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PRESENTATION OF THE
OFFICE OF CONSUMER PROTECTION
TO THE HOUSE COMMITTEE ON FINANCE
THE TWENTY-EIGHTH LEGISLATURE
REGULAR SESSION OF 2015

MARCH 4, 2015
1:30 PM

TESTIMONY OFFERING COMMENTS ON H.B. 228, H.D. 1 RELATING TO DEFERRED DEPOSITS

TO THE HONORABLE SYLVIA LUKE, CHAIR,
AND TO THE HONORABLE SCOTT Y. NISHIMOTO, VICE CHAIR,
AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs (“DCCA”), Office of Consumer Protection (“OCP”) supports the intent of H.B. 228, H.D. 1 Relating to Deferred Deposits, and offers the following comments for the Committee’s consideration. My name is Stephen Levins and I am the Executive Director of the OCP.

H.B. 228, H.D. 1 amends section 480F-4, Haw. Rev. Stat., to limit the allowable annual percentage rate (“APR”) of a deferred deposit transaction to an unspecified percentage rate.

The OCP supports the intent of this measure as, if amended appropriately, it would reduce the cost of credit for consumers who should not be paying interest on a loan that until a few years ago would have been considered exorbitantly usurious.

The OCP recommends capping deferred deposit transactions at 36% APR. Adopting a 36% cap would not be an aberration. On the contrary, limiting deferred deposit transactions for Hawaii consumers to 36% APR would be consistent with the growing trend around the country of providing more consumer protections for these loans. In the past few years alone, 16 jurisdictions have either banned payday loans outright or subjected them to a 36% APR cap or lower. These jurisdictions include: Arkansas; Arizona; Connecticut; the District of Columbia; Georgia; Maryland; Massachusetts; Montana; New Hampshire; New Jersey; New York; North Carolina; Ohio; Pennsylvania; Vermont; and West Virginia.

According to an April 2013 report issued by the National Consumer Law Center, the 36% rate cap also works on a practical level for small loans. For a loan of the typical size and duration of a payday loan, a 36% rate results in payments that payday borrowers are more likely to be able to make while actually paying off the loan. A 36% rate also forces lenders to offer longer term loans with a more affordable structure and to more carefully consider ability to pay to avoid write offs.

Please find attached to this testimony, a proposed H.D. 2 for the Committee's consideration.

Thank you for the opportunity to support the intent, and offer comments on H.B. 228, H.D. 1.

A BILL FOR AN ACT

RELATING TO DEFERRED DEPOSITS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The deferred deposit of checks, commonly known
2 as payday lending, provides small, short-term, unsecured loans
3 to borrowers in exchange for their promise to repay the loan
4 from their next paycheck or regular income payment, such as a
5 public benefit check. State law allows a check casher, who
6 "loans" the money by deferring deposit of the borrower's check,
7 to charge up to 15 per cent of the face amount of the postdated
8 check for an agreed-upon period of up to thirty-two days. While
9 a fee of 15 per cent may appear to be reasonable, because payday
10 loans are short-term, that fifteen per cent rate equates to a
11 much higher, if not exorbitant, annual percentage rate or APR.
12 For example, on a loan of \$100 borrowed for a term of fourteen-
13 days at 15 per cent, the total cost or fee for the loan would be
14 \$17.65, which translates to an APR of approximately 460 per
15 cent. If extended to thirty-two days, the maximum statutory
16 loan term allowed, the APR would be approximately 201 per cent.
17 This fee of 15 per cent is significantly higher than the maximum
18 fee permitted for cashing a personal check without deferred
19 deposit, which is capped at the greater of 10 per cent or \$5.

1 Payday loans are also exempt from state usury laws applicable to
2 other types of loans such as credit cards, which are subject to
3 an 18 per cent APR cap.

4 Since Hawaii began regulating payday lending in 1999,
5 several states' payday lending laws have either been repealed or
6 struck down as unconstitutional, with the result that states are
7 limiting payday loans to a more moderate APR-based maximum
8 charge usually ranging from 24 to 36 per cent. In a sunrise
9 analysis on a proposal to expand regulation of payday lenders,
10 the state auditor recommended that the maximum fee charged for
11 payday loans be reduced. *Sunrise Analysis: Check Cashing and*
12 *Deferred Deposit Agreements (Payday Loans)*, Report No. 05-11.
13 In 2007, a groundbreaking statement was made by Congress when,
14 in response to reports about high-cost predatory lending
15 targeting service members, it passed the Military Lending Act
16 that established a 36 per cent APR cap on payday loans and other
17 types of consumer loans made to service members and their
18 dependents.

19 During discussion of prior measures to lower the maximum
20 fee allowed and to further regulate payday lenders operating in
21 the State, some raised concerns that such legislation would
22 reduce the number of Hawaii-based lenders and result in
23 residents turning to payday loans made via internet lenders.
24 The legislature notes that data from the Pew Charitable Trusts'
25 report *Payday Lending in America: Who Borrows, Where They*

1 *Borrow, and Why* shows that borrowers do not turn to online
2 lenders in the absence of physical payday loan stores.
3 Additionally, the legislature acknowledges that any payday
4 lender making loans to individuals in Hawaii is subject to
5 Hawaii laws regardless of where the lender is located. Recent
6 enforcement actions commenced against payday lenders by other
7 states, notably Arkansas, Georgia, Iowa, New York, Pennsylvania,
8 and West Virginia, upheld the application of state laws to
9 payday loans made by internet lenders not only within the state,
10 but even where the lender is based out-of-state or affiliated
11 with a Native American tribal entity.

12 The legislature finds that excessive and disproportionate
13 fees on payday loans are detrimental to borrowers and concludes
14 that the maximum fee must be reduced to a more reasonable
15 figure. The purpose of this Act is to reduce the allowable
16 maximum fee of a payday loan from 15 per cent to 36 per cent
17 APR.

18 SECTION 2. Section 480F-4, Hawaii Revised Statutes, is
19 amended by amending subsection (c) to read as follows:

20 "(c) The face amount of the check shall not exceed \$600
21 and the deposit of a personal check written by a customer
22 pursuant to a deferred deposit transaction may be deferred for
23 no more than thirty-two days. [~~A check casher may charge a fee
24 for deferred deposit of a personal check in an amount not to
25 exceed fifteen per cent of the face amount of the check.~~] The

1 total amount of fees for the deferred deposit of a personal
2 check shall not exceed an annual percentage rate of thirty-six
3 per cent. Any fees charged for deferred deposit of a personal
4 check in compliance with this section shall be exempt from
5 chapter 478."

6 SECTION 3. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 4. This Act shall take effect upon its approval.

H.B. NO. 228
H.D. 1
Proposed
H.D. 2

Report Title:

Deferred Deposits; Payday Loan; Fees

Description:

Places a cap on the interest that a check casher can charge pursuant to a deferred deposit agreement at 36 per cent annual percentage rate. (HB228 HD1 Proposed HD2)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



HB228 HD1
RELATING TO DEFERRED DEPOSITS
House Committee on Finance

March 4, 2015

1:30 p.m.

Room 308

The Office of Hawaiian Affairs (OHA) **SUPPORTS** HB228 HD1, which protects low-income families by reducing the maximum fee a check casher may charge under a payday loan agreement. This bill aligns with OHA's strategic priority of improving the economic self-sufficiency of Native Hawaiians.

According to the Corporation for Enterprise Development (CFED) Assets and Opportunity Scorecard, while Hawai'i may rank high in some areas of household financial security, our state still lacks important consumer protection regulations that would assist low-income individuals in achieving economic self-sufficiency. For example, Hawai'i is in the minority of states that currently does not cap the allowable interest on payday loans. In addition, Hawai'i ranks 29th in its percentage of underbanked households, or households that must use alternative and often costly financial services for their basic transaction and credit needs. Particularly troubling is recent Federal Deposit Insurance Corporation (FDIC) data showing that over 34% of Native Hawaiians and Pacific Islanders in Hawai'i are unbanked or underbanked, compared to the 23.5% state average.

