

**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-SECOND LEGISLATURE, 2024**

ON THE FOLLOWING MEASURE:

S.B. NO. 2130, RELATING TO UNCLAIMED PROPERTY.

BEFORE THE:

SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

DATE: Friday, February 16, 2024 **TIME:** 9:30 a.m.

LOCATION: State Capitol, Room 229 and Videoconference

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Randall S. Nishiyama, Deputy Attorney General

Chair Keohokalole and Members of the Committee:

The Department of the Attorney General provides the following comments on this bill.

Under this bill, before filing a report of abandoned property with the Director of Finance, if a holder of property is a financial organization, the holder is required to provide written notice to each person listed in the financial organization's records as potentially having an interest in the property, regardless of whether the person is an apparent owner of the property. The required notice must state that the financial organization has the property, and that custody of the property will be transferred to the State if the property is not claimed.

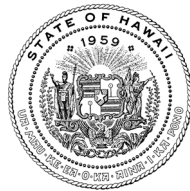
The amendment proposed in this bill that adds subsection (f) to section 523A-8, Hawaii Revised Statutes (page 3, line 16, to page 4, line 8), may be subject to challenge as violating the Supremacy Clause of the U.S. Constitution, which provides that the laws of the United States are declared to be supreme to those of the individual states. See U.S. Const. art. VI, cl. 2. The Gramm-Leach-Bliley Act (GLBA), 15 U.S.C. §§ 6801-6827, is a federal law that establishes requirements for financial institutions regarding the privacy and security of customer information. The GLBA prohibits financial institutions from disclosing nonpublic personal information about an account holder to non-affiliated third parties unless certain conditions are met. This means that financial institutions are generally not allowed to share information about an individual's account

with people who are not owners of the account or who do not have delegated authority over the account.

This prohibition serves to protect the privacy and security of consumers' financial data. Allowing unauthorized individuals access to such information could lead to various risks, including identity theft and unauthorized transactions. Violations of the GLBA can result in penalties and sanctions against the financial institutions involved. The amendment proposed in this bill may create situations where financial organizations complying with subsection (f) would violate the GLBA, presenting a Supremacy Clause issue.

Section 523A-8(e) already provides for notice to the apparent owner of the account, so, to prevent a violation of the Supremacy Clause, as well as any perception that the State legislature is requiring financial institutions to breach federal law, we recommend that proposed subsection (f) be deleted. With the deletion of subsection (f), this bill would not be necessary.

Thank you for the opportunity to testify.



JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LIEUTENANT GOVERNOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

LUIS P. SALAVERIA
DIRECTOR

SABRINA NASIR
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
Ka 'Oihana Mālama Mo'ohelu a Kālā
P.O. BOX 150
HONOLULU, HAWAII 96810-0150

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT

WRITTEN ONLY

TESTIMONY BY LUIS P. SALAVERIA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
ON
SENATE BILL NO. 2130

February 16, 2024
9:30 A.M.
Room 229 and Videoconference

RELATING TO UNCLAIMED PROPERTY

The Department of Budget and Finance (B&F) offers the following comments on Senate Bill No. 2130, which proposes that before filing a report of abandoned property with the Department of Budget and Finance, a financial organization must give notice to each person listed on the organization's records, regardless of whether the person is an apparent owner of the abandoned property.

B&F has concerns regarding the proposed amendment to section 523A-8 (f), HRS because there are existing federal consumer financial privacy laws that regulate the financial services industry. The provisions of this measure may conflict with those federal consumer financial privacy laws.

We are working with the Department of the Attorney General and defer to their clarifications on the matter.

Thank you for your consideration of our comments.

**TESTIMONY OF THE
COMMISSION TO PROMOTE UNIFORM LEGISLATION**

on SB 2130

RELATING TO UNCLAIMED PROPERTY (Before filing a report of abandoned property with the Department of Budget and Finance, requires a financial organization to provide to each person listed on the organization's records as potentially having an interest in the property notice that the financial organization has the property and that custody of the property will transfer to the State if the property is not claimed. Requires notice to be given to all persons listed in the financial organization's records, regardless of whether the person is an apparent owner of the property)

BEFORE THE SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

DATE: Friday, February 16, 2024, at 9:30 a.m.

PERSON TESTIFYING: PETER HAMASAKI
Commission to Promote Uniform Legislation

Chair Keohokalole, Vice-Chair Fukunaga and Members of the Committee on Commerce and Consumer Protection:

My name is Peter Hamasaki and I am a member of the State of Hawai'i Commission to Promote Uniform Legislation ("CPUL"). Thank you for this opportunity to submit these **comments** on Senate Bill No. 2130, which amends Hawaii's uniform unclaimed property act by requiring that certain notices be given by financial organizations.

The CPUL takes no position on the notification requirements proposed by SB 2130, but we understand that others have noted potential conflicts with federal law and will be submitting testimony regarding the same.

The CPUL notes that the Uniform Law Commission adopted a revised version of the Uniform Unclaimed Property Act in 2016:

<https://www.uniformlaws.org/committees/community-home?CommunityKey=4b7c796a-f158-47bc-b5b1-f3f9a6e404fa>. We would be pleased to share additional information about the revised act with the legislature and interested executive agencies.

Thank you very much for this opportunity to provide comments on this measure.



SanHi

GOVERNMENT STRATEGIES
A LIMITED LIABILITY LAW PARTNERSHIP

DATE: February 16, 2024

TO: Senator Jarrett Keohokalole
Chair, Committee on Commerce and Consumer Protection

FROM: Tiffany Yajima / Mihoko Ito

RE: **S.B. 2130 – Relating to Unclaimed Property**
Hearing Date: Friday, February 16, 2024 at 9:30 a.m.
Conference Room: 229

Dear Chair Keohokalole, Vice-Chair Fukunaga and Members of the Committee on Commerce and Consumer Protection:

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** expressing concerns on S.B. 2130, which requires a financial institution to provide notice to each person listed on record as potentially having an interest in property that the financial institution has the property, and that custody of the property will transfer to the State if it is not claimed. This measure would require that said notice be given prior to an institution's filing of the report of abandoned property with the Department of Budget and Finance.

HBA appreciates the intent of this bill but feels that this is unnecessary and duplicative of processes already in place in financial institutions. HBA is concerned that this measure creates privacy issues for financial institutions and violates the Gramm-Leach-Bliley Act (GLBA). The GLBA regulates the sharing of "non-public personal information" with non-affiliated third parties and requires that banks maintain customer confidentiality with respect to personal information. This measure would require financial institutions to disclose this confidential information to someone who does not have an *actual* ownership interest in an account but, rather, to someone who only has a *potential* interest in the account.

In addition, not only would financial institutions not have authorization to release this private information to anyone with a potential interest in the account, financial institutions also would not necessarily have information on who might "potentially" have an interest in property.

Because a process is already in place to notify apparent owners of property of a dormant financial account, HBA feels that this measure is unnecessary.

Thank you for the opportunity to submit these comments.



Testimony to the Senate Committee on Commerce & Consumer Protection
Tuesday, February 13, 2024, at 9:30 AM
Conference Room 229

Comments on SB 2130, Relating to Unclaimed Property

To: The Honorable Jarrett Keohokalole, Chair
The Honorable Carol Fukunaga, 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 2130, Relating to Unclaimed Property. This bill requires a financial organization to provide to each person listed on the organization's records as potentially having an interest in the property notice that the financial organization has the property and that custody of the property will transfer to the State if the property is not claimed, and requires notice to be given to all persons listed in the financial organization's records, regardless of whether the person is an apparent owner of the property.

While we understand the intent of this bill is to ensure that proper notification takes place when a financial account goes dormant, we feel that this is duplicative of the current law. Financial institutions are already required to notify account holders of an account's dormancy. Further, this bill requires notification of anyone possibly "having an interest in the property", but a financial institution would not have any information beyond that of the holder of the account.

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