

Access to Justice Commission
c/o Hawaii State Bar Association
1132 Bishop Street, Suite 906
Honolulu, Hawaii 96813

February 26, 2009

Attn: House Committee on Finance
Hearing Date: Friday, February 27, 2009
Time: 4:00 p.m.

HB 625 - Relating to Surcharge for Indigent Legal Services

Dear Chair Oshiro, Vice-Chair Lee, and Members of the House Committee on Finance:

I am writing on behalf of the Access to Justice Commission (the "Commission"), which was created by Rule 21 of the Rules of the Supreme Court of Hawaii on May 1, 2008. The Commission was established with the purpose to substantially increase access to justice in civil legal matters for low- and moderate-income residents of Hawaii ("low income Hawaii residents"), including increasing and stabilizing long-term public and private funding and resources for delivery of civil legal services to low-income Hawaii residents.

The Commission was created in response to the 2007 Assessment of Civil Legal needs and Barriers of Low- and Moderate-Income People of Hawaii, which found that four out of five low income Hawaii residents do not have their legal needs met and that legal service providers are only able to assist one in three persons who contact them for assistance. The Commission recognizes that in order to increase delivery of legal services to low income Hawaii residents, more funding is essential to assist the legal service providers. One such potential source of increased funding has been identified as the Indigent Legal Assistance Fee.

The Commission supports additional surcharge fees on various court filings in our Hawaii State Court system under the "Indigent Legal Assistance Fund" ("ILAF") set forth in HRS Section 607-5. In its present form, HB 625 would provide sorely needed funds for meeting civil legal services needs, especially during a time when the legal need and number of low income Hawaii residents are increasing. In addition, many legal service providers rely on IOLTA (Interest on Lawyer Trust Account) revenue, which is disbursed by the Hawaii Justice Foundation, to meet operating expenses. The IOLTA funds are derived from the interest on unearned fees in trust accounts held by attorneys on behalf of clients. However, with the sharp decline in interest rates, the IOLTA program apparently will receive only one-eighth the amount of interest received prior to December 15, 2008. This drop in revenue makes the ILAF


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program even more vital to the continued operations of low-income legal service providers.

HB 625 would also amend the allocation formula for the distribution of funds to provide that in addition to the current 70% pro rata distribution of funds under the formula, the remaining 30% of funds would be distributed equally to all organizations or programs meeting the qualifications for receipt of funds. The amendment would assure that each unique legal service provider would have the necessary resources to meet its basic operational expenses.

Attached is a copy of "Resolution of Support by the Hawaii Access to Justice Commission for the Proposed Amendment of the Indigent Legal Assistance Fund (ILAF), H.R.S. Section(s) 607-5 and 607-5.7", which was adopted by the Commission at its meeting on January 26, 2009. I am also attaching a copy of Rule 21 of the Rules of the Supreme Court of Hawaii, which established the Commission and sets forth the Commission's mission and composition, and a copy of the Commission's membership.

On behalf of the Commission, support of the passage of HB 625, which embodies the Commission's intent is urged to assure that the legal needs of our communities' indigent will be addressed. Thank you.


Jill M. Hasegawa, Esq.
Vice-Chair
Access to Justice Commission

Enclosure(s)