While alternative financial services (AFS) can be important venues for providing credit to low-income individuals, National Consumer Law Center research has shown that regulation is necessary to ensure that households using AFS services for basic necessities are not further trapped in cycles of debt and poverty. For example, research by the Center for Responsible Lending shows that the average payday loan borrower remains in debt for double the length of indebtedness recommended by the FDIC. Regulatory measures on fees, as proposed by this measure, may be one way to reduce the length of indebtedness of such borrowers, and facilitate their eventual economic self-sufficiency.

The current measure accordingly provides some consumer protection for AFS borrowers, by reducing the maximum fee a check casher may charge under a payday loan agreement. OHA notes that currently, the 15% maximum check cashing fee corresponds to a short-term loan annual percentage rate (APR) of 459%. Reducing the maximum fee to 7%, as proposed by the previous draft of this measure, would bring the corresponding APR closer to the 36% capped interest rate benchmark already in place in over 35 other jurisdictions.

In order to better ensure consumer protection for Hawai'i's low-income families, and to further promote their economic self-sufficiency, the Committee may also wish to consider establishing maximum interest rates for AFS loans, in addition to the proposed fee. Such an approach is illustrated in SB737 SD1 of this legislative session.

Accordingly, OHA urges the Committee to **PASS** HB228 HD1. Mahalo nui for the opportunity to testify on this important measure.



PROTECTING HAWAII'S OHANA, CHILDREN, UNDER SERVED, ELDERLY AND DISABLED

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TO: Representative Sylvia Luke, Chair
Representative Scott Nishimoto, Vice Chair
Members, House Committee on Finance

FROM: Scott Morishige, Executive Director, PHOCUSED

HEARING: **Wednesday, March 4, 2015 at 1:30 p.m. in Conf. Rm. 308**

Testimony in Support of HB228 HD1, Relating to Deferred Deposits.

Thank you for the opportunity to provide testimony in **support** of HB228 HD1, which would cap the fee a check casher (payday lender) can charge pursuant to a deferred deposit agreement at an unspecified percentage of the face value of the check. PHOCUSED is a nonprofit membership and advocacy organization that works together with community stakeholders to impact program and policy change for the most vulnerable in our community, including individuals and families living in poverty. **While we support this bill, we would prefer that the language be amended to cap the Annual Percentage Rate (APR) for a payday loan at 36%.**

The Impact of Payday Loans

The length of an average payday loan is 14 days and the average amount borrowed in Hawaii is \$350 – it is nearly impossible to pay back this amount plus a 15% (\$61.77) fee within the short time period provided. According to the Center for Responsible Lending, only 2% of borrowers can afford to repay the loan the first time. This results in multiple loans in the same amount being taken out over the course of year – each loan with a new 15% (\$61.77) fee. The typical borrower takes out eight loans – with the fees quickly exceeding the original principal (\$494.16 in fees vs. \$350 original loan) in less than six months.

Payday Loans are not truly ‘unsecured’ – This creates the ‘Debt Trap’

The way a payday loan works is that the borrower writes a post-dated check in the amount of the loan plus fee, which is dated the day the loan is due (typically within two weeks, or the date of the borrower's next payday). If a borrower does not pay back the loan by the due date – the lender simply cashes the check, ensuring the loan is paid sometimes before the borrower's other essential bills (i.e. rent, utilities, etc.). Because of this, the borrower usually takes out a new loan (often for the same amount) to pay off the essential bills that s/he now cannot pay because the money was used to pay the original loan. This puts the borrower in a ‘debt trap’ that continues for several months – each time resulting in the borrower paying a new fee for each loan. In Hawaii, it's estimated that borrowers spend \$3 million a year just on fees for payday loans.

What is an APR? Does the APR apply to payday loans? Why is it applicable?

Most people believe that an Annual Percentage Rate (APR) simply represents interest – This is not true. The APR is a tool for consumers that allows them to compare and contrast different credit / loan products based on a standard metric that takes into account (1) The amount of the loan, (2) Any fees or interest, and (3) The length of the loan. The Federal Truth in Lending Act (TILA) requires APR disclosures for various



PROTECTING HAWAII'S OHANA, CHILDREN, UNDER SERVED, ELDERLY AND DISABLED

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loans – including payday loans. The higher the APR – the higher the level of risk to the borrower that they will not be able to repay the loan. 460% indicates a very high level of risk, and indicates that it will be nearly impossible that a borrower can repay a loan within 14 days.

How do you calculate the APR for a payday loan? How will reducing the 15% fee impact the APR?

The formula for calculating APR on a 14-day payday loan is as follows:

- (1) Determine the fees and interest (\$17.65 for a \$100 loan)
- (2) Divide total fees by the amount borrowed ($\$17.65/\$100 = 0.1765$)
- (3) Multiply by number of days in a year ($0.1765 \times 365 = 64.4225$)
- (4) Divide by the loan term in days ($64.4225 / 14 = 4.601607$)

In the example above, the APR on a 14-day \$100 loan is 460%. Using the above formula, reducing the fee from 15% to 7% would result in an APR of 215% -- This is still a triple-digit APR and indicates a very high risk of the borrower that they will not be able to repay the loan within the 14 days. A 215% APR will still result in a borrower falling into the payday loan 'debt trap.'

Why a 36% rate cap? Why not some other number?

As stated earlier, the lower the APR, the lower the level of risk to the borrower and the greater the likelihood that the borrower will repay the loan. Historically, 36% rate caps have been used for small dollar loans dating back to the early 1900s. Today, it is an established practice to regulate payday loans at this level -- **18 other states and the District of Columbia have adopted a 36% APR for payday loans, or have eliminated payday loans entirely.** Additionally, in 2006, Congress implemented a 36% APR cap for payday loans to military members and their families. The 36% rate cap is backed by recent research by the FDIC, which found that small dollar lenders can operate safely and profitably within these margins. Credit unions and other institutions can also safely lend small dollar loans at a 36% APR, and payday lenders should be able to do the same with minor tweaks to Hawaii's existing law (HRS 480-F).

Once again, we support HB228 HD1, but would prefer a 36% APR cap on payday loans to protect Hawaii consumers. If you have any questions, please do not hesitate to contact PHOCUSED at 521-7462 or by e-mail at admin@phocused-hawaii.org.

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Testimony of Hawai'i Appleseed Center for Law and Economic Justice
Supporting HB 228 Relating to Deferred Deposits
House Committee on Consumer Protection & Commerce
Scheduled for Hearing Wednesday, March 4, 2015, 1:30 PM, Room 308

Hawai'i Appleseed Center for Law and Economic Justice is a nonprofit, 501(c)(3) law firm created to advocate on behalf of low-income individuals and families in Hawai'i on civil legal issues of statewide importance. Our core mission is to help our clients gain access to the resources, services, and fair treatment that they need to realize their opportunities for self-achievement and economic security.

Thank you for an opportunity to testify in **support** of House Bill 228, which would cap the fee on a deferred deposit of a personal check. This bill would help increase protections for borrowers, and we respectfully encourage the committee to establish a **36% annual percentage rate cap**. As advocates for economic justice and low-income families and individuals throughout Hawai'i, we firmly support greater protections for low-income workers from predatory lending practices.

The current fee cap of 15% amounts to a 459% annual percentage rate (APR) that can trap desperate borrowers in a cycle of high interest loans. Hawai'i has the opportunity to end this exploitative interest rate with this bill. Appleseed supports a 36% APR cap, which is the only proven, meaningful way to protect borrowers from high-cost lending. Seventeen states have already taken action and implemented a double-digit cap while still allowing affordable small loans. The federal government has also recognized the dangers of payday loans and imposed a 36% APR cap for loans made to active duty military members and their families.

While payday lending is indicative of broader issues of financial insecurity facing low-income people, these kinds of high interest loans only make a borrower's financial situation even more precarious. According to the Center for Responsible Lending, only 2 percent of borrowers can afford to pay off the loan the first time. As a result, four out of five payday loan borrowers either default or renew a payday loan over the course of a year. The average payday loan borrower remains in debt for more than six months. We recognize that residents, including low-income workers, may sometimes need small dollar loans. But there are a number of safe, regulated small dollar loans with interest rates far below payday loans. Small dollar lenders can indeed safely lend at an APR of 36% or less, according to recent research from FDIC.

Again, thank you for the opportunity to testify on this bill. We strongly encourage you to support the intent of HB 834 and strengthen its provisions to protect our low-income workers and others vulnerable to financial exploitation through predatory lending.

