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PRESENTATION OF THE
OFFICE OF CONSUMER PROTECTION
TO THE HOUSE COMMITTEE ON HOUSING
THE TWENTY-NINTH LEGISLATURE
REGULAR SESSION OF 2017

JANUARY 31, 2017
9:30 AM

TESTIMONY SUPPORTING H.B. 223, RELATING TO THE RESIDENTIAL LANDLORD-TENANT CODE.

TO THE HONORABLE TOM BROWER, CHAIR,
AND TO THE HONORABLE NADINE K. NAKAMURA, VICE CHAIR,
AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs, Office of Consumer Protection (“OCP”) supports H.B. 223, Relating to the Residential Landlord-Tenant Code. My name is Stephen Levins and I am the Executive Director of the OCP.

H.B. 223 allows a landlord to charge an application screening fee for the actual cost of screening the applicant and requires a refund of any unused amount that is not used for that specific purpose.

H. B. 223 is necessary because current law does not specifically regulate the nature and amount of application fees that landlords may charge prospective tenants.

Over the years the OCP has received allegations from prospective tenants claiming that the cost of their application fee does not correlate with the cost of background checks. The most troubling reports involve claims from prospective tenants that they have been asked to pay \$50 to \$100 for an application screening fee that actually costs \$10 to \$25.

Excessive application fees are particularly egregious in those circumstances when a landlord or their agent receive scores of applications for one apartment, most of which are not even seriously considered. Instead of engaging in a valid tenant screening process, the landlord or agent is abusing their bargaining position to create a supplemental source of income. This measure would deter such conduct by addressing this inequity head-on. If adopted, a landlord would only be allowed to charge a prospective tenant for the actual cost of using a screening or consumer credit reporting service and refund unspent monies. Landlords would still be compensated for the expense associated with credit checks and tenants would not be forced to pay for unnecessary screening fees.

Thank you for the opportunity to offer comments in support of H.B. 223. I would be happy to answer any questions members of the Committee may have.

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DATE: January 30, 2017

TO: Representative Tom Brower
Chair, Committee on Housing
Submitted Via [:HSGtestimony@capitol.hawaii.gov](mailto:HSGtestimony@capitol.hawaii.gov)

RE: **HB 223 Relating to Residential Landlord-Tenant Code**
Hearing Date: January 31, 2017 at 9:30 a.m.
Conference Room: 423

Dear Chair Brower and Members of the Committee on Housing:

We offer this testimony on behalf of the Consumer Data Industry Association (CDIA). Founded in 1906, CDIA is the international trade association that represents more than 200 data companies. CDIA members represent the nation's leading institutions in credit reporting, mortgage reporting, fraud prevention, risk management, employment reporting, tenant screening and collection services.



We submit this testimony with **comments** to H.B. 223, which allows landlords to collect the actual cost of an application screening fee from prospective tenants, requires landlords to refund application screening fees if the landlord does not obtain the report, and requires the landlord to provide copies of reports to applicants.


Credit screening reports are geared towards providing landlords information to ensure that tenants are financially capable of renting property. Allowing a consumer to receive a copy of his or her own credit report is unnecessary, because under the Fair Credit Reporting Act, consumers can already obtain a free credit report each year. Providing tenant screening reports would therefore unnecessarily add a cost to the screening process.

Thank you for the opportunity to testify on this measure.

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January 31, 2017

The Honorable Tom Brower, Chair

House Committee on Housing
State Capitol, Room 423
Honolulu, Hawaii 96813

RE: H.B. 223, Relating to the Residential Landlord-Tenant Code

HEARING: Tuesday, January 31, 2017, at 9:30 a.m.

Aloha Chair Brower, Vice Chair Nakamura, and Members of the Committee.

I am Myoung Oh, Director of Government Affairs, here to testify on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its 9,000 members. HAR **opposes** H.B. 223 which allows a landlord, when processing an application to rent residential property, to charge an application screening fee for the actual cost of screening the applicant and requires landlords to refund any unused amount of the application screening fee and, upon request, provide a receipt of the fee and a copy of any report obtained via the screening process to the applicant.

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

Various screening reports are important and impartial indicators for rental consideration. HAR believes it is unreasonable to require that the landlord provide the tenant a copy of the screening check information within ten (10) days of obtaining the reports.

First, it does not specify in the form of delivery such as certified mail, in-person, or other. Because of the 10 day notice requirement and the tenant screening reports contain sensitive and confidential information, HAR believes the reports should be mailed via Certified Mail, Return Receipt requested, Restricted to addressee only. This would limit access to the report and demonstrates proof that the document was mailed. The cost of this type of mailing is \$6.75 for certified mail with return receipt.



There is a high likelihood that many experienced companies will be burdened with hundreds of Certified Mail and we believe this direct cost associated with this measure should be included, separately from the administrative fee in an amount no greater than 50% of the application screening fee under a new subsection.

() When information is requested pursuant to subsection (c), the landlord or landlord's agent may also charge the applicant an administrative fee in an amount no greater than fifty per cent of the application screening fee, as calculated pursuant to subsection (b).

HAR would further add that the screening reports, unlike the credit report a consumer receives from the credit reporting agencies, are coded and geared to property managers. The Federal Fair Credit Reporting Act allows consumers to receive a free copy of their credit reports once a year from each of the three credit reporting agencies.

While there are instances in which uninformed landlords may misapply the landlord-tenant laws, it is important that our professionally licensed and regulated members abide to a strict Code of Ethics which ensures that mechanisms are in place to deter abuse.

As regulated licensees, laws and enforcement agencies provide protection to the tenants, including but not limited to the Office of Consumer Protection (OCP), a division of the Department of Commerce and Consumer Affairs, that is charged with protecting the interests of consumers, and the Regulated Industries Complaint Office that enforces violations by licensed real estate practitioners, including illegal or deceptive practices.

Mahalo for the opportunity to testify in opposition to this measure.