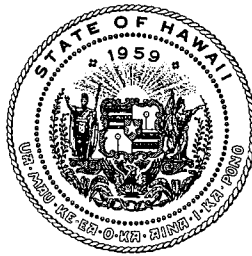


SB737

Measure Title: RELATING TO CHECK CASHING.
Report Title: Check Cashing; Deferred Deposit Agreements; Interest
Description: Places a cap on the interest that a check casher can charge pursuant to a deferred deposit agreement at 36 per cent per annum.
Companion: [HB744](#)
Package: None
Current Referral: CPN
Introducer(s): BAKER, CHUN OAKLAND, ESPERO, GREEN, KIDANI, RUDERMAN, Ihara, Keith-Agaran, Nishihara, Taniguchi, L. Thielen, Wakai

<u>Sort by Date</u>		Status Text
1/23/2015	S	Introduced.
1/26/2015	S	Passed First Reading.
1/28/2015	S	Referred to CPN.
2/13/2015	S	The committee(s) on CPN has scheduled a public hearing on 02-20-15 9:00AM in conference room 229.



**TESTIMONY OF JAN K. YAMANE, ACTING STATE AUDITOR,
ON SENATE BILL NO. 737,
RELATING TO CHECK CASHING**

Senate Committee on Commerce and Consumer Protection

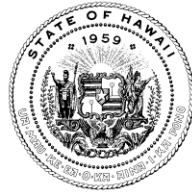
February 20, 2015

Chair Baker and Members of the Committee:

I am Jan Yamane, Acting State Auditor. Thank you for the opportunity to provide comments on Senate Bill 737, which would limit the interest a check casher can charge pursuant to a deferred deposit agreement to 36 percent per year.

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.



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
Fax Number: 586-2856
www.hawaii.gov/dcca

CATHERINE P. AWAKUNI COLÓN
DIRECTOR
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DEPUTY DIRECTOR

**PRESENTATION OF THE
OFFICE OF CONSUMER PROTECTION**

TO THE SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

**THE TWENTY-EIGHTH LEGISLATURE
REGULAR SESSION OF 2015**

**FEBRUARY 20, 2015
9:00 AM**

TESTIMONY IN SUPPORT OF S.B. 737, RELATING TO CHECK CASHING

**TO THE HONORABLE ROSALYN H. BAKER, CHAIR,
AND TO THE HONORABLE BRIAN T. TANIGUCHI, VICE CHAIR,
AND MEMBERS OF THE COMMITTEE:**

The Department of Commerce and Consumer Affairs (“DCCA”), Office of Consumer Protection (“OCP”) supports the intent of S.B. 737, Relating to Check Cashing, and offers the following comments for the Committee’s consideration. My name is Stephen Levins and I am the Executive Director of the OCP.

S.B. 737 amends section 480F-4, Haw. Rev. Stat., to include interest charged on the deferred deposit transaction to be included in the written agreement (pg. 2, line 9). It would also limit the allowable annual percentage rate (“APR”) of a deferred deposit transaction to “36 per cent per annum,” and proceeds to define “per annum” (pg. 2, lines 11-12).

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

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

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

In the event that a 36% APR is adopted by this Committee, the remainder of section 480F-4 would have to be reconciled. In this regard, the OCP would be happy to work with the Committee to provide appropriate language.

Thank you for the opportunity to support the intent, and offer comments on S.B. 737.



SB737
RELATING TO CHECK CASHING

Senate Committee on Commerce and Consumer Protection

February 20, 2015

9:00 a.m.

Room 229

The Office of Hawaiian Affairs (OHA) Committee on Beneficiary Advocacy and Empowerment will recommend to the Board of Trustees a position of **SUPPORT** for SB737, which protects low-income families by reducing the maximum interest a check casher may charge under a payday loan agreement. This bill aligns with OHA's strategic priority of improving the economic self-sufficiency of Native Hawaiians.

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

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

The current measure accordingly provides some consumer protection for AFS, by placing a cap on the interest that a check casher can charge pursuant to a deferred deposit agreement. The proposed 36% per annum cap is a moderate cap, and brings Hawai'i closer to compliance with FDIC Small Dollar Loan Guidelines, which recommend setting maximum lending rates at less than 36%, with low or no fees. Adopting such a cap may provide our low-income families with access to credit, while allowing AFS to remain profitable. OHA notes that 35 other jurisdictions already place a maximum lending rate cap at 36% or less.

Accordingly, OHA urges the Committee to **PASS** SB737. Mahalo nui for the opportunity to testify on this important measure.



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

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TO: Senator Rosalyn H. Baker, Chair
Senator Brian T. Taniguchi, Vice Chair
Members, Senate Committee on Commerce and Consumer Protection

FROM: Scott Morishige, MSW
Executive Director, PHOCUSED

HEARING: **Friday, February 20, 2015 at 9:00 a.m. in Conf. Rm. 325**

Testimony in Support of SB737, Relating to Check Cashing.

Thank you for the opportunity to provide testimony in **strong support** of SB737, which would cap the Annual Percentage Rate (APR) for payday loans, also known as “deferred deposits” at 36% per annum. 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 triple digit 459% APR.

The high fees associated with payday loans make it difficult for individuals to repay the loan on time. According to the Center for Responsible Lending, only 2% of payday loans go to borrowers who can afford to pay off the loan the first time. Furthermore, four out of five payday borrowers either default or renew a payday loan over the course of a year. According to research conducted by the Pew Charitable Trusts, a typical payday loan borrower takes out eight loans of \$375 each per year, and spends \$520 in interest. In addition, payday lenders are disproportionately concentrated among communities of color – one study found that payday lending in California cost low-income African American and Latino communities \$247 million in fees over the course of a year.

PHOCUSED believes that a 36% APR is the only way to successfully regulate high-cost payday lending in Hawaii. While we **strongly support** this bill, we also **suggest amendments** that would clarify the language regarding the APR. Specifically, we suggest deleting the reference to the 36% 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



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

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."

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Alan Shinn

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%.

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. Additionally, according information provided by the Hawaii Credit Union League and others, there are a number of safe, local alternatives that provide small dollar loans to households 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.



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Testimony of Hawai'i Appleseed Center for Law and Economic Justice
Supporting SB 737 Relating to Check Cashing
Senate Committee on Commerce & Consumer Protection
Scheduled for Hearing Friday, February 20, 2015, 9:00 am, Room 229

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

Thank you for an opportunity to testify in **strong support** of Senate Bill 737, which would place a 36% 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 of 36% APR as proposed in this bill. A 36% APR cap is the only proven, meaningful way to protect borrowers from high-cost lending. Seventeen states have already taken action and implemented a 36% 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. We recognize that residents, including low-income workers, may sometimes need small dollar loans. But there are a number of safe, regulated small dollar loans with interest rates far below payday loans. Small dollar lenders can indeed safely lend at an APR of 36% or less, according to recent research from FDIC.

Hawai'i Appleseed does respectfully propose an **amendment** to SB 737. We suggest deleting the bill's reference to the 36 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, language regarding the 15% fee will directly conflict with the bill's language imposing the 36 percent APR cap, because the 15% fee when annualized is equivalent to a 459% APR.

Again, thank you for the opportunity to testify on this bill. We strongly encourage you to **support SB 737** to provide greater protection for our low-income workers and others vulnerable to financial exploitation through lending.



200 North Vineyard Boulevard, A300
Honolulu, HI 96817
Ph: 808-587-7886
Toll Free: 1-866-400-1116
www.hawaiiancommunity.net

February 9, 2015

Senate Committee on Commerce and Consumer Protection
Friday, February 20, 2015 at 9 am
Conference Room 229

Support with amendments: SB737 – Relating to Check Cashing

Aloha Chair and Committee Members:

I am submitting testimony in **SUPPORT with suggested amendments** of SB737 – Relating to Check Cashing, legislation that will both level the playing field for very-low and low-income Hawaii families to utilize financial services in our communities and preserve their discretionary income to actively contribute to our local economy.

I am presenting my testimony in my capacity as Executive Director of Hawaiian Community Assets (HCA), a statewide nonprofit 501c3 HUD-certified housing counseling agency and community development financial institution that builds the capacity of low- and moderate-income communities to achieve and sustain economic self-sufficiency through the provisions of place-based youth and family financial education, housing counseling, and match savings and micro-lending programs. Founded in 2000, our organization has served serves 1,500 children and families annually through our statewide offices and since our inception we have assisted 1,342 low-income families secure or sustain permanent housing.

Payday loans are predatory and keeps our very-low and low-income Hawaii families from reaching their economic goals

In our 14-year history of providing HUD-certified financial education and housing counseling services, HCA has identified payday lending as an unnecessary and predatory barrier for our very-low and low-income Hawaii families from reaching their economic goals. According to the Center for Responsible Lending, only 2 percent of payday loans go to borrowers who can afford to pay off the loan the first time. Furthermore, four out of five payday borrowers either default or renew a payday loan over the course of a year. The Pew Charitable Trusts cites that a typical payday loan borrower takes out eight loans of \$375 each per year, and spends \$520 in interest.

Payday loans disproportionately impact Native Hawaiians and Pacific Islanders

Payday loans have also proven to disproportionately impact Native Hawaiians and Pacific Islanders – two significant populations in our state. According the Federal Deposit Insurance

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Corporation's (FDIC) 2011 National Unbanked and Underbanked Survey, 30.2 percent of Native Hawaiians and Pacific Islanders in the United States are underbanked, meaning they have a bank account but rely on access to alternative financial services such as payday loans for their day-to-day financial needs. Our Native Hawaiians and Pacific Islanders are second in the nation only to African Americans in terms of their underbanked rate. For more information, the national survey results can be viewed at: https://www.fdic.gov/householdsurvey/2012_unbankedreport.pdf.

Suggested amendment

HCA supports a suggested amendment brought forward by its PHOCUSED partners of deleting the reference to the 36 percent 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.”

Need for short-term, small dollar loans in a regulated environment and based on proven models

With stagnant wages and increasing costs of living, the Community Financial Services Association of America (CFSA) - the primary lobbying entity representing payday lenders across the nation - will no doubt advocate that our very-low and low-income Hawaii families need access to the alternative financial services, such as payday loans, they provide.

HCA agrees with the CFSA.

Our very-low and low-income Hawaii families do need access to short-term, small dollar loans to whether financial and economic storms. This is clear.

However, it is predatory to provide such products at 459 percent Annual Percentage Rate. Especially when such a 459 APR could result in a Hawaii family paying \$5,590 on a \$1,000 payday loan if gone unpaid for 12 months. The predatory nature of payday loans has resulted in 23 of 50 states in the country passing state law to make payday lending as an illegal activity.

If payday lending remains a legal activity in the State of Hawaii, we owe it to our families to ensure there are rules of the road that police payday lending activities and prevent predatory lending.

Fortunately, as Hawaii residents, we have the ability to look to the FDIC's Small Dollar Loan pilot project for answers on how to ensure short-term, small dollar loans are available in our communities without unnecessarily stripping our very-low and low-income families of their hard earned money that would be better spent at our local businesses and on local services. Through the pilot, FDIC partnered with FDIC-insured banks across the nation to provide short-term loans

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at or below 36 percent APR to residents in their communities. The results suggested that participating banks were not only able to provide these loans in a timely and efficient manner, but that they were able to do so while protecting their bottom line. For more information, the full report can be viewed at

https://www.fdic.gov/bank/analytical/quarterly/2010_vol4_2/FDIC_Quarterly_Vol4No2_SmallDollar.pdf.

HCA asks that the Committee to support the HB744 with suggested amendments and embrace the FDIC's Small Dollar Loan Pilot's key finding: FDIC-insured banks can offer short-term, small dollar loans at or below 36 percent APR in a regulated environment without being predatory on very-low and low-income families and still generate revenue to cover costs. If our FDIC-insured banks can offer short-term, small dollar loans at or below 36 percent APR in a way that is not predatory on our Hawaii families, there should be nothing standing in the way of payday lenders in the state from competing at the same level. If they payday lenders are unable to compete, then our free market would suggest payday loans at 459 percent APR have no place here in Hawaii.

Further, HCA encourages the Committee to bring together our FDIC-insured banks, credit unions, and community development financial institutions to collaborate on how to bring short-term, small dollar loans to scale across the state using the FDIC's pilot model, while cutting out the predatory elements of our existing payday lending environment and furthering the goals of SB 737.

Mahalo for your time, leadership, and consideration in supporting SB737 – Relating to Check Cashing. Please feel free to contact me directly at 808.587.7653 or at jeff@hawaiiancommunity.net should you have any questions or need clarification.

Sincerely



Jeff Gilbreath
Executive Director



CATHOLIC CHARITIES HAWAII

Testimony in Support of SB 737 Relating to Check Cashing

TO: Senator Rosalyn Baker, Chair, Senator Brian Taniguchi, Vice Chair, and Members, Committee on Commerce and Consumer Protection

FROM: Trisha Kajimura, Social Policy Director

HEARING: Senate Committee on Commerce and Consumer Protection
Friday, February 20, 2015 at 9:00 a.m. in Conf. Rm. 229

Thank you for the opportunity to provide **testimony in support of SB 737**, which places a cap on the interest a check casher (payday lender) can charge pursuant to a deferred deposit agreement at 36 per cent per annum. **We concur with and support the proposed technical amendment in PHOCUSED's testimony.**

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.

Clearly it is the poor who are using this type of financial product and in Hawai'i many people are struggling with the high cost of living. People living below the poverty line are especially hard hit in Hawaii, with the highest cost of shelter¹ in the country. A family of four in Hawaii pays 68% more for food than families on the mainland². This population is frequently teetering at the brink of homelessness. Any change to their financial situation like a decrease in wages or increase in rent will tip them over into homelessness. It is in situations like those that they will use a payday loan to get by and it is critical that they are protected from unreasonable rates and fees that will accumulate to create a greater problem for them.

One of the primary problems with payday loans with fees higher than the equivalent of 36% APR is that only 2% of borrowers can afford to pay off their loan the first time.³ Borrowers

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

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

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





CATHOLIC CHARITIES HAWAII

cannot pay back these loans when they are due and afford their regular living expenses. They are forced to borrow more money to pay off the loan that is due, accruing more and more debt and fees. A typical payday loan borrower takes out eight loans of \$375 per year, and spends \$520 in interest.⁴

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

The Pew Charitable Trust in 2012 released a report categorizing types of state law regarding payday loan regulation and usage rates. The categories they used were "restrictive," "hybrid," and "permissive." There are 14 states with "restrictive" category laws that have effectively eliminated the payday lending industry in those states. Hawaii's state law regarding payday lending places us in the "permissive" category, the least regulated with storefronts readily available to borrowers and products with extremely high fees. Together we can join the national movement to better regulate payday lending by passing SB 737.

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

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

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

To: Senator Rosalyn Baker, Chair
Senator Brian Taniguchi, Vice Chair
Senate Committee on Commerce and Consumer Protection

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

Date: February 18, 2015

Re: **Testimony in Support of SB737, RELATING TO CHECK CASHING**

Thank you for the opportunity to testify in strong support of Senate Bill 737, which would cap the Annual Percentage Rate (APR) for payday loans, also known as “deferred deposits”, at 36% per annum.

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

Goodwill provides financial education and assistance in navigating the financial sector to Hawaii’s low-to-moderate income individuals and families, including an annual free tax clinic. To this avail, we have seen first-hand the negative effects that insurmountable debt, created by exorbitant payday loan rates, can have on an individual’s and family’s economic solvency and ability to achieve a level of financial self-sufficiency.

The fees charged on payday loans in Hawaii are 15% of the face value of the check for each transaction. 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. The high fees associated with payday loans thus make it difficult for individuals to repay the loan on time, leading to growing debt. According to the Center for Responsible Lending, only 2% of payday loans go to borrowers who can afford to pay off the loan the first time. Furthermore, four out of five payday borrowers either default or renew a payday loan over the course of a year.

We believe a 36% APR is the only way to successfully regulate high-cost payday lending in Hawaii. In 2006, the U.S. Department of Defense made it illegal to make loans greater than 36% APR to active-duty service members and their families; this rate cap is currently utilized in 17 other states.

While we strongly support this bill, we also concur with the amendment PHOCUSED has recommended in their testimony; that clarifies the language regarding the APR and suggests language for use in HRS 480F-4(c).