To: Representative Sylvia Luke, Chair
Representative Scott Nishimoto, Vice Chair
Members, House Committee on Finance

From: Laura Smith, President/CEO
Katherine Keir, Vice-President, Mission Advancement
Goodwill Industries of Hawaii, Inc.

Date: March 2, 2015

Re: **Testimony in Support of HB228 HD1, Relating to Deferred Deposits**

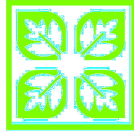
Thank you for the opportunity to testify in strong support of House Bill 228 HD1, which reduces the maximum fee a payday lender can charge pursuant to a deferred deposit agreement.

Goodwill Industries of Hawaii, Inc. (Goodwill) is among the largest human service non-profit organizations in Hawaii. Our mission is to help people find and succeed in employment, enabling their self-sufficiency. With a Statewide footprint, and offices on Oahu, Maui, Hilo, Kona and Kauai, last year Goodwill served over 12,500 people, placing more than 1,700 into jobs in our community.

Goodwill provides financial education and assistance in navigating the financial sector to Hawaii's low-to-moderate income individuals and families, including an annual free tax clinic. To this avail, we have seen first-hand the negative effects that insurmountable debt, created by exorbitant payday loan rates, can have on an individual's and family's economic solvency and ability to achieve a level of financial self-sufficiency. Indeed, the Center for Responsible Lending reports research that shows the average payday loan borrower remains in debt for more than half a year – double the length of indebtedness recommended by the Federal Deposit Insurance Corporation (FDIC). Only 2% of payday loans go to borrowers who can afford to pay off the loan the first time, thus each time paying a new fee that multiplies their debt. Further, payday loans cost our state over \$3 million a year in fees – money that could be invested in other areas of our community.

The key to regulating these loans is not to regulate the fee, but to establish a reasonable APR rate cap; reducing the fee from 15% to 7% will still leave an APR of approximately 200%. As such, **we strongly support this bill with a specific establishment of an APR rate cap of 36% on deferred deposits.** This rate cap will further protect Hawaii's families, and is currently utilized in 18 other states; it mirrors the cap required for loans to active-duty service members and their families. Research conducted by the FDIC has found that small dollar installment loans – when regulated responsibly – can be a safe product, and small dollar lenders can safely and profitably lend to consumers at an APR of 36% or less.

Thank you for the opportunity to provide this testimony.



Testimony in Support (with amendments) of HB 228 Relating to Deferred Deposits

TO: Representative Sylvia Luke, Chair, Representative Scott Nishimoto, Vice Chair, and Members, Committee on Finance

FROM: Trisha Kajimura, Social Policy Director

HEARING: **Wednesday, March 4, 2015 at 1:30 p.m. in Conf. Rm. 308**

Thank you for the opportunity to provide **testimony in support of HB 228 with amendments**. HB 228 places a cap on the interest a check casher (payday lender) can charge pursuant to a deferred deposit agreement at (unspecified)% of the face value of the check. **Our position on this issue is that Hawai'i consumers need the protection of a 36% annualized percentage rate (APR) cap on deferred deposits.**

Current Hawaii law allows for the charge of 15% of face value of the loan, which is the equivalent of up to 460% APR. The federal Truth in Lending Act (TILA) mandates that consumer lenders use APR so that potential borrowers can fairly compare the cost and risk level of loan products.

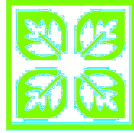
In 2006 the U.S. Department of Defense made it illegal to implement loans with interest rates greater than 36% APR to active-duty service members and their families. Currently, 17 other states have adopted this policy and protected their consumers while allowing affordable small loans. At this rate of interest, borrowers are more likely to be able to pay back their loans without rolling them over into another loan (or taking out another loan to pay off the previous one) and accruing more debt.

To that end, we suggest that the amendment HRS 480F-4(c) be: *“The face amount of the check shall not exceed \$600 and the deposit of a personal check written by a customer pursuant to a deferred deposit transaction may be deferred for no more than thirty-two days. A check casher may charge a fee for deferred deposit of a personal check not to exceed an amount equal to thirty-six percent (36%) annual percentage rate on the amount of the customer’s check. Any fees charged for deferred deposit of a personal check in compliance with this section shall be exempt from chapter 478.”*

Catholic Charities Hawai'i (CCH) is a tax exempt, non-profit agency that has been providing social services in Hawai'i for over 60 years. CCH has programs serving individuals, elders, children, developmentally disabled, homeless and immigrants. Our mission is to provide services and advocacy for the most vulnerable in Hawai'i. CCH's advocacy priority is reducing poverty in Hawai'i and this bill would help with that goal by making the interest rate cap on payday loans more manageable for consumers, thereby helping them to avoid a debt trap.

It is the poor who are using this type of financial product and in Hawai'i many people are struggling with the high cost of living. People with low incomes are especially hard hit in





Hawaii, with the highest cost of shelter¹ in the country. A family of four in Hawaii pays 68% more for food than families on the mainland². In such difficult financial situations, it is easier to use an immediate yet risky short-term solution such as a payday loan than it is to engage in a longer-term solution such as financial education or asset building. It critical that these consumers are protected from unreasonable rates and fees that will accumulate to create a greater problem for them.

One of the primary problems with payday loans with fees higher than the equivalent of 36% APR is that only 2% of borrowers can afford to pay off their loan the first time.³ Borrowers cannot pay back these loans when they are due and afford their regular living expenses. They are forced to borrow more money to pay off the loan that is due, accruing more and more debt and fees. A typical payday loan borrower takes out eight loans of \$375 per year, and spends \$520 in interest.⁴

Hawai'i's credit unions and micro-lending programs have small loans that can help people who may otherwise borrow from payday lenders. There are social service non-profits focusing on asset building and financial empowerment that can also help people to better manage their finances. Hawai'i's poor do not need to rely on payday loans. There are other products available that will not leave them stuck in a debt cycle.

The Pew Charitable Trust in 2012 released a report categorizing types of state law regarding payday loan regulation and usage rates. The categories they used were "restrictive," "hybrid," and "permissive." There are 14 states with "restrictive" category laws that have effectively eliminated the payday lending industry in those states. Hawai'i's state law regarding payday lending places us in the "permissive" category, the least regulated with storefronts readily available to borrowers and products with extremely high fees. Together we can join the national movement to better regulate payday lending by passing legislation with a 36% APR cap.

Thank you for your support. We appreciate this opportunity to bring to discuss one of the challenges faced by people living with low-incomes. Please contact me at (808)527-4810 or trisha.kajimura@catholiccharitieshawaii.org if you have any questions.

¹ Hawaii 2013 State Housing Profile, National Low Income Housing Coalition. <http://nlihc.org/sites/default/files/SHP-HI.pdf>.

² Based on the U.S. Department of Agriculture's Thrifty Food Plan, which is used as the basis for Supplemental Nutrition Assistance Program benefits. See <http://www.cnpp.usda.gov/usdafoodplanscostoffood.htm>.

³ Uriah King and Leslie Parrish, Phantom Demand: Short-term Due Date Generates Need for Repeat Payday Loans, Accounting for 76% of Total Volume (Durham, NC: Center for Responsible Lending, 2009)

⁴ Nick Bourke, Alex Horowitz, and Tara Roche, Payday Lending in America: Who Borrows, Where They Borrow, and Why. (Washington, D.C.: The Pew Charitable Trusts, 2012)

http://www.pewstates.org/uploadedFiles/PCS_Assets/2012/Pew_Payday_Lending_Report.pdf

Faith Action for



Community Equity

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Oahu Organizer

Rev. Stan Bain
Hawaii Coalition for Immigration
Reform

To: FIN
From: Kim Harman, FACE Policy Director
Hearing: 1:30 p.m. Wednesday, March 4, Conference Room 308
Re: **Testimony in support of HB228, HD1**

Faith Action for Community Equity (FACE) offers this testimony **in support of HB228, HD1**. We have not previously testified for HB228 because we disagreed with the specific biweekly interest rate that had been included in the original version of this bill. But HB228 HD1 has removed that problematic percentage rate and now we are in favor of the current draft of this bill.

HB228 HD1 intends to set a biweekly rate limit for Payday Loans. A similar bill in the Senate, SB737, intends to cap Annual Percentage Rates (APR) on Payday Loans at 36% annually. Mixing biweekly rates and annual percentage rates can be confusing, so we have created a simple chart to compare these interest rates:

Biweekly Interest Rate	Equivalent Annual Percentage Rate (APR)
15% <i>(current)</i>	459%
7% <i>(original draft of HB228)</i>	196%
1.18-1.3% <i>(equivalent of SB737)</i>	36%

FACE believes strongly that interest rates for Payday Loans need to be capped at a fair rate and we believe that rate should be 36% Annual Percentage Rate (APR). SB737 intends to cap annual percentage rates at 36% APR and requires that the interest rate be added to the required written disclosure to borrowers.

According to the Consumer Federation of America, **18 states and the District of Columbia have already capped Payday Loan interest rates 36% or have banned Payday Loans altogether.**

In addition, the **Military Lending Act of 2006 capped annual interest rates on Payday Loans at 36% for all military families.** FACE members on Oahu were active in supporting creation of the Military Lending Act and now we hope to see this protection expanded to all of Hawaii's families.

The Military Lending Act's 36% cap on Payday interest rates has been so successful in protecting military families from the high cost of Payday Loans that the Department of Defense is proposing that it be expanded to other types of loans.

Here is a rundown of what 18 states plus the District of Columbia have done to combat Payday Loans:

Arkansas:	Payday Loans are illegal
Arizona:	State does not authorize any Payday Loans.
Colorado:	45% APR cap
Connecticut:	State does not authorize any Payday Loans.
Georgia:	All Payday Loans violate state racketeering laws
Maine:	Interest capped at 30% APR
Maryland:	State does not authorize any Payday Loans.
Massachusetts:	State does not authorize any Payday Loans.
Montana:	35% APR cap
New Hampshire:	Interest capped at 35% APR
New Jersey:	Payday Loans are illegal (violation of usury statutes)
New York:	Payday Loans are illegal (violation of usury statutes)
North Carolina:	State does not authorize any Payday Loans.
Ohio:	Interest capped at 28% APR cap
Oregon:	Interest capped at 36% APR
Pennsylvania:	State does not authorize any Payday Loans.
Vermont:	State does not authorize any Payday Loans.
West Virginia:	State does not authorize any Payday Loans.
District of Columbia:	State does not authorize any Payday Loans.

Through the Military Lending Act of 2006, federal government capped the maximum interest rate allowable for Payday lenders to charge military families at 36% APR. This law has been applauded for nine years and now it is time to provide that same protection for all families. In fact, the 36% cap on Payday loans for military families has been so successful for military families, that five months ago, the Department of Defense requested that the law be expanded to cover other forms of lending.

As a membership organization, FACE has heard from individuals and clergy about the devastating effect Payday loans and their cycle of debt are causing in Hawaii. As an organization consisting of predominantly religious organizations, we are taking significant direction from Hawaii's faith leaders and national faith leaders in our request for a 36% APR cap on Payday loans.

Dozens of faith leaders from Maui and Oahu have already signed on to a position statement endorsing a cap on Payday Loan interest at 36%. This position statement reads:

"As Faith and Community leaders in Hawaii, it is vital that we speak out against predatory lending practices hurting the families in our congregations and communities. Payday loans, short term loans where our families are being charged more than 450% APR, are spreading on our islands, trapping families in a cycle of debt.

As many of our faith traditions have taught us, this is usury and all major religious traditions share a deep opposition to usury. In our ministries and communities, we see

many households struggling financially. As we work together to empower families and strengthen our economy, the last thing we need to do is saddle households with bottomless debt.

We believe that a limit of 36% APR on Payday Loans in Hawaii would be more fair, would parallel the national protections already on the books for military families and would make it more likely for our local families to be able to pay these debts without falling further and further behind.”

Thank you for your attention to this vital issue. Please feel free to contact FACE any time with questions, 808-375-9560 or face.office@facehawaii.org.



The Public Policy Voice for the Roman Catholic Church in the State of Hawaii

HEARING: House Committee on FIN hearing on March 4, 2015 @ 1:30 p.m. in room 308

SUBMITTED: February 28, 2015

TO: House Finance Committee
Rep. Sylvia Luke, Chair
Rep. Scott Nishimoto, Vice Chair

FROM: Walter Yoshimitsu, Executive Director

RE: Support for HB228 HD1 Relating to Deferred Deposits

Honorable Chairs and members of the House Committee on Finance, I am Walter Yoshimitsu, **representing the Hawaii Catholic Conference**. The Hawaii Catholic Conference is the public policy voice for the Roman Catholic Church in the State of Hawaii, which under the leadership of Bishop Larry Silva, represents Roman Catholics in Hawaii. The Hawaii Catholic Conference is committed to advancing public policy that promotes the common good and protects the least advantaged in our society. Payday lending is one of the most prominent of a number of fringe banking practices that have taken root in communities across Hawai'i over the past several years.

The Catholic Church has a long tradition of opposing usurious lending. In his 2009 encyclical Caritas In Veritate, Pope Benedict XVI stated: "The weakest members of society should be helped to defend themselves against usury, just as poor peoples should be helped to derive real benefit from micro-credit, in order to discourage the exploitation that is possible in these two areas."

We support HB 228 HD 1 because we agree that the excessive and disproportionate fees on payday loans are detrimental to people in the community who need to utilize this service. Unfortunately, it is the people who are struggling financially that have to avail themselves of this service and the 459% APR currently in place (for a 14-day payday loan) is the equivalent of usury. Because of this fact, we encourage efforts to regulate this industry in order to protect vulnerable populations and promote the common good!

Marketed as a way to help people pay their bills until their paychecks arrive, payday loans trap consumers in terrible cycles of debt, dragging their families more deeply into financial crisis. Payday loans are a debt trap. Only 2% of borrowers can afford to pay back the loan the first time, so borrowers must take a new loan – each time paying a new fee that drives them deeper and deeper in a financial hole. Is this really what we want to continue in Hawai'i?

We agree with other community associations that have asked for a 36% cap on APR. To regulate payday loans – we need to appropriately regulate the APR, not the fee. Even if we reduce the fee from 15% to 7%, the APR will still be about 200%. APR disclosures for Payday Loans are required by Federal law (the Truth in Lending Act). The 2006 Military Lending Act requires a 36% APR cap for payday loans to military and their families. 18 other states and the District of Columbia have imposed a 36% APR or outright prohibit payday loans (Arizona, Arkansas, Colorado, Connecticut, Georgia, Maine, Maryland, Massachusetts, Montana, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, Vermont, and West Virginia).

Payday loans costs our state over \$3 million a year in fees. With so many needs in the wider community, why not focus our spending there? We ask you to pass this bill out of committee and to strengthen it in the future so that we can continue to promote ways to help people out of poverty.

Mahalo for the opportunity to testify.

UNITE HERE!

LOCAL  HAWAII

Eric Gill, Financial Secretary-Treasurer

Hernando Ramos Tan, President

Godfrey Maeshiro, Senior Vice-President

Tuesday, March 3, 2015

The Honorable Sylvia Luke, Chair
and Members
Committee on Finance
Hawaii State House of Representatives

TESTIMONY submitted on behalf of UNITE HERE! Local 5
Re: HB 228, HD 1 Relating to Deferred Deposits

Chair Luke and members:

UNITE HERE Local 5 is a local labor organization representing 10,500 hotel, health care and food service workers employed throughout our State. We stand in support of HB 228, HD 1 and ask for your Committee's support in advancing the measure.

HB 228, HD 1 is designed to address and support the economic self-sufficiency of our working families by providing a reasonable cap to the fees passed down by check cashers to customers participating in payday loan agreements. Given the predatory nature of such agreements, we would also ask that the Committee also adopt language that would cap APR fees at 36%.

18 other states, the District of Columbia and Congress have already adopted measures recognizing 36% APR for payday loans as a reasonable cap on fees. HB 228 is not just about regulating payday loan agreements, it is about protecting the interests of consumers and recognizing that those that participate in such agreements are often the most economically vulnerable.

We ask for the Committee's support in moving HB 228, HD 1 with amendments.

Thank you.

Maui Loan Inc.

