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**PRESENTATION OF THE  
OFFICE OF CONSUMER PROTECTION**

**TO THE HOUSE COMMITTEE ON  
CONSUMER PROTECTION AND COMMERCE**

**THE TWENTY-NINTH LEGISLATURE  
REGULAR SESSION OF 2017**

**Tuesday, March 28 2017  
2:00 P.M.**

**TESTIMONY SUPPORTING SENATE BILL NO. 119, S.D. 1, RELATING TO PAYMENT  
OF RENT.**

**TO THE HONORABLE ROY M. TAKUMI, CHAIR,  
AND TO THE HONORABLE LINDA E. ICHIYAMA, VICE CHAIR,  
AND MEMBERS OF THE COMMITTEE:**

The Department of Commerce and Consumer Affairs, Office of Consumer Protection (“OCP”) supports Senate Bill No. 119, S.D.1, Relating to Payment of Rent. My name is Stephen Levins and I am the Executive Director of the OCP.

Senate Bill No. 119, S.D. 1 requires landlords to disclose in writing the tenant’s ability to establish a new due date for rent payment if the tenant receives public assistance and establishes a cap of five percent on late rent payment fees.

### New Due Date

Current law already requires a landlord to honor a tenant's request to establish a new due date if they are receiving public assistance. See, section 521-21 of the Haw. Rev. Stat. Senate Bill No. 119, S.D. 1 would merely require that this right be memorialized in writing. Having such an important provision in the contract or standard lease agreement can only be in the public interest since it will help ensure that the tenant receiving public assistance will be fully aware that they have the ability to move the due date to a period after which they receive their public assistance funding for housing. It will also help ensure that the landlord receives their rent on time.

### Late Fees

Hawaii law does not set any limitations on the amount of late fees that a landlord may charge a tenant provided that it is reasonable and documented in writing. This has resulted in a wide variance in the amounts that are currently being charged and has led to outrageous abuses. For instance, the OCP has been informed by some tenants that they have been subject to late fees of more than 20% for being one day late. Others have related that their landlord has imposed a fee of \$100 per day for each day late.



This Bill's proposal is desirable because it will bring a degree of uniformity and consistency to an area that has none. No longer will vulnerable tenants be subject to the whims of unscrupulous landlords or their rental agents. While most jurisdictions do not regulate late fees in the manner contemplated by Senate Bill No. 119, there are at least three states that do. Maryland, Oregon, and Delaware all set late fee limitations at


5%. The 5% limitation is also consistent with current Hawaii law that governs late charges on consumer credit sale contracts, pursuant to section 476-9 of the Haw. Rev. Stat., and correlates with the late fees that numerous mortgagee lenders impose on their mortgagor borrowers.

OCP supports a 5% cap because it appears to be reasonable in Hawaii's current rental market. If applied to a \$2,000 per month rental, the landlord would still be entitled to a late fee of \$100. Not an insignificant sum. This would be both a sufficient deterrent and incentive for a tenant to pay their rent on time.

Thank you for the opportunity to offer comments supporting Senate Bill No. 119, S.D. 1. I would be happy to answer any questions members of the Committee may have.



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March 28, 2017

**The Honorable Roy Takumi, Chair**

House Committee on Consumer Protection and Commerce  
State Capitol, Room 329  
Honolulu, Hawaii 96813

**RE: S.B. 119, SD1, Relating to Payment of Rent**

**HEARING: Tuesday, March 28, 2017 at 2:00 p.m.**

Aloha Chair Takumi, Vice Chair Ichiyama 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 9,200 members. HAR **offers comments with amendments** on S.B. 119 which requires landlords to disclose in writing the tenant's ability to establish a new due date for rent payment if the tenant receives public assistance. Additionally, it establishes a cap of 5% on late rent payment fees.



It is our understanding that providers of public assistance, including rental assistance, should serve as the primary case workers to guide public assistance recipients. The role of providers is important in ensuring that recipients can successfully move forward including providing advice, counseling, support, etc. This process should include counseling regarding the tenant's ability to pay rent and establish a new due date for rent payment under the existing law (page 1, line 13 through page 2, line 6).


As such, the requirement that property managers, rather than public assistance providers, disclose this information to all tenants regardless of they're recipients of public assistance is unnecessary. It should not be the role of property managers to put information specific to public assistance recipients on our Hawaii Association of REALTORS®' rental agreement form, which is used commercially statewide.

As an alternative, we are open to assisting providers of rental assistance with a short form that could be given to all recipients of rental assistance. Also, we would also recommend that recipients of public assistance should receive a brochure that outlines their rights such the attachment through Aloha United Way and Legal Aid Society of Hawaii (see attachment).





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While HAR is not opposed to setting a cap on late fees for non-payment of rent, we believe the five-percent cap is too low, and respectfully ask the committee to consider a ten-percent cap, as that is the general commercial business practice in Hawaii. If the intent is to capture the mom-and-pop landlords who may be bad actors, a limitation of ten-percent at this time is more reasonable. For our property managers who manage hundreds of rentals, non-payment of rent can be a significant expense that can ultimately lead to pressures to increase rent.

Finally, HAR respectfully requests an effective date of November 1, 2017. This would allow HAR to review the new law, make changes to our commercially used Rental Agreement, and educate our property managers on the changes.

Mahalo for the opportunity to testify on this measure.