Thank you for the opportunity to provide this testimony.



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Malachi Krishok
AmeriCorps VISTA Member

Date: February 16, 2015

To: Senator Rosalyn H. Baker, Chair, Senator Brian T. Taniguchi, Vice-Chair,
and members of the Committee on Commerce and Consumer Protection

From: Brent Kakesako, Hawai'i Alliance for Community-Based Economic
Development (HACBED)

Re: Strong Support for SB 737

Aloha Chair Baker, Vice-Chair Taniguchi, and Committee Members,

The Hawai'i Alliance for Community-Based Economic Development (HACBED) strongly supports SB 737, which places a cap on the interest that a check casher can charge pursuant to a deferred deposit agreement at 36 per cent per annum.

HACBED was established in 1992 as a nonprofit statewide intermediary to address social, economic, and environmental justice concerns through community-based economic development and asset building strategies. It advances its mission with core competencies in the areas of community and organizational capacity building, community and economic development planning, and asset policy development and advocacy. HACBED played a facilitating role in the State Asset Policy Task Force and was a key contributor to the State Asset Policy Road Map. HACBED also facilitates the Family & Individual Self-Sufficiency Program (FISSP), which administers the Internal Revenues Services' Volunteer Income Tax Assistance (VITA) program as a part of its larger asset building and financial education initiatives for needy families. As such, HACBED strongly supports the proposed bill that would provide needed assistance in the area of predatory lending through the establishment of a 36 per cent annual interest rate limit for deferred deposit agreements, more commonly known as "payday loans."

To clarify, a payday loan is a small, short-term unsecured loan that borrowers promise to repay from their next paycheck or regular income payment (i.e. Social Security or welfare payment). Current Hawai'i law allows payday lenders to charge a fee of 15% of the face value of a check for each transaction, and lend up to a maximum of \$600. Under these loose regulations, lenders are able to charge borrowers APR's that are in excess of 450%.

Through HACBED's efforts with FISSP and the VITA program, we have heard countless stories of the negative effects that payday lending has on families, in many cases acting as a debt trap from which they cannot escape. These stories are corroborated by statistical findings at both the state and national level. In fact, through the intensive analysis of data from 2012 and 2013, the Consumer Financial Protection Bureau found that four out of five payday loans are rolled over or renewed, meaning that the borrower was not able to repay the loan by the agreed upon date and was left with no other recourse than another high interest payday loan, despite having already experienced the difficulties of repaying these loans. It is due to this revolving door of debt that the average payday loan borrower remains in

debt for more than six months, which is twice the length of indebtedness recommended by the FDIC. Due to high rates and frequent rollovers, three out of five payday loans are made to borrowers whose fees exceed the amount that they have actually borrowed.

All recent statistics indicate that changes must be made to the payday lending industry in order to provide Hawai'i's families with choice and control over their financial lives. There are a number of safe, regulated, lower-cost alternatives to payday loans that can be found throughout Hawai'i and these should also be better promoted and marketed. Ultimately, by placing a 36 per cent APR cap on payday loans, SB 737 provides families with that opportunity, following the precedent set by the U.S. Dept. of Defense and respecting the findings of the FDIC, which indicate that small dollar lenders can safely and profitably lend to consumers at this rate.

Mahalo for this opportunity to testify,

Brent N. Kakesako
Executive Director
Hawai'i Alliance for Community-Based Economic Development

To: Senator Rosalyn H. Baker, Chair
Senator Brian T. Taniguchi, Vice Chair
Committee on Commerce and Consumer Protection

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

February 16, 2015

In opposition to SB731 and SB737

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

We do not support the bills listed above because we believe 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.

Many consumer advocates talk about the short-term credit marketplace without fully understanding its dynamics. 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. It is labor intensive. In addition, there is rent, utilities, taxes, insurance and the other normal expenses of a brick and mortar store. And we are dealing with a riskier borrower with a thin or non-existent credit file. We ask the committee to consider this before changing the current fee structure.

Proponents of the two bills site research conducted by the Federal Deposit Insurance Corporation (FDIC) to justify an Annual Percentage Rate (APR) cap. In 2008 the FDIC its Small-Dollar Loan Pilot Program to encourage banks to offer a small-dollar loan for a term under \$2500 of 90 days or more at an APR not to exceed 36% including up-front fees and interest. The banks that participated in it said while they were able to deliver the product, they lost money and instead of using it as a revenue stream, used it as a loss leader to try to get customers in. In 2010 the FDIC published its conclusions concerning profitability:

“Program and product profitability calculations are not standardized and are not tracked through regulatory reporting. Profitability assessments can be highly subjective, depending on a bank’s location, business model, product mix, cost and revenue allocation philosophies, and many other factors. Moreover, many of the banks in the pilot are community banks that indicated they either cannot or choose not to expend the resources to track profitability at the product and program level.

*Nevertheless, as a general guideline, pilot bankers indicated that costs related to launching and marketing small-dollar loan programs and originating and servicing small-dollar loans are similar to other loans. However, given the small size of SDLs and to a lesser extent NSDLs, the interest and fees generated are not always sufficient to achieve robust short-term profitability. Rather, most pilot bankers sought to generate long-term profitability through volume and by using small-dollar loans to cross-sell additional products.”**

Hawaii law restricts deferred deposit transactions to 32 days or less. If this restriction was eliminated it would allow for the possibility of longer term transactions such as those promoted by the FDIC. As an example, a 180 day deferred deposit transaction at the maximum fee of 15% results in an APR of 35.79%. Other than the underlying deferred deposit check becoming stale, there is no reason why there should be any limit on the term.

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

Our website provides a wealth of information on using short-term credit as well as budgeting, saving, taxes and much more. With 15 years of experience meeting the needs of our clients, we understand their desire for financial advice written for real situations. We are proud of our website which offers original financial literacy content developed in-house by asking our customers to suggest subjects that interest them.

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.

Proponents of the two bills cite anecdotal evidence of low-income households who have fallen deep into debt due to predatory payday lending practices. The State Auditor said, *“We found little evidence that payday lenders are harming consumers in Hawai‘i. Complaints have been few, and little information has surfaced about payday lenders encouraging repeated borrowing or engaging in coercive practices. Demand for payday loans is strong, and borrowers who have an immediate need for cash have few better alternatives.”***

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. The State Auditor said, *“We found no evidence of harm relating to rollovers or of borrowers falling into a debt trap in Hawai‘i. Chapter 480F, HRS, currently prohibits payday lenders from entering into another agreement when an earlier one is in effect or allowing the earlier agreement to be repaid, refinanced, or consolidated with the proceeds from the earlier loan.”***

That fact is that store-front lenders receive very few complaints both here in Hawaii and nationally. The Consumer Financial Protection Bureau (CFPB) noted in their recent report: *“Of the 3,400 payday loan complaints submitted by consumers, approximately 2,140 (63%) were about problems consumers experienced after obtaining a payday loan online. Approximately 330 (10%) reported problems when obtaining a payday loan in person /at a store. For the remaining approximately 910 (27%) complaints, the consumer did not indicate how the loan was obtained.”****

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.

I would to invite each of you to visit one of our offices, talk to our managers, staff and our clients just as the State 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 families in our community manage their finances in ways that meet their needs.

** A Template for Success: The FDIC’s Small-Dollar Loan Pilot Program, FDIC Quarterly 2010, Volume 4, No. 2, Page 32.*

*** Sunrise Analysis: Check Cashing and Deferred Deposit Agreements (Payday Loans). A Report to the Governor and the Legislature of the State of Hawai‘i, Report No. 05-11, December 2005.*

**** CONSUMER RESPONSE: A SNAPSHOT OF COMPLAINTS RECEIVED THROUGH JUNE 30, 2014*

Sincerely,

R. Craig Schafer

President

Money Service Centers of Hawaii, Inc.



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

February 17, 2015

Honorable Rosalyn H. Baker, Chair
Senate Committee on Commerce and Consumer Protection
Hawaii State Capitol, Room 229
Honolulu, HI 96813

RE: SB 731 Related to Deferred Deposits and SB 737 Related to Check Cashing

Dear Senator Baker:

Thank you, Senator Baker, for the opportunity to submit testimony regarding the two bills referenced above. My name is Kerry Palombo, and I am the Director of North American Compliance for Dollar Financial Group, Inc. based in Berwyn, Pennsylvania. Through a subsidiary, we operate nine Money Mart[®] stores in the State of Hawaii, where we employ 35 state residents who are drawn from the neighborhoods we serve. These stores offer deferred deposit transactions that would be affected by Senate Bills 731 and 737. 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 Senate Bills 731 and 737.

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 Senate Bills 731 and 737

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 percent rate cap referenced in one 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 Senate Bill 731 would slash gross revenue by 60%. That is a 60% reduction in fees collected before any of our operating expenses are paid. We oppose legislation that would put us out of business and leave our customers only with less-desirable credit alternatives.

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

Our business serves working families who frequently must choose between a deferred deposit advance and more costly or less desirable alternatives. Our customers generally look at the real dollar cost of their available credit options and make rational, informed decisions when choosing a payday loan.

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

The Impact of Restrictive APR Caps: De Facto Ban

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

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

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

¹[“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. . . .”²

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

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

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

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

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

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

Consumers Suffer Under Payday Loan Ban

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

- A staff report from the Federal Reserve Bank of New York notes that consumers in Georgia and North Carolina “. . . *bounced more checks, complained more about lenders and debt collectors, and have filed for Chapter 7 bankruptcy at a higher rate*” following the elimination of the payday lending industry in those two states.⁶
- Another study by Dartmouth College Professor Jonathan Zinman found that restricting access to payday loans “*caused deterioration in the overall financial condition of Oregon households.*”⁷
- In the study *The Case Against New Restrictions on Payday Lending*, Prof. Todd J. Zywicki of George Mason University reports that “[E]fforts by legislators to regulate the terms of small consumer loans (such as by imposing price caps on fees or limitations on repeated use “rollovers”) almost invariably produce negative unintended consequences that vastly exceed any social benefits gained from the legislation.”⁸

Closing

In closing, we would like to point out that Hawaii already has a consumer-friendly deferred deposit statute in place, with a cap on fees and the amount that may be borrowed, as well as a prohibition on rollovers. We support regulation that protects consumers and would like to work with this Committee on improvements it deems necessary in that regard. But we respectfully submit that Senate Bills 731 and 737 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 Senate Bills 731 and 737

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

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

⁸[*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

February 18, 2015

TO: Chair Rosalyn H. Baker and Members of the Senate Committee on
Commerce & Consumer Protection

FROM: Cash in Advance, Inc.

RE: **SB 737** - Relating to Check Cashing
Hearing Date: February 20, 2015
Time: 9:00 am

My name is Kristin 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:

. . .The written agreement shall contain a statement of the total amount of any fees and interest charged for the deferred deposit, expressed both in United States currency and as an annual percentage rate not to exceed 36 per cent per annum.

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 36%. These are conflicting provisions as expressed.

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.

Maui Loan Inc.

February 20, 2015

Senator Rosalyn H. Baker, Chair
Committee on Commerce & Consumer Protection

SUBJECT: SB 731- RELATING TO DEFERRED DEPOSITS
SB 737- RELATING TO CHECK CASHING

My name is Richard Dan, and I have been a lender to the citizens of the islands, on Maui and throughout the state, for 39 years. **I oppose bills SB 731 and SB 737** and any changes to HRS 480F for the following reasons, which my testimony will expand upon. I will also attempt to correct some mistaken claims made in testimony that was offered in support of the companion bills in the House.

The Hawaii Regulatory Licensing Reform Act requires that in order to trigger legislation as proposed “*evidence of abuses should be given great weight in determining whether a reasonable need for regulation exists.*” (See State Auditor’s Sunrise report on HRS 480F, 2005) I have uncovered no evidence of abuses, so there is no trigger for changing HRS 480F.

Here are some facts:

1. HRS 480F, the check cashing statute, refers only to fees that check cashers may charge, never to interest.
2. A payday advance service consists of ostensibly cashing a postdated check but simultaneously agreeing to hold the check for up to 31 days. For example, for a \$100 check, the fee is \$15. This is a service fee, not interest on a loan. These bills seem confused about what the transaction is. That is how they claim that the fee imputes an “annual percentage rate” of up to 459%.

However, consider the same \$100 check, but presented to a NSF account at the bank. The bank will charge an “overdraft fee” of anywhere from \$26 to \$35 or \$40. For one day. Under the reasoning being used in these bills, the imputed APR the bank collects is several thousand percent. But State law does not regulate the “APR” on the bank fee, because it recognizes it is a handling fee, not interest.

Another way to think of it is to consider the \$100 cash received as the “cost of goods sold” or “merchandise” and the \$15 fee charged as the “dealer markup.” In that case, 15% would be regarded as impossibly low, because we do not think of the markup at WalMart in terms of APR.

3. Borrowers select payday loans because they are the best alternative they have; sometimes the only legitimate alternative.

-
4. It is illogical to speak of “annual percentage rates” in connection with transactions that last, at most, 31 days, as restricted by HRS 480F. Before “payday loans” became a recognized term, and before regulation, the ancestral practice was for check cashers to informally hold a deferred check for several days and charge a convenience fee. It was not “interest.”
 5. Hawaii’s law provides a solid protection to borrowers by limiting payday loans to one at a time. Unlike other small-dollar, short-term loans, such as credit cards, it is not possible in Hawaii to have principal balances grow over time.
 6. There have not been many complaints about payday loans. In the testimony offered on the companion bills, there is not a single specific complaint; and the State Auditor’s Sunrise report found little to no evidence of complaints. (See, Sunrise Analysis: Check Cashing and Deferred Deposit Agreements (Payday Loans), Report No. 05-11)
 7. Several objections made to payday lending refer to practices on the Mainland. These practices are not part of my business and so far as I know, not part of any Hawaii payday lender’s business.
 8. Payday borrowers act because they need cash. Nothing in the revisions to HRS 480F provides an alternative for them if regulation kills off payday lending in the islands, which is what will happen.

The idea that payday lenders are making predatory profits is absurd on its face. At Maui Loan Inc., the initial loan is limited to \$100, for which my business receives \$15. That is before expenses and before charge offs from other payday loans that bounce.

Think of a payday loan as if it were a credit card transaction. The customer gets \$100 and a couple of weeks later, when the card statement arrives, he pays \$115, if he is the kind of card holder who does not carry a balance over from month to month. And that’s it for the payday customer. In the credit card example, he is also hit with an \$89 “membership fee,” and if he carries balances over (not possible for the payday customer), compounding interest charges.

In the State Auditor’s Sunrise study 10 years ago, the very first point made was that *“traditional financial institutions (are) leaving the small-denomination short-term credit market because of the high cost of these types of loans.”*

Since then, we have had a financial crash, and banks notoriously are not even welcoming medium size business borrowers for medium or long-term loans. Individuals needing small credit – who are served by payday lenders – are even worse off than they were in 2005.

In the testimony to the House on the companion bills, there was offered one example of a credit union that is offering small installment loans to the same borrower group that uses payday loans. And we were told it doesn’t cover expenses. I can believe that.

The Sunrise study contained some misstatements, such as “*payday lenders may also charge additional processing fees, late fees and/or fees for returned checks.*” My business does not charge any fees beyond the statutory \$15 per \$100, except that if a customer check bounces I am allowed to charge a \$20 collection fee. If a check bounces, then, yes, I treat that as any other bounced check. How is this predatory?

The Sunrise study and one of the House bills cites a Pew Charitable Trusts’ study claiming that if locally-owned payday lenders shut down, borrowers will not migrate to the unregulated and lawless arena of Internet payday lenders. I do not believe that, and the Pew study did not say that, either.

What it said was that, in states that have restricted the interest rate payday lenders can charge, “*95 of 100 would-be borrowers elect not to use payday loans at all—just five borrow online or elsewhere.*” (Payday Lending in America: Who Borrows, Where They Borrow, and Why, page 22)

If that means what it says, then restricting payday loans freezes 95 out of 100 borrowers from getting credit at all. How is that a good thing?