March 4, 2015

Representative Sylvia Luke, Chair
Rep. Scott Y. Nishimoto, Vice Chair
House Committee on Finance

SUBJECT: HB 228 HD1 – RELATING TO DEFERRED DEPOSITS

My name is Richard Dan, and I have been a small-dollar lender to the working people of the islands, on Maui and throughout the state, for 39 years. **I Oppose HB228 HD1** and any changes to HRS 480F for the following reasons:

Let's look at how this works in the real world. My business, Maui Loan LLC, also cashes checks. It is permitted by HRS 480F-3 to charge 10% or \$5 (whichever is more) for this service.

Under HRS 480F-4, I am also allowed to accept a postdated personal check for up to 32 days and charge \$15 per \$100. There is considerably more risk in accepting a postdated check for \$100 and holding it for more than a month. To take just one example, there is nothing to prevent the borrower from closing his account.

Compared to cashing that \$100 check instantly for \$10, the additional fee of \$5 for the \$100 postdated check loan is not an unreasonable charge for this additional risk.

As noted in the committee report HSCR 448 HB 228 HD1, "Your Committee notes that the use of an annual percentage rate (APR) as a measurement of interest in deferred deposits of checks is misleading. Therefore, your Committee respectfully requests that your Committee on Finance further examine this issue."

The committee is correct. For one thing, the statute does not consider the charges to be interest. They are described as fees throughout HRS 480F.

You have been presented with claims of abusive practices in these small loans in Texas and other states . It is significant that the people pushing this change in our law hrs 480 F **have not presented claims of abuses in Hawaii.**

Hawaii law has several strong consumer protections in the deferred deposit law. The most important is that the principal can never increase. Contrast that with your credit card bill.

You have also been given a claim, based on a study by the Pew Charitable Trusts, that if you drive local brick-and-mortar lenders out of business, the customers will not move to unregulated Internet lenders.

Since unregulated Internet payday loan volume has increased about 1000% over the past 15 years or so, this is impossible to believe. (No one knows the exact scale of Internet

Representative Sylvia Luke, Chair
Rep. Scott Y. Nishimoto, Vice Chair
House Committee on Finance
HB228 – Deferred Deposits
March 4, 2015
Page 2

payday lending, because some of the sites are pure scams, but an article at Bankrate.com calls the growth “explosive.” --
<http://www.bankrate.com/brm/news/debt/debtcreditguide/payday-warning1.asp>)

At least now, if Hawaii borrowers have a complaint about a brick-and-mortar store like mine, they know where to go and who to complain about. HRS 480F-2 requires a conspicuous posting a notice that complaints may be filed with the Department of Commerce and Consumer Affairs, along with the telephone number to call.

If you check, you will not find many, if any, complaints about brick-and-mortar payday lenders. And the 2000 Sunrise report on HRS 480F by the State Auditor warned that driving down the fee rate would “likely drive local payday lenders out of business and subject borrowers to less favorable alternatives.”

At that time, the Internet payday lending business barely existed. We now know just how unfavorable – in fact, frightening – those alternatives can be.

Last, the range of people who use payday lenders is wide; the only thing they all have in common is that they work for a paycheck. We have customers who are professionals with six-figure annual incomes. But most of our customers are modestly situated, the people who live from paycheck to paycheck and have limited credit options when an unexpected expense busts their budget.

No bank will lend them \$100 to \$600, and if they do not qualify for a credit card, where do they go to get a few dollars to buy diapers or enough gas to get to work? This bill does nothing to provide them short-term, small-dollar loans if you succeed in driving the local, mostly mom-and-pop payday lenders out of business.

One change in the current law that I can support would be a three-day cooling off period or delay before a payday borrower is allowed to take out a new loan after he pays off his current loan. The requirement to pay off the loan is a powerful protection for the consumer. A waiting period would deter borrowing again just because the cash is conveniently available.

It is for those reasons that I **Oppose HB228 HD1**, and urge you to **Defer** this bill.

Sincerely,

Richard Dan

Maui Loan Inc.



Progressive Democrats of Hawai'i

<http://pd-hawaii.com>

1418 Mokuna Pl. Pl, Honolulu, HI 96816

email: info@pd-hawaii.com

tel: 808-542-9084

COMMITTEE ON FINANCE

Wednesday, March 4, 2015 1:30 pm, Room 308

IN SUPPORT OF HB228, RELATING TO DEFFERED DEPOSITS

Good Afternoon, Chair Luke, Vice Chair Nishimoto and Members of the Committee,

My name is Bart Dame and I am testifying on behalf of Progressive Democrats of Hawaii in support of HB228.

HB228 would help protect vulnerable consumers from what has traditionally been viewed in polite society as predatory practices from the payday loan industry. As a child, I learned about laws against usury as a means to protect people facing economic hardship. I believe the maximum allowable rate for interest was 12%. This was regarded as a fair and necessary regulation by society, allowing a reasonable profit for the lender, while protecting consumers. Loans play an important function in facilitating purchases and helping people pay their debts.

But there comes a point where high interest rates, cause loans to become a source of debt, inflict more hardship than they relieve and become a means whereby unsavory businesses can exploit the unfortunate circumstances of people who have fallen on hard times.

The values of fairness which once governed aspects of the economy have been swept away by an ideology of greed, which disguises itself as a virtuous application of "the free market." in reality, it allows for rapacious practices, such as those in evidence in the testimony of the lead advocates in favor of this bill. The law of the jungle which dominated the US economy, where the "buyer beware" slogan is offered as the only acceptable restriction rather than reasonable government regulation, may have held sway during the days of the Robber Barons in the late 19th century and the pre-Depression years of the 20th century. But we reject the notion this is progress.

We believe the forces of capitalism provide a means for advancing innovation in products and services and can be a great boon for humankind. But it also requires conscious intervention to moderate its inherent tendencies toward greed and exploitation. That is what has developed in the payday loan industry and we strongly urge the forward-thinking legislators among you to adopt the approach adopted in some other states and recognize our collective responsibility to stop these usurious practices.

We believe passage of HB228 will help low-income people escape the trap of payday loans.

Thank you for this opportunity to testify.

March 3, 2015

TO: Chair Sylvia Luke and Members of the House Committee on Finance

FROM: Cash in Advance, Inc.
(William Goo)

RE: **HB 228, HD1** - Relating to Check Cashing
Hearing Date: March 4, 2015
Time: 1:30 pm

My name is William Goo. I represent Cash in Advance, Inc. ("CIA").

CIA **opposes** this bill to the extent that it seeks to reduce the fee that can be charged for a deferred deposit transaction.

CIA has been doing business in the State of Hawaii since 1994. It currently has two (2) stores on Oahu.

CIA opposes this bill with respect to the language contained in Section 2, which amends Section 480F-4(c) of the Hawaii Revised Statutes by reducing the fee that can be charged for a deferred deposit transaction from 15% of the face amount of the check to a blank amount to the extent that it seeks to reduce the fee that can be charged for such a transaction.

In a deferred deposit transaction, a personal check is written to CIA for the amount of money which the customer is requesting up to the maximum amount permitted of \$600. CIA would hold the check for the contracted period of time which is usually about two (2) weeks and then either negotiate the check or accept payment from the customer. The fee charged is included in the amount of the check or paid by the customer. No interest or other fees are charged.

The current fee of 15% is a fair price. A reduction in this fee would make it difficult for CIA or anyone else to stay in business.

CIA's typical customer is a working person with a checking account who needs a cash advance to carry him or her to the next pay day. Many customers are unable to qualify for a short term loan and do not have immediate access to funds from any other source. CIA has been providing this needed service to customers virtually without complaints since it began doing business in the State of Hawaii. Furthermore, when comparing the APR that takes into consideration a 15% fee on deferred deposit transactions to other alternatives such as overdraft protection fees, late fees on credit cards and non-sufficient funds fees, they substantially exceed the APR for deferred deposit transactions.

Providing funds on a short term basis obviously comes with some risk. In situations where a check is returned for insufficient funds and collection efforts are unsuccessful, the current fee of 15% allows for CIA and other deferred deposit transaction companies to absorb such a loss while still being able to provide this service.

Thank you for considering this testimony.

To: Representative Angus L.K. McKelvy, Chair
Representative Justin H. Woodson, Vice Chair
Committee on Consumer Protection and Commerce

From: R. Craig Schafer, President,
Money Service Centers of Hawaii, Inc.

February 2, 2015

In opposition to HB228

Money Service Centers of Hawaii, Inc. is a locally owned and operated money service business headquartered in Kapaa, Kauai. We operate fee-based money service centers throughout the State under the trade name PayDayHawaii. Next month is our 15th anniversary in business.

We do not support the bills listed above for the following reasons:

First; the current fee structure is a fair price to consumers while allowing for a reasonable profit for check cashers. A deferred deposit transaction is a short-term credit product. It began decades ago as nothing more than a check casher holding a personal check for a few extra days and charging a higher fee for doing so. Interest never entered into the transaction. The fee charged is based on the inherent risk of holding a personal check that both parties know is not backed by funds deposited in the maker's bank. This practice went on long before check cashers became regulated under HRS480F in 2000.

Currently, under HRS 480F, we are allowed to charge up to 10% simply for cashing a personal check because of the risk involved. It is reasonable to charge 15% for the additional risk of a deferred deposit transaction. The fee structure was created based on the history of cashing postdated checks, the risk involved and the cost of doing business. It is very expensive to create, process and collect credit granted for only a few weeks. Our software costs alone are almost \$1 per transaction.

The usual reason cited for an APR cap is to avoid the "cycle of debit". However repeat borrowing, not fees, is the true cause of the "cycle of debit. When a consumer borrows repeatedly they will spend hundreds of dollars over the course of a year. The excess use of short-term credit to solve long-term credit problems should rightly be discouraged. This is not the intent of the product and these consumers should be encouraged to seek other alternatives as we do on our website www.paydayhawaii.com on the "Be a Responsible Borrower" page.

Another contributor to the "cycle of debit" is pyramiding deferred deposit transactions from multiple check cashers. These consumers may end up owing thousands of dollars with no hope of repayment. This practice has the same effect as juggling balances on dozens credit cards. Fortunately, the well written HRS 480F allows only one deferred deposit transaction per consumer at a time so this does not happen often with responsible check cashers in this State.

Second; ten years ago after careful and thorough research, the State Auditor said, “We conclude there is little evidence that payday lenders have harmed Hawaii consumers.” In 2005 check cashers opened their doors and their books to the Hawaii State Auditor. I urge each of you to take the time to read the Auditor’s Sunrise Analysis: Check Cashing and Deferred Deposit Agreements in its entirety. You will see that the current bills being considered are not an accurate reflection of her conclusions.

I would also urge each of you to visit one of our offices, talk to our managers, staff and our clients just as the Auditor did. You will find that Hawaii’s responsible brick and mortar check cashers take the long view and cultivate a clientele that is sustainable, by building safeguards into their operation to avoid driving consumers into financial hardship. You will hear how our services, which are unavailable in most banks, help our working class community manage their finances in ways that meet their needs.

HRS480F is a well written law that avoids the pitfalls and issues that cause harm to consumers in other states and online. While there are some tweaks that might be made to the law, the fact is that Hawaii consumers have not been harmed under the status quo. Hawaii check casher’s good record with the DCCA is evidence of that. Using my company as an example, in 15 years and hundreds of thousands of deferred deposit transaction, Money Service Centers of Hawaii, Inc. has received only one complaint.

Sincerely,

R. Craig Schafer

President,

Money Service Centers of Hawaii, Inc.



1436 Lancaster Avenue, Suite 310
Berwyn, PA 10312
(610) 296 - 3400

March 3, 2015

Honorable Sylvia Luke, Chairwoman
House Committee on Finance
Hawaii State Capitol, Room 308
Honolulu, HI 96813

RE: HB 228 HD 1, Related to Check Cashing

Dear Chairwoman Luke:

Thank you, Chairwoman Luke, for the opportunity to submit testimony regarding the three bills referenced above. My name is Kerry Palombo, and I am the Director of North American Compliance for Dollar Financial Group, Inc. based in Berwyn, Pennsylvania. Through a subsidiary, we operate nine Money Mart[®] stores in the State of Hawaii, where we employ 35 state residents who are drawn from the neighborhoods we serve. These stores offer deferred deposit transactions that would be affected by House Bill 228 HD 1. We oppose the rate-cap provisions of these bills because those provisions set a price ceiling well below our costs and would force us out of business.

Dollar Financial Group is also a board member company of Community Financial Services Association of America (CFSA). CFSA is the deferred deposit industry's national trade association, which represents more than half of storefront locations nationally. I am submitting testimony today on both my company's and CFSA's behalf.

CFSA promotes responsible industry practices through mandatory Best Practices for members. These Best Practices help our customers make sound and informed financial decisions. CFSA also supports state legislation that preserves working families' access to small-dollar,

short-term credit, while ensuring them of substantive consumer protections. To that end, my company and other CFSA members have supported responsible legislation in the 32 states that regulate deferred deposit transactions, including Hawaii.

Dollar and CFSA oppose the rate-cap provisions of House Bill 228 HD 1.

Background

As mentioned, we offer Hawaiians deferred deposit transactions, typically called payday loans. These loans provide a convenient, reasonably-priced, well-regulated option for meeting small, short-term financial needs.

Borrowers must have a steady income and personal checking account in order to be approved for an advance. They are typically middle-income, educated young families. They represent 19 million American households, who choose deferred deposit loans as a cheaper alternative to bounced-check or overdraft-protection fees and late-bill-payment penalties; they also find it more desirable than asking family for money or pledging collateral for a small-dollar loan. Deferred deposit loan customers are overwhelmingly satisfied with the service, a fact confirmed by state regulators who report very few complaints from their citizens who use our service. We count Hawaii among this group.

Our Interest in House Bill 228 HD 1

Across the country CFSA members have demonstrated our commitment to working with policymakers to achieve state regulation that benefits consumers. We support balanced regulation that appropriately protects consumers and enables reputable payday lenders to operate profitably. Not only would the 36 or 39 percent rate caps referenced in two of these bills prohibit us from operating profitably, it would put payday lenders out of business completely. Further, cutting the permitted fee by more than half of what is presently allowed as detailed in House Bill 228 HD 1 would slash gross revenue by 60%. That is a 60% reduction in fees collected before any of our operating expenses are paid. We oppose legislation that would put us out of business and leave our customers only with less-desirable credit alternatives.

The Cost of a Deferred Deposit Advance and Why APR Calculations are Misleading

Our business serves working families who frequently must choose between a deferred deposit advance and more costly or less desirable alternatives. Our customers generally look at

the real dollar cost of their available credit options and make rational, informed decisions when choosing a payday loan.

By contrast, critics of our industry tend to disregard the true relative costs of short-term credit products. Overly-simplified APR comparisons in this context tend to be quite misleading. In Hawaii, the maximum fee allowed for a deferred deposit transaction is 15% of the face amount of the check. For a \$100 advance, the maximum fee that may be charged is \$17.65. The fee remains \$17.65 whether the advance is paid back in 14 days, 30 days—or a year, for that matter. There is no accrual of interest. Current law caps the cost of our product in terms of fees, not interest, which makes sense because we charge a one-time fee for a loan. It makes no sense to express a limit on our fees in the context of an annual percentage rate.

The Impact of Restrictive APR Caps: De Facto Ban

Many critics have called for capping rates at 36% or a similar APR level, and some states have obliged. The result has been elimination of the deferred deposit advance product in those states. That's because a 36% APR means a lender can only charge about \$1.38 per \$100 borrowed. For deferred deposit lenders in Hawaii, this equates to a 92.2% reduction in gross income—not profit or net income, but gross income—from which all expenses must be paid. Under existing law, gross income on a \$100 transaction is \$17.65. Under this proposal, it is \$1.38. No business can survive a 92.2% decrease in gross income. It doesn't leave enough revenue to pay the light bill, much less employee payroll and benefits.

Despite what industry critics say, a 36% annual rate cap is not a reform approach, it is an outright ban. Unfortunately, that point has been proven in some states, most often with unintended consequences.

- In July 2007 a new law in Oregon capped payday loans at 36% APR plus an origination fee that yielded an effective APR of 154%. Within a year, 75% of the stores closed, and those that remained open offered check cashing and other services to survive. The press reported that 800 jobs had been lost and that state officials were concerned because Oregonians were beginning to use unregulated payday lenders on the Internet.¹ Four years later the Portland Business Journal was still reporting that, “. . . the laws, which capped interest rates at 36%, forced cash-hungry borrowers to turn to the shady world of Internet Payday loans. . . .”²

¹“[*Middle-class squeeze leads to a rush at local pawnshop*](#)”, *The Oregonian*, Sept. 27, 2008.

²“*Borrowers flock to online payday lenders*,” *Portland Business Journal*, Feb. 11, 2011.

- In 2008 New Hampshire passed a 36% APR cap on payday and car title loans; and before the law even took effect, most of the payday lending stores had closed.³ In 2011 a state representative estimated that 200 people had lost their jobs in the lending industry after the law passed. Another said that banning the loans hurt consumers.⁴
- Montana adopted a 36% APR cap by ballot initiative in 2010. A year later, in an editorial entitled “What were voters thinking?” the Daily Inter-Lake paper said, “. . . it didn’t just cripple the payday lending industry in Montana; it flat-out killed it along with an estimated 800 jobs.” The editorial went on to speculate there may have been a perception the rate cap would merely rein in payday lending, not kill it.⁵

These real-world examples are proof of the consequences of restrictive annual rate caps. Stores closed, employees lost their jobs and consumers were left to choose among more-expensive and less-desirable credit alternatives. As noted by a number of policymakers in these states, many payday lending customers turned to unregulated payday advance lenders operating below the radar screen and to offshore Internet payday lenders over which U.S. regulators have no control. Since these unregulated companies do not report to Hawaii’s Department of Commerce and Consumer Affairs, your state would not be able to measure or regulate consumer use of these products.

Consumers Suffer Under Payday Loan Ban

Academic and third party research has consistently found that consumers have suffered in states where payday advances are no longer available, as evidenced by these few examples.

- A staff report from the Federal Reserve Bank of New York notes that consumers in Georgia and North Carolina “. . . *bounced more checks, complained more about lenders and debt collectors, and have filed for Chapter 7 bankruptcy at a higher rate*” following the elimination of the payday lending industry in those two states.⁶
- Another study by Dartmouth College Professor Jonathan Zinman found that restricting access to payday loans “*caused deterioration in the overall financial condition of Oregon households.*”⁷

³“[*Good riddance to pricey short-term loans*](#)”, *Concord Monitor*, Jan. 8, 2009.

⁴“[*Bill would lift rate cap on title loans*](#),” *Concord Monitor*, February 1, 2011.

⁵“[*What were voters thinking?*](#)” *Daily Inter Lake*, November 14, 2011.

⁶“[*Payday Holiday: How Households Fare after Payday Credit Bans*](#),” by Donald Morgan, Federal Reserve Bank of New York, November 2007.

⁷“[*Restricting Consumer Credit Access: Household Survey Evidence on Effects Around the Oregon Rate Cap*](#),” by Dartmouth College Prof. Jonathan Zinman. October 2008.

- In the study *The Case Against New Restrictions on Payday Lending*, Prof. Todd J. Zywicki of George Mason University reports that “[E]fforts by legislators to regulate the terms of small consumer loans (such as by imposing price caps on fees or limitations on repeated use “rollovers”) almost invariably produce negative unintended consequences that vastly exceed any social benefits gained from the legislation.”⁸

Closing

In closing, we would like to point out that Hawaii already has a consumer-friendly deferred deposit statute in place, with a cap on fees and the amount that may be borrowed, as well as a prohibition on rollovers. We support regulation that protects consumers and would like to work with this Committee on improvements it deems necessary in that regard. But we respectfully submit that House Bill 228 HD 1 in the current form—which all include restrictive caps on fees and/or the annual percentage rate—will not protect consumers. Instead, they would eliminate a regulated environment and take away their access to a much-needed credit option at a time when families are finding their access to traditional forms of credit limited or cut-off entirely. Furthermore, if these bills are enacted, Dollar Financial Group will be forced to close its nine Hawaii stores and terminate our 35 employees.

We urge you to reject House Bill 228 HD 1.

Thank you for your consideration. At the Committee’s request, I would be pleased to provide additional information or make myself available to answer any follow-up questions you may have.

Respectfully Submitted,

Kerry Palombo
Director of North American Compliance

⁸[*The Case Against New Restrictions on Payday Lending*](#), Prof. Todd Zywicki, George Mason University, July 2009.

TO: Representative Sylvia Luke, Chair
Representative Scott Nishimoto, Vice Chair
Members, House Committee on Finance

FROM: Jon Shindo, Master's in Social Work Student at UH Manoa
and student intern at PHOCUSED

HEARING: Wednesday, March 4, 2015 at 1:30pm in Conference Room 229

Testimony in Support of HB228 HD1, Relating to Deferred Deposits

Thank you for the opportunity to provide testimony in support of HB228 HD1. This bill places a cap on the interest a check casher (payday lender) can charge pursuant to a deferred deposit agreement at 7% of the face value of the check. I also concur with data and recommendations provided in PHOCUSED testimony.

Hawaii law permits payday lenders to charge a fee of 15% of the face value of the check for each transaction, and lend up to \$600 per transaction. The equivalent APR of a \$100 payday loan with a 15% face-value charge, plus other administrative fees, and 14-day repayment period is 460%.

Limiting deferred deposit fees at 7% of the face value of the check will have the net effect of reducing the APR on the same \$100, 14-day payday loan from 460% to 215%. This is an improvement but falls short of truly protecting our community and Hawaii's vulnerable populations from predatory lending practices. Hence, the critical need to amend HB228 SD1 to include language that limits the APR on deferred deposits at 36%. This need is also highlighted in HB228 SD1, page 2, lines 6 through 20.

According to a payday lending research by the Pew Charitable Trust Foundation (2012), 69% of payday loans are used for recurring expenses and 16% for unexpected emergencies. If borrowers are already unable to cover their regular expenses and use high interest, short-term loans to supplement their income, they become caught in a debt spiral. Without additional income, borrowers are forced to take out another loan to not only cover their daily expenses, but to also pay back the principal and mounting interest from their existing loans.

This scenario is also known as "phantom demand" or "loan churn". The Consumer Financial Protection Bureau (CFPB) published data from 15 million payday loan transactions from 1.5 million borrowers over the course of a year and found that 67% of borrowers had 7 or more loans in a year. "The median borrower in the CFPB sample took out ten payday loans from a single lender during the year, paying \$458 in fees for \$350 in non-churn principal." (CFPB 2013)

I have personally seen the devastating effects of payday lending on individuals' and families' ability to stabilize their finances. As a former case manager at the Lighthouse Outreach Center,

an emergency homeless shelter, I worked in particular with two clients who used payday loans to fill gaps in their monthly expenses. I had to read the fine print multiple times to understand that the fees and APR my clients were being charged was not a typo. I had never before seen any other loan, credit cards included, charging triple-digit APR fees. It took a near total re-direction of what little savings they had plus any extra available income over the course of several months to pay off the loans and avoid being buried by interest and debt. As a result, their ability to save up enough for a deposit to move into transitional or permanent rental housing was compromised.

Payday lenders will lead you to believe that it is not possible to offer a comparable loan vehicle at an APR of 36%. This is not true. The FDIC conducted a two-year pilot project which demonstrated that banks could safely and profitably offer small dollar loans of \$2500 or less at 36% APR with a repayment period under 90 days.

Alternatives to deferred deposits already exist. According to the Hawaii Credit Union League (2014), Hawaii Community Assets (2015), and Office of Hawaiian Affairs (2015), safe, regulated, lower-cost alternatives include:

- Hawaii USA Federal Credit Union's personal loans starting at \$300
- Maui Federal Credit Union: \$500-\$1000 personal loans at 14%-17% APR
- IEG Federal Credit Union's "Credit Builder" credit card with minimum limit of \$200 and maximum of \$2000, along with regular lines of credit starting at \$500.

Imposing a 36% APR cap on payday loans in Hawaii follows the precedent established by the U.S. Department of Defense, who in 2006 imposed regulations that make it illegal to make loans greater than 36% APR to active-duty service members and their families. According to the Center for Responsible Lending, 18 other states, including the District of Columbia, have adopted similar policies of two-digit rate caps on payday lending to protect their consumers while allowing affordable small loans.

