



## HAWAII APPLESEED

CENTER FOR LAW & ECONOMIC JUSTICE

Dear Chair San Buenaventura and Members of the Committee,

My name is Devin Thomas, I am writing to affirm Hawai'i Appleseed's **support of SB 462**, which would increase the amounts of real and personal property, along with child and spousal support, that are exempted from attachment and execution in Hawai'i. This bill would provide a necessary cushion to low-income residents who are struggling to pay off their debts and avoid losing their homes and vehicles in the face of mounting economic pressure.

Hawai'i's families continue to contend with the ever-increasing cost of living, and in 2021, 41 percent of households in the state were beneath the ALICE Threshold—indicating that they could not afford to pay for all of their basic necessities such as housing, food, and healthcare.<sup>1</sup> In addition, Hawai'i residents had an average debt of \$77,000 during that same year, which was significantly higher than the national average of \$55,000.<sup>2</sup> This debt directly contributes to the cycle of poverty by burdening households with interest payments that they may never be able to fully pay off.

The current law on asset protection in Hawai'i does not reflect the increasing cost of living, which was only exacerbated by the COVID-19 pandemic. Furthermore, homes and vehicles are more than mere collateral for loans—they are the foundation of economic security for any household. Without these critical assets, low-income residents are deprived of the most basic means to maintain their employment and meet their family's essential needs. Unfortunately, the emotional and financial stress of foreclosure often drives households into long-term poverty and homelessness.

SB 462 addresses this by increasing the exemption amount for real property to \$100,000, the exemption amount for motor vehicles to \$15,000, and creating an exemption for child support and spousal support. In the process, this bill would serve to keep more local families in stable housing, while giving them breathing room to regain some measure of economic security.

Thank you for your consideration.

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<https://www.unitedforalice.org/state-overview/hawaii#:~:text=In%202019%2C%20195%2C202%20households%20in,number%20had%20changed%20to%20202%2C968>.

<sup>2</sup> [https://files.hawaii.gov/dbedt/economic/reports/HawaiiConsumerDebtReport\\_2022.pdf](https://files.hawaii.gov/dbedt/economic/reports/HawaiiConsumerDebtReport_2022.pdf)



Testimony to the Senate Committee on Health & Human Services  
Friday, January 26, 2024, 1:00 PM  
Conference Room 225

Comments Regarding SB 462, Relating to Attachment and Execution of Real Property

To: The Honorable Joy San Buenaventura, Chair  
The Honorable Henry Aquino, 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 47 Hawaii credit unions, representing over 864,000 credit union members across the state.

HCUL offers the following comments regarding SB 462. This bill would increase the amount of interest in real property that is exempt from attachment and execution, amends the value of personal property that is exempt from attachment and execution, including increasing the exemption amount for a motor vehicle, and exempts from attachment and execution, an amount equivalent to one month of child support or \$5,000, whichever is less, and one month of spousal support or \$5,000, whichever is less.

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. Increasing the exemption amount by three times may also have the unintended consequence of making it more difficult for credit union members to qualify for loans, as the risk incurred by financial institutions would be higher.

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.

**SB-462**

Submitted on: 1/25/2024 4:22:22 PM

Testimony for HHS on 1/26/2024 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Barbara L Franklin	Testifying for Barbara L. Franklin, Esq., Attorney at Law	Support	Written Testimony Only

Comments:

I support SB462. As a bankruptcy attorney, we need to provide a safety net for families, especially older residences who have worked hard, paid off their house, and may face financial difficulties. Many of our elderly who live in very modest housing, should get full protection for their equity. Don't buy the argument that credit will be more expensive if exemptions increase; it is a false argument with no data to back it up.



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

January 24, 2024

The Honorable Joy A. San Buenaventura, Chair  
The Honorable Henry J.C. Aquino, Vice Chair  
Members of the Senate Committee on Health and Human Services

Hearing Date: January 26, 2023  
Hearing Time: 1:00pm  
Hearing Place: Hawaii State Capitol, Conference Room 325

Re: SB 462 Relating to Attachment and Execution

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.

The MBAH is offering the following comments regarding SB 462.

The Bill increases the amount of the exemption from attachment or execution of real property from \$30,000 to \$100,000 and a motor vehicle from \$2,575 to \$15,000. The Bill also exempts one month of child support and spousal support or \$5,000 whichever is less from attachment and execution.

The Bill does not address whether the real property is an owner-occupant residential property. This means a debtor may exempt investment properties whether they are residential or commercial.

The Bill does not limit the number of times the exemption can be used by a debtor. The exemption may be used multiple times by a debtor on multiple properties.

Clarification of the above should be considered to ensure the intent of the bill which is to create a safety net of assets for Hawaii families who are struggling is truly helping that segment of Hawaii families.

The Bill may have unintended consequences to borrowers in Hawaii. It may require lenders and creditors to tighten their underwriting guidelines to mitigate this potential added loss. Lenders and creditors lend monies with expectations that they are repaid 100% of the monies they lend. Availability of credit may be curtailed.

Thank you for the opportunity to present this testimony.

Linda Nakamura  
Mortgage Bankers Association of Hawaii

# HAWAII FINANCIAL SERVICES ASSOCIATION

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

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January 26, 2024

Senator Joy A. San Buenaventura, Chair  
Senator Henry J.C. Aquino, Vice Chair  
and members of the Senate Committee on Health and Human Services  
Hawaii State Capitol  
Honolulu, Hawaii 96813

Re: **S.B. 462 (Attachment and Execution)**  
**Hearing Date/Time: Friday, January 26, 2024, 1:00 p.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 **offers comments** about 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 less, and one month of spousal support or \$5,000, whichever is less.

We are not offering comments on SECTION 3 of this Bill which involves personal property exemptions.

Our comments will focus only on SECTION 2 of this Bill which increases the real property exemption amount from attachment or execution. SECTION 2, which amends HRS Section 651-92(a), begins on page 2, line 17 and continues through page 4, line 8.

We want to point out that HRS Section 651-92(a) does not involve homeowner exemptions for real property tax assessment purposes. The exemption in HRS Section 651-92(a) is entirely different: it’s an exemption from claims of creditors.

This Bill, as drafted, does not seem to be sound public policy. We believe that some of the proposed revisions to HRS Section 651-92(a) will enable and encourage certain debtors, who own real property with a lot of equity, to avoid paying their contractual obligations and to shelter their assets from creditors.

1. The exemption in HRS Section 651-92(a) is referred by some as a “homestead exemption”. We agree that should be the purpose of this exemption.

However, this Bill, as drafted, doesn’t require that the real property must be an owner-occupied residential property. This Bill would allow a debtor to exempt (i.e. shelter from creditors) up to \$100,000 in equity in real property regardless of the type of property, i.e. whether the property is owner-occupied or owned as an investment, whether the property is residential or commercial, and whether the property has a dwelling on it or is vacant land.

2. Currently the real property exemption amounts from claims of creditors in HRS Sec. 651-92(a) are either: \$30,000 (for a head of a family or an individual 65 years of age or older) or \$20,000 (for any other person).

This Bill would increase those exemption amounts in HRS Section 651-92(a) to a “fair market value not exceeding \$100,000 in equity, that is owned by the defendant” (see page 3, lines 15-16).

There are implications that need to be considered regarding the dollar amount of such an increase in the exemption. There’s also an interplay between the exemptions in the federal bankruptcy law and the exemption in HRS Section 651-92(a) which should be considered.

3. This Bill does not limit the number of times that a debtor can use the exemption in HRS Section 651-92(a). It should be used only once.
4. 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.

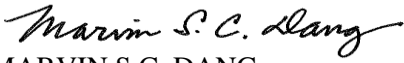
A 2017 research study of the Federal Reserve Bank of New York examined the states that had adopted increased restrictions on the collection of debt; it also examined the states that had not adopted additional restrictions. “*Access to Credit and Financial Health: Evaluating the Impact of Debt Collection*”, 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.”

Because discussion on the above issues (and perhaps on other issues) is needed among the stakeholders, **your Committee should consider “deferring” this Bill and not pass it.**

However, if your Committee is inclined to pass this Bill, this Bill should be amended in SECTION 3 regarding HRS Section 651-92(a) to:

- (1) Require that the real property must be an owner-occupied residential real property;**
- (2) Restrict the exemption to only one owner-occupied residential real property;**
- (3) Limit the frequency of the use of the exemption to only once for a debtor;**
- (4) Insert a blank amount for the dollar amount; and**
- (5) Add a “defective” effective date so that there can be further discussion among the various stakeholders.**

Thank you for considering our comments in our testimony.

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



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GOVERNMENT STRATEGIES

A LIMITED LIABILITY LAW PARTNERSHIP

DATE: 1/26/2024

TO: Senator Joy A. San Buenaventura  
Chair, Committee on Health and Human Services  
*Submitted Via Capitol Website*

FROM: Tiffany Yajima / Mihoko Ito

RE: **SB 462 – Relating to Attachment and Execution**  
**Hearing Date: Friday, January 26, 2024 at 1:00 p.m.**  
**Conference Room: 225**

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Dear Chair San Buenaventura, Vice-Chair Aquino, and Members of the Committee on Health and Human Services:

We submit this testimony on behalf of the Hawaii Bankers Association (HBA). HBA represents seven Hawai'i banks and one bank from the continent with branches in Hawai'i.

HBA submits **comments** on this bill which, among other things, proposes to increase the real property exemption amount for attachment or execution of real property. HBA is concerned with respect to section 2 of this measure which would allow a debtor to forgive the amount of the debt they owe on real property with a fair market value of up to \$100,000 in equity. This would significantly increase the exemption up from \$30,000 for heads of household or for individuals over 62 and \$20,000 for all other individuals.

If the purpose of the bill is to raise the amount of relief to primary owner-occupants who fall into debt, HBA would ask this Committee to consider amendments to make this applicable only to true primary owner-occupants. As drafted, this measure is applicable to any type of real property – whether residential, commercial, owner-occupied, investment or even vacant land and could lead to unintended consequences.

HBA joins in the testimony of the other trade associations representing lenders and would suggest that further discussion is warranted before increasing the exemption amount. We would be happy to work with the committee and stakeholders further to discuss these issues and develop a proposed solution.

Thank you for the opportunity to submit this testimony.





**LATE**

## Collection Law Section

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Steven Guttman

**Vice Chair:**  
William J. Plum

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*Reply to:* **STEVEN GUTTMAN, CHAIR**  
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**Re: S.B. 462 (Relating To Attachment and Execution)**  
**Hearing: January 26, 2024 1:00 p.m.**  
**Testimony in Opposition**

Dear Chair San Buaventura, Vice Chair Aquino, and Committee Members:

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

The CLS recommends that a \$50,000 exemption for real estate.

The CLS opposes size of the increase of the motor vehicle exemption. \$3,900 would be a more appropriate increase in both percentage and in reasonableness and is a better than 50% increase over the current amount.

The CLS opposes an *unlimited* exemption for items such as books, jewelry, watches, and items of personal adornment. An unlimited exemption would create a very real incentive for a person to artificially use this category to hide assets. For example, an individual who owes someone money could start purchasing rare books. Likewise, there is a large and robust market on the internet for used and new Rolex and other fancy 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, Kugerands, other gold coins, small or large gold bars, 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 could easily be abused and provides to some not so honest individuals an unfair method to defraud creditors. If there is going to be an increase, a more reasonable increase would be to \$5,000 for the books, jewelry, watches and items of personal adornment.

Please remember, many of the judgments that are issued come about because one person harms another physically or damages the personal or real property of another, and are not issued just because a person borrowed money and did not pay it back or received a good or service and never paid for it. Please also remember, that for every person who does not want to pay a financial obligation, there is someone else who is rightfully owed that money and who will have to bear the impact of that loss. In other words, somebody always suffers a loss when an obligation goes unpaid.

**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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