Other misinterpreted or wrong statements that were offered as testimony to the companion bills include:

1. “Hawai’i is in the minority of states that currently does not cap the allowable interest on payday loans” (OHA) Of course, HRS 480F does cap fees.
2. “In addition to their outrageous rates and lending practices, payday loan businesses are illegally using the criminal justice system to coerce repayment from borrowers,” said Ann Baddour, director of the Fair Financial Services Project at Texas Appleseed. Texas’ experience is very instructive for our legislature.” (Hawaii Appleseed) Whatever is going on in Texas, there is no evidence that anyone in Hawaii is using the criminal justice system to coerce repayments or that Hawaii payday lenders use outrageous practices.

SB 731 and SB 737 appear to be aimed at abuses reported on the Mainland and about Internet payday lenders, but not in the islands. The State Auditor explicitly said she found no evidence for such allegations.

The Legislature should not pass laws in Hawaii to stop abuses on the Mainland.

3. I have direct experience with thousands of people who need small, short-term loans. If they have a job, they can use that as their security and get small amounts of cash -- \$600 is the legal maximum.

For lots of ordinary working folks, their job is not just their best security for a loan, it is their only real choice. If you are under financial stress, a payday loan or a pawn loan is actually the safest way to borrow. The most you will ever owe is the amount you borrowed, plus the fee: \$115 for an initial loan at Maui Loan. Consider what can happen if you decide to pay your utility bill late (Case A); or if you write a NSF check (Case B) to pay it, or if you charge your payment on a credit card (Case C).

In Case A, the utility can charge a late fee, which can easily exceed the payday fee. And if you are late the next month, it can add interest to it. You can end up owing the utility much more than the original bill. At Maui Loan Inc., the most you can ever owe is \$115.

In Case B, the bank bounced check fee will be far more than the payday charge and will generate an adverse credit report; and it can pyramid indefinitely. But at Maui Loan Inc. the most you can ever owe is \$115, and there is no adverse credit report.

In Case C, if you fail to pay off your balance, or make a partial payment less than the monthly minimum, or pay late, the excess goes to add to your principal; you will get an adverse credit report; and you probably will have the interest rate you are charged raised. You could end up owing thousands. But at Maui Loan Inc., the most you can ever owe is \$115, and even if you default on that, there is no adverse credit report.

So let me ask you, who is the predatory lender?

If the Legislature is concerned about protecting the financial reputation and stability of Hawaii citizens who are being served the least by banks and similar financial institutions, and I think you should be concerned, I suggest you craft legislation that deals with real abuses, like pyramiding credit card balances.

If you insist on doing something now, I suggest that instead of reacting to news stories and propaganda from the Mainland, you ask the State Auditor to make a new assessment. In 2005, the Auditor was unable to find evidence of abuses, and concluded then that: “*The proposed regulation would likely drive local payday lenders out of business and subject borrowers to less favorable alternatives*” and “*We found little evidence that payday lenders are harming consumers in Hawaii.*”

Sincerely,

Richard Dan

Maui Loan Inc.



February 17, 2015

Honorable Rosalyn Baker, Chair
Senate Committee on Commerce and Consumer Protection
Hawaii State Capitol, Room 229
Honolulu, HI 96813

RE: SB731 Related to Deferred Deposits, SB 737 Related to Check Cashing

Dear Senator Baker:

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 Senate Bills 731 and 737.

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.

Two weeks ago, 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 Senate Bills 731 and 737.

Sincerely,

Shelley Crisp
Senior District Manager

Testimony in Support of SB 737 Relating to Check Cashing

TO: Senator Rosalyn Baker, Chair, Senator Brian Taniguchi, Vice Chair, and Members, Committee on Commerce and Consumer Protection

FROM: Jon Shindo, Master's in Social Work Student at UH Manoa

HEARING: Senate Committee on Commerce and Consumer Protection
Friday, February 20, 2015 at 9:00 a.m. in Conf. Rm. 229

Thank you for the opportunity to provide testimony in **strong support** of SB 737, which would cap the Annual Percentage Rate (APR) for payday loans, also known as “deferred deposits” at 36% per annum. **I concur with and support the proposed technical amendment to HRS 480F-4(b) and HRS 480F-4(c) in Catholic Charities Hawaii’s testimony.**

Hawaii law permits payday lenders to charge a fee of 15% of the face value of the check for each transaction, and lend up to \$600 per transaction. The equivalent APR of a \$100 payday loan with a 15% fee and 14-day repayment period is 400%.

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

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

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

Payday lenders will lead you to believe that it is not possible to offer a comparable loan vehicle at an APR of 36%. This is not true. The FDIC conducted a two-year pilot project which

demonstrated that banks could safely and profitably offer small dollar loans of \$2500 or less at 36% APR with a repayment period under 90 days.

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

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

Imposing a 36% APR cap on payday loans in Hawaii follows the precedent established by the U.S. Department of Defense, who in 2006 imposed regulations that make it illegal to make loans greater than 36% APR to active-duty service members and their families. According to the Center for Responsible Lending, 17 other states have adopted similar policies of two-digit rate caps on payday lending to protect their consumers while allowing affordable small loans.

I strongly urge your support of SB 737 and request 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 me at 808-722-7585 or jon.shindo@gmail.com. Thank you for your time and consideration.

