

# HAWAII FINANCIAL SERVICES ASSOCIATION

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February 4, 2022

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. 3215 (Garnishment)**  
**Hearing Date/Time: Friday, February 4, 2022, 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 authorizes cost of living expenses, as determined by the self-sufficiency standard for the State, to be protected from certain garnishments.

## **Hawaii’s wage garnishment law.**

Under Hawaii law, the amount that a creditor can garnish from a debtor’s wages to pay a court-ordered judgment is calculated under Section 652-1(b) of the Hawaii Revised Statutes. That Section incorporates the calculation in HRS Section 652-1(a)(4).

The first step of the calculation is for the debtor’s employer to determine the amount of wages remaining after deducting amounts required by law to be withheld (e.g. deducting FICA, state and federal taxes, medicare). The remaining amount is “disposable earnings”. (See also Hawaii State Court “Garnishment Calculation Worksheet” at the Hawaii Judiciary’s website at <https://www.courts.state.hi.us/docs/form/oahu/1DC27C.pdf> .)

The second step of the calculation is this: from the “disposable earnings”, the debtor’s employer can withhold for the garnishment 5% of the first \$100 per month, 10% of the next \$100 per month, and 20% of all sums in excess of \$200 per month.

In other words, the amount that is exempt or protected from garnishment under current Hawaii law is 95% of the first \$100 per month, 90% of the next \$100 per month, and 80% of all sums in excess of \$200 per month.

In comparison, and as noted in the preamble of this Bill, the federal law currently protects 75% of an employee's disposable income. That federal percentage is less than the percentage that Hawaii law already protects.

## **This Bill does not seem to be sound public policy.**

Besides the existing exemptions and protections that are in the current Hawaii garnishment law, this Bill would additionally exempt from garnishment “a cost of living exemption, which shall be equal to the most recent self-sufficiency standard for Hawaii for a one-person household, as determined by the department of business, economic development, and tourism pursuant to section 201-3(a)(5).”

The 2000 Hawaii self-sufficiency standard for one adult is **\$37,646 per year** according to the recently released report dated December 2021 from the Hawaii Department of Business, Economic Development, and Tourism. (See <https://files.hawaii.gov/dbedt/annuals/2021/2021-read-self-sufficiency.pdf> ).

What this means is that under this Bill, an employed person would be able to receive from their employer as disposable earnings (i.e. the net pay after taxes and withholdings) of up to at least \$37,646 without having any of that money being garnished to repay debts owed to a judgment creditor.

And under this Bill, that dollar amount could be “proactively increased upon a showing by the defendant that dependents or other factors affect a high cost of living.” This Bill fails to take into account individual situations for which the self-sufficiency standard is too high or too generous.

As noted above, the existing Hawaii garnishment law already provides more protection from garnishment with a higher exemption percentage than does the federal law. The existing Hawaii law is a sound policy.

This Bill does not seem to be sound public policy.

**This Bill could harm consumers.**

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. Access to credit could be reduced.

A 2017 research study of the Federal Reserve Bank of New York examined the states that had adopted increased restrictions on the collection of debt; it also examined the states that had not adopted additional restrictions. “*Access to Credit and Financial Health: Evaluating the Impact of Debt Collection*”, Federal Reserve Bank of New York, Staff Report 814 (May 2017). The results of the study indicated that “restricting collection activities leads to a decrease in access to credit and to a deterioration in indicators of financial health. . . . The decrease in access to credit is stronger for borrowers with low credit scores, but is felt across the credit spectrum.”

\* \* \*

**For the reasons stated above, we respectfully ask that your Committee “defer” this Bill and not pass it.**

Thank you for considering our testimony.

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



## Senate Committee on Judiciary

Friday, February 4, 2022, 9:39 a.m. Via Videoconference

### **Hawai'i Alliance for Progressive Action Supports: SB 3215**

Aloha Chair Rhoads, Vice Chair Keohokalole and Members of the Committee,

On behalf of the Hawai'i Alliance for Progressive Action (HAPA) I am submitting testimony in support of SB3215. HAPA is a state-wide organization that engages approximately 10,000 local residents annually.

SB3215 authorizes cost of living expenses, as determined by the self-sufficiency standard for the State, to be protected from certain garnishments.

Hawai'i economic recovery isn't reaching many of the hard working families in Hawai'i that earn lower- to middle-incomes. Many of us know friends or family members who have moved out of the state during the pandemic to find better paying jobs in places that don't cost as much just to live.

Even before the COVID-19 pandemic hit Hawai'i's consumer economy especially hard<sup>1</sup>, many residents were already struggling to get by in an out-of-balance<sup>2</sup> economy.

