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Moya T. Davenport Gray
EXECUTIVE DIRECTOR

To: House Committee on Judiciary
From: Moya Gray, Executive Director
RE: Testimony on H.B. 625 Relating To Surcharges For Indigent Legal Services
Hearing: February 2, 2008, 2:00 PM

Chair Karamatsu, Vice Chair Ito and members of the Committee, thank you for this opportunity to testify in support of H.B. 625, relating to surcharges for indigent legal services.

I am Moya Gray, Executive Director of Volunteer Legal Services Hawaii. Through the generosity of our volunteer lawyers, we provide legal services to clients throughout the State of Hawaii. I also serve as a Commissioner on The Access to Justice Commission and as a member of the Consortium of Hawaii Legal Service Providers, many of whom have submitted testimony.

The Commission's predecessor, the Access to Justice Hui, found in its groundbreaking 2007 report, that **only 1 in 5 low and moderate income residents of Hawaii have their serious legal needs met because the legal services providers lack adequate funding and attorneys.**

This bill proposes that the surcharge be increased to help sustain the work of Hawaii's legal service providers and that the distribution formula be changed to be more equitable.

Increased charges will be paid for by the court users, initially by plaintiffs and in those cases in which plaintiffs win the plaintiff will likely pass the charges on to the defendant. However, the bill retains very significant exemptions from the surcharge for those who file small claims cases, for temporary restraining orders, for protective orders, for indigent clients who have received permission to proceed in forma pauperis and the government.

The current distribution formula provides more funds to the largest of the all the service providers, in fact 50% currently goes to the largest service provider whereas less than 4% goes to the smallest agency. This bill proposes to change the distribution formula so that 30% of the entire fund will be split evenly among qualified legal service providers and that the remaining 70% will be distributed pro rata based upon actual expenditures.

This bill will improve the ability of the large, medium and small legal services providers to provide much needed legal services to the poor, the disabled, the homeless, the abused and the most vulnerable of all of us. For that reason, Volunteer Legal Services Hawaii supports this bill and we respectfully ask that you pass this bill.

Thank you.

Access to Justice Commission
c/o Hawaii State Bar Association
1132 Bishop Street, Suite 906
Honolulu, Hawaii 96813

February 1, 2009

Attn: House Committee on Judiciary
Hearing Date: Tuesday, February 3, 2009
Time: 2:00 p.m.

HB 625 - Relating to Surcharge for Indigent Legal Services

Dear Chair Karamatsu, Vice-Chair Ito, and Members of the House Committee on the Judiciary:

I am writing on behalf of the Access to Justice Commission (the "Commission"), which was created by Rule 21 of the Rules of the Supreme Court of Hawaii on May 1, 2008. The Commission was established with the purpose to substantially increase access to justice in civil legal matters for low- and moderate-income residents of Hawaii ("low income Hawaii residents"), including increasing and stabilizing long-term public and private funding and resources for delivery of civil legal services to low-income Hawaii residents.

The Commission was created in response to the 2007 Assessment of Civil Legal needs and Barriers of Low- and Moderate-Income People of Hawaii, which found that four out of five low income Hawaii residents do not have their legal needs met and that legal service providers are only able to assist one in three persons who contact them for assistance. The Commission recognizes that in order to increase delivery of legal services to low income Hawaii residents, more funding is essential to assist the legal service providers. One such potential source of increased funding has been identified as the Indigent Legal Assistance Fee.

The Commission supports HB 625, which amends HRS Section 607-5.7 to provide additional surcharge fees on various court filings in our Hawaii State Court system under the "Indigent Legal Assistance Fund" ("ILAF") set forth in HRS Section 607-5. HB 625 would provide sorely needed funds for meeting civil legal services needs, especially during a time when the legal need and number of low income Hawaii residents are increasing.

In addition, HB 625 would amend the allocation formula for the distribution of funds to provide that in addition to the current 70% pro rata distribution of funds under the formula, the remaining 30% of funds would be distributed equally to all organizations or programs meeting the qualifications for receipt of funds. The amendment would assure that each unique legal

service provider would have the necessary resources to meet its basic operational expenses.

Attached is a copy of "Resolution of Support by the Hawaii Access to Justice Commission for the Proposed Amendment of the Indigent Legal Assistance Fund (ILAF), H.R.S. Section(s) 607-5 and 607-5.7", which was adopted by the Commission at its meeting on January 26, 2009.

On behalf of the Commission, I urge you to support the passage of HB 625. Thank you.


Jill M. Hasegawa, Esq.
Vice-Chair
Access to Justice Commission

Enclosure(s)

RESOLUTION OF SUPPORT BY THE HAWAI'I ACCESS TO JUSTICE
COMMISSION FOR THE PROPOSED AMENDMENT OF THE INDIGENT
LEGAL ASSISTANCE FUND (ILAF), H.R.S. SECTION(S) 607-5 and 607-5.7

WHEREAS, the Hawai'i Access to Justice Commission (the Commission) was created by Rule 21 of the Rules of the Supreme Court of Hawai'i to assist with making the delivery of civil legal services more available, widespread, and affordable for all of Hawaii's people,

WHEREAS, the 2007 Assessment of Civil Legal Needs and Barriers of Low- and Moderate-Income People of Hawai'i found that four out of five low- and moderate-income residents do not have their legal needs met and that legal service providers are only able to assist one in three who contact them for assistance,

WHEREAS, the Commission finds that in order to increase the delivery of legal services, more funding is necessary and can be generated by increasing the surcharge for indigent legal services, as recommended by the Access to Justice Hui, in its Community Wide Action Plan: Ten Steps to Increase Access to Justice in Hawai'i by 2010,

WHEREAS, the Hawai'i Consortium of Legal Services Providers has been working diligently together to strengthen and increase outreach and services to low income residents.

WHEREAS, each unique legal service provider requires a certain minimum amount of funding to meet basic expenses necessary to operate the respective non-profit organization or program,

NOW, THEREFORE, the Commission fully supports the proposed amendment increasing the filing fees surcharges under the Indigent Legal Assistance Fund (ILAF) program created under H.R.S. Sections 607-5 and 607-5.7. The Commission further finds it appropriate to change the allocation formula so that 30% of all funds distributed shall be provided equally to all organizations or programs that meet the qualifications for receipt of the funds in addition to a 70% distribution of all funds pro rata under the current formula.

The Commission urges the Hawai'i State Legislature and the Governor of Hawai'i to approve the proposed amendment of the ILAF statute, to help meet the civil legal needs of the people of Hawai'i.

DATED: Honolulu, Hawai'i, January 27, 2009


JILL HASEGAWA, Vice-Chair

TESTIMONY IN SUPPORT OF
HB625 - RELATING TO SURCHARGE FOR INDIGENT LEGAL SERVICES

February 3, 2009 at 2:00 p.m.

The Legal Aid Society of Hawaii hereby provides testimony to the House Committee on Judiciary on HB – Relating to Legal Service, in strong support of the bill.

In November 2007, the Access to Justice Hui released “Achieving Access to Justice for Hawai‘i’s People,” a two-part report that included The Community Wide Action Plan: Ten Action Steps to Increase Access to Justice in Hawai‘i by 2010 and The 2007 Assessment of Civil Legal needs and Barriers of Low- and Moderate-Income People in Hawai‘i. The Assessment found that one out of every five low- and moderate-income residents in Hawai‘i seeking legal services is unable to receive the assistance that they need and that one in three who seek assistance from legal service providers cannot be helped.

This bill is aimed to increase funding for legal services. Specifically, it would:

- Increase the surcharge from \$25 to \$65 in Circuit Court and Court of Appeal filings and increase it from \$10 to \$35 in District Court filings.
- Expand the surcharge in District Court filings from just summary possession to all cases, including collection cases.
- Continue to exempt: small claims cases, petitions for restraining orders, petitions for temporary restraining orders, cases in which the petitioner is proceeding in forma pauperis and all state and county filings.
- Adjust the distribution formula by providing an equal share of 30% of the collection to each legal services entity eligible to receiving funding. The remaining 70% would continue to be distributed pro rata based on the portion of their budget spent on direct legal services to indigent clients.

