



February 2, 2021

Senate Committee on Judiciary  
SB566 Relating to Homestead Exemptions  
Friday, February 5<sup>th</sup>, 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



## Collection Law Section

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**Re: S.B. 566 (Relating To Homestead Exemptions)**

**Hearing: February 5, 2021 9:30 a.m.**

**Testimony with Concerns**

Dear Chair Senator Rhoads, Vice Chair Senator Keohokaloe, and Committee Members:

This testimony is submitted on behalf of the Collection Law Section (“CLS”) of the Hawaii State Bar Association.\*\*

The CLS **has concerns** regarding as to the extreme changes to current law proposed by SB 566. More specifically, the amount of the exemption (\$2,000,000.00) under SB 566 would be increased far beyond the current amount and would create a situation where people who happen to be financially fortunate enough to own real property could be rendered judgment proof from virtually all common forms of liability for their actions.

For example, SB 566 would provide protection to drunk drivers who seriously injure or kill other individuals, to people who commit assault, fraud, or even commit non-intentional, but seriously harmful other acts. No longer would one have to be that concerned about the financial impact of doing something intentional or something simply stupid. In other words, the societal deterrence of facing financial consequences that many people think about before they decide to do something would be virtually eliminated. Likewise, persons could intentionally or recklessly run up their financial obligations without regard to any consequences or the impact on the people they owe money to. Remember, life is not a one-way street. For every person who side-steps a financial obligation, there is someone else who is rightfully owed that sum and *suffers the full brunt* of that loss.

**Accordingly, the CLS would like to participate in a dialogue to establish exemption amounts that are consistent with the underlying goals of the legislation.**

Thank you for considering our testimony.

/S/ William J. Plum  
WILLIAM J. PLUM  
Vice Chair  
The Collection Law Section

*\*\* The comments and recommendations submitted reflect the position/viewpoint of the Collection Law Section of the Hawaii State Bar Association only. The position/viewpoint has not been reviewed or approved by the HSBA Board of Directors.*



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Presentation to The  
Committee on Judiciary  
February 5, 2021, 9:30 AM  
State Capitol Conference, Video Conference

**Testimony in Opposition to SB 566**

TO: The Honorable Karl Rhoads, Chair  
The Honorable Jarret Keohokalole, 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 windfall of \$2 million to people of wealth who failed to pay their contractual obligation. If they own a home with a valuation of \$2.8 million with a mortgage of \$800,000, they would be able to walk away with \$2 million which they may do with as they please. In a bankruptcy, it is possible that other unsecured creditors may enjoy the benefit of the \$2 million which 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 want to become secured creditors. This would make unsecured creditors without any planning or expectation. It is also possible that the borrower would be able to walk away with a windfall \$2 million. 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 credit seeking borrowers.

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

Neal K. Okabayashi  
(808) 524-5161

# HAWAII FINANCIAL SERVICES ASSOCIATION

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February 5, 2021

Senator Karl Rhoads, Chair  
Senator Jarrett Keohokalole, Vice Chair  
and members of the Senate Committee on Judiciary  
Hawaii State Capitol  
Honolulu, Hawaii 96813

Re: **S.B. 566 (Homestead Exemptions)**  
**Hearing Date/Time: Friday, February 5, 2021, 9:30 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.

This Bill increases the homestead exemption for all persons up to \$2,000,000 and requires that the real property be the principal residence.

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

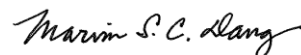
This Bill does not seem to be sound public policy. As drafted, this Bill would enable and encourage a debtor, who has a principal residence with equity of **up to Two Million Dollars (\$2,000,000)**, to avoid paying their debts and other contractual obligations. The debtor would use their residence to shelter up to **Two Million Dollars (\$2,000,000)** 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 so that there can be further discussion about this Bill among the various stakeholders.**

Thank you for considering our testimony.



MARVIN S.C. DANG

Attorney for Hawaii Financial Services Association

**SB-566**

Submitted on: 2/2/2021 3:29:15 PM

Testimony for JDC on 2/5/2021 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Peter Merriman	Individual	Support	No

Comments:

TESTIMONY IN SUPPORT OF SB566 - Relating to Homestead Exemptions

Aloha Senator Karl Rhoads, Senator Jarrett Keohokalole and Members of the Committee on Judiciary,

Mahalo for the opportunity to testify in support of SB566. I strongly support the increase of the homestead exemption for all persons up to \$2,000,000.

Providing for less risk via home owner exemption, is especially important for new and younger entrepreneurs. There are many risks when starting a business in Hawaii. Without significant protection for one's home, an entrepreneur must be willing to put their entire family's stability at risk, in order to borrow.

Hawaii needs innovation. Hawaii needs to give its young talented people the chance to contribute in a meaningful way. If we want to diversify our economy, we must create a fertile field to plant the seeds of new entrants into business ownership. Let's give our young people the same opportunity that states such as Florida give theirs.

Increasing the homestead exemption costs taxpayers \$0. Seldom do opportunities arise to do something this powerful, with no cost to the state. Please do this.

I humbly request that your committee approve this measure.

Sincerely,

Peter Merriman

**SB-566**

Submitted on: 2/3/2021 2:29:19 PM

Testimony for JDC on 2/5/2021 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Russell Adkins	Individual	Support	No

Comments:

This is a no-brainer bill to pass. \$30,000 is nothing in Hawaii with respect to property values. As you know, it's already a challenge to have a successful business in Hawaii. This protection of \$2.0MM needs to be in place to encourage entrepreneurs to take reasonable risk. We are not looking to promote frivolous actions, but we do want to ensure that someone who loses everything in a failed attempt can at least keep their principal residence. Don't you agree that this is a fair request?

Sincerely,

Russell Adkins