



Collection Law Section

Chair:
Steven Guttman

Vice Chair:
WilliamJ. Plum

Reply to:

STEVEN GUTTMAN, CHAIR
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February 3, 2009

Representative Jon Riki Karamatsu, Chair
and Fellow Committee Members
House Judiciary Committee
Hawaii State Capital

RE: HB 625 INCREASING FEES TO FUND INDIGENT LEGAL SERVICES

Dear Chair and Committee Members:

The Collection Law Section of the Hawaii State Bar Association¹ urges you to oppose the increases in the filing fees/surcharges proposed under HB 625 and carefully consider the impact and nature of this proposal. Under HB 625, as originally proposed, surcharge fees in the District Court could go up 350% and the surcharge would be extended to a new class of lawsuit comprising annually of approximately 16,000 cases (based on last FY reported by the Judiciary). Currently, in the District Court, only summary possession cases pay the fee (approximately 2,400 annually based on last FY reported by the Judiciary). In the Circuit Court and the Intermediate Court of Appeals, the surcharge would increase by 260%. All told, these are big increases both in dollar terms and in the number of cases the fee is going to be levied upon.

Furthermore, if a person looks closely, the surcharge is not a one time fee, but a fee that can be charged multiple times in the same case. This is because the surcharge applies to any filing of a cross-claim, counter-claim and third party complaint. Should any of those events occur in a case, and they often do, the surcharge is again collected. In Circuit Court, it is common for the case to contain multiple parties and multiple claims of this nature. For example, if only the complaint and four other claims are filed, the total of "surcharge fees" will equal the filing fee of \$250 collected by the Judiciary for accepting the case.

¹ The opinions of the Collection Law Section are not necessarily those of the Hawaii State Bar Association proper.

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Additionally, this surcharge is in essence, a tax on a class of individuals who are trying to get access to the state courts and justice. In other words, a relatively small number of citizens end up paying a large share of the operational budgets for non-profit legal services groups. To compound matters, since most citizens do not know presently whether they will need to file a lawsuit, opposition is less likely to form. We ask that you resist the temptation to levy these additional fees simply because it is easy, and instead, ask questions about the size of the increase and about the types of specific cases that the legal services groups spend the funds received on.

Lastly, HB 625 contains no oversight as to how the money will be spent.

Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Bill Plum".

William J. Plum

\hb625-1.wjp

karamatsu3-Leanne

From: Allan Okubo [ayokubo@hotmail.com]
Sent: Tuesday, February 03, 2009 11:46 AM
To: JUDtestimony
Subject: HB 625 - Surcharge for Indigent Legal Services

House Judiciary Committee
State Capitol
Honolulu, Hawaii 96813

Re: HB 625 - Surcharge for Indigent Legal Services

To Chairman Karamatsu and Members of the Committee:

Written Testimony From: ALLAN Y. OKUBO, ESQ.

Date of Hearing: February 3, 2009

Re: HB 625

To: Judiciary Committee

NUMBER OF COPIES REQUESTED: Two (2) copies to Room 325 in the State
Capitol

I am an attorney licensed to practice in the State of Hawaii and have been practicing for over 30 years. I handle mostly District Court cases and strongly oppose the passage of this bill, as I did last year when another version was also proposed.

Granted there is a need for legal assistance for the indigent, but to "tax" a specific segment of the population to fund their programs is highly discriminatory. This would mean that only people who have a legal issue before the Court system would fund their programs while the vast majority of the population of the State would get away scott free. The majority of the people that use the court system are doing so because they have a need to collect money and to "tax" them to use the court system is another burden on them.

These agencies receive funding from the State via the State funding procedures for special needs groups. This bill would give them more funding than the other groups who are not part of this legislation and would allow them to essentially "double dip" for special needs funds, one from the State and one from the pockets of the people using the court systems.

The filing fees for the District Courts have risen from \$25.00, to \$75.00, to \$100.00, then to the present sum of \$125.00. A surcharge of \$10.00 was tacked on to Summary Possession cases, which goes to the special needs groups such as Legal Aid Society etal. So they are already receiving \$10.00 per Summary Possession case, and now they want more. When is enough, enough? The increase of the filing fees from \$25.00 to the present sum of \$125.00 has prevented many people from seeking legal justice as they cannot afford going to court. To subject them to more "tax" would be tantamount to telling the general public that the courts are only for big business or the rich. That would be sending the wrong message to those that need legal relief. This is nothing more than a "tax" disguised as an assessment, and if it is a "tax" then "tax" everyone not a very small segment of the population. Fair is fair, and this is not fair or just.

Please consider this testimony and I respectfully request that this bill not pass.

Sincerely,
ALLAN Y. OKUBO

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Dear Committee on Judiciary,

HB 625, RELATING TO SURCHARGE FOR INDIGENT LEGAL SERVICES.

Date: Tuesday, February 3, 2009

Time: 2:00 p.m.

POSITION: NOT IN SUPPORT

The current filing fees in District and Circuit Courts are \$120.00 and \$275.00 respectively. To increase the indigent fee from \$10.00 to \$35.00 in District Court and from \$25.00 to \$65.00 in Circuit Court will place undue burden on those utilizing the court system to resolve legal disputes.

These fees will be passed on to one of the two parties involved in the matter and that person may be the one who least can afford the additional costs. Given the current state of our economy, now may not be the time to increase these fees.

I humbly urge you to not support this legislation at this time.

Please feel free to contact me should you have any questions or concerns at (808) 244-2485 or via my email at keith.regan@creditassoc.com.

Best regards,

A handwritten signature in black ink, appearing to read "keith regan", is written over the typed name and title.

Keith A. Regan
President

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