Increase the Surcharge

This bill could potentially double the funds available for indigent civil legal services by increasing the surcharge on initial court filing fees in civil actions. In this time of economic recession, core services, like those provided by Legal Aid are fundamental to the safety net. Our services help those in domestic violence situations, those who needed access to public assistance, those who are subject to predatory lending practices, those who are vulnerable due to disability and those who need representation in this complex legal system. This is a much needed bill to ensure that more low- and moderate-income residents have access to justice.

Expansion of Surcharge in District Court

Since the start of the indigent legal assistance surcharge, assumpsit cases have been exempt from this surcharge. These cases represent the bulk of civil cases handled in district court and in FY07-08, of the 22,405 civil actions filed in district court, 13,267 or (55.69%) were assumpsit cases. This represents over 13,000 filings where collection agencies and others are not paying their fair share of the indigent legal assistance fund.

On-Going Exemption from Surcharge

The current bill would not effect current exemptions for state and county government filings, temporary restraining order, and restraining order initial filings. It would also maintain current exemptions for those proceeding in forma pauperis thereby not increasing the fees for those who can least afford it.

Distribution Formula

Under this bill the distribution formula would change to provide an equal base of funding for all legal service providers. This base would be 30% of all funds from the fund while the remaining 70% would be reflective of the actual services provided by the particular legal service provider. This formula along with an increase in funding and the inclusion of District Court assumpsit and tort cases, is the best solution to ensure that current providers do not suffer decreases and that increases to the fund are equally distributed to the providers.

I ask for your support of this bill to bring much needed services to families and individuals who face the loss of a critical basic need, such as housing, family stability and safety, income, and protection from fraud and abuse.

Thank you for this opportunity to testify.

Sincerely,

Nalani Fujimori
Interim Executive Director
527-8014



EQUALITY
OPPORTUNITY
HOPE

TESTIMONY FROM: Robin Kobayashi, Executive Director

TO: Representative Jon Riki Karamatsu, Chair
Representative Ken Ito, Vice Chair
House Committee on Judiciary

HEARING: Tuesday, February 3, 2009, 2:00 p.m. Conf. Room 325

RE: HB 625 RELATING TO SURCHARGE FOR INDIGENT LEGAL SERVICES

The Hawaii Immigrant Justice Center ("HIJC"), formerly known as Na Loio, provides statewide free legal services, case management, community education, and advocacy in the public interest for low income immigrants, refugees, and other vulnerable persons in Hawaii. Significantly, almost 50% of our clients are victims of domestic violence, human trafficking, sexual assault and other serious crimes, or abused and abandoned immigrant children. In this past year HIJC provided full legal representation for approximately 150 immigrants who were victims of domestic violence, neglected, abused or abandoned.

We support HB 625. HB 625 will enable funds available through ILAF, the Immigrant Legal Assistance Fund, to be channeled to a wide array of qualifying low-income legal service providers, and to enable these providers to meet basic expenses necessary to operate their programs. For instance, the Justice Center uses ILAF funds to help individuals remain with their families, obtain the ability to work and escape from abusive situations, among others. This measure provides for: 1) a more equitable change in the distribution formula for existing legal service providers; and 2) additional surcharge fees on court filings in our Hawaii State Court system to generate funds to meet the needs of indigent legal assistance services.

As with most providers in the not for profit sector, our agency faces serious economic impacts, along with unprecedented declines in government sources of funding, fewer staff to operate our programs and possible layoffs. In contrast to the reduced ability to staff the programs, the economic challenge will be to continue to operate the programs in the economic downturn while legal needs of low income people are higher than ever.

Thank you for your consideration of our comments. Hawaii Immigrant Justice Center respectfully urges you to pass this measure.

P.O. Box 3950 • Honolulu, Hawaii 96812 • P. 808. 536. 8826 • F. 808. 537. 4644 • info@hijcenter.org



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TESTIMONY OF MAHEALANI WENDT, EXECUTIVE DIRECTOR IN SUPPORT OF HOUSE BILL 625

February 3, 2009

Aloha Chairperson Karamatsu, Vice-Chair Ito, and members of the Committee on Judiciary. I am Mahealani Wendt, Executive Director of the Native Hawaiian Legal Corporation. Thank you for the opportunity to testify in support of House Bill 625, which increases indigent legal services funding by increasing the surcharge on initial filing fees for civil actions.

