

STAND. COM. REP. NO.

1223

Honolulu, Hawaii

APR 09 2009

RE: H.B. No. 31
S.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fifth State Legislature
Regular Session of 2009
State of Hawaii

Madam:

Your Committee on Labor, to which was referred H.B. No. 31
entitled:

"A BILL FOR AN ACT RELATING TO EMPLOYMENT PRACTICES,"

begs leave to report as follows:

The purpose of this measure is to designate as an unlawful discriminatory practice any employers' refusal to hire, barring or discharging from employment, or discrimination against any individual due to the individual's credit information; provided that the individual's credit information does not directly relate to an occupational qualification.

Testimony in support of this measure was submitted by four organizations and two individuals. Testimony in opposition to this measure was submitted by one state agency and three organizations. Comments were submitted by one federal agency and four organizations. Written testimony presented to the Committee may be reviewed on the Legislature's website.

Your Committee finds that this measure provides necessary protections for individuals against unlawful discriminatory hiring and employment practices. Your Committee further finds that this measure provides an exception to the protections in situations where an individual's credit information directly relates to an occupational qualification, and therefore balances discretion in hiring and management decisions for employers with protection for employees against unlawful discrimination. It is your Committee's intent not to shift the burden of proof of bona fide occupational



qualification to the employee but to retain it with the employer. It is not the intent of the Committee to include lead employees, working foremen, and line supervisors in the scope of the supervisory exception.

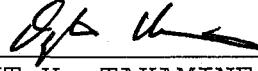
Your Committee finds that additional provisions are necessary to specify conditions under which employers may inquire into or consider and under which employers shall not inquire into or consider credit information in making certain hiring or managerial decisions. Accordingly, your Committee has amended this measure by:

- (1) Requiring any inquiry into and consideration of a prospective employee's credit history or credit report to take place only after the prospective employee has received a conditional offer of employment;
- (2) Excluding the following from the prohibition against refusal to hire or employ, barring or terminating from employment, or otherwise discriminating on the basis of credit history:
 - (A) Employers who are expressly permitted or required to inquire into an individual's credit history for employment purposes pursuant to any federal or state law;
 - (B) Managerial or supervisory employees; and
 - (C) Employers that are financial institutions in which deposits are insured by a federal agency having jurisdiction over the financial institution; and
- (3) Amending the effective date to July 1, 2050 for the purpose of encouraging further discussion.

As affirmed by the record of votes of the members of your Committee on Labor that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 31, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 31, S.D. 1, and be placed on the calendar for Third Reading.



Respectfully submitted on
behalf of the members of the
Committee on Labor,



DWIGHT Y. TAKAMINE, Chair



The Senate
Twenty-Fifth Legislature
State of Hawaii

Record of Votes
Committee on Labor
LBR

Bill / Resolution No.:* HB 31	Committee Referral: LBR	Date: 4-9-09		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
TAKAMINE, Dwight Y. (C)	✓			
TANIGUCHI, Brian T. (VC)	✓			
BUNDA, Robert				✓
HEE, Clayton				✓
SLOM, Sam			✓	
TOTAL	2	0	1	2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes