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**TESTIMONY OF JAN K. YAMANE, ACTING STATE AUDITOR,  
ON HOUSE BILL NO. 834  
RELATING TO CHECK CASHING**

**Committee on Consumer Protection and Commerce**

**February 9, 2015**

Chair McKelvey and Members of the Committee:

I am Jan Yamane, Acting State Auditor. Thank you for the opportunity to provide comments on this bill, which would amend Section 480F-4, HRS, to limit the cumulative fees charged for deferred deposit transactions to a maximum APR of 39 percent.

As you are aware, in 2005 we conducted a sunrise analysis on a proposal to expand regulation of payday lenders, *Sunrise Analysis: Check Cashing and Deferred Deposit Agreements (Payday Loans)*, Report No. 05-11. In it, we calculated that the law allows check cashers to charge the equivalent of 459 percent interest per year. We recommended, among other things, that Chapter 480F, HRS, be amended to reduce the maximum fee (interest) for a deferred deposit agreement. This bill would implement that recommendation. We have not done any work in this area since 2005.

I am available to answer any questions you may have.



February 6, 2015

Honorable Angus L. K. McKelvey, Chairman  
House Committee on Consumer Protection and Commerce  
Hawaii State Capitol, Room 325  
Honolulu, HI 96813

RE: HB228, HB 744, and HB834, Related to Check Cashing

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Dear Chairman McKelvey.

My name is Shelley Crisp. I am the District Manager for 9 Money Mart® stores located in Hawaii. I have been employed by Money Mart for 7 years. I have lived and worked here in Hawaii for 4 years. I am submitting testimony on behalf of myself, my family, my employees and my customers here at Money Mart. I am asking this committee to oppose House Bills 228, 744, and 834.

Many people misunderstand our business and our customers. I have seen and heard many times why customers use and need the services we offer; particularly the payday loan. Our customers are not poor or unemployed as many believe. They are working class citizens here on the islands: retail workers, hotel workers, retirees, and teachers to name a few. They come from all walks of life. At some point, we all get into a situation when we need a place to turn for additional cash for that unexpected bill or financial hardship. This could be a medical bill, a car problem, or lost hours at work when business is slow. Unfortunately, the bills remain the same.

Last week I met a person who talked to me about our business. He explained that previously he looked down on our industry. He couldn't understand why anyone would take out a payday loan. He then found himself in a situation where he had nowhere to turn for the extra money he needed. This person researched his options and compared. A payday loan was his cheapest and easiest alternative. It was quick, simple, and convenient. Most importantly, it was a much cheaper alternative to what his bank was going to charge for an overdraft. The options online were even scarier when he discovered that many of the offers were not regulated. This story is typical of what I hear on a daily basis. There is a strong demand for payday loans on the islands. We are professional, well regulated with consumer protections, and a safe place for customers to go when they have short term financial needs. Our customers depend on us and I am proud that we can help them.



I have serious concerns not only for all our customers across the islands but also my employees who also see the need for us here on island. If any of these bills were passed, Money Mart would not be able to keep our stores open. The people that would suffer are the people that need us most: our customers and our employees. My customers would still need money and would go to unsafe, unregulated alternatives on the internet. I strongly believe we offer an honest open service to the residents of Hawaii. Hawaii already has a strong law with consumer protections in place.

I urge the committee to please oppose House Bills 228, 744, and 834.

Sincerely,

Shelley Crisp  
Senior District Manager



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

February 5, 2015

Honorable Angus L. K. McKelvey, Chairman  
House Committee on Consumer Protection and Commerce  
Hawaii State Capitol, Room 325  
Honolulu, HI 96813

**RE: HB228, HB 744, and HB834, Related to Check Cashing**

Dear Chairman McKelvey:

Thank you, Chairman McKelvey, 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<sup>®</sup> 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 Bills 228, 744, and 834. 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 Bills 228, 744, and 834.

### **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 Bills 228, 744 and 834**

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 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.<sup>1</sup> Four years later the Portland Business Journal was still reporting that, “. . . the laws, which capped

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

interest rates at 36%, forced cash-hungry borrowers to turn to the shady world of Internet Payday loans. . . .”<sup>2</sup>

- 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.<sup>3</sup> 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.<sup>4</sup>
- 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.<sup>5</sup>

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.

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<sup>2</sup>“[Borrowers flock to online payday lenders](#),” *Portland Business Journal*, Feb. 11, 2011.

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

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

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

## **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.<sup>6</sup>
- 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.*”<sup>7</sup>
- 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.”<sup>8</sup>

## **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 Bills 228, 744, and 834 in their 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 Bills 228, 744, and 834

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

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

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



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

# Maui Loan Inc.

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February 6, 2015

Representative Angus L. K. McKelvey, Chair  
Committee on Consumer Protection & Commerce

SUBJECT:     **HB 834 – RELATING TO CHECK CASHING**

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My name is Richard Dan and I operate Maui Loan Inc., which makes payday loans in Maui County. I believe Hawaii's payday lending law has some of the strongest borrower protection limits in the nation, and **I oppose HB 834.**

HB 834 would have an unintended consequence of freezing out some borrowers who would have no place else to go. However, even the good existing law could be improved in a manner that would not hurt borrowers.

First, allow me to explain why Hawaii's law is so consumer-friendly, because payday loans have gotten a lot of bad publicity, some deserved but some not. And especially not in Hawaii.

The main point is that in Hawaii a borrower can have only one payday loan at a time, so he or she must pay off an existing payday loan before applying for another one. And he must actually pay off the entire balance; there is no provision for paying interest-only.

Yes, it is possible for an imprudent customer to get in the habit of paying off a loan and immediately applying for another. But at any time, he can pay off the loan and never see that lender again.

Most payday loan customers just need a small amount to tide them over till the next payday, perhaps to pay a utility bill. The interest charge, which seems so big when expressed as an APR, is in reality much smaller than the late fee he would be assessed if he's late making his payment, or, even worse, if he bounces a check.

If you borrow \$100 from a payday lender and owe \$115, that is your maximum exposure. The lender cannot come after you for any more.

Contrast that with the dire situation of the borrower who puts \$100 on his credit card, with a lower APR. If he fails to pay next month, or makes only a minimum payment, his balance goes up. With a paycheck loan, the principal balance can never go up.

In the law – and in actual practice – it is possible for a person who borrows \$100 on a credit card to end up owing the credit card company thousands of dollars.

Nevertheless, I acknowledge that some customers, through habit or imprudence, do pay off one loan and quickly take out another. I propose an addition to the present law that would introduce a three-day waiting period after a customer pays off his payday loan before he could apply for another one.

If you really want to help customers being abused by predatory lenders, I recommend you look to where the big abuses occur – in the bank credit card business. Or you could instruct the Attorney General to start enforcement actions against Internet payday lenders. A bill with similar intentions to this one, HB 228, states that Hawaii laws apply to them, but they pay no attention to that and so far as I know, no enforcement has ever been pursued against any of their abuses.

Maui Loan complies strictly with the Hawaii statute because we are part of the community and want it to be a good one.

Sincerely,

*Richard Dan*

Richard Dan  
Maui Loan Inc.

From: mailinglist@capitol.hawaii.gov  
Sent: Friday, February 06, 2015 11:32 AM  
To: CPCtestimony  
Cc: hlusk@chowproject.org  
Subject: \*Submitted testimony for HB834 on Feb 9, 2015 14:30PM\*

**HB834**

Submitted on: 2/6/2015

Testimony for CPC on Feb 9, 2015 14:30PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Heather Lusk	The CHOW Project	Support	No

Comments:

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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From: mailinglist@capitol.hawaii.gov  
Sent: Thursday, February 05, 2015 5:01 PM  
To: CPCtestimony  
Cc: Barbara@island-law.com  
Subject: Submitted testimony for HB834 on Feb 9, 2015 14:30PM

**HB834**

Submitted on: 2/5/2015

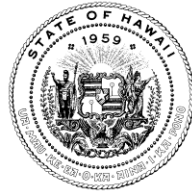
Testimony for CPC on Feb 9, 2015 14:30PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Barbara L Franklin	Barbara L Franklin, Esq., Attorney at Law	Support	No

Comments: I strongly support this bill. I also support HB744 which I think has weaker consumer protections. We need to protect the most vulnerable of our working poor. Check cashing that puts the working poor in a debt spiral takes money away from their families and the other merchants that provide necessities that support the communities. The middle class cannot afford to have working poor draining our government resources when the spiral hits bottom.

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**LATE**

DAVID Y. IGE  
GOVERNOR  
SHAN S. TSUTSUI  
LT. GOVERNOR

STATE OF HAWAII  
OFFICE OF THE DIRECTOR  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
335 MERCHANT STREET, ROOM 310  
P.O. Box 541  
HONOLULU, HAWAII 96809  
Phone Number: 586-2850  
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CATHERINE P. AWAKUNI COLÓN  
DIRECTOR  
JO ANN M. UCHIDA TAKEUCHI  
DEPUTY DIRECTOR

PRESENTATION OF THE  
OFFICE OF CONSUMER PROTECTION

TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

THE TWENTY-EIGHTH LEGISLATURE  
REGULAR SESSION OF 2015

FEBRUARY 9, 2015  
2:30 PM

TESTIMONY ON H.B. 744, RELATING TO CHECK CASHING  
TESTIMONY ON H.B. 834, RELATING TO CHECK CASHING and  
TESTIMONY ON H.B. 228, RELATING TO DEFERRED DEPOSITS.

TO THE HONORABLE ANGUS McKELVEY, CHAIR,  
AND TO THE HONORABLE JUSTIN WOODSON, 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. 744, Relating to Check Cashing, H.B. 834, Relating to Check Cashing, and H.B. 228, Relating to Deferred Deposits (collectively referred to herein as “check cashing bills”), and offers the following comments for the Committee’s consideration.

The check cashing bills on this agenda each amends 480F-4, Hawaii Revised Statutes (“HRS”) by reducing the fees or interest a check casher can charge on a deferred deposit transaction.

OCP supports the intent of these measures to the extent each reduces the cost of credit for those consumers who are unable to obtain financing through more traditional means.

With respect to reducing the interest associated with deferred deposit fees, OCP suggests that the Committee favorably consider capping the fee in a manner consistent with the current thirty-six percent (36%) APR limit imposed under Department of Defense regulations on payday loans to servicemembers and their dependents. See, title 10 USC §987. OCP was granted authority to enforce these federal provisions in 2012 through H.R.S. § 481B-16.

Thank you for the opportunity to offer comments to H.B. 774, H.B. 834, and H.B. 228.



**LATE**

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Testimony of Hawai'i Appleseed Center for Law and Economic Justice  
Supporting HB 834 Relating to Check Cashing  
House Committee on Consumer Protection & Commerce  
Scheduled for Hearing Monday, February 9, 2015, 2:30 am, Room 325

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*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.*

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Thank you for an opportunity to testify in **strong support** of House Bill 834, which would place a 39 percent per annum cap on the interest that a check casher can charge for a deferred deposit agreement. 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 by imposing a reasonable cap as proposed in this bill. An APR cap in this range is the only proven, meaningful way to protect borrowers from high-cost lending. Nationally, there is growing recognition of the impact of these loans: 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.

We are mindful that payday lending is indicative of broader issues of financial insecurity facing low-income people, but 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. Regulated, small dollar installment loans can be a safe product, but the payday loans that this bill seeks to regulate are definitely not.

Hawai'i Appleseed does respectfully propose an **amendment** to HB 834. We suggest deleting the bill's reference to the 39 percent APR cap in Hawai'i Revised Statutes §480F-4(b), and instead replacing the current language of HRS §480F-4(c) with the following:

“(c) 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 in an amount [~~not to exceed fifteen per cent of the face amount of the 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.”

This language deletes the reference to the current 15% fee that may be charged for a deferred deposit. Without this deletion, it appears that §480F-4(c)'s language regarding the 15% fee will conflict with the bill's language imposing the 39% APR cap in §480F-4(b), because the 15% fee when annualized is equivalent to a 459% APR. Appleseed also respectfully suggests a cap of 36% APR to conform with the federal government's restriction on loans to military members.

Again, thank you for the opportunity to testify on this bill. We strongly encourage you to **support HB 834** to provide greater protection for our low-income workers and others vulnerable to financial exploitation through lending.



**LATE**

## CATHOLIC CHARITIES HAWAII

### Testimony in Support of HB 834 Relating to Check Cashing

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

HEARING: House Committee on Consumer Protection and Commerce  
**Monday, February 9, 2015 at 2:30 p.m. in Conf. Rm. 325**

Thank you for the opportunity to provide **testimony in support of HB 834 with amendments**, which places a cap on the interest a check casher (payday lender) can charge pursuant to a deferred deposit agreement at 39 per cent per annum.

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.

In 2006 the U.S. Department of Defense made it illegal to make 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 and accruing more debt. **Our position on this issue is that Hawai'i consumers also need the protection of a 36% APR rate cap on deferred deposits.**

We also suggest that instead of amending HRS 480F-4(b) as stated in the bill, amendment be made to HRS 480F-4(c) to read: *"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."*

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





**LATE**

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, Committee on Consumer Protection and Commerce

FROM: Scott Morishige, Executive Director, PHOCUSED

HEARING: House Committee on Consumer Protection and Commerce  
**Monday, February 9, 2015 at 2:30 p.m. in Conf. Rm. 325**

**Testimony in Support of HB834, Relating to Check Cashing.**

Thank you for the opportunity to provide testimony in **support with amendments** of HB834, which would require the written agreement for payday loans to state that all cumulative fees charged for these transactions shall not exceed an annual percentage rate (APR) of 39%. 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.

Our membership includes organizations such as Catholic Charities Hawaii, Parents & Children Together, Honolulu Community Action Program, and others that provide services to very low-income households. Through the work that our member organizations do, we have heard first-hand the stories of low-income households who have fallen deeper into debt due to predatory payday lending practices. The fees charged on payday loans in Hawaii are 15% of the face value of the check for each transaction. For example, an individual who receives a payday loan of \$100 will pay a fee of \$17.65 – making the APR for a 14-day loan at that amount equivalent to a 459% APR.

While we support HB834, **we prefer a cap of 36% APR for payday loans in Hawaii**. If HB834 is to move forward, we **suggest the following amendments** to clarify the language regarding the APR. Specifically, we suggest deleting the reference to the 39% APR cap in HRS 480F-4(b), and replacing the current language in HRS 480F-4(c) with the following:

“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.”

The above language deletes reference to the current 15% fee that may be charged for a deferred deposit. If you do not delete this reference, language regarding the 15% fee will be in direct conflict with the language imposing a 36% APR cap because the 15% fee when annualized will equal an APR of 459%.



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

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*Darcie Scharfenstein*  
*Alan Shinn*

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. Currently, 17 other states have adopted this policy and protected their consumers while allowing affordable small loans. Research conducted by the Federal Deposit Insurance Corporation (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.

Once again, PHOCUSED strongly urges your support of this bill and requests the implementation of a 36% APR cap on payday loans in Hawaii to protect our vulnerable populations from predatory lending practices. 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).

**LATE**

February 6, 2015

TO: Chair Angus L.K. McKelvey and Members of the House Committee on  
Consumer Protection & Commerce

FROM: Cash in Advance, Inc.

RE: **HB 834** - Relating to Check Cashing  
Hearing Date: February 9, 2015  
Time: 2:30 pm

My name is Kristln Green. I am the regional manager for Cash In Advance, Inc. ("CIA").  
CIA **opposes** this bill.

