



Testimony to the House Committee on Health, Human Services, and Homelessness
Tuesday, March 15, 2022
9:00 AM
Via Videoconference

Testimony in Opposition to SB 3323 SD2, Relating to Attachment

To: The Honorable Ryan Yamane, Chair
The Honorable Adrian Tam, Vice-Chair
Members of the Committees

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 867,000 credit union members across the state.

HCUL is in opposition to SB 3323 SD2, Relating to Attachment. This bill would increase the amount of the exemption from attachment or execution of real property or a motor vehicle, and further exempts one month of child support and spousal support from attachment or execution.

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.

We further concur with the testimony of the Hawaii Financial Services Association and the Hawaii Bankers Association.

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



Mortgage Bankers Association of Hawaii
P.O. Box 4129, Honolulu, Hawaii 96812

March 14, 2022

The Honorable Ryan Yamane, Chair
The Honorable Adrian Tam, Vice Chair
Members of the Senate Committee on Health, Human Services, and Homelessness

Hearing Date: March 15, 2022
Hearing Time: 9:00 am
Hearing Place: Hawaii State Capitol

Re: SB 3323 SD2 Relating to Attachment

I am Linda Nakamura, representing the Mortgage Bankers Association of Hawaii ("MBAH"). The MBAH is a voluntary organization of individuals involved in the real estate lending industry in Hawaii. Our membership consists of employees of banks, savings institutions, mortgage bankers, mortgage brokers, financial institutions, and companies whose business depends upon the ongoing health of the financial services industry of Hawaii. The members of the MBAH originate and service, or support the origination and servicing, of the vast majority of residential and commercial real estate mortgage loans in Hawaii. When, and if, the MBAH testifies on legislation or rules, it is related only to mortgage lending and servicing.

SB3323 SD1 increases the amount of the exemption from attachment or execution of real property and a motor vehicle. Exempts one month of child support and spousal support from attachment or execution.

The bill as proposed will allow a mortgage debtor an exemption of up to \$100,000 for all real property a mortgage creditor may own. The bill does not specify the number of real properties that qualify for the exemption nor does it specify what type of property (owner-occupied, second home or investment) is covered.

The Real Estate market is cyclical. In the event of a Real Estate downturn, as experienced in the past, a mortgage debtor's mortgage balance may be more than the value of the real property. If the mortgage debtor becomes delinquent and subsequently is foreclosed upon, the lender may not be able to collect on the entire mortgage debt. This additional risk for mortgage lenders may result in stricter underwriting guidelines and ultimately result in less mortgage lending in the community.

Our position: OPPOSE

In summary, we oppose the bill as it is written. Mortgage debtors with multiple real properties will receive multiple exemptions, mortgage creditors may not be able to collect on the debt owed and there may be potential decreased availability of mortgage lending for the community.

Thank you for the opportunity to present this testimony.

Linda Nakamura
Mortgage Bankers Association of Hawaii

SB-3323-SD-2

Submitted on: 3/12/2022 3:30:47 PM

Testimony for HHH on 3/15/2022 9:00:44 AM

Submitted By	Organization	Testifier Position	Testify
Gerard Silva	Individual	Oppose	Written Testimony Only

Comments:

All Taxes are Illegal per the Consitution of the United States of America the Republic!!

HAWAII FINANCIAL SERVICES ASSOCIATION

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

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March 15, 2022

Rep. Ryan I. Yamane, Chair
Rep. Adrian K. Tam, Vice Chair
and members of the House Committee on Health, Human Services & Homelessness
Hawaii State Capitol
Honolulu, Hawaii 96813

Re: **S.B. 3323, S.D. 2 (Attachment)**
Hearing Date/Time: Tuesday, March 15, 2022, 9:00 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: (a) increases the amount of interest in real property that is exempt from attachment and execution; (b) amends the value of personal property that is exempt from attachment and execution, including increasing the exemption amount for a motor vehicle; and (c) exempts from attachment or execution, an amount equivalent to one month of child support or \$5,000, whichever is lower, and one month of spousal support or \$5,000, whichever is lower.

This Bill, as drafted, does not seem to be sound public policy. We believe that some of the proposed changes in this Bill will enable and encourage certain debtors, who have a property with a lot of equity, to avoid paying their contractual obligations and to shelter their assets from creditors.

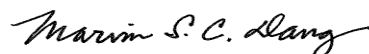
We object to a provision under this Bill which would allow a debtor to shelter from creditors up to \$100,000 in equity in real property regardless of whether the property is owner-occupied or owned as an investment, and regardless whether the property is residential or commercial. Currently the exemption amounts are either \$20,000 or \$30,000 in one property.

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.”

Accordingly, 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



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Presentation to The
Committee on Health, Human Services & Homelessness
Tuesday, March 15, 2022, 9:00 AM
State Capitol Conference Room 329 & Videoconference

Testimony on SB 3323 SD2 In Opposition

TO: The Honorable Ryan I. Yamane, Chair
The Honorable Adrian K. Tam, Vice Chair
Members of the Committee

My name is Neal K. Okabayashi, Executive Director of the Hawaii Bankers Association (HBA). HBA represents seven Hawai'i banks and three banks from the continent with branches in Hawai'i.

HBA opposes this bill because, among other things, it increases the amount of interest in real property that is exempt from attachment and execution and amends the value of personal property that is exempt from attachment and execution, which will lead to exemptions of large valued motor vehicles, jewelry, Rolex watches and the like. The enactment of this bill will encourage the debtor to escape from paying the debt that it voluntarily entered into and leave lender who made a good faith effort to lend money to a debtor, in the hole. That is not fair. Probably the most grievous aspect of the bill is the shelter of up to \$100,000 in real property which could mean the lender cannot recover the monies it lent to the debtor while the debtor can walk away with a free \$100,000. It can allow the debtor to recoup its entire down payment or more than the down payment, meaning that the debtor could actually make a profit on buying the real property without the need to pay debt. Thus, the bill gives incentive to the debtor to forego attempting to pay the debt and just walk away with a profit. To alleviate this situation, lenders may need to take protective action such as increasing the loan to value ratio, meaning the requirement of a larger down payment to decrease its risk from a debtor all to the detriment of the bulk of the population who want to receive a loan to better its livelihood while paying its lawful debt. HBA joins in the testimony of the other trade associations representing lenders.

Thank you for the opportunity to submit this testimony opposing SB 3323, SD 2. Please let us know if we can provide further information.

Neal K. Okabayashi
(808) 524-5161



TESTIMONY IN SUPPORT OF SB 3323, SD 2

TO: Chair Yamane, Vice-Chair Tam, & Committee Members

FROM: Nikos Leverenz
Grants & Advancement Manager

DATE: March 15, 2022 (9:00 AM)

Hawai'i Health & Harm Reduction Center (HHRC) **supports** SB 3323, SD 2, which increases exemption amounts from attachment or execution of real property and a motor vehicle. The bill also exempts one month of child support and spousal support from attachment or execution.

As noted in the bill findings, this bill will allow workers and families who are facing short-term economic hardship to retain assets critical to their longer-term economic outlook. This bill increases amounts that were placed in statute in 1978.

The Legislature should endeavor to update these types of statutory thresholds more regularly, particularly those that impact under-resourced persons and families. For example, the standard of need to determine eligibility for general assistance is still based upon the 2006 federal poverty level. See HRS Section 346-53(a).

HHRC's mission is to reduce harm, promote health, create wellness, and fight stigma in Hawai'i and the Pacific. We work with many individuals impacted by poverty, housing instability, and other social determinants of health. Many have behavioral health problems, including those related to substance use and mental health conditions. Many of our program clients and participants have also been deeply impacted by trauma, including histories of physical, sexual, and psychological abuse. HHRC Executive Director Heather Lusk currently serves as Board Chair of [Partners in Care O'ahu](#), a planning, coordinating, and advocacy alliance that develops recommendations for programs and services to fill needs within O'ahu's continuum of care for homeless persons.

Thank you for the opportunity to testify on this measure.



Collection Law Section

Chair:
Steven Guttman

Vice Chair:
William J. Plum

Secretary:
Thomas J. Wong

Treasurer:
Arlette S. Harada

Re: S.B. 3323 (Relating To Attachment)
Hearing: March 15, 2022 9:00 a.m.
Testimony in Opposition

Reply to: **STEVEN GUTTMAN, CHAIR**
220 South King Street Suite 1900
Honolulu, Hawaii 96813
Telephone: (808) 536-1900
Fax: (808) 529-7177
E-Mail: sguttman@kdubm.com

March 14, 2022

Dear Chair Yamane, Vice Chair Tam, and Committee Members:

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

The CLS opposes the size of the proposed increase of the exemption for real property and recommends that the sum of \$50,000 be used. Additionally, to provide clarity as to what *kind* of property is affected by this statute, *e.g.*, a residence or a commercial property, the words “and resided in” should be inserted in between the proposed words “that is owned” and “by the defendant” (the end result reading as follows: “that is owned and *resided in* by the defendant).” (emphasis added). The intent of this bill is not to provide protection to commercial property holdings.