Respectfully signed,
Jon M. Shindo

To: Representative Rosalyn H. Baker
Representative Brian T. Taniguchi, Vice Chair
Members, Committee on Commerce and Consumer Protection

From: Kuli'a Aiona, Master's in Social Work Student at UH Manoa

Hearing: Friday, February 20, 2015 at 9:00 am in Conf Room 229

Re: Testimony in Support of SB 737, Relating to Check Cashing

On behalf of the University of Hawaii of Manoa MSW Program and myself I would like to thank the committee for this opportunity to provide testimony on this important issue. I am testifying in **strong support** of this bill, which proposes to cap the annual percentage rate (APR) for payday loans, also known as "deferred deposits", at 36% per annum. **I also concur with and support the proposed technical amendment in PHOCUSED's testimony.**

Presently payday lending companies are preying on its customers. Customers of payday lending agree to a short-term small unsecured loan with the agreement that they will repay the loan using their next paycheck or other income payment, whether it is government assistance via social security or welfare. Hawaii law permits payday lenders to charge a fee of 15% of the face value of the check, and lend up to \$600 per transaction. An APR of a \$100 payday loan along with a 14-day repayment period is 459%!

The Pew Charitable Trust Foundation (2012) states, 69% of payday loans are used for recurring expenses and 16% for unexpected emergencies. Being already unable to cover their regular expenses, borrowers use high interest, short-term loans to supplement their income, however it leaves them in a debt spiral. Planning to pay the loan back but unable to without additional income, borrowers are forced to use another loan to cover the principal and interest from the existing loans.

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

This May I will be rewarded for the dedication and hard work I put in at the University of Hawaii of Manoa's Master of Social Work Program. However, I will then have to deal with the enormous amount of loans it leaves me to payback. These loans are not only from the three years of my master's education but also the four and half years spent in undergraduate school. Yes this is my burden and was my choice to pursue higher education, but now I need to decide how am I going to pay it back. The plan is to use the higher education I received to obtain a substantial full-time occupation and utilize the income to not only pay back my loans but also begin a new life. Fortunately my family has been strong supporters of every decision I have made thus far and am allowing me to stay with them until I am financially stable to live on my own. However, extreme amount of loans to pay back and the type of annual income I will be making as, hopefully, a school social worker that will not be anytime soon. Some may argue I am singing the "sad song", but this is a real situation. Blessed for me I am able to live with my family. However, there are other people, friends, classmates that will have to face this financial struggle soon if not already do. The answer for me, another loan doesn't seem like a bad idea. Currently I share a car with my mother and utilize the bus for transportation, but I know that my 1995 Corolla will soon have another engine problem or need a major repair that I do not have the money to fix. Especially during the transition from being a student to a full time professional. I plan to work until I am ready to purchase a vehicle of my own. However, a payday loan sure sounds easy and helpful. Lucky for me I am aware and have been educated on the issue of payday loans the cycle it

will leave me in. The populations that are utilizing current payday loans either are not educated on the downward spiral or simply need to just to survive.

Payday lending is an option of short-term coverage for people facing survival emergencies. However, this needs to be conducted in a responsible manner while maintaining a respectable business. The FDIC has discovered small dollar lenders can safely and profitably lend to consumers at an APR of 36% or less. According to the Center for Responsible Lending, a two-digit interest rate cap on payday lending is already in effect in 15 states including the District of Columbia.

There are numerous safe, regulated, and lower-cost alternatives to payday loans that can be found throughout Hawaii. Some of the alternative financial institutions are Hawaii USA Federal Credit Union (Personal loans as low as \$300), IEG Federal Credit Union (credit card with minimum limit of \$200, max \$2000. Regular lines of credit at \$500 and up), Maui Federal Credit Union (\$500-\$1000 personal loans, 14%-17% interest rate), or Office of Hawaiian Affairs (up to a max of \$7500, 5% APR).

I **strongly support SB737** and request implementation of a 36% APR cap on payday loans in Hawaii to encourage responsible lending practices for all members of our community. If you have any questions or concerns, please do not hesitate to contact me at 808-277-8078 or kaiona44@hawaii.edu. Thank you for your time and consideration.

Respectfully signed,
Kuli'a D. Aiona

To: Senator Rosalyn H. Baker, Chair
Senator Brian T. Taniguchi, Vice Chair
Committee on Commerce and Consumer Protection

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

February 18, 2015

In opposition to SB731 and SB737

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, payday lenders, and money service business and 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 short term credit 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 payday 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.

Furthermore, I resent the accusations brought against check cashers insinuating that “we” put consumers in debt and/or “we” lead consumers into a debt trap. We all know that consumer debt will always exist in some way, shape or form unless we all wake up tomorrow as millionaires. I myself, have debt like so many others because I chose to go to college so I can get a degree for a better career. I chose to buy a car because my old one was falling apart. I chose to live in Hilo town where the rent is higher than the surrounding rural areas because my boyfriend works over nights and I feel safer staying home alone at night with my 5 year old son. Sometimes I have to forego things I need so I can fill my pantry and freezer with groceries so that my family and I could eat. All of these things were done by MY CHOICE and I hold no one else responsible. These are

the choices that I have made for me and my family. I DO NOT and CANNOT blame the university, car dealership or grocery stores for my debt even though I utilized their services or purchased their products. In the same sense, consumers should hold themselves accountable for the choices they make that affect their finances. Moreover, check cashers should not be blamed for the choices of consumers. It is my hope that consumer advocates as well as all of you understand my point of view, as it is crucial when making a decision on this matter.

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 payday 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 loan as first agreed upon on their contract. I have offered payment options to our customers who have repeatedly taken out 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? Are businesses such as Safeway, Macys, Chevron, Burger King, Coach and Verizon also being held liable for consumer debt? After all, prices with these companies could get alarmingly high, but consumers still choose to utilize their services and products. Will the government also, regulate the outrageous prices of gas, meals at a restaurant, prices of shoes, clothing or accessories such as purses or jewelry 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 legitimate 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