The bill references "The 2007 Assessment of Civil Legal Needs and Barriers of Low- and Moderate-Income People of Hawai'i, a study that concluded four out of five low- and moderate-income residents do not have their legal services needs met and that legal services providers are only able to assist one in three who contact them for assistance.

It also references the Access to Justice Hui, a group consisting of concerned representatives of the community, legal services providers, members of the Hawai'i State Bar Association and many others. Following on the heels of the 2007 Assessment, the Access to Justice Hui formulated recommendations in its report entitled "The Community Wide Action Plan: Ten Steps to Increase Access to Justice in Hawai'i", which recommends an increase to the filing fee surcharge. As you know, the surcharge is used to fund direct legal services to Hawai'i's indigent.

The increase reflected in this bill would provide critical support to legal services programs that are severely underfunded. We believe it is reasonable and compares favorably with similar programs in other state jurisdictions.

On January 30, 2009, the board of directors of NHLC passed a resolution supporting an increase in the filing fee surcharge, which is attached. NHLC is in strong support of House Bill 625 and urge its passage. Thank you for this opportunity to testify.

Services made possible with major funding from the Office of Hawaiian Affairs.





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RESOLUTION

WHEREAS, Native Hawaiian Legal Corporation (NHLC) is a non-profit public interest lawfirm that provides direct legal services to low- and moderate-income individuals; and

WHEREAS, the 2007 Assessment of Civil Legal Needs and Barriers of Low- and Moderate-Income People of Hawai'i found that four out of five low- and moderate-income residents do not have their legal needs met and that legal service providers are only able to assist one in three who contact them for assistance; and

WHEREAS, in order to increase the delivery of legal services, more funding is necessary and can be generated by increasing the surcharge for indigent legal services, as recommended by the Access to Justice Hui, in its Community Wide Action Plan: Ten Steps to Increase Access to Justice in Hawai'i by 2010; and

WHEREAS, the Hawai'i Consortium of Legal Services Providers, of which NHLC is a member, has been working diligently together to strengthen and increase outreach services to low income residents; and

WHEREAS, each unique legal service provider requires a certain minimum amount of funding to meet basic expenses necessary to operate the respective non-profit organization or program.

NOW THEREFORE, the Native Hawaiian Legal Corporation fully supports the proposed amendment increasing the filing fees surcharges under the Indigent Legal Assistance Fund (ILAF) program created under H.R.S. Section 607-5.7.

NHLC further finds it appropriate to change the allocation formula so that 30% of all funds distributed shall be provided equally to all organizations or programs that meet the qualifications for receipt of the funds in addition to a 70% distribution of all funds pro rata under the current formula.

NHLC urges the Hawai'i State Legislature and the Governor of Hawai'i to approve the proposed amendment of the ILAF statute to help meet the civil legal needs of the people of Hawai'i.

DATED: Honolulu, Hawaii, January 30, 2009

/s/ Paul Nahoia Lucas
PAUL NAHOIA LUCAS, President

Services made possible with major funding from the Office of Hawaiian Affairs.



THE MEDIATION CENTER OF THE PACIFIC, INC.

680 Iwilei Road, Ste. 530, Honolulu, HI 96817

Tel: 521-6767 Fax: 538-1454 Email: mcp@mediatehawaii.org

February 2, 2009

TESTIMONY FROM: Tracey S. Wiltgen, Executive Director, The Mediation Center of the Pacific, Inc.

TO: Committee on Judiciary, House of Representatives

HEARING DATE/TIME: Tuesday, February 3, 2009, 2:00 p.m. Conf. Room 325

MEASURE NUMBER: HB 625, HD1, RELATING TO SURCHARGE FOR INDIGENT LEGAL SERVICES, AMENDING HRS SECTION 605-7

SUBMITTED BY E-MAIL: testimony@capitol.hawaii.gov

Dear Chair Karamatsu, Vice-Chair Ito and members of the House Committee on the Judiciary:

My name is Tracey Wiltgen, Executive Director of The Mediation Center of the Pacific (the Mediation Center). I am writing on behalf of the Mediation Center to respectfully request the Committee on Judiciary to **approve HB 625, HD1, including provision of \$35 as the surcharge fee on District Court cases and \$65 as the surcharge fee on Circuit and higher Court cases.** The Mediation Center supports HB 625 HD1, which amends HRS Section 605-7 to provide: 1) a minor change in the allocation formula under the statute; and 2) additional surcharge fees on various court filings in our Hawaii State Court system under the "Indigent Legal Assistance Fund" ("ILAF") set forth in HRS Section 605-7.

The Mediation Center is a 501(c)(3) not for profit corporation whose mission is to provide high quality mediation and dispute resolution services that are affordable and accessible. The Mediation Center is the only dispute resolution option for individuals in the low-income population to assist them in resolving disputes quickly and creatively. To increase access to justice for Hawaii's people, the Mediation Center works closely with other low-income legal service providers. Through these partnerships, more people are assisted in a variety of critical areas such as landlord/tenant disputes, custody and visitation matters, and family conflicts involving teens or aging parents. Successfully mediated agreements can mean the difference between being homeless and working out a payment plan to save a family home; losing precious time with one's children or developing a co-parenting plan with an ex-spouse; severing family ties or building relationships to support troubled teens or aging parents. These critical outcomes are the result of partnerships developed between the low-income legal service providers. **Support of the proposed amendments to the ILAF statute will ensure the continued growth and development of the partnerships between the legal service providers, which will ultimately benefit even more of Hawaii's growing low-income population.**

A primary example of the commitment of the legal service providers to work closely together to better serve Hawaii's needy is the language in the bill itself to amend the allocations formula. Together, the current recipients of funds under HRS Section 605-7 and other providers such as the Mediation Center brainstormed and unanimously agreed on the provisions of HB 625. To reach consensus, the providers discussed community needs, working relationships and the needs of the respective organizations to effectively provide services to the community. Through those discussions, everyone agreed on the proposed changes to the ILAF allocation formula. The positive working relationship and ability of the providers to agree on a potentially sensitive issue of funding is significant in light of the current financial crisis. Rather than compete for limited funds, all providers recognize the importance of working closely together to share resources and strengths to meet the growing need for services. **Approval of HB 625 will provide additional funding for the legal service providers and support the positive working relationship that is needed to increase access to Justice in Hawai'i.**

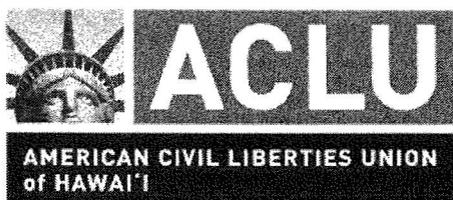
Court filing fees, even with the proposed surcharge increase, constitute only a small percentage of the total cost of litigation. The increase does however substantially increase funds for qualifying low-income service providers. Existing exemptions for small claims cases, TROs, protective orders, *in forma pauperis* cases, and County and State governmental filings will remain in effect under HB 625. Thus, **approval of HB625 will have a negligible impact on court users while providing a significant benefit to individuals in the low-income population through increased access to justice.**

Your favorable approval of HB 625 HD1 is essential. Passage of this bill will be a major step toward efforts to achieve access to justice for all.

Sincerely,

Tracey S. Wiltgen

Tracey S. Wiltgen
Executive Director



VIA EMAIL: JUDtestimony@Capitol.hawaii.gov

Committee: Committee on Judiciary
Hearing Date/Time: Tuesday, February 3, 2009, 2:00 p.m.
Place: State Capitol, Conference Room 325
Re: *Testimony of the ACLU of Hawaii in Support of H.B. 625, Relating to Surcharges for Indigent Legal Services*

Dear Chair Karamatsu and Members of the Committee on Judiciary:

The American Civil Liberties Union of Hawaii ("ACLU of Hawaii") writes in support of H.B.625, which seeks to increase the initial filing fee for civil actions.

In its 2007 report, the Access to Justice Hui found that **only 1 in 5 low- and moderate-income residents of Hawaii have their serious legal needs met because legal services providers lack adequate funding and attorneys.** H.B. 625 will increase the ability of legal service organizations to provide essential services to our most vulnerable populations and help to ensure that more people in Hawaii are able to secure access to justice.

The ACLU of Hawaii was one of the organizations represented in the Access to Justice Hui, and is currently serving as part of the Consortium of Hawaii Legal Service Providers. Please note that the ACLU of Hawaii does not accept government funds and therefore is not a direct beneficiary of the surcharge in H.B. 625.

The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawaii is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawaii has been serving Hawaii for over 40 years.

Thank you for this opportunity to testify.

Sincerely,

Laurie A. Temple
Staff Attorney
ACLU of Hawaii

American Civil Liberties Union of Hawai'i
P.O. Box 3410
Honolulu, Hawai'i 96801
T: 808.522-5900
F: 808.522-5909
E: office@acluhawaii.org
www.acluhawaii.org

TESTIMONY TO THE TWENTY-FIFTH STATE LEGISLATURE, 2009 SESSION

To: House Committee on Judiciary

From: Hawaii Disability Rights Center

Re: House Bill 625
Relating to Surcharges For Indigent Legal Services

Hearing: February 3, 2009 2:00 PM
Conference Room 325 , State Capitol

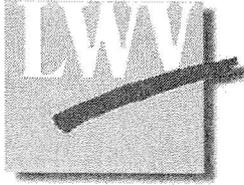
Members of the Committee on Judiciary:

Thank you for the opportunity to provide testimony supporting House Bill 625, Relating to Surcharges For Indigent Legal Services.

We are the agency mandated by federal law and designated by Executive Order to protect and advocate for the human, civil and legal rights of Hawaii's estimated 180,000 people with disabilities.

We support this bill because it will provide increased funds to organizations that serve a vital interest in our state. We are a member of the Access to Justice Hui and are well aware of the civil legal needs and barriers to low and moderate income people in Hawaii. As a member, we are supportive of the recommendations which came from a report which was done to increase access to justice in Hawaii. An increase in the surcharge on filing fees is a reasonable means to provide critical finding to already under funded legal services programs. For those reasons we support this bill.

Thank you for the opportunity to provide testimony in support of this bill.



THE LEAGUE OF WOMEN VOTERS OF HAWAII

TESTIMONY HB 625 RELATING TO SURCHARGE FOR INDIGENT LEGAL SERVICES

Committee on Judiciary
Rep. Jon Riki Karamatsu, Chair
Rep. Ken Ito, Vice Chair
Tuesday, February 03, 2009 2:00 p.m.
Conference Room 325

Testifier: Jean Aoki, LWWHI Legislative Liason

Chair Karamatsu, Vice Chair Ito, members of the Committee on Judiciary,

The League of Women Voters opposes HB 625 which tries to address the need for more funds to help the indigent get access to legal services that they can not presently afford.

We support wholeheartedly the objectives of the bill. We have always supported ways of increasing aid to those who cannot afford to access legal services.

Our objection to HB 625 lies in the unfairness of levying surcharges on only a small segment of our residents. We cannot understand why only those who engage in certain civil actions in court should have to contribute to help the indigent acquire assistance for legal advice and services they cannot afford. This should be a shared obligation for all of us. We do not expect only parents who have children in public schools to pay for their children's education. We all share the costs because we know that the benefits of educating all children accrue to all of us. The same can be said for helping those who cannot afford legal services.

Not all of the people who have to resort to the courts for justice can really afford the high cost of challenging another party for redress of their grievances. As we add more costs to citizens who need to rely on our courts to iron out their civil differences, more and more of them will either not be able to afford the costs, or will be discouraged from seeking assistance which they feel costs too much.

This is one of the instances when taxpayer money should be used to help some of those in need.

Thank you for this opportunity to testify on HB625.

MARK T. SHKLOV
Attorney at Law
A Limited Liability Law Company

American Savings Bank Tower
1001 Bishop Street, Suite 988
Honolulu, Hawaii 96813

Telephone: (808) 585-8858
Fax: (808) 599-4198
E-mail: mark@shklovlaw.com

TESTIMONY OF MARK T. SHKLOV

BEFORE THE HOUSE JUDICIARY COMMITTEE
TUESDAY, FEBRUARY 3, 2009 AT 2:00 P.M.

HOUSE BILL 625
SURCHARGE FOR INDIGENT LEGAL SERVICES

Chairperson Karamatsu and Members of the Committee:

My name is Mark T. Shklov and I oppose House Bill 625 (Surcharge of Indigent Legal Services).

I am an attorney and I have been licensed to practice law in the State of Hawaii since 1976. I worked for Legal Aid as a volunteer law student while in law school. I have supported the ACLU in time and money. I have contributed money to Volunteer Legal Services Hawaii through the Hawaii State Bar Association. I have represented indigent persons and have provided legal services through Volunteer Legal Services Hawaii. I have provided many hours of pro bono professional legal services.

I also represent many small businesses in Hawaii who file lawsuits. It is unfair and unreasonable to burden these businesses, which support the economy and employ citizens of our State, with another tax and penalty on what should be their right of access to the Courts of the State of Hawaii. This Bill, which adds a higher surcharge for filing complaints and appeals, was obviously drafted to benefit certain indigent service providers who spend the most money. This is not the best way to allocate scarce financial resources.

Legal Services for the poor are needed. Indigent Legal Services should be supported. However, a surcharge is not the way to do it. The solution is with lawyers, the Bar and the Supreme Court. Lawyers should provide legal assistance to those who cannot afford their services as part of their professional franchise. That is how it was done in the past and this tradition is not dead, however, it needs to be encouraged. This Bill lets the legal profession off the hook and actually works to deny high quality legal services of those lawyers who are in private practice to those in need.

Thank you for this opportunity to express my view.

LAW OFFICE OF GEORGE J. ZWEIBEL
45-3590A Mamane Street
Honoka'a, Hawai'i 96727
(808) 775-1087
(808) 775-1089 (facsimile)

House Committee on Judiciary
Hearing: Tuesday, February 3, 2009
2:00 p.m.

IN SUPPORT OF HB 625

Chair Karamatsu, Vice Chair Ito, and Committee Members:

My name is George Zweibel. I am honored to provide testimony in strong support of HB 625. I am a private attorney and am President of the Board of Directors of the Legal Aid Society of Hawai'i, and strongly believe that an increase in the surcharge for indigent legal services would greatly increase the ability of Legal Aid to provide needed services to low-income Hawai'i residents.

In November 2007, the Access to Justice Hui released its report entitled Achieving Access to Justice for Hawai'i's People, which includes The Community Wide Action Plan: Ten Action Steps to Increase Access to Justice in Hawai'i by 2010 and The 2007 Assessment of Civil Legal needs and Barriers of Low- and Moderate-Income People in Hawai'i. The Access to Justice Hui found that only one in five low and moderate-income Hawai'i residents have their civil legal needs met, and that legal service providers are able to help only one in three of those who seek their assistance.

A top priority among the actions recommended by the Hui is increasing overall funding to support the delivery of civil legal services for low-income Hawai'i residents. The specific recommendations include increasing the amounts raised through the court filing fee surcharge for indigent legal services. The Hui found that an increase in the current filing fee surcharge as well as expansion to cases where it does not currently apply (such as District Court cases not involving summary possession) would generate substantial additional revenue for providing civil legal services for low-income people.

HB 625 would increase funding for indigent civil legal services by increasing the surcharge on initial court filing fees in civil actions. Specifically, it would:

- Increase the surcharge from \$25 to \$65 in Circuit Court and Court of Appeal filings and increase it from \$10 to \$35 in District Court filings.
- Expand the surcharge in District Court filings from just summary possession to all cases, including collection cases.
- Continue to exempt small claims cases, petitions for restraining orders, petitions for temporary restraining orders, cases in which the petitioner is proceeding in forma pauperis and all state and county filings.

- Adjust the distribution formula by providing an equal share of 30% of the collection to each legal services entity eligible to receiving funding. The remaining 70% would continue to be distributed pro rata based on the portion of their budget spent on direct legal services to indigent clients.

Thus, HB 625 would raise much needed funds to provide legal assistance to families and individuals who face the loss of a critical basic need, such as housing, family stability and safety, income, and protection from fraud and abuse.

In conclusion, additional funding from all sources for civil legal services for the poor is urgently needed. Enactment of HB 625 – with appropriate filing fee surcharges in District Court, Circuit Court and appeal cases – would represent a major step toward reducing the present funding shortfall.

Thank you for the opportunity to testify on this important issue.



Domestic Violence Action Center

Formerly the *Domestic Violence Clearinghouse and Legal Hotline*

PO Box 3198 ● Honolulu, Hawaii 96801 ● Ph:808/534-0040 ● Fax:808/531-7228

TO: Chair Jon Riki Karamatsu
Vice Chair Ken Ito
Members of the Committee

FR: Nanci Kreidman, M.A.
Chief Executive Officer

RE: H.B. 625

Aloha. Please accept this testimony in support of H.B. 625. The Indigent Legal Assistance Fund, modeled initially after strategies across the country to support the crucial work of public interest providers of legal services, is key to sustain our community's programs.

The filing fee surcharge which is assessed at the time of court filing has not increased for ten years. The cost of delivering services, by each of the small corporations endeavoring to meet community needs, has increased exponentially. It is our expectation that demand will increase.

Although we do not rely exclusively on the funds collected through the ILAF, it is a funding source that is not reliant on general funds or state appropriations. The legal service providers maintain a close working relationship in an effort to examine community needs, best practices, and make a meaningful difference to our low income communities. This is evidenced by our collective participation in the Access to Justice Commission and the Hawaii Consortium of Legal Services Providers.

There is no way we can, in actuality, meet the needs of our low income community, but it would be devastating to suffer any setbacks to the progress we have seen in the creative collaborative work done on their behalf.

Thank you for inviting community comment on this important measure. We encourage your favorable action on H.B. 625.

TO: The Honorable Jon Riki Karamatsu, Chair
The Honorable Ken Ito, Vice Chair and
The Honorable members of the House Committee on Judiciary

FROM: Naomi C. Fujimoto

DATE: February 2, 2009

RE: H.B. 625 Relating to Surcharge for Indigent Legal Services

Thank you for this opportunity to testify in strong support of H.B. 625. My name is Naomi C. Fujimoto and I am a member of the Board of Directors of the Legal Aid Society of Hawaii.

We are all aware that current tough economic times have resulted in an increase in our poverty stricken population. Unfortunately, this has also resulted in a greater portion of our population who are unable to obtain needed legal assistance. The 2007 Access to Justice Hui statewide assessment of civil legal needs of low and moderate income residents of Hawaii found that only 1 in 5 low and moderate income residents of Hawaii have their legal needs met and legal service providers are able to assist only 1 in 3 people seeking assistance. The cost of this high level of unmet civil legal needs is reflected not just in a dollar amount to specific individuals but also in increased adverse effects to and instability in our families and communities.

During these very difficult times, we need to rely even more on public-private partnerships to address the fundamental needs of our community. The bill provides for a modest increase in the existing surcharge for funding indigent legal services and an expansion of the surcharge to apply to all district court cases while continuing to exempt small claims cases, petitions for restraining orders, petition for temporary restraining orders, cases in which the petitioner is proceeding in forma pauperis and all state and county filings. The surcharge would fund a number of different providers of civil legal services to low income residents. Current recipients of the funds are the Domestic Violence Action Center, Hawaii Disability Rights Center, Legal Aid Society of Hawaii, Hawaii Immigrant Justice Center (formerly known as Na Loio Immigrant Rights and Public Interest Legal Center, Native Hawaiian Legal Corporation, University of Hawaii Elder Law Program and Volunteer Legal Services Hawaii.

I believe that the measures provided in this bill will significantly increase the ability of civil legal service providers such as the Legal Aid Society of Hawaii to provide much needed assistance to our clients. Therefore, I respectfully urge you to support and pass H.B. 625. Thank you.