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(b) of the Hawaii Revised Statutes by adding the following underscored  
language:

... all cumulative fees charged for deferred deposit transactions shall not  
exceed an annual percentage rate of 39 per cent.

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 statute under subsection (c) provides for a flat fee of up to 15% of the face  
amount of a check. The proposed amendment to the bill provides for the 15% fee provided  
that all fees and interest for a deferred deposit transaction are expressed as an annual  
percentage rate ("APR") not to exceed 39%. These are conflicting provisions and not  
possible to implement together.

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.

Thank you for considering this testimony.

**LATE**

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

From: Lorna Sordillia, Branch Manager, PayDayHawaii Hilo  
Money Service Centers of Hawaii, Inc.

February 7, 2015

In opposition to HB228, HB744, and **HB834**

To whom it may concern,

My name is Lorna Sordillia. I am a proud member of the check cashing industry. I have been employed with Money Service Centers of Hawaii Inc. dba PayDayHawaii for almost eleven years now. During my employment I have met many people, had many conversations and experienced many things not only as an employee and branch manager of our Hilo location but also as a consumer myself.

Over the years, payday lending laws have changed for the betterment of consumers and I applaud our law makers for I know they always carry out their duties with our best interest at heart. However, I feel it is my duty as a manager and consumer to share with all of you what I have learned and experienced as a frontline worker here at PayDayHawaii. I feel it is my duty to advocate on behalf of my colleagues and fellow consumers so that our law makers can continue to make informed decisions and pass laws for the betterment of all those concerned.

Check cashers, money service business and/or pay day lenders such as PayDayHawaii are in fact a legitimate business. We provide consumers with many services to suit their needs including check cashing and short term lending services. Over the years, we've received harsh criticism from the public calling us "loan sharks" and "rip offs." I've also been told that businesses like ours put people in debt! As a manager and a consumer I disagree with such statements and believe it to be ludicrous! In fact, what is more absurd is these notions come from people who don't use our services. ***Payday lenders do NOT put people in debt at all! People put themselves in debt.*** It has been my experience that a lot of customers may go into debt or further into debt after using our services **NOT** because of "us" but because of their own choices to borrow money they cannot or do not intend to pay back.

To better understand my point of view, I must first share the reasons why I've experienced consumers need to seek out our short term lending services.

- **CONSUMERS** themselves are human, they do not budget their finances like they should and therefore have to seek out our services.
- **CONSUMERS** are unable to take out loans from their own financial institutions such as banks and credit unions and therefore have to seek out our services.
- **CONSUMERS** have a life to live and such as life that things happen (such as car breaking down) and consumers need more money than they make so they have a need to "borrow money."

- **CONSUMERS** are unable to “borrow” money from family and friends because 1) they too are in a similar financial situation and “borrow” money themselves and/or 2) “borrowing” from family and friends come with a higher burden (or fee) then consumers are willing to pay.

I have never gone out and solicited pay day loans to consumers directly. In fact, we merely offer such services and it is the CONSUMER that seeks us out. *H.B. NO. 744 makes reference to limiting the interest rate a check casher is allowed to charge by way of a deferred deposit agreement to help limit the problem of borrowers being led into a debt trap from which they cannot escape.* **None** of the reasons listed above push blame to check cashers, money service businesses or payday lenders for consumer debt.

Ladies and Gentleman, Are we as check cashers, being held responsible for the choices and actions of consumers? Because we shouldn't! Our industry does not force consumers to take out pay day loans, but in fact, just provide a service like any other business such as grocery stores, clothing retailers and entertainment venues. Many factors contribute to debt, but the number one reason is **CONSUMER CHOICE**. When a consumer purchases a car or a home, it is their choice to do so. When a consumer takes out a credit card with interest rates of up to 29% or more it is their choice to do so. It is also their choice to sign their agreement with the car dealership, bank, mortgage or credit card companies, after they are told what the fees for such service and purchase are. Moreover, it is their choice to finally make that purchase knowing and considering their financial situation, such as income, living expenses and personal spending habits. Again, I must protest that check cashers are not responsible for consumers' personal debt nor do we lead consumers into a debt trap.