The "Hawai'i Financial Health Pulse 2019 Survey," released in early 2020 by the Hawaii Budget and Policy Center<sup>3</sup>, reported that only 31 percent of households in the state were financially healthy. That means that more than two in three families regularly spent more than they earned, failed to pay all their bills on time, had inadequate liquid and long-term savings, had accumulated more debt than they could manage, and/or were not adequately insured.

Since Hawai'i's average wages failed to keep up with the high cost of living even before COVID-19-related income losses, no one should be surprised by the financial insecurity of the majority of Hawai'i residents. But high levels of consumer debt add another worrying element to Hawai'i's fragile financial health.

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<sup>1</sup> <https://www.hibudget.org/blog/tourism-dependence-hawaii-dramatic-unemployment-rate>

<sup>2</sup> <https://www.hibudget.org/blog/hawaii-wages-cost-of-living>

<sup>3</sup> Hawaii Financial Health Pulse: 2019 Survey Results by the Financial Health Network

As reported in “Hawai‘i Consumer Debt Report: 2019 Update,”<sup>4</sup> Hawai‘i residents carried a total of \$68,656, per person in consumer debt in 2019, compared with the U.S. average of only \$47,034. Hawai‘i consumers paid an average of \$1,402 per month on these credit obligations, 27 percent more than the U.S. average of \$1,108 per month.

Hawai‘i’s high debt load is usually invisible, but that may change soon as households become unable to carry this burden in the COVID-19 economy. Now is the time to ensure that our policies and public resources are ready to help keep families from losing their homes and being driven into bankruptcy.

Please PASS SB3215.

Mahalo for your consideration,

A handwritten signature in black ink, appearing to read 'Anne Frederick', with a horizontal line extending to the right.

Anne Frederick  
Executive Director

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<sup>4</sup> DBEDT Hawaii Consumer Debt Report: 2019 Update

The Hawai‘i Alliance for Progressive Action (HAPA) is a public non-profit organization under Section 501(c)(3) of the Internal Revenue Code. HAPA’s mission is to catalyze community empowerment and systemic change towards valuing ‘aina (environment) and people ahead of corporate profit.



Wednesday, February 2, 2022

Relating to Garnishment  
Testifying in Support

Aloha Chair and members of the committee,

The Pono Hawai'i Initiative (PHI) **supports SB3215, Relating to Garnishment. This measure authorizes cost of living expenses to be protected from certain wage garnishments.**

**By passing this measure, we can help support our low-wage earners who are struggling to get by. Taking wages that someone needs for necessities like rent and food for their families is cruel and unjustified.**

For these reasons, we urge the Committee to **vote in favor of SB3215.**

Mahalo for the opportunity to testify,

Gary Hooser  
Executive Director  
Pono Hawai'i Initiative

To: Senator Karl Rhoads, Chair  
Senator Jarrett Keohokalole, Vice Chair  
Members of the Committee on Judiciary

From: Guardian Capital Management Hawaii  
1164 Bishop Street, Suite 805  
Honolulu, HI 96813

Date: February 2, 2022

Re: SB 3215 Relating to garnishment

My name is Kevin Shiinoki, and I am the President of Guardian Capital Management Hawaii. We are a full-service collection agency providing services to over 800 businesses across the state. I am submitting testimony in opposition to SB 3215.

SB 3215 would eliminate wage garnishment as a means to recover a judgment. The wording of Section 651-121(6) exempts wages earned in the 31 days prior to the proceeding from garnishment. This would mean that the families who are living paycheck to paycheck would have nothing to be garnished since the money would already be spent. The people that this bill proposes to protect are already protected.

I oppose SB 3215 because it will create an unlimited opportunity for consumers to default on loans and financial obligations. A monetary judgment obtained in court would be rendered meaningless, as there would be no way to enforce the judgment on almost any property owned by a consumer. Most creditors would not be able to enforce their legal rights.

Thank you for the opportunity to submit this testimony.



February 2, 2022

Senator Karl Rhoads, Chair  
Senator Jarrett Keohokalole, Vice Chair  
Members of the Senate Committee on the Judiciary

Re: **SB 3215 Relating to Garnishment**

Hearing Date: 2/4/2022, 9:30 AM

Dear Chair Rhoads, Vice-Chair Keohokalole, & Honorable Committee Members:

You should amend this bill to be certain that it applies to State Tax Garnishments issued by the Department of Taxation.

Otherwise, the purposes of this bill to protect the working poor or “ALICE” population would be frustrated.

