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PRESENTATION OF THE
OFFICE OF CONSUMER PROTECTION

TO THE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

THE TWENTY-EIGHTH
REGULAR SESSION OF 2015

FEBRUARY 18, 2015
3:00 PM

TESTIMONY ON HOUSE BILL NO. 33, H.D. 1, RELATING TO THE RESIDENTIAL
LANDLORD-TENANT CODE.

TO THE HONORABLE ANGUS L.K. McKELVEY, CHAIR,
AND TO THE HONORABLE JUSTIN H. WOODSON, VICE CHAIR,
AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs, Office of Consumer Protection (“OCP”) offer comments opposing House Bill No. 33, H.D. 1, Relating to the Residential Landlord-Tenant Code. My name is Stephen Levins and I am the Executive Director of the OCP.

House Bill No. 33, H.D. 1 sets requirements for tenant application screening fees. It stipulates that the amount of the fee must be commensurate with the costs of the services permitted, and requires that any fee amounts in excess of the services paid for be returned to the tenant. The Bill permits the landlord or the landlord’s agent to charge the applicant

an administrative fee that is no greater than 50% of the application screening fee. The tenant must be provided with a copy of any report obtained using the fee within ten days.

The OCP opposes subsection (c), which permits the landlord or the landlord's agent to collect an administrative fee no greater than 50% of the application screening fee. Landlords or the landlords' agents should be allowed to recover only their costs with regard to the application screening fee. Tenant credit checks are easily available through the internet and cost the requestor between \$10 and \$25. Under these circumstances an administrative fee is clearly unnecessary and excessive, and authorizing one would create a windfall for landlords and their agents.

As drafted, if a landlord or their agent collected an application screening fee and an administrative fee, and then decided not to obtain information about the applicant pursuant to subsection (a), the landlord or their agent would be obligated to return any amount not used pursuant to subsection (a), but they would be permitted to retain the administrative fee. This would enable the abuses that this legislation seeks to prevent by providing an incentive for landlords or their agents to charge application screening fees even if they do not intend to obtain information about the applicant.

Thank you for the opportunity to offer comments in opposing House Bill No. 33, H.D. 1. I would be happy to answer any questions members of the Committee may have.



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Testimony of Hawai'i Appleseed Center for Law and Economic Justice
Supporting HB 33 HD1 Relating to the Landlord-Tenant Residential Code
House Committee on Consumer Protection and Commerce
Scheduled for Hearing Wednesday, February 18, 3:00 pm, Room 325

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

Thank you for the opportunity to testify in **strong support** of House Bill 33 HD1, which would allow landlords to collect a fee for the actual costs of screening a prospective tenant and requiring a refund of any fees not used for screening. The bill also requires landlords to provide applicants with a copy of any reports obtained using the application fee. We believe that this bill will increase opportunities for low-income families to access appropriate housing that meets a family's needs in terms of affordability, size, location, access to resources, and other features that improve their financial stability and well-being.

For moderate and high income households, application fees of \$10-40 may seem relatively small. However, these fees quickly add up for low-income families searching for housing. Hawai'i's severe shortfall of rental housing means high competition for a scarce number of units, leaving apartment hunters with no choice but to apply for multiple units. They also may be forced to pay fees that are well above the landlords' costs. Compounding the problem, low-income households are often seen as less desirable tenants due to their financial situation, and they must apply to—and pay fees for—a greater number of units. For families struggling to get back on their feet, these application fees can be a serious hardship and delay their entry into stable housing. Prospective tenants already must save for first month's rent, a security deposit, and potentially a utility deposit; unnecessarily high application fees present a barrier to housing that can be addressed through this reasonable consumer protection measure.

We respectfully propose an amendment to the HD 1 removing subsection (c). This provision would allow landlords to impose an administrative charge of up to 50 percent of the application screening fee. We are concerned that allowing this additional charge will undermine the intent of this bill to lower costs for applicants.

Again, thank you for an opportunity to testify in support of HB 33 to keep application fees fair and reasonable for prospective tenants. This simple consumer protection measure will help reduce barriers to housing for those who need it most.

February 18, 2015

The Honorable Angus L.K. McKelvey, Chair

House Committee on Consumer Protection & Commerce
State Capitol, Room 325
Honolulu, Hawaii 96813

RE: H.B. 33, H.D.1, Relating to the Residential Landlord-Tenant Code

HEARING: Wednesday, February 18, 2015 at 3:00 p.m.

Aloha Chair McKelvey, Vice Chair Woodson, and Members of the Committee:

I am Myoung Oh, Government Affairs Director, here to testify on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its 8,400 members. HAR raises **concerns** on H.B. 33, H.D.1, which allows a landlord, when processing an application to rent residential property to charge an application screening fee for the actual costs of screening the applicant, plus an additional administrative fee. It also requires landlords to refund any unused amount of the application screening fee and provide a copy of any report obtained via the screening process to the applicant.

The tenant screening process typically begins when the prospective tenant completes a rental application and pays an application fee. Property managers can order various reports or rely on a tenant screening company to produce a tenant screening report. The screening report can include credit reports, criminal background checks, eviction history, and other public records to properly vet a tenant. It is standard practice that any potential tenant over the age of 18 that will be on the rental agreement is required to undergo an application screening check. This is to ensure that potential tenants are capable of accepting the responsibilities of being a renter.

The credit reporting agencies advise property managers to avoid giving the applicants a copy of the credit report we receive because, many times, the tenant will not be able to understand it. For example, in some cases, we depend on the reporting agencies' FICO score to evaluate the information and provide us justification on whether to rent or not rent to the applicant. The agencies recognize this and therefore abbreviate many things on our copy of the report in addition to using codes that must be defined by the agency. Credit reporting agencies recommend the applicants obtain their own FREE credit report that is published in understandable information.

HAR believes it is unreasonable to require the landlord provide the tenant a copy of the screening check information within ten (10) days of obtaining the report.

*Do we advise the applicant to come to our office to pick up their copy.
How long do we need to hold a copy for the tenant if they do not come in during the 10 period?
Do we need to hold a copy indefinitely?
If they don't come, are we liable under the law?
Because of confidentiality laws we cannot provide or even show the credit report to a third party. Other applicants from a family would need to come in individually.
What would stop other residents or family members from opening the mail and reading the applicants report?
Would we be held liable under the confidentiality laws if this happens?
Is the ten day requirement met if the report is mailed by the 10th day, or is it met if when the applicant receives it by the tenth day. Is it ten working days or ten calendar days?*

To avoid this, we would need to mail the report via Certified Mail, Return Receipt requested, Restricted to addressee only. This would limit access to the report and give us proof that we mailed it. The cost of this type of mailing would be \$6.48 per mailing for certified mail, plus additional charges for a return receipt and a restriction to sender. Is this a direct cost of obtaining the credit report and therefore charged to the applicant?

Our REALTORS® abide to a strict code-of-ethics and we ensure that mechanisms are in place to deter abuse. There are laws and enforcement agencies that provide protection to the tenants, including but not limited to the Office of Consumer Protection (OCP), a division of the Department of Commerce and Consumer Affairs, that is charged with protecting the interests of consumers; Regulated Industries Complaint Office that enforces violations by licensed real estate practitioners, including illegal or deceptive practices; and the Federal Trade Commission that applies the laws concerning Fair Debt and Collections Laws related to Credit Reports.

For the foregoing reasons, we respectfully request that this committee hold this measure.

Mahalo for the opportunity to testify.



CATHOLIC CHARITIES HAWAII

TESTIMONY IN SUPPORT OF HB 33 HD1: Relating to the Residential Landlord-Tenant Code.

TO: Representative Angus L.K. McKelvey, Chair, Representative Justin H. Woodson, Vice Chair, and Members, Committee on Consumer Protection and Commerce

FROM: Trisha Kajimura, Social Policy Director, Catholic Charities Hawaii

Hearing: **Wednesday, February 18, 2015, 3:00 pm; Conference Room 325**

Thank you for the opportunity to testify in support of HB 33 HD1, which allows landlords to collect the actual cost of application screening fees from prospective tenant while requiring a refund of the fee if it is not used. The bill also requires landlords to provide a copy of the report they attain with the collected fee.

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 elders, children, developmentally disabled, homeless and immigrants. Our mission is to provide services and advocacy for the most vulnerable in Hawai'i. One of our areas of advocacy priority this year is affordable housing and homelessness. This bill will provide some relief and fairness to low-income renters searching for a rental unit.

CCH has several programs that help people find housing. These programs range in the type of assistance they provide from intensive housing case management to providing financial assistance for deposit or first month's rent. Some of the people seeking this type of assistance are homeless, others are at-risk of homelessness. All have very low-incomes. During a rental search we have found that landlords charge \$10 - \$25 as an application or screening fee. These fees become a barrier to finding housing for our clients because they cannot afford the multiple fees they must pay in order to successfully secure a rental. Our clients do not always have the ideal qualifications landlords are looking for and often apply to a number of apartments before they are accepted. We think there is value to holding landlords accountable for the use of the screening or application fee and could help clients avoid paying such fees when they are not finalists for a unit.

The benefit to low-income renters would be further enhanced with an amendment that we would like to recommend. **We request that bullet (c) of the proposed new section in Hawaii Revised Statute Chapter 521 be removed.** That provision in the section allows landlords to charge up to 50% of the cost of the application screening fee as an administrative charge to the tenant. That fee would end up being a significant cost to the population we serve and remain as a barrier to securing housing.

Thank you very much for hearing and considering this bill that will help lower a barrier to housing for low-income renters. Please contact me at (808)527-4810 or trisha.kajimura@catholiccharitieshawaii.org if you have any questions.





CATHOLIC CHARITIES HAWAII

TESTIMONY IN SUPPORT OF HB 33, HD 1: Relating to the Residential Landlord-Tenant Code.

TO: Representative Angus L. K. McKelvey, Chair, Representative Justin H. Woodson, Vice Chair, and Members, Committee on Consumer Protection & Commerce

FROM: Betty Lou Larson, Legislative Liaison, Catholic Charities Hawaii

Hearing: Wednesday, February 18, 2015, 3:00 pm; Conference Room 325

Chair McKelvey, Vice Chair Woodson, and Members, Committee on Consumer Protection & Commerce:

Thank you for the opportunity to provide written testimony in support of HB 33 HD1, which allows landlords to collect the actual cost of application screening fees from prospective tenant, at the time they process an application for rental residential property. Catholic Charities Hawaii supports HD1 which has the provision that this fee is allowed when processing an application.

Catholic Charities Hawaii (CCH) is a tax exempt, non-profit agency that has been providing social services in Hawaii for over 60 years. CCH has programs serving elders, children, developmentally disabled, homeless and immigrants. Our mission is to provide services and advocacy for the most vulnerable in Hawaii. One of our areas of advocacy priority this year is affordable housing and homelessness. This bill will provide some relief and fairness to low-income renters searching for a rental unit.

CCH has several programs that help people find housing. These programs range in the type of assistance they provide from intensive housing case management to providing financial assistance for deposit or first month's rent. Some of the people seeking this type of assistance are homeless, others are at-risk of homelessness. All have very low-incomes. During a rental search we have found that landlords charge \$10 - \$25 as an application or screening fee. These fees become a barrier to finding housing for our clients because they cannot afford the multiple fees they must pay in order to successfully secure a rental. Our clients do not always have the ideal qualifications landlords are looking for and often must apply to a number of apartments before they are accepted. We think there is value to holding landlords accountable for the use of the screening or application fee.

The amended language in HD 1 is important since it allows landlords to charge the applicant an application screening fee at the time the applicant will be processed for a unit. This change would mean that the prospective tenant would not have to pay the screening fee unless they are a finalist for the rental unit and are being seriously considered by the landlord. This would also make it easier on the landlord in that they would not have to reimburse people they do not end up screening for a unit.

Thank you very much for hearing and considering this bill that will help lower a barrier to housing for low-income renters. Please contact me at (808) 373-0356 or bettylou.larson@catholiccharitieshawaii.org if you have any questions.



CLARENCE T. C. CHING CAMPUS • 1822 Ke'eaumoku Street, Honolulu, HI 96822
Phone (808) 527-4810 • trisha.kajimura@CatholicCharitiesHawaii.org





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

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TO: Representative Angus L.K. McKelvey, Chair
Representative Justin H. Woodson, Vice Chair
Members, House Committee on Consumer Protection and Commerce

FROM: Scott Morishige, Executive Director, PHOCUSED

HEARING: **Wednesday, February 18, 2015 at 3:00 p.m. in Conf. Rm. 325**

**Testimony in Support of HB33 HD1, Relating to the Residential
Landlord-Tenant Code**

Thank you for the opportunity to provide testimony in **strong support** of HB33 HD1, which allows landlords to collect the actual cost of application screening fees from a prospective tenant, while requiring a refund of the fee if it is not used. 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 homeless individuals and families.

According to the National Alliance to End Homelessness, Hawaii has the 2nd highest rate of homelessness per capita in the nation. Because of this, our community needs to adopt policies that will make it easier for homeless individuals to transition to permanent housing. Since March 2014, PHOCUSED has worked together with 30+ homeless service providers throughout Oahu for better coordination of housing placements for the homeless. Based on this experience, we have a deeper understanding of the many challenges facing homeless households who are trying to transition off of the streets and into a stable residence.

The homeless service organizations that PHOCUSED partners with have reported to us that individuals seeking housing often have to pay multiple application fees for potential rental units – and many individuals never hear back from potential landlords about the status of their application. The average cost of these fees is \$25, but fees can range widely from as low as \$15 to as high as \$50. In addition, while most landlords charge a single application fee, some landlords may charge a fee per adult member of the household who will be added to the rental agreement.

On its surface, a \$25 fee may seem small, but this can be a large amount to an individual who is low-income and homeless, and these fees can add up substantially over time. One provider shared a story with us about a client with a fixed income of SSI benefits who paid eight separate application fees and never heard back from any of the potential landlords. This client paid over a quarter of his income towards these application fees, thus making it more difficult for him to afford the cost of rent and deposit if he were able to secure a unit.

By requiring landlords to refund the fee if an application is not conducted, and by requiring that a fee be charged only when an application is actually processed, HB33 provides protections to homeless individuals seeking housing – and ensures that they will receive their money back if a credit or other background check is not conducted.



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

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Once again, PHOCUSED strongly urges your support of this bill. If you have any questions, please do not hesitate to contact PHOCUSED at 521-7462 or by e-mail at admin@phocused-hawaii.org.

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 17, 2015 8:46 AM
To: CPCtestimony
Cc: burgharc@gmail.com
Subject: Submitted testimony for HB33 on Feb 18, 2015 15:00PM

HB33

Submitted on: 2/17/2015

Testimony for CPC on Feb 18, 2015 15:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
cheryl	Individual	Oppose	No

Comments: As a person who rents on O`ahu, I believe that this is just another way to collect and punish people who are not wealthy. One apartment we went to see wasn't even really being rented, the "landlord" I believe just collected all the monies from those of us who went there to see it. He technically could do that anytime. In addition, there is no limit to how many people they can show the apartments to. The price is also per person in many case even if it is 'ohana. Maybe your time would be better spent creating an office that has all the data on people that can be used at less expense to renters who are already struggling. Like a pre clearance like is done for buyers?

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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TO: Representative Angus L.K. McKelvey, Chair
Representative Justin H. Woodson, Vice Chair
Members, House Committee on Consumer Protection and Commerce

FROM: Natalie Nimmer

DATE: February 17, 2015

RE: HB33 HD1

Aloha! Thank you for allowing me to submit testimony in **support** of HB33 HD1, related to housing rental application fees.

Like many renters in Hawaii, I have moved several times because of the temptation of landlords to sell their valuable properties, which displaces renters. Each time I have moved, I have visited roughly 5-10 potential rental properties. Each of the potential landlords requires an application fee. Even in an Open House situation where a dozen or more potential tenants are vying for the one property, the landlord collects the fee from each attendee. It is impossible to know if the landlord actually runs credit checks on anyone, though he has a pocketful of applicants' money for the chance of renting the apartment.

I earn a good salary, but the hundreds I have shelled out in application fees cuts into my budget. For renters who are struggling to make ends meet, these application fees represent more than a financial inconvenience; they represent difficult choices about which other bills to pay or which grocery items to leave in the cart.

Landowners in Hawaii carry so much economic power. These rental application fees, which are collected through intense pressure because of the tight housing market, are just one more way for the "haves" to bilk the "have nots" out of their limited money.

Adding a degree of transparency to the fees would go a long way in protecting the economic interests of renters. **Thank you for considering this testimony in strong support of HB33 HD1.**



LATE

HB33 HD1
RELATING TO THE RESIDENTIAL LANDLORD-TENANT CODE
House Committee on Consumer Protection and Commerce

February 18, 2015

3:00 p.m.

Room 323

The Office of Hawaiian Affairs (OHA) **SUPPORTS** HB33 HD1, which provides much-needed consumer protection to those seeking rental housing, by preventing landlords from charging prospective tenants “application screening fees” that are unreasonably more than the actual costs of screening a rental applicant. In addition, this bill ensures that screening fees are actually used for screening, by requiring landlords to provide prospective tenants with copies of any reports produced through their screening processes.

OHA’s strategic priorities include Ho‘okahua Waiwai, or increasing the economic self-sufficiency of Native Hawaiians. This includes supporting greater stability in housing for our low-income beneficiaries and their families. To guide development of policy relating to Native Hawaiians and housing security, OHA has researched the housing needs of Native Hawaiian families, including an evaluation of the homelessness Point-in-Time counts, as well as our own rental housing survey.

OHA’s research indicates that most housing-insecure Native Hawaiian households include five or more individuals.ⁱ Unfortunately, single-family rental units needed by such households are in short supply. A recent Affordable Rental Housing Study Updateⁱⁱ by the Hawai‘i Housing and Finance Corporation (HHFDC) shows sharp drops in rental listings over the last three years for both multi-family and single-family units on all islands. In some areas, rental housing listings have dropped by 80%ⁱⁱⁱ, with the number of single-family listings in Kaua‘i at less than 10% of the number of listings available three years ago. **With such a scarcity of rental listings, consumer protection mechanisms are necessary to prevent the undue exploitation of families competing for what little housing opportunities are available.**

This measure helps to prevent such exploitation, by prohibiting landlords from charging unreasonable fees to rental applicants, and ensuring that tenants are only charged if they are actually screened. This bill also holds landlords accountable in actually carrying out any screenings they may charge for, by providing tenants with copies of reports obtained during the screening process.

OHA notes that more than half of Native Hawaiian renters live in homes they struggle to afford, often in overcrowded conditions. Despite their higher-than-average labor force participation rates, Native Hawaiians also earn \$9,100 per capita less than the state average. This bill is one way to ensure that such low-income individuals are not forced to use important financial resources simply searching for rental housing opportunities, and offers all renters important consumer protection during times of increased competition for units.

OHA therefore urges the Committee to **PASS** HB33 HD1. Mahalo nui for the opportunity to testify on this measure.

ⁱ OFFICE OF HAWAIIAN AFFAIRS, HAWAII RENTERS STUDY 2013: UNDERSTANDING THE HOUSING NEEDS OF NATIVE HAWAIIAN AND NON-HAWAIIAN SECTION 8 HOUSEHOLDS (2013), *available at* <http://www.oha.org/wp-content/uploads/2015/01/OHA-Hawaii-Renters-Study-2013-Full-Report.pdf>.

ⁱⁱ See HAWAII HOUSING AND FINANCE CORPORATION, RENTAL HOUSING STUDY 2014 UPDATE (2014), *available at* <http://dbedt.hawaii.gov/hhfdc/resources/reports/>.

ⁱⁱⁱ RICK CASSIDAY, MAUI RENTAL MARKET AFFORDABLE RENTAL HOUSING STUDY UPDATE 2014 (2014), *available at* <http://dbedt.hawaii.gov/hhfdc/files/2015/02/RENTAL-HOUSING-STUDY-2014-UPDATE-COUNTY-OF-MAUI.pdf>



HAWAII STATE COALITION AGAINST DOMESTIC VIOLENCE

February 9, 2015

LATE

To: Rep. Angus L.K. McKelvey, Chair
Rep. Justin H. Woodson, Vice-Chair
Members, House Committee on Consumer Protection and Commerce

From: Michelle Rocca, Training Director
Hawaii State Coalition Against Domestic Violence

RE: **HB33 HD1 –SUPPORT**

PLACE: Conference Room 325

DATE and TIME: Wednesday, February 18, 2015 3:00pm

The Hawaii State Coalition Against Domestic Violence (HSCADV) is a statewide coalition of 21 domestic violence program and shelters across the Hawaiian Islands. Our mission is to engage communities and organizations to end domestic violence through education, advocacy, and action for social justice.

HSCADV is in support of HB33 HD1 which requires a transparent process of collecting application fees from a prospective tenant, and requiring a refund if the fee is not used. Hawaii ranks amongst the highest in rates of homelessness per capita in the nation according to the National Alliance to End Homelessness. By adopting policies that provide accessibility and also reduce the upfront costs of moving into permanent housing, Hawaii can work to reduce it's the population of citizens without housing. Often, prospective tenants must apply at several locations before securing housing and a standard fee of \$25.00 can add up quickly. Requiring the landlord to refund the fee if an application assessment or background check is not conducted will provide protection to homeless families and individuals who are seeing housing.

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 17, 2015 3:24 PM
To: CPCtestimony
Cc: projectdate@lthawaii.org
Subject: Submitted testimony for HB33 on Feb 18, 2015 15:00PM



HB33

Submitted on: 2/17/2015

Testimony for CPC on Feb 18, 2015 15:00PM in Conference Room 325

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

Comments: I stand in support of a badly needed bill. The rental business in Hawaii has grown out of control and uncalled fees are just another discriminatory measure being used to create barriers for the poor to receive decent housing. Do the right thing*****

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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