I strongly urge your support of HB228 HD1. If you have any questions, please do not hesitate to contact me at 808-722-7585 or jon.shindo@gmail.com. Thank you for your time and consideration.

Respectfully signed,
Jon M. Shindo

finance1-Kim

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 03, 2015 11:49 AM
To: FINTestimony
Cc: projectdate@lthawaii.org
Subject: Submitted testimony for HB228 on Mar 4, 2015 13:30PM

HB228

Submitted on: 3/3/2015

Testimony for FIN on Mar 4, 2015 13:30PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Skye	Individual	Support	No

Comments: Good Bill Pass it*

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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HAWAII CHECK CASHING

March 3, 2015

To: Representative Sylvia Luke, Chair
Rep. Scott Y. Nishimoto, Vice Chair
House Committee on Finance
From: Hawaii Check Cashing (Doreen Rodrigues)

In Opposition to HB228 HD1 – RELATING TO DEFERRED DEPOSITS

My name is Doreen Rodrigues and I am one of the owners of Hawaii Check Cashing. Hawaii Check Cashing was the first check cashing company to open in Hawaii 30 years ago. I Oppose HB228-HD1 and any changes to HRS 480F.

Payday loans are one of the many services we provide. It basically is a small, unsecured, short-term loan until payday. The consumer is usually middle class who have an established checking account and employment history. Most of our payday loan customers live on a tight budget that leaves little room for financial missteps. Being able to get a payday loan helps people get through a cash crunch without paying late fees or bouncing checks.

We currently do business following HRS 480F which allows \$15 for a postdated \$100 check. HRS 480F allows a \$100 check to be cashed instantly for \$10. The additional fee of \$5 for a \$100 postdated check is not unreasonable for the inherent risk of holding the check up to 32 days.

As noted in the committee report HSCR 448 228 HD1, "Your Committee notes that the use of an annual percentage rate (APR) as a measurement of interest in deferred deposits of checks is misleading. Therefore, your Committee respectfully requests that your Committee of Finance further examine the issue."

There are no present claims of abuse in Hawaii when it comes to payday loans. Problems will occur if the only alternative to a small loan \$100-\$600 is for the consumer to turn to unregulated Internet payday lenders. Unregulated Internet payday lenders volume has increased about 1000% over the past 15 years or so. An article at Bankrate.com calls the growth "explosive."

I respectfully ask that a review of the Auditor's Sunrise Analysis: Check Cashing and Deferred Deposit Agreements. The State Auditor said, "We conclude there is little evidence that payday lenders have harmed Hawaii consumers." This is also evident as the DCCA has received only one complaint since 2005.

I respectfully submit this testimony and thank you for your open-minded evaluation of these bills.

Sincerely,

Doreen Rodrigues, Hawaii Check Cashing

LATE

The Twenty-Eighth Legislature
Regular Session of 2015

HOUSE OF REPRESENTATIVES
Committee on Finance
Rep. Sylvia Luke, Chair
Rep. Scott Y. Nishimoto, Vice Chair
State Capitol, Conference Room 308
Wednesday, March 4, 2015; 1:30 p.m.

**STATEMENT OF THE ILWU LOCAL 142 ON H.B. 228, HD1
RELATING TO DEFERRED DEPOSITS**

The ILWU Local 142 supports H.B. 228, HD1, which reduces the maximum fee a check casher may charge under a payday loan agreement for deferring the deposit of a check.

“Payday loan” is the commonly used term for deferred deposit agreements for small, short-term, unsecured loans that are made with the promise of repayment from the borrower’s next paycheck. These payday loans are insidious. On one hand, the loan is desperately needed for immediate cash by a borrower unable to secure a loan by any other means. On the other hand, the loan comes with an exorbitant fee that continues to grow as long as the debt is not repaid in full. Most people who use payday loans find themselves on a debt treadmill, unable to get off due to the high loan fees.

While H.B. 228, HD1 is a step in the right direction to reduce the fees that check cashers may charge, capping the interest is better. The Military Lending Act of 2006 caps payday loan fees at 36% annual percentage (APR) for service members and their families. The law has proven successful for military personnel, reducing debt for countless service members. In the name of fairness, we believe the same should apply to all who find themselves needing payday loans.

Ideally, everyone should be able support themselves with their earnings. However, given the low wages and salaries in Hawaii and the high cost of living, not everyone is able to pay for the necessities of life with their earnings alone. Payday loans take advantage of the working poor, putting them further and further in debt. If H.B. 228, HD1 is amended to set a cap at 36% APR, payday loans can become a more reasonable way for those with low incomes to have access to cash when they need it and be able to work themselves out of debt and eventually qualify for more conventional loans from credit unions and the like.

The ILWU urges passage of H.B. 228, HD1 with consideration of capping the loan fees to 36% APR. Thank you for considering our testimony.

TESTIMONY OF HARRY EAGAR, SOCIAL MEDIA DIRECTOR,
MAUI LOAN LLC, (50 N. Market St., Wailuku 96793; (808) 242-5555)
TO THE COMMITTEE ON FINANCE
CONCERNING HB228 HD1



March 3, 23015

My name is Harry Eagar and I am the social media director at Maui Loan LCC. Our company cashes checks, including postdated checks for people seeking small loans for short periods.

Part of my job involves asking customers why they chose us. To make clear, we do not run credit checks, nor do we require borrowers to tell us why they want the money. But many of them will talk story. My testimony is based in part on these interviews.

1. Our first loan is limited to \$100. So we are talking about people who are just \$100 away from not being able to pay an electric bill or buy diapers or food. They do not have lots of assets or options. Nor do they have time. They need money right away.
2. They are working people. We lend only against paychecks.
3. The first time a customer deals with us, it costs him \$15. From his point of view, that is the cost of his education about payday lending. If he does not like the deal, after two weeks, he lets us deposit his check for \$115 (principal and fee) and he never has to see us again. It follows that people who take our more than one paycheck loan, or who after establishing a good record for repayment are allowed to borrow more, must like our terms. If they can find better terms, then they should do their business elsewhere.
4. The Committee on Consumer Protection heard testimony from Faith Action for Community Equity in favor of reducing the paycheck loan fee (although they mischaracterized it as an APR interest). According to the testifier, they tried to help 32 of their clients find alternative, cheaper sources of small, short-term credit. But after 6 months, only 9 of the clients did so, even with professional help. That means that 70% of FACE clients were unable to obtain a better deal than the one allowed by HRS 480F at a payday lender. This matches my experience. Suggestions from anti-payday loan activists and so-called "advisers" that it would be better to borrow from a credit union, on a bank credit card or from friends and family are not practical for most of our customers.
5. We reached out to FACE to see if one of its representatives would meet with us. They refused.
6. We acknowledge problems in the payday loan business in other states. But Hawaii has a good regulatory system now, and those abuses do not occur here. Nor have the testifiers against the current system, such as Hawaii Appleseed, presented any local examples. Texas is among the places that have real problems in regulating payday loans, but you cannot correct the bad

legislation in Texas. Worse yet are the Internet payday lenders, many of which are pure scams and identity thieves.

7. It is claimed that Hawaii can regulate Internet payday lenders, and I agree you should be able to, but the state is not doing it, and I see no interest in even trying to go after the unregulated.
8. Finally, the real effect of this bill – whether the sponsors intend it or not – will be to close local payday lenders down. By replacing the fee allowed in HRS 480F with an interest rate and capping it at 36% per annum, you will be saying to the businesses: Sure, give that man \$100, and you are allowed to collect \$1.50 (or maybe a little less) for the service. That’s the cost of a newspaper. When expressed that way, it is clear that no one could possibly stay in business on those terms and, in fact, no one is Hawaii is making loans at 36% APR to military families as limited by the Military Lending Act. This bill would effectively ban local payday loans, and since it does nothing to provide a secure source of small, short-term credit, it would leave thousands of Hawaii people with no safe, identifiable, regulated and compliant place to turn. They will end up without credit, or, worse yet, in the hands of unscrupulous Internet payday “lenders.” This prospect should frighten you; and I recommend carefully reading a report at Bankrate.com to learn how bad it can be:

<http://www.bankrate.com/brm/news/debt/debtcreditguide/payday-warning1.asp>

A handwritten signature in black ink that reads "Harry Edgar". The signature is written in a cursive style and ends with a long horizontal line extending to the right.