



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
KA 'OIHANA O KA LOIO KUHINA  
THIRTY-THIRD LEGISLATURE, 2026**

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**LATE**

**ON THE FOLLOWING MEASURE:**

S.B. NO. 2444, RELATING TO ATTACHMENT AND EXECUTION OF REAL PROPERTY.

**BEFORE THE:**

SENATE COMMITTEE ON JUDICIARY

**DATE:** Friday, February 6, 2026

**TIME:** 9:00 a.m.

**LOCATION:** State Capitol, Room 016

**TESTIFIER(S):** Anne E. Lopez, Attorney General, or  
Ruth Oh, Deputy Attorney General

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Chair Rhoads and Members of the Committee:

The Department of the Attorney General (Department) respectfully offers the following comments.

The bill increases the real property exemption from attachment or execution under section 651-92, Hawaii Revised Statutes (HRS), by raising the maximum exempt fair market value of a defendant's interest in one parcel of real property from \$20,000 and \$30,000 to \$150,000. The bill further provides that exemption claims made before January 1, 2027, are "deemed to be amended" on that date to reflect the increased exemption amount, subject to creditor-rights limitations.

Section 3 of the bill includes a retroactive "deemed amended" clause that applies the increased exemption amounts to claims made before January 1, 2027 (page 3, line 21, through page 4, line 6). The clause includes a proviso stating that the increase applies only "to the extent that the increase does not impair or defeat the right of any creditor who has executed upon the real property" before January 1, 2027.

The Department recognizes that the proviso is intended to preserve creditor rights. However, the Department is concerned that the proviso is too vague to provide predictable guidance or to prevent litigation because the bill does not define terms that control whether the increased exemption applies.

In particular, the bill does not define what constitutes a "claim of exemption" under this section (page 3, line 20), what it means for a creditor to have "executed upon" the real property (page 4, lines 4-5), and what it means to "impair or defeat" creditor rights (page 4, line 4). Because these terms are undefined, courts may be required to resolve disputes on a case-by-case basis, potentially resulting in inconsistent outcomes and increased litigation.

The Department further notes that narrowing and defining the proviso may reduce ambiguity, but may also increase the likelihood of legal challenges based on retroactive impairment of creditor enforcement rights, including under the Contracts Clause of the United States and Hawaii Constitution (U.S. Const. art. I, § 10; Haw. Const. art. I, § 10).

To reduce uncertainty and potential constitutional concerns, the Department recommends not amending the "deemed amended" clause on page 3, line 20, through page 4, line 6.

Thank you for the opportunity to testify.



**SanHi**

GOVERNMENT STRATEGIES

A LIMITED LIABILITY LAW PARTNERSHIP

DATE: 2/4/2026

TO: Senator Karl Rhoads  
Chair, Committee on Judiciary

FROM: Mihoko Ito / Tiffany Yajima

RE: **SB 2444 – Relating to Attachment and Execution of Real Property**  
**Hearing Date: Friday, February 6, 2026 at 9:00 a.m.**  
**Conference Room: 016**

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Dear Chair Rhoads, Vice-Chair Gabbard, and Members of the Committee on Judiciary:

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 \$150,000 in equity for heads of household or for individuals over 65, and up to \$150,000 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.



# Collection Law Section

Reply to: KARYN A. DOI, CHAIR  
222 MERCHANT ST.  
HONOLULU, HAWAII 96813  
TELEPHONE: (808) 538-1921  
FAX: (808) 523-9585  
E-MAIL: karyn@leu-okuda.com

Chair:  
Karyn A. Doi

Vice Chair:  
William J. Plum

Secretary:  
Charles Prather

Treasurer:  
Justin Scott Moyer

February 5, 2026

Directors:  
Marvin S.C. Dang  
Karyn A. Doi  
Steven Guttman  
Christopher Shea Goodwin  
Allison Mizuo Lee  
Justin Scott Moyer  
Robert Park  
William J. Plum  
Charles Prather

Re: **H.B. 147 (Relating To Attachment and Execution of Real Property)**  
**Hearing: February 6, 2026 9:00 a.m.**  
**Testimony in Opposition / Comment**

Dear Chair Senator Karl Rhoads, Vice Chair Senator Mike Gabbard, 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 (flat amount) 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.*



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

**LATE**

February 5, 2026

The Honorable Karl Rhoads, Chair  
The Honorable Mike Gabbard, Vice Chair  
Members of the Senate Committee on Judiciary

Hearing Date: February 6, 2026  
Hearing Time: 9:00am  
Hearing Place: Hawaii State Capitol, Conference Room 16

Re: SB 2444 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 SB 2444.

SB 2444 increases the amount of the exemption from attachment or execution of real property from \$30,000 to \$150,000 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 \$150,000.

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 2025 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

P.O. Box 4109

Honolulu, Hawaii 96812-4109

Telephone No.: (808) 521-8521

**LATE**

February 6, 2026

Senator Karl Rhoads, Chair  
Senator Mike Gabbard, Vice Chair  
and members of the House Committee on Judiciary & Hawaiian Affairs  
Hawaii State Capitol  
Honolulu, Hawaii 96813

Re: **S.B. 2444 (Attachment and Execution of Real Property)**  
**Hearing Date/Time: Friday, February 6, 2026, 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** 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 65 years of age or older) or \$20,000 (for any other person). This Bill would increase those amounts to \$150,000.

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 who is the “head of a family” or over 65 years of age or “any other person” could exempt an interest in any type of real property, including in an investment property.

2. 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.
3. 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 the new exemption amount should be \$50,000.00.**
4. 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:

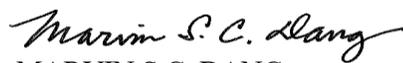
*"restricting collection activities leads to a decrease in access to credit and to a deterioration in indicators of financial health. . . . The decrease in access to credit is stronger for borrowers with low credit scores, but is felt across the credit spectrum."*

**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