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February 2, 2015

**The Honorable Mark J. Hashem, Chair**

House Committee on Housing  
State Capitol, Room 329  
Honolulu, Hawaii 96813

**RE: H.B. 33, Relating to Discrimination**

**HEARING: Monday, February 2, 2015 at 8:30 a.m.**

Aloha Chair Hashem, Vice Chair Jordan, and Members of the Committee:

I am Aron Espinueva, Government Affairs Analyst, 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 which allows landlords to collect actual cost of application screening fee from prospective tenant and requires landlord to refund application screening fee if landlord does not obtain a report. It also requires landlords to provide a copy of the report to applicant.

The tenant screening process typically begins when the prospective tenant completes a rental application and pays an application fee. Landlords 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.

Under this measure, if an applicant provides the applicant's own credit report, a landlord or the landlord's agent shall accept and rely upon the credit report; if it is issued within two weeks. However, if a landlord engages in a tenant screening report service, a credit report will already be a part of the request and difficult to separate.

Additionally, within ten days of obtaining the report, this measure requires a copy to be sent of any report obtained using the fee. Highly confidential information will be contained in the report, and there is a great risk to the landlord, property manager, and tenant in having this information printed and sent in the mail.

Furthermore, H.B. 33 proposes to limit the screening fee to no greater than the actual out-of-pocket costs for gathering information concerning the applicant. However, there are administrative costs that are a part of the application process, such as administrative staff time, property managers calling references, printing expenses or supplies, and it is unclear if this would be covered under this measure. Additionally, this measure would add to the cost of the application process through mailing the notices, staff assistance and postage or printing expenses, which should also be provided for in this measure.

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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. HAR believes complaints should be filed with the OCP, rather than creating a law that would be complex to follow.

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: Relating to the Residential Landlord-Tenant Code.

TO: Representative Mark J. Hashem, Chair, Representative Jo Jordan, Vice Chair and members of the Committee on Housing

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

**Hearing: Monday, February 2, 2015, 8:30 am; Conference Room 329**

Thank you for the opportunity to testify in **support** of HB 33, 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 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 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 recommend an amendment equivalent to the following change: for line 7 of the bill to be changed to, "may charge the applicant an application screening fee **at the time the applicant will be processed for a unit**, to cover ..." 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 doing the screening on.

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](mailto:trisha.kajimura@catholiccharitieshawaii.org) if you have any questions.





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

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TO: Representative Mark J. Hashem, Chair  
Representative Jo Jordan, Vice Chair  
Members, Committee on Housing

FROM: Scott Morishige, Executive Director, PHOCUSED

HEARING: House Committee on Housing  
**Monday, February 2, 2015 at 8:30 a.m. in Rm. 329**

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

Thank you for the opportunity to provide testimony in **support** of HB33, 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, such as the homeless.

According to the National Alliance to End Homelessness, Hawaii has the 2<sup>nd</sup> highest rate of homelessness per capita in the nation. Since March 2014, PHOCUSED has worked together with 30+ homeless service providers throughout Oahu to better coordination of housing placements for the homeless. Based on this experience, we have a deeper understanding of the many barriers and 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 homeless individuals seeking housing often have to pay multiple application fees for potential rental units, at an average cost of \$25 per fee or sometimes more. One organization shared with us that their client had paid eight separate application fees, yet had never heard back from any of the potential landlords. 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.

SB392 would hold landlords more accountable for the use of the application fee, and would provide the prospective tenant with the 'product' of their fee – i.e. a credit report or criminal background check. However, to strengthen this measure, PHOCUSED proposes a suggested amendment to change line 7 to read "may charge the applicant an application screening fee **at the time the applicant will be processed for a unit**, to cover . . ." This change would mean that the prospective tenant would not have to pay the screening fee unless they were a finalist for the rental unit and being seriously considered by the landlord. This would also make it potentially easier for landlords, in that they would not have to reimburse individuals they do not end up conducting a screening on.

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](mailto:admin@phocused-hawaii.org).



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

FEBRUARY 2, 2015  
8:30 AM

TESTIMONY ON H.B. 33, RELATING TO THE RESIDENTIAL LANDLORD-TENANT  
CODE.

TO THE HONORABLE MARK J. HASHEM, CHAIR,  
AND TO THE HONORABLE JO JORDAN, VICE CHAIR,  
AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs, Office of Consumer Protection (“OCP”), offers the following comments in **support** of H.B. 33, Relating to the Residential Landlord-Tenant Code. My name is Bruce B. Kim and I am the Executive Director of OCP.

H.B. 33 would authorize landlords to charge rental applicants a screening fee to cover the costs of obtaining certain information about the applicants. In addition, the measure provides that, if the applicant provides its own credit report issued within two weeks of the report’s presentation, the landlord shall accept and rely upon the applicant’s report. H.B. 33 would also require that the amount of the fee must be commensurate with

the actual out-of-pocket costs of the services permitted, and would further require that any fee amounts in excess of the services paid for be returned to the tenant. Finally, the tenant would need to be provided with a copy of any report obtained using the fee within ten days from the time the landlord or his or her agent obtains the report.

Currently there are no laws in Hawai'i regarding rental application fees. OCP frequently receives inquiries regarding the subject of rental application fees as the agency responsible for operating the Residential Landlord-Tenant Hotline. However, in the absence of existing laws concerning rental application fees in the Residential Landlord-Tenant Code, OCP is limited in the assistance and guidance it can provide to Hawaii's consumers on this specific topic. OCP believes H.B. 33 would address an area of concern for consumers regarding the rental application process that is not currently addressed by the Residential Landlord-Tenant Code, as that law is focused primarily on regulating the landlord-tenant relationship once it has commenced.

Thank you for the opportunity to offer comments in **support** of H.B. 33.

**Testimony of  
Mihoko E. Ito  
on behalf of  
Consumer Data Industry Association**

**LATE**

DATE: February 2, 2015

TO: Representative Mark Hashem  
Chair, Committee on Housing  
*Submitted Via Capitol Website*

RE: **H.B. 33 – Relating to The Residential Landlord Tenant Code**  
**Hearing Date: Monday, February 2, 2015 at 8:30 a.m.**  
**Conference Room: 329**

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Dear Chair Hashem and Members of the Committee:

We offer this testimony on behalf of the Consumer Data Industry Association (CDIA). Founded in 1906, CDIA is an international trade association that represents about 150 data companies. CDIA members represent the nation's leading institutions in credit reporting, mortgage reporting, fraud prevention, risk management, employment screening, tenant screening and collection services.

CDIA **opposes H.B. 33, which** allows landlords to collect actual cost of an application screening fee from prospective tenants, requires landlords to refund application screening fees if landlord does not obtain report, and requires the landlord to provide copies of reports to applicants.

CDIA has concerns in particular with the provision at Page 1, lines 12-15 which requires that, if an applicant provides the applicant's own credit report, a landlord or the landlord's agent shall accept and rely upon that credit report if it was issued within two weeks of its presentation.

Allowing a consumer to provide his or her own credit report puts the landlord and other tenants at financial risk since it would increase the possibility of a fraud. Falsifying or fabricating a residential screening report, via a computer or Photoshop, is not difficult to do, and the people with the most to hide will be the ones to hide the most. A report that

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does not come from a consumer reporting agency directly will make it difficult for landlords to protect themselves.

CDIA is not aware of any state that allows a prospective tenant to furnish their own credit report. If the Committee is inclined to move the bill, CDIA respectfully requests that this requirement be removed.

Thank you for the opportunity to testify on this measure.



**LATE**

Good Morning

I ask you to consider this important bill in passing HB33, protecting applicants/renters; speaking from past experience. I lived in my rental unit at 1731 B Homerule Street, Honolulu Hawaii 96819 (about three decade) 26 years; my husband and I raise our 3 children with disability; Then was given notice to move out; after 26 years; We/I paid our rent on time/never late; maintain the cleanses around the building and surrounding areas, sidewalks and street. Where the longest tenant.

imagine how we felt, when we where given notice to move; we turn to SOH Landlord-Tenant Code there where not able to help, because we paid our rent on time and never late/but offered little to no assistance but support and wish us luck/maybe we can lobby our legislators since (to revised the landlord tenant code book, rules and laws, it needs an overhaul/very old). We are still in shock, where to start; wishing it was a dream, with the amount of items we had in the home after "26 yrs" left us no choice but to place our household items into storage (which cost us \$1,600.00) items where thrown out and given away; of value/we lost; then we all moved into a hotel for 4 four months (which cost us \$15,000.00) at the airport plaza during the holidays; another lost. Then It became difficult and impossible in finding a place (every time we shown up for an open unit/there was others applying for the same unit) in order to apply and rent out the units landlords, realtors and bankers investors required a fee (ranging between \$10.00 - \$100.00) from each applicant (if you have 5 five in the family each person "adult child" must apply and pay these fees to (i.e. processing credit report, finders and showing fees) easy cash! Bad for the consumers/renters some said it was for gas. We had no luck; but paid tons of fees/at that point we felt it was the end/we have to go homeless/as the hotel charges kept adding up; place yourself in our shoe/keep in mind how old we became.

We looked at prays and good wishes; then pleated with landlords hoping someone good would give us a chance; I ask you to consider my situation in support and passing HB33; please consider the following,

- 1) Protect the applicant in how much fees their can charge, one (related family) household should not be charged multiple fees for each relative.
- 2) Applicants should have control on the use of there credit report; by providing a copy to landlord at no charge or fees.
- 3) Landlord and Realtors should give notice to each applicant denying them the unit/this will allow the applicant to pull a credit report and the reason for denial.

4) Please revised the landlord tenant code rules and laws and protect persons with disability.

Credit reports should not affect the applicant when seeking rental; this is to avoid multiple pulling/recommendation the applicant should be the only one pulling credit report; to use when applying for each rental unit within 30 Thirty Days use.

Thank you, Mrs Mahaulu

**LATE**

Hello committee,

I'm in support to bill: HB33, and write on the behalf of my sister and myself; we need to pass this bill HB33 and stop the easy cash flow/these landlords, realtors are charging fees to applicants without receipt and itemizing the use of this collect/some landlords continue to post there ads, I witnessed; when my sister applied, she has good credit, income and references, and yet she was not selected/the landlord reposted the add/again easy cash, this is unfair, or

Landlords and Realtors look for multiple household members in one home and workers; when making there selection to increase the monthly rent. I ask you to support HB33 and more need to be done in revising the Landlord Tenant Code Laws and Rules.

Mahalo, Ms Keawe