Additionally, I ask if the government holds itself accountable for the role it plays in the consumer “debt trap” that check cashers are being associated to? Through my experience both personally and professionally I have learned that there are many federal and state assistance out there for low income families & individuals but what about the middle class people such as myself and those consumers who seek out our lending services? We are the ones that make “too much” money to qualify for services such as food stamps & county housing. But yet, a lot of us Americans in the middle class don't make enough to “get by” or “get ahead” without seeking services like ours. I've met a lot of people personally that chose not to work because they can get welfare! I've heard parents tell their child(ren) “why work when you can collect?” I myself can't and don't have an attitude like this, nevertheless, I've witnessed families who have the mentality that the government encourages them not to work or work part time. Moreover, these are the same people who feel as if the more kids they have the more assistance they get! Many of you may disagree, but I do feel if our law makers are holding check cashers, money service businesses and pay day lenders responsible for consumer debt, they too must also, acknowledge, accept and change their role in consumer debt as well.

I read an article in Pacific Business News in June of 2014 regarding a lawsuit between payday lenders and federal banking regulators concerning Operation Choke Point. *The lawsuit notes that “Payday lenders are part of a lawful and legitimate industry that serves the critical short-term needs of millions of American consumers.”* I must agree, support and advocate this very statement. We as a business and industry are law abiding. We disclose our fees to all consumers before they sign into any short term lending agreement. We also work with consumers with repayment options such as partial payments and

payment plans when unexpected obstacles occur that hinder their ability to repay their pay day loan as first agreed upon on their contract. I have offered payment options to our customers who have repeatedly taken out pay day loans with no vision of payment without re-borrowing; who deny or disregard our suggestion. Moreover, there are consumers who take our suggestion for repayment options but still return to us for servicing after their “cooling off” or waiting period once their loans have been paid in full. We have also informed and suggested to customers the fees and effects of repeated borrowing. Nonetheless, my efforts and that of my company and business industry to serve the short term needs of consumers is not in vain nor is it for the sole purpose of company gain by means of profit for us and debt for the consumer.

We as a business and industry should not be scrutinized or penalized for the CONSUMER’S CHOICE for seeking and utilizing our services. If we are held liable for CONSUMER CHOICE then shouldn’t every other business and service provider be held with the same regard? Will the government also, regulate outrageous prices of gas, meals at a restaurant or the cost of a movie or theme park simply because of a CONSUMER’S IRRESPONSIBLE CHOICE to utilize the business’ products or services? I believe that the current laws enforced in our industry are reasonable to both the consumer and industry for the services that are provided.

On the contrary, I believe that a decrease in fees will not only encourage consumers to continue to utilize payday lending services as it will then be “cheaper” to borrow money but it will also negatively impact the many businesses in our industry who will be unable to afford the day to day costs of operating a business such as ours. We as an industry and you as law makers cannot control the choices of consumers, we can and do however, educate consumers of the cost and consequence of their choices.

In closing, it is my hope that each of you will consider that it is not our intention or practice as a business in the check cashing industry to promote consumer borrowing in a negative way or with a negative impact. We are a positive solution to their short term needs.

Lorna Sordillia,

Branch Manager, PayDayHawaii Hilo



**LATE**

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, HB744, and **HB834**

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 15<sup>th</sup> 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](http://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.

**LATE**

## **HAWAII CHECK CASHING**

February 6, 2015

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

From: Hawaii Check Cashing (Doreen Rodrigues)

**In Opposition to HB228, HB744, HB752, HB834**

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. Our motto from day one has been “the fastest most courteous service in town”. As many businesses have come and gone over the years we have survived because our main objective is serving the people of Hawaii.

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%. The current 15% is a reasonable fee charged based on the inherent risk of holding a personal check for deferred deposit.

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