The CLS opposes size of the proposed increase of the motor vehicle exemption. The current federal bankruptcy exemption is \$1,400. An increase to \$15,000 is a substantial increase. An increase to \$3,900 would be more reasonable and would be better than a 50% increase over the current amount of \$2,575.

The CLS opposes an *unlimited* exemption for items such as jewelry, watches, and items of personal adornment. An unlimited exemption would create a very real incentive for a person to use this category to hide assets. For example, there is a large and robust market on the internet for used and new Rolex watches. Those watches run into the tens of thousands of dollars for just one watch. A person could easily hide in plain sight \$100,000 or more in just

watches with that exemption. Moreover, expensive gold coins or jewels could easily be attached to a chain and claimed as jewelry or items of personal adornment. Going with an unlimited amount far exceeds the reasonable number of items the average person would own and sets up a system that cries out for abuse. Moreover, an unlimited exemption would provide some not-so honest individuals a method to defraud creditors. For reference, current federal bankruptcy exemption is \$1,700. If there is going to be an increase, a more reasonable increase would be to double the current amount to \$2,000 for the jewelry, watches and items of personal adornment.

Remember, life is not a one-way street. For every person who side-steps a financial obligation that is due and owing, there is someone else who is rightfully owed that sum and suffers the 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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SB-3323-SD-2

Submitted on: 3/14/2022 1:47:10 PM

Testimony for HHH on 3/15/2022 9:00:44 AM

Submitted By	Organization	Testifier Position	Testify
David Deges	Individual	Support	Written Testimony Only

Comments:

I am reaching out to all of you because you all know the problems of those who easily fall into homelessness due to a major illness; loss of job or unplanned life-changing event like a catastrophe. I have been trying since 2015 to increase the safety net of the working poor by preventing creditors from grabbing everything. The attachment exemption statute is outdated and has not been revised since the 1970's. thus, I am trying again to increase exemptions especially during these times. I expect banks, creditors, and credit unions to come out en masse to oppose. Thus, please consider submitting testimony in favor of this bill's passage.

In the past, limits were put into place to prevent creditors from seizing the assets people need to maintain housing, child support, and other necessary payments.

- It's 50 years since it's been updated - does not reflect current astronomical cost of living
- Majority of people are one catastrophe away from losing their home - close to 50% of Hawai'i residents are below the ALICE threshold, and this disproportionately impacts Native Hawaiians, single mothers, people with disabilities, and other groups who are already marginalized.
- A creditor's desire to recover a loan should not be prioritized over a child's needs
- Once someone gets pushed into poverty, it's harder to climb out, and nearly impossible without utilizing social services (which are funded by the state).
- Current vehicle limit of \$2,575 would put almost every vehicle at risk—especially on Hawai'i Island, people need a reliable vehicle to get to work. This is especially important for households where all members rely on the vehicle. This is only one vehicle exemption, and it's not unreasonable.

Suggestion for possible amendments

- Eliminate the one individual per household limit because this discriminates against people who cannot afford to have their own living space.

SB-3323-SD-2

Submitted on: 3/14/2022 3:33:05 PM

Testimony for HHH on 3/15/2022 9:00:44 AM

Submitted By	Organization	Testifier Position	Testify
Lori Ferrin	Individual	Support	Written Testimony Only

Comments:

Below are my reasons for supporting this bill:

- In the past, limits were put into place to prevent creditors from seizing the assets people need to maintain housing, child support, and other necessary payments.
- It's 50 years since it's been updated - does not reflect current astronomical cost of living
- Majority of people are one catastrophe away from losing their home - close to 50% of Hawai'i residents are below the ALICE threshold, and this disproportionately impacts Native Hawaiians, single mothers, people with disabilities, and other groups who are already marginalized.
- A creditor's desire to recover a loan should not be prioritized over a child's needs
- Once someone gets pushed into poverty, it's harder to climb out, and nearly impossible without utilizing social services (which are funded by the state).
- Current vehicle limit of \$2,575 would put almost every vehicle at risk—especially on Hawai'i Island, people need a reliable vehicle to get to work. This is especially important for households where all members rely on the vehicle. This is only one vehicle exemption, and it's not unreasonable.

Suggestion for possible amendments

- Eliminate the one individual per household limit because this discriminates against people who cannot afford their own living space.

Thank you for your time and consideration,

Lori Ferrin