I propose you add a section that states something along the lines of:

HRS 231-25(b)(2) is amended to state:

(2) The effect of a levy on salary or wages payable to or received by a taxpayer shall be continuous from the date the levy is first made until the levy is released. The levy on salary or wages shall attach to ~~twenty five per cent of any salary or wages payable or received by the taxpayer~~ twenty five percent of the portion thereof in excess of the cost of living exemption, which shall be equal to the most recent self-sufficiency standard for Hawaii for a one-person household, as determined by the department of business, economic development, and tourism pursuant to section 201-3(a)(5.)

Respectfully,

/s/ Richard McClellan

**SB-3215**

Submitted on: 2/1/2022 6:04:34 PM

Testimony for JDC on 2/4/2022 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Nanea Lo	Individual	Support	No

Comments:

Hello,

My name is Nanea Lo. I come from Papakōlea, O‘ahu. I'm a Kanaka Maoli born and raised in the Hawaiian Kingdom. I'm writing in full support of SB3215.

This measure authorizes cost of living expenses, as determined by the self sufficiency standard for the State, to be protected from certain garnishments. This bill will support our low-wage earners in which a lot of Hawaii's people especially Kānaka Maoli have to work two to three even four jobs to stay here this would help them to not have to struggle as much to stay here in their own homelands.

Support SB3215.

me ke aloha ‘āina,

Nanea Lo



**SB-3215**

Submitted on: 2/2/2022 2:35:03 PM

Testimony for JDC on 2/4/2022 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Michael Akana	Individual	Oppose	No

Comments:

Please do not pass this bill. Increasing limits on lenders ability to collect on defaulted loans will result in limiting access to consumer credit. Furthermore, it will incentivize bad behavior. Bills to combat the effects of Hawaii's cost of living should specifically address issues that *cause* Hawaii's high cost of living.

**LATE**

MEDICAL COLLECTION AGENCY OF HAWAII  
COMMERCIAL COLLECTION AGENCY OF HAWAII



320 Uluniu Street, Suite 5  
Mailing Address:  
P.O. Box 1187  
Kailua, Hawaii 96734  
Telephone: (808) 266-2020  
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February 2, 2022

RE: SB 3215 (RELATING TO GARNISHMENT)  
Testimony in Opposition

Dear Chairs and committee members,

This testimony is submitted on behalf of MEDCAH, Inc., a Hawaii owned and operated debt collection company doing business in Hawaii since 1974.

**MEDCAH, Inc., opposed SB 3215 as it is proposed.**

While it is true that the cost of living in Hawaii is one of the highest in the country and while it is true that Hawaii residents who are in debt may have difficulties to overcome to pay their creditors, it is also true that Hawaii businesses and creditors should be paid for their products and services.

When we are working with consumers to establish appropriate payment arrangements, our goal is to recover the monies owed to our clients, the creditor **AND** to establish a reasonable payment arrangement within the consumer's means. This holds true even in the cases whereby we have a Court-awarded Judgment and have initiated wage garnishment. Our industry recognizes that there is no upside to not negotiating with the consumer if it results in severe financial hardship.

Having said that, creditors and Hawaii businesses need to have a means to collect unpaid and due monies. SB 3215 undermines Hawaii businesses as they attempt to collect their receivables and maintain a viable business.

Respectfully submitted,

Genevieve Freeman  
President, MEDCAH, Inc.  
(808) 223-4988 cell  
[gfreeman@medcah.com](mailto:gfreeman@medcah.com)



**LATE**

**SB-3215**

Submitted on: 2/3/2022 8:08:34 PM

Testimony for JDC on 2/4/2022 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Rev. Samuel L Domingo	Individual	Support	No

Comments:

Aloha Senators,

I support the passage of SB 3215 as it provides protections to our working families. I continue to encourage the whole Senate as well as your fellow lawmakers in the House to focus on giving support to our working families. The pandemic has proven that working families are the most vulnerable and deserve attention.

Thank you for receiving my testimony.

Rev Samuel L Domingo

**LATE**



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Testimony to the Senate Committee on Judiciary  
February 3, 2022, 9:30 am  
Hawaii State Capitol, Via Videoconference

Comments on SB 3215, Relating to Garnishment

To: The Honorable Karl Rhoads, Chair  
The Honorable Jarrett Keohokalole, 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 48 Hawaii credit unions, representing over 860,000 credit union members across the state. We offer the following comments SB 3215, Relating to Garnishment.

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.

While we understand that the intent of this bill is to help people who are currently in economic crisis, we would emphasize that credit unions have a long history of working with their members to ensure that they are able to manage their finances even during difficult times.

Thank you for the opportunity to provide comments.