the continent with branches in Hawai`i.

HBA is opposed to this bill because it provides a large exemption of \$350,000 to people who failed to pay their contractual obligation. Rather than performing their obligation, the borrower is free to walk away with a handsome sum to do with as they please. In a bankruptcy, it is possible that other unsecured creditors may enjoy the benefit of the \$350,000 since the \$350,000 would be a pot shared among unsecured creditors. That raises the question why an unsecured creditor should have an advantage over a secured creditor. As my law professor said, the whole world is divided into secured creditors and unsecured creditors, and unsecured creditors always want to become secured creditors. The consequence of this is that future borrowers may be hurt because lenders would have to protect themselves in other ways such as tightening their underwriting standard which would only hurt borrowers seeking a home.

Thank you for the opportunity to submit this testimony in opposition to SB 566, SD 1. Please let us know if we can provide further information.

Neal K. Okabayashi
(808) 524-5161

SB-566-SD-1

Submitted on: 3/16/2021 3:39:59 PM

Testimony for HSG on 3/18/2021 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Michael J. Collins, Esq.	Cain & Herren, ALC	Support	No

Comments:

I have been practicing bankruptcy law for consumers on Maui, Hawaii for the last 13 years. An update to the homestead exemption is well overdue. Debtor's attorneys rarely use it because its so laughably low at \$30,000. If you raise the exemption that will make a tremendous difference to debtors filing in the entire state of Hawaii and would give them a real choice between federal and state exemptions. Its foolish not to pass this bill. With COVID 19, the the value of real estate across the state, as I said, this is well overdue...

Michael J. Collins, Esq.

SB-566-SD-1

Submitted on: 3/16/2021 3:47:12 PM

Testimony for HSG on 3/18/2021 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
David Cain	Law Offices of Cain and Herren	Support	No

Comments:

Dear Committee,

This is so incredibly needed by our state citizens who file chapter 7 bankruptcy! Please support and vote yes to this bill as it will help the filers of bankruptcy.

Thank you,

David W. Cain

SB-566-SD-1

Submitted on: 3/16/2021 5:29:08 PM

Testimony for HSG on 3/18/2021 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Lars Peterson	Abelmann Peterson LLC	Support	No

Comments:

Honorable Chair and Committee Members, as a consumer bankruptcy attorney I support this bill. It is necessary, long overdue, and a step in the right direction. Without assuring that people can

protect certain interests in their personal residence, it is virtually impossible to protect their house and afford the federally-guaranteed fresh start a completed bankruptcy is supposed to provide.



Testimony to the House Committee on Housing
March 18, 2021, 9:15 am
Hawaii State Capitol, Via Videoconference

Testimony in Opposition to SB 566, Relating to Homestead Exemptions

To: The Honorable Nadine Nakamura, Chair
The Honorable Troy Hashimoto, Vice-Chair
Members of the Committee

My name is Stefanie Sakamoto, and I am testifying on behalf of the Hawaii Credit Union League, the local trade association for 51 Hawaii credit unions, representing over 800,000 credit union members across the state. We offer the following comments in opposition to SB 566, Relating to Homestead Exemptions.

The majority of Hawaii's credit unions currently offer mortgages and other forms of credit to their members. Credit unions are not-for-profit organizations whose members ultimately bear any losses. Occasionally, members default in payment of their obligations, and a credit union may have to take legal action to collect the debt. If the credit union cannot collect the debt, its members suffer the loss.

Thus, we oppose SB 566, and concur with the testimony presented by the Hawaii Bankers Association and the Hawaii Financial Services Association.

Thank you for the opportunity to provide comments.

HAWAII FINANCIAL SERVICES ASSOCIATION

c/o Marvin S.C. Dang, Attorney-at-Law

P.O. Box 4109

Honolulu, Hawaii 96812-4109

Telephone No.: (808) 521-8521

March 18, 2021

Rep. Nadine K. Nakamura, Chair
Rep. Troy N. Hashimoto, Vice Chair
and members of the House Committee on Housing
Hawaii State Capitol
Honolulu, Hawaii 96813

Re: **S.B. 566 (Homestead Exemptions)**
Hearing Date/Time: Thursday, March 18, 2021, 9:15 a.m.

I am Marvin Dang, the attorney for the **Hawaii Financial Services Association** (“HFSA”). The HFSA is a trade association for Hawaii’s consumer credit industry. Its members include Hawaii financial services loan companies (which make mortgage loans and other loans, and which are regulated by the Hawaii Commissioner of Financial Institutions), mortgage lenders, and financial institutions.

The HFSA **opposes this Bill as drafted.**

This Bill increases the homestead exemption for all persons to \$350,000 and requires that the real property be the principal residence.

We want to point out that this Bill does not deal with homeowner exemptions for real property tax assessments. The homestead exemption in this Bill deals with a different matter, i.e. an exemption from creditors.

Currently the homestead exemption amounts are either \$30,000 or \$20,000.

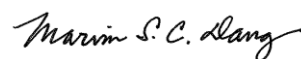
This Bill does not seem to be sound public policy. As drafted, this Bill would enable and encourage a debtor, who has a principal residence with equity of **up to Three Hundred Fifty Thousand (\$350,000)**, to avoid paying their debts and other contractual obligations. The debtor would use their residence to shelter up to **\$350,000** in assets from creditors.

An unintended consequence of this Bill is that consumers and other borrowers could be negatively impacted. That’s because if this Bill passes, lenders and other creditors might need to tighten their underwriting standards for loans or other credit to ensure that the lenders and creditors get repaid the monies that are loaned or advanced.

Accordingly, we ask that your Committee “defer” this Bill and not pass it.

However, if your Committee is inclined to pass this Bill, we ask that the dollar amount be blank and that there be a “defective” effective date. There can be further discussion about this Bill among the various stakeholders, including with the Hawaii Financial Services Association.

Thank you for considering our testimony.



MARVIN S.C. DANG
Attorney for Hawaii Financial Services Association

SB-566-SD-1

Submitted on: 3/16/2021 2:30:17 PM

Testimony for HSG on 3/18/2021 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jeff Mulford	Individual	Support	No

Comments:

Citizens of this state deserve an increased homestead exemption as proposed by this bill. I routinely encounter bankruptcy clients whose options are significantly impaired by the equity in their home. This not only adversely impacts their financial future, but often impacts their family's financial future as well. Other states (i.e. California) have recently adopted similar increases to the homestead exemption to protect citizens' most precious asset: their home. I support this proposed bill and ask our legislators to do the same.

Jeff Mulford, Esq.