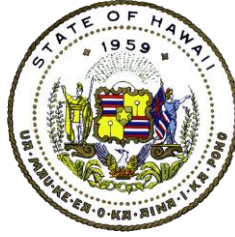


DAVID Y. IGE  
GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**  
919 Ala Moana Boulevard, 4th Floor  
Honolulu, Hawaii 96814

**NOLAN P. ESPINDA**  
DIRECTOR

**Cathy Ross**  
DEPUTY DIRECTOR  
ADMINISTRATION

DEPUTY DIRECTOR  
CORRECTIONS

**Shawn H. Tsuha**  
DEPUTY DIRECTOR  
LAW ENFORCEMENT

No. \_\_\_\_\_

TESTIMONY ON HOUSE BILL 346, HOUSE DRAFT 1, SENATE DRAFT 1  
RELATING TO CIVIL PROCESS

Nolan P. Espinda, Director  
Department of Public Safety

Senate Committee on Ways and Means  
Senator Jill N. Tokuda, Chair  
Senator Ronald D. Kouchi, Vice Chair

Thursday, April 2, 2015, 9:00 AM  
State Capitol, Conference Room 211

Chair Tokuda, Vice Chair Kouchi, and Members of the Committee:

The Department of Public Safety (PSD) **supports the intent** of this bill, which seeks to set an equitable fee structure for the service of process in Hawaii. It has been over ten years since the fee structure has been examined and, since that time, the cost of doing business in Hawaii has increased. The current discussion on this measure at the Legislature will ensure that the due process rights of the respondents and the interests of the plaintiffs are satisfied and that the costs incurred by the service of legal documents are recovered by the process server.

Thank you for the opportunity to present this testimony.

# HAWAII FINANCIAL SERVICES ASSOCIATION

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

P.O. Box 4109

Honolulu, Hawaii 96812-4109

Telephone No.: (808) 521-8521

April 2, 2015

Sen. Jill N. Tokuda, Chair  
Sen. Ronald D. Kouchi, Vice Chair  
and members of the Senate Committee on Ways & Means  
Hawaii State Capitol  
Honolulu, Hawaii 96813

Re: **House Bill 346, H.D. 1, S.D. 1 (Civil Process)**  
**Decision Making Date/Time: Thursday, April 2, 2015, 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 offers comments and attaches a proposed Senate Draft 2 to this Bill.**

The purpose of this Bill is to increase the service of process fees.

Various stakeholders (interested parties) met earlier this week and reached an agreement regarding the amount of the fees in this Bill. Based on that agreement, a proposed S.D. 2 was prepared and is attached.

**Here are some of the highlights of the proposed S.D. 2:**

1. Currently there are two fee schedules for sheriffs, deputy sheriffs, police officers, serving or levying officers, and independent civil process servers. One is for District Courts (HRS Sec. 607-4(d)) in Section 1 of this Bill. There is a similar, but not identical, fee schedule in HRS Sec. 607-8(a) in Section 2 of this Bill. The proposed S.D. 2 creates only one fee schedule which will be in HRS Sec. 607-8(a) in Section 2 of this Bill. HRS Sec. 607-4(d) will now reference the fee schedule in HRS Sec. 607-8(a). See page 3, line 16.

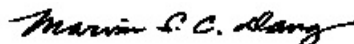
2. The fee for miles traveled would increase from 40 cents to 60 cents. See page 3, line 20.

3. Fee increases are provided in Section 2 for service of a civil summons, subpoena, subpoena duces tecum, other civil process, and garnishee summons. See page 5.

4. For serving an execution or other process for the collection of money, the dollar amount of the threshold that is used to calculate the fees is increased from \$1,000 to \$10,000. See page 6.

Separate from what is in the proposed S.D. 2, **there could be an issue with the effective date of this Bill as written.** See Section 5 on page 7. That Section states that this Bill takes effect on June 29, 2015. This date is presumably used because of the interplay between the effective date of this Bill and sunset date of Act 116 (2013) which is June 30, 2015. To avoid any retroactive issues if the Governor signs this Bill after June 29, 2015, we suggest that this Bill take effect either “upon its approval” or at a later date, and that this Bill also extend the sunset date of Act 116 to coincide with the effective date of this Bill.

Thank you for considering our testimony.



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

# A BILL FOR AN ACT

RELATING TO THE CIVIL PROCESS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1 SECTION 1. Section 607-4, Hawaii Revised Statutes, is  
2 amended by amending subsection (d) to read as follows:

3 "(d) Fees of sheriff, deputy sheriff, police officer, or  
4 independent civil process server from the department of public  
5 safety's list under section 353C-10~~e~~

6 ~~(1) For serving any criminal summons, warrant, attachment,~~  
7 ~~or other criminal process, \$30 effective July 1, 2001.~~  
8 ~~This fee is payable to a sheriff, deputy sheriff, or~~  
9 ~~police officer. Service of criminal summons, warrant,~~  
10 ~~attachment, or other criminal process shall be made~~  
11 ~~only by persons authorized to serve criminal summons.~~

12 ~~(2) For serving any civil summons, warrant, attachment, or~~  
13 ~~other civil process, [\$25] \$65 effective July 1,~~  
14 ~~[2001.] 2015.~~

15 ~~(3) For every copy of an attachment and inventory of the~~  
16 ~~property attached, served upon the defendant, [\$2.]~~  
17 ~~\$4.~~



1       ~~(4) For serving any execution, [12] 16 cents for every \$1~~  
2       ~~collected up to \$500, and [7] 10 cents for every \$1~~  
3       ~~over \$500.~~

4       ~~(5) For serving: subpoena, [\$25,] \$40, and subpoena duces~~  
5       ~~tecum or garnishee summons, [\$15] \$40 effective~~  
6       ~~July 1, [2001.] 2015.~~

7       ~~(6) For every mile of travel, more than one, in serving~~  
8       ~~any process, [40] 80 cents; provided that:~~

9       ~~(A) No allowance shall be made where the serving~~  
10       ~~individual uses a conveyance furnished the~~  
11       ~~serving individual by the State, or any political~~  
12       ~~or municipal subdivision thereof;~~

13       ~~(B) Where the serving individual serves more than one~~  
14       ~~person in the course of one trip, the serving~~  
15       ~~individual shall not charge, in the aggregate for~~  
16       ~~all services, more than the mileage for the~~  
17       ~~entire trip; and~~

18       ~~(C) As far as practicable, in order to minimize the~~  
19       ~~mileage fees for the service, the sheriff or~~  
20       ~~police chief of the serving police officers, or~~  
21       ~~independent civil process servers, where service~~



1 ~~of process is to be made upon an island other~~  
 2 ~~than that upon which is situated the court~~  
 3 ~~issuing the process, shall cause the process to~~  
 4 ~~be transmitted to the sheriff, deputy sheriff,~~  
 5 ~~the chief of police, a police officer, or an~~  
 6 ~~independent civil process server upon the island~~  
 7 ~~of service, who shall make the service upon~~  
 8 ~~receipt of the process, and the service shall be~~  
 9 ~~valid, notwithstanding that the process may not~~  
 10 ~~be addressed to the individual actually making~~  
 11 ~~the service or to the individual's superior.~~

12 ~~In lieu of any fee under this subsection, the fee may be an~~  
 13 ~~hourly rate of not less than [\$50] \$75 per hour agreed upon in~~  
 14 ~~advance between the party requesting the service and the~~  
 15 ~~sheriff, deputy sheriff, police officer, or independent civil~~  
 16 ~~process server performing the service]"~~

shall be as provided under section 607-8(a).

17 SECTION 2. Section 607-8, Hawaii Revised Statutes, is  
 18 amended by amending subsection (a) to read as follows:

19 "(a) For all necessary travel in making the service, per  
 20 mile for every mile more than one... [40] 60 cents provided that:

- 1           (1) No allowance shall be made where the serving  
2           individual uses a conveyance furnished the serving  
3           individual by the State, or any political or municipal  
4           subdivision thereof;
- 5           (2) Where the serving individual serves more than one  
6           person in the course of one trip, the serving  
7           individual shall not charge, in the aggregate for all  
8           services more than the mileage for the entire trip;  
9           and
- 10          (3) As far as practicable, in order to minimize the  
11          mileage fees for the service, the sheriff or chief of  
12          police of the serving police officers, or independent  
13          civil process server from the department of public  
14          safety's list under section 353C-10 shall cause the  
15          process to be transmitted to the sheriff, deputy  
16          sheriff, the chief of police, a police officer, or an  
17          independent civil process server upon the island of  
18          service who shall make the service upon receipt of the  
19          process; and the service shall be valid,  
20          notwithstanding that the process may not be addressed



1 to the individual actually making the service or to  
2 the individual's superior.

3 For serving criminal summons or any other criminal process  
4 except a subpoena, for each person served therewith

5 ..... \$30 effective July 1, 2001. Service of  
6 criminal summons or any other criminal process shall be made  
7 only by persons authorized to serve criminal summons.

, subpoena,  
subpoena  
duces tecum,

8 For serving civil summons ~~or~~ any other civil process,  
9 except [~~a subpoena or~~] a garnishee summons, for each person  
10 served therewith ..... [\$25] \$40 effective  
11 July 1, [~~2001-~~] 2015.

\$43

12 For serving: [~~subpoena, [for each person, \$25, and]~~  
13 ~~subpoena duces tecum, or~~] garnishee summons, for each  
14 person ..... [~~\$15~~] \$40 effective July 1,  
15 [~~2001-~~] 2015.

\$30

16 For returning as unserved after due and diligent search any  
17 process when it has been found that the person to be served has  
18 left the State ..... [\$5] \$10 effective July 1,  
19 [~~2001-~~] 2015.

20 For serving any execution or other process for the  
21 collection of money, for every dollar collected up



\$10,000

\$10,000

keep at 5 cents

keep at 2-1/2 cents

1 to [~~\$1,000~~] ..... [~~5~~] 9 cents

2 And for every dollar over [~~\$1,000~~]... [~~2-1/2~~] 5 cents.

3 All fees paid to any printer for publishing an  
4 advertisement of the sale of any property.

5 For every bill of sale ..... [~~\$2-~~] \$4.

6 For executing and acknowledging a deed pursuant to a  
7 sale of real estate to be paid by the grantee in the  
8 deed..... [~~\$8-~~] \$10.

9 For drawing any bond required by law..... [~~\$2-~~] \$4.

10 For serving writ of possession or restitution,  
11 putting any person entitled into the possession of  
12 premises, and removing a tenant pursuant to order of  
13 court..... [~~\$25-~~] \$40.

14 Together with all necessary expenses incurred by the  
15 individual serving the writ, incident to the eviction.

16 For selling any property on an order from the court other  
17 than an execution, the same allowance as for service and sales  
18 by execution.

19 The fees for service of executions, attachments, and  
20 collection of judgments, together with all costs incurred after  
21 judgment rendered, not included in the judgment, in all courts



1 of the State, shall be collected in addition to the sum directed  
2 to be levied and collected in the writ.

keep at \$50

3 In lieu of any fee under this subsection, the fee may be an  
4 hourly rate of not less than [~~\$50~~ \$75] per hour agreed upon in  
5 advance between the party requesting the service and the  
6 sheriff, deputy sheriff, police officer, or independent civil  
7 process server performing the service."

8 SECTION 3. This Act does not affect rights and duties that  
9 matured, penalties that were incurred, and proceedings that were  
10 begun before its effective date.

11 SECTION 4. Statutory material to be repealed is bracketed  
12 and stricken. New statutory material is underscored.

13 SECTION 5. This Act shall take effect on June 29, 2015;  
14 provided that the amendments made to sections 607-4(d) and 607-  
15 8(a), Hawaii Revised Statutes, under sections 1 and 2 of this  
16 Act, shall not be repealed when those sections are reenacted on  
17 June 30, 2015, pursuant to section 25 of Act 116, Session Laws  
18 of Hawaii 2013.



**Report Title:**

Service of Civil Process Fees

**Description:**

Increases service of civil process fees. (SD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*



April 1, 2015

TO:

Senator Jill N. Tokuda, Chair

Senator Ronald D. Kouchi, Vice Chair

And the Committee On Ways And Means

HB 346

Relating to the Civil Process Serving Fees

Notice of Hearing Thursday April 2, 2015

9:00 A.M., State Capital, Conference Room 211

By

Shane K. Ching Privatized Process Server

HB346 is a request to standardize and increase the fees imposed by legislation on Privatized Civil Process Servers in Hawaii. The current bill has set the standards and fee for service imposed on Civil Process Servers. This bill has limited the amount of fees that a Process Server may charge and was last evaluated as of the year 2001. I as both a Privatized Civil Process Server and a supporter of this bill am requesting sincere consideration of your support.

I am in agreement with draft stated in Richard Mitchell's testimony. Which states, mileage fees going from 40 cents to 60 cents a mile, fees for civil summons, subpoena, and subpoena duces tecum from \$25 to \$43, and garnishee summons from \$15 to \$30.

I am requesting for reconsideration in the standardization imposed and have full confidence in the Committee's decision of equality and fairness.

Thank You for the opportunity to comment on this bill

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [WAM Testimony](#)  
**Cc:** [cliffk66@hotmail.com](mailto:cliffk66@hotmail.com)  
**Subject:** Submitted testimony for HB346 on Apr 2, 2015 09:00AM  
**Date:** Tuesday, March 31, 2015 10:37:14 PM

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**HB346**

Submitted on: 3/31/2015

Testimony for WAM on Apr 2, 2015 09:00AM in Conference Room 211

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
cliff kunishima	Individual	Support	Yes

Comments: I am writing to you in support of the revised bill to raise process serving fees. As a full time process server, I support the raising of court summons and all subpoenas to \$43 and M.I.G.S. to \$30. I also support the raising of the mileage fee to \$.60 a mile. AS my only source of income, I am finding it very hard to make ends meet with the current pay scale. I would like the committee to remember that we get no health coverage an no retirement plans of any kind, and that we pay for all of our own gas an car upkeep ourselves. Thank you. Cliff I. Kunishima

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [WAM Testimony](#)  
**Cc:** [rkm1050@gmail.com](mailto:rkm1050@gmail.com)  
**Subject:** Submitted testimony for HB346 on Apr 2, 2015 09:00AM  
**Date:** Tuesday, March 31, 2015 9:25:12 PM  
**Attachments:** [HB346 \(Civil Process\) proposed SD2.pdf](#)

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## **HB346**

Submitted on: 3/31/2015

Testimony for WAM on Apr 2, 2015 09:00AM in Conference Room 211

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Richard K. Mitchell	Individual	Support	No

Comments: COMMITTEE ON WAYS AND MEANS Senator Jill N. Tokuda, Chair Senator Ronald D. Kouchi, Vice Chair Dear Senator (s), My name is Richard K. Mitchell and I have been a Civil Deputy Sheriff from 1991 till 2001 when the civil section was closed. I have been a Civil Process Server since then. I have been a Director for the Hawaii Deputy Sheriff's Association for the past 15yrs. I am in agreement for the changes/increase new fees of \$43 for serving civil summons, subpoena, duces tecum or any other civil process. I support the new fee of \$30 for serving garnishee summons for each person. I am also in support of changes in mileage fee to .60 cents per mile. I support all other proposed changes for H.B.346.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

# A BILL FOR AN ACT

RELATING TO THE CIVIL PROCESS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

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15 ~~(3) For every copy of an attachment and inventory of the~~  
16 ~~property attached, served upon the defendant, [\$2.]~~  
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16       ~~all services, more than the mileage for the~~  
17       ~~entire trip; and~~

18       ~~(C) As far as practicable, in order to minimize the~~  
19       ~~mileage fees for the service, the sheriff or~~  
20       ~~police chief of the serving police officers, or~~  
21       ~~independent civil process servers, where service~~



1 ~~of process is to be made upon an island other~~  
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 8 ~~receipt of the process, and the service shall be~~  
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12 ~~In lieu of any fee under this subsection, the fee may be an~~  
 13 ~~hourly rate of not less than [\$50] \$75 per hour agreed upon in~~  
 14 ~~advance between the party requesting the service and the~~  
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shall be as provided under section 607-8(a).

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13          civil process server from the department of public  
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17          independent civil process server upon the island of  
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19          process; and the service shall be valid,  
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, subpoena,  
subpoena  
duces tecum,

8 For serving civil summons ~~or~~ any other civil process,  
9 except [~~a subpoena or~~] a garnishee summons, for each person  
10 served therewith ..... [\$25] \$40 effective  
11 July 1, [~~2001-~~] 2015.

\$43

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14 person ..... [~~\$15~~] \$40 effective July 1,  
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21 collection of money, for every dollar collected up



\$10,000

\$10,000

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1 to [~~\$1,000~~] ..... [~~5~~] 9 cents

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4 advertisement of the sale of any property.

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7 sale of real estate to be paid by the grantee in the  
8 deed..... [~~\$8-~~] \$10.

9 For drawing any bond required by law..... [~~\$2-~~] \$4.

10 For serving writ of possession or restitution,  
11 putting any person entitled into the possession of  
12 premises, and removing a tenant pursuant to order of  
13 court..... [~~\$25-~~] \$40.

14 Together with all necessary expenses incurred by the  
15 individual serving the writ, incident to the eviction.

16 For selling any property on an order from the court other  
17 than an execution, the same allowance as for service and sales  
18 by execution.

19 The fees for service of executions, attachments, and  
20 collection of judgments, together with all costs incurred after  
21 judgment rendered, not included in the judgment, in all courts



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2 to be levied and collected in the writ.

keep at \$50

3 In lieu of any fee under this subsection, the fee may be an  
4 hourly rate of not less than [~~\$50~~ \$75] per hour agreed upon in  
5 advance between the party requesting the service and the  
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8 SECTION 3. This Act does not affect rights and duties that  
9 matured, penalties that were incurred, and proceedings that were  
10 begun before its effective date.

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12 and stricken. New statutory material is underscored.

13 SECTION 5. This Act shall take effect on June 29, 2015;  
14 provided that the amendments made to sections 607-4(d) and 607-  
15 8(a), Hawaii Revised Statutes, under sections 1 and 2 of this  
16 Act, shall not be repealed when those sections are reenacted on  
17 June 30, 2015, pursuant to section 25 of Act 116, Session Laws  
18 of Hawaii 2013.



**Report Title:**

Service of Civil Process Fees

**Description:**

Increases service of civil process fees. (SD1)

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