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PRESENTATION OF THE  
OFFICE OF CONSUMER PROTECTION

TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

THE TWENTY-NINTH LEGISLATURE  
REGULAR SