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PRESENTATION OF THE  
OFFICE OF CONSUMER PROTECTION

TO THE HOUSE COMMITTEE ON PUBLIC SAFETY & MILITARY AFFAIRS

THE TWENTY-SIXTH LEGISLATURE  
REGULAR SESSION OF 2012

Thursday, February 2, 2012  
9:00 a.m.

**TESTIMONY ON HOUSE BILL NO. 2409, RELATING TO CONSUMER PROTECTION.**

THE HONORABLE HENRY J.C. AQUINO, CHAIR,  
AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs ("DCCA"), Office of Consumer Protection ("OCP") appreciates the opportunity to appear today and testify on S.B. No. 2394. My name is Bruce B. Kim and I am the Executive Director of OCP. OCP supports S.B. No. 2409.

Members of our armed forces and their dependants have enough to worry about today. Multiple overseas deployments, coping with a spouse's prolonged absence from home and the lack of an adequate support system while residing on military bases throughout the country. This can lead to a great deal of emotional and financial stress.

Our service members and their families may be particularly vulnerable to unscrupulous payday lenders who may charge them excessive fees and interest rates, make loans without regard to the borrower's ability to repay, refinancing a borrower's loans repeatedly over a short period of time without any gain for the borrower, and committing outright fraud or deception.

When Department of Defense ("DOD") representatives contacted OCP and asked for assistance on this measure, they made a convincing case that Hawaii needed to consider such legislation to help the DOD enforce these important consumer protection regulations for our service members and their dependants.

Hawaii's payday lending law, Chap. 480F already affords significant protections to consumers. However, the DOD's CFR Regulations "Limitations on Terms of Consumer Credit Extended to Service Members and Dependents", 32 CFR Part 232, has protections specific to service members and their families which are not found in Chap. 480F. These additional protections would allow OCP additional enforcement avenues in pursuing unscrupulous payday lenders who try and take advantage of an unsuspecting service member or their dependants. Since local payday lenders are already subject to the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law No. 109-364) ("Act") and 32 CFR Part 232, allowing state enforcement authorities like OCP the ability to enforce the Act is an important step in the right direction. It would be another arrow in OCP's enforcement quiver against unscrupulous payday lenders in Hawaii.

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This bill is a common sense reasonable measure allowing the DCCA through OCP to enforce these important consumer protections for our service members and their dependants. It further authorizes the DCCA through OCP access to the Military Sentinal Network maintained by the Federal Trade Commission ("FTC"). OCP would benefit greatly if it was allowed to apply for access to this useful FTC database under this bill.

OCP therefore strongly supports passage of H.B. No. 2409. I appreciate the opportunity to testify on behalf of this bill today and would be happy to answer any questions the Committee may have.



OFFICE OF THE DEPUTY ASSISTANT SECRETARY OF DEFENSE  
(MILITARY COMMUNITY AND FAMILY POLICY)

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DoD-State Liaison Office

Representative Henry J.C. Aquino, PBM Committee  
February 1, 2012

Testimony of  
Laurie Crehan, Ed.D.  
Quality of Life Regional Liaison  
Office of the Assistant Secretary of Defense, Military Community & Family Policy  
DoD-State Liaison Office

**HB 2409 Relating to Consumer Protection**

The Department of Defense State Liaison Office operates under the direction of the Under Secretary of Defense for Personnel and Readiness, and the Deputy Assistant Secretary for Military Community and Family Policy. Our mission is to be a resource to state policymakers as they work to address quality of life issues of military families.

**Testimony**

Chair Aquino and members of the House Public Safety and Military Affairs Committee, on behalf of the Deputy Assistant Secretary of Defense, I would like to thank you for the opportunity to submit testimony today on HB 2409, a bill relating to Consumer Protection in order to explain to you the Department's continuing effort to work with states to limit the terms of consumer credit extended to service members and their dependents. My name is Laurie Crehan. I am with the Department of Defense State Liaison Office which operates under the direction of the Under Secretary of Defense for Personnel and Readiness, and the Deputy Assistant Secretary of Defense for Military Community and Family Policy.

**Federal Regulation**

Congress gave the DoD unprecedented authority in 2006 to write a regulation that would limit credit terms provided to Service members and their families for any form of credit defined in the regulation. Title 32 of the Code of Federal Regulations, Part 232 implements the federal statute by defining the covered forms of credit -- payday, vehicle title and tax refund anticipation loans. The DoD recognized the need for Federal and State regulators to be the primary enforcers of the regulation -- Federal for tax refund anticipation loans and State for payday and vehicle title loans.

A year after the release of the regulation in August 2007, the Federal Financial Institutions Examination Council (FFIEC) released their tool for Federal and State regulators to use as part of their examinations of the creditors covered by the regulation.

### **Reason the DoD Supports State Enforcement Authority**

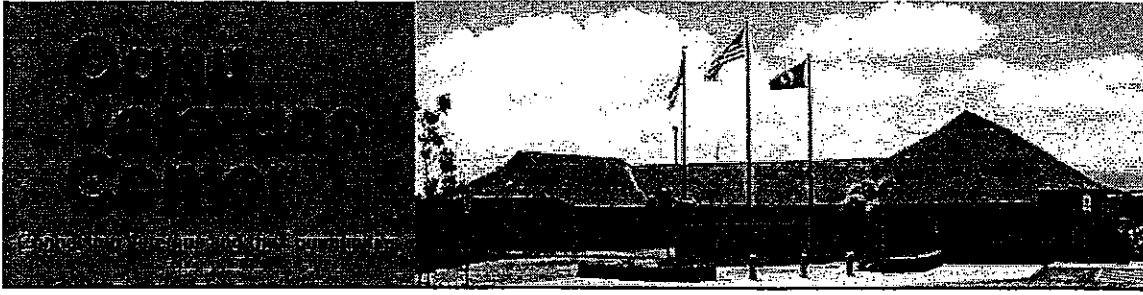
Although the regulation has made a dramatic reduction in the use of the covered loans by active duty members and their families, there is evidence that some are still gaining access to these loans. A quick poll in November 2009 of 667 financial counselors working for or contracted by the DoD, along with legal assistance officers who work on military installations, revealed that about half had counseled at least one client in the preceding six months who had gotten a payday, vehicle title or tax refund anticipation loan.

Examination has worked thus far to help gain compliance, but in the event that a creditor continues to violate the regulation, court action would be needed to enforce the criminal penalties specified in the Federal statute – and that may mean through Federal court. DoD believes compliance can be achieved more efficiently if the state credit administrator has authority to enforce the regulation through state statute. Then, the state credit administrator can determine corrective action when violations or deficient policies are identified through examinations and consumer complaints. Providing authority to the State regulator would allow for the due-process and penalties associated with non-compliance of a state rule. The policy in HB 2409 would do just that.

In Hawaii the Office of Consumer Protection is limited in what they can regulate and this concerns the Department of Defense. However, the proposed legislation you are reviewing today would ensure that payday loan establishments would be regulated within the authority provided to the Office of Consumer Protection.

We look forward to Hawaii adopting these vital protections for our Service members and their families. Thank you for your continued support for our military members and families.

Dr. Laurie Crehan  
State Liaison  
DoD State Liaison Office  
858-361-1731



January 31, 2012

**TESTIMONY IN SUPPORT OF HOUSE BILL 2409  
RELATING TO CONSUMER PROTECTION**

**HOUSE COMMITTEE ON PUBLIC SAFETY AND MILITARY AFFAIRS  
HEARING ON THURSDAY, FEBRUARY 2ND, AT 9:00AM, IN CONFERENCE  
ROOM 309**

Aloha Chair Aquino: The Oahu Veterans Council's delegates, are honored to represent the interests of our veterans and their families. Our Legislative Committee voted unanimously to support House Bill 2409.

We sincerely appreciate your efforts to authorize the director of commerce and consumer affairs to enforce certain federal laws to protect military members and their families from abusive lending practices.

With the largest per-capita military community in the nation, Hawaii is doing the right thing to protect our military personnel and their families from predatory lenders.

The Oahu Veterans Council is extremely grateful for your compassion and concern and respectfully urges your committee to consider passing House Bill 2409 as written. Mahalo for allowing us to testify, regarding this extremely important issue.

*Dennis Egge*

Dennis Egge; Chairman, Legislative Committee



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