



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

February 5, 2025

The Honorable David A. Tarnas, Chair
The Honorable Mahina Poepoe, Vice Chair
Members of the House Committee on Judiciary and Hawaiian Affairs

Hearing Date: February 7, 2025
Hearing Time: 2:05pm
Hearing Place: Hawaii State Capitol, Conference Room 325

Re: HB 147 Relating to Attachment and Execution of Real Property

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 HB 147.

HB 147 increases the amount of the exemption from attachment or execution of real property from \$30,000 to \$90,000 for properties owned by the defendant who is either the head of a family or an individual sixty-five years of age or older and for properties owned by the defendant who is a person, this amount increases from \$20,000 to \$60,000.

The MBAH agrees that an increase in the real property exemption amount from attachment and execution is warranted given it has not increased since 1978. The Collection Law Section of the Hawaii State Bar Association suggested an exemption amount of \$50,000 for a similar bill during the 2024 legislative session. The MBAH feels that the \$50,000 amount suggested by the Collection Law Section of the Hawaii State Bar Association is reasonable.

The bill does not address whether the real property is an owner-occupied residential property. This means the defendant may exempt residential investment properties as well as commercial properties.

The bill may have unintended consequences to borrowers in Hawaii. It may require lenders to tighten their underwriting guidelines to mitigate this potential added loss. Lenders lend monies with the expectation 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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February 7, 2025

Rep. David A. Tarnas, Chair
Rep. Mahina Poepoe, Vice Chair
and members of the House Committee on Judiciary & Hawaiian Affairs
Hawaii State Capitol
Honolulu, Hawaii 96813

Re: **H.B. 147 (Attachment and Execution of Real Property)**
Hearing Date/Time: Friday, February 7, 2025, 2:05 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 increases the real property exemption amount for attachment or execution.

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.

Currently the real property exemption amounts in the statute (HRS Sec. 651-92) are either \$30,000 (for a head of a family or an individual 62 years of age or older) or \$20,000 (for any other person). This Bill would increase those amounts to \$90,000 and \$60,000 respectively.

Here are some policy concerns with this Bill as drafted:

1. We understand that this exemption in the statute is referred by some as a “homestead exemption”. We agree that should be the purpose and effect of this exemption.

However, the existing statute doesn’t specifically state that the real property must be an owner-occupied residential property. Nor do the revisions in this Bill address this issue. Without clarification, a debtor could exempt an interest in all types of real properties and in multiple real properties which are not the debtor’s primary residence, including in an investment property, in a commercial property, or in a vacant property.

2. If the intent is that the exemption is a “homestead exemption”, there shouldn’t be two different exemptions in the statute (\$30,000 or \$20,000). There should only be one exemption for one amount on one owner-occupied residential property.
3. Neither the existing statute nor this Bill limits the number of times that a debtor can use the exemption. It should be used only once.
4. While it might be timely to increase the exemption from \$30,000 and from \$20,000, there are implications that need to be considered regarding the dollar amount of an increase. There is an interplay between the exemptions in the federal bankruptcy law and the exemption in the

Hawaii law which should be considered. And perhaps any new exemption amount should be at the lower end of the \$60,000 to \$90,000 range proposed in this Bill.

5. 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:

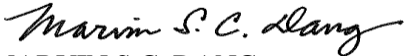
"restricting collection activities leads to a decrease in access to credit and to a deterioration in indicators of financial health. . . . The decrease in access to credit is stronger for borrowers with low credit scores, but is felt across the credit spectrum."

Discussion on these policy issues is needed among the stakeholders.

If your Committee is inclined to pass this Bill, this Bill should be amended 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 blank amounts for the dollar amounts; 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: 2/7/2025

TO: Representative David Tarnas
Chair, Committee on Judiciary and Hawaiian Affairs

FROM: Tiffany Yajima / Mihoko Ito

RE: **H.B. 147 – Relating to Attachment and Execution of Real Property**
Hearing Date: Friday, February 7, 2025 at 2:05 p.m.
Conference Room: 325

Dear Chair Tarnas, Vice-Chair Poepoe, and Members of the Committee on Judiciary and Hawaiian Affairs:

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 proposes to increase the real property exemption amount for attachment or execution of real property. HBA is concerned that this measure would significantly increase the amount of debt a debtor is allowed to forgive on real property with a fair market value of up to \$90,000 in equity for heads of household or for individuals over 65, and up to \$60,000 in equity 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.

In addition, if the attachment and execution thresholds are increased, a larger amount of a debtor's property can be seized or sold to satisfy debts. However, when the exemption limit on real property is increased, the owner retains a greater portion of their property's value. Any increase in the real property exemption would allow the owner to retain a greater portion of their property's value but would result in less money available for unsecured creditors.

HBA would suggest that further discussion is warranted before increasing the exemption amount and 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.



Testimony to the House Committee on Judiciary
Friday, February 7, 2025
Conference Room 325

Comments Regarding HB 147, Relating to Attachment and Execution of Real Property

To: The Honorable David Tarnas, Chair
The Honorable Mahina Poepoe, 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 45 Hawaii credit unions, representing over 877,000 credit union members across the state.

HCUL offers the following comments regarding HB 147. This bill would increase the amount of interest in real property that is exempt from attachment and execution.

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.



Collection Law Section

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Vice Chair:
William J. Plum

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Reply to: **KARYN A. DOI, CHAIR**
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February 6, 2025

Re: H.B. 147 (Relating To Attachment and Execution of Real Property)
Hearing: February 7, 2025 2:05 p.m.
Testimony in Support

Dear Chair David A. Tarnas, Vice Chair Mahina Poepoe, and Committee Members:

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

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

Thank you.

/S/ William J. Plum
WILLIAM J. PLUM
Vice Chair
The Collection Law Section

** The comments and recommendations submitted reflect the viewpoint of the Collection Law Section of the Hawaii State Bar Association only. This viewpoint has not been reviewed or approved by the HSBA Board of Directors.*