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TO THE SENATE COMMITTEE ON WAYS AND MEANS

THE TWENTY-SEVENTH LEGISLATURE
REGULAR SESSION OF 2013

FRIDAY, MARCH 1, 2013
9:05 A.M.

TESTIMONY ON SENATE BILL NO. 598, S.D. 1
RELATING TO CHECK CASHING.

TO THE HONORABLE DAVID Y. IGE, CHAIR,
AND TO THE HONORABLE MICHELLE N. KIDANI, VICE 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 Senate Bill No. 598, S.D. 1 Relating to Check Cashing. My name is Bruce B. Kim and I am the Executive Director of the OCP.

OCP supports Senate Bill No. 598, S.D. 1 with the following comments.

S.D. 1 amends HRS Chap. 480F, Check Cashing by limiting the fees a payday lender can charge on a deferred deposit transaction to not more than a cumulative thirty-six percent (36%) APR of the value of the check up to a maximum loan amount of $600.00.

It also retains provisions from the original bill prohibiting new deferred deposit transactions as long as the customer already has an outstanding deferred deposit transaction from “any source”; making extended payment plans for up to ninety (90) days to customers who are not in default for a fee of $30.00; makes available an interest-free payment plan with a minimum term of sixty (60) days to any customer who is in default; and requires that the check casher offer an extended repayment plan option to any customer who has entered into four or more consecutive transactions with the same check casher. S.D. 1 eliminates provisions requiring the DCCA to register, draft administrative rules and regulate this industry as well as incurring the cost of hiring staff to administer the program. This provision would have required DCCA to bear substantial costs and add new staff to implement. It also would have little or no impact on the proliferation of out of state internet payday lenders. S.D. 1 also deletes the exemption for deferred deposit transactions from Hawaii General Excise Tax.

Chap. 480F was enacted in 1999. The current statute caps the amount of a payday loan at $600.00 and limits the fee to fifteen percent (15%) of the face amount of the check. HRS § 480F-4(c). The Federal Trade Commission (“FTC”) has issued a consumer advisory on payday loans. The advisory provides the following example of the cost of such short-term loans:

> A payday loan – that is, a cash advance secured by a personal check or paid by electronic transfer is a very expensive credit. How expensive? Say you need to borrow $100 for two weeks. You write a personal check for $115, with $15 the fee to borrow the money. The check casher or payday lender agrees to hold your check until your next payday. When that day comes around, either the lender deposits the check and you

> redeem it by paying the $115 in cash, or you roll-over the loan and are charged $15 more to extend the financing for 14 more days. If you agree to electronic payments instead of a check, here's what would happen on your next payday: the company would debit the full amount of the loan from your checking account electronically, or extend the loan for an additional $15. The cost of the initial $100 loan is a $15 finance charge and an annual percentage rate of [391%]. If you roll-over the loan three times, the finance charge would climb to $60 borrow the $100.[1]

As illustrated by the FTC's hypothetical, a Hawaii payday lender can charge the customer a fee of $90.00 on a maximum loan amount of $600.00 under § 480F-4(c). The APR on a 14-day loan is 391 percent (391%) and 182 percent (182%) for a 30-day loan at the current statutory rate.

Check cashers appeal to vulnerable individuals, including the elderly, who believe they have no access to traditional financial products or may not be aware about more reasonable financing options for short-term credit. By any reasonable analysis, payday lending in Hawaii comes at an extremely high cost to consumers.

Therefore, Senate Bill No. 598, S.D. 1 sets important new limitations on the fees charged by payday lenders by capping the fee at a cumulative thirty-six percent (36%) APR. This is consistent with the current thirty-six percent (36%) APR limit imposed under federal regulations on payday loans to service members and their dependents. OCP was granted authority to enforce these federal regulations to protect service members and their families from predatory lenders under legislation approved last session in Act 249. *See* HRS § 481B-16.

There are no fiscal impacts under S.D. 1 as the original language exempting the

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http://ww[1] w.consumer.ftc.gov/articles/0097-payday-loans

transaction from the Hawaii General Excise Tax was deleted by the Committee on Commerce and Consumer Protection.

Thank you for the opportunity to testify on Senate Bill No. 598, S.D. 1. I will be happy to answer any questions that the members of the Committee may have.

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LATE

February 28, 2013

Re: SB 598

Dear Senators:

I had previously submitted written testimony for the passage of SB598 because of the insidiuous nature of the current legislation concerning check-cashing/pay-day loans. To recap: The current legislation allows pay-day loan lenders to charge interest of 15% per paycheck which translates to over 400% per year in interest when the payday loan is rolled over – which is common because if someone who lives paycheck to paycheck can barely pay his bills with one paycheck, it is likely he cannot pay his bills with 85% of his next paycheck.

The snowball effect occurs when the payday loan provider automatically gets paid from the succeeding paycheck because then the mortgage, car loans and other reasonable-interest loans then don't get paid as there will not be any money in the account for these loans. i.e. Other lenders, and not just the consumer, are affected by bankruptcies which would not have occurred had the payday loan been reasonable. Thus, the current bill's cap of 36% interest is a huge step in the right direction.

As to the committee's amendments and its reasonings: The committee's reasoning of NOT requiring the registration of payday lenders because it will "encourage unscrupulous predatory lenders" is flawed. The working poor who are the prime target of the payday lenders DO NOT use the internet-based payday lenders; they are usually faced with the need for instant money and thus, go to the local payday/check cashing lender down the street. There is a reason that brick-and-mortar payday lenders are proliferating in Hawaii: It is because they know their market: people prefer to have cash in their hands and

are willing to sign their next paycheck to get that cash in hand; not through an electronic transfer. Thus, registration with the DCCA who oversees such lenders HELPS rather than HURTS the consumer. By not having a regulatory agency overseeing the payday lender, how is enforcement of the 36% cap to occur? The working poor cannot afford lawyers and no lawyer will take a contingency fee on these small loans.

The second disheartening amendment is the **July 1, 2050** effective date. The recession is NOW; the working poor who are increasing in numbers need help NOW; not 37 years from now.

There is a reason that payday loan lenders are proliferating in Hawaii now because the working poor are increasing in number here and states like Arizona have banned them. We hope that you, our senators, help the people in Hawaii who are struggling, especially with this recession by passing this bill WITHOUT the 2050 effective date and by requiring registration of the payday lenders with DCCA.

Sincerely,

Joy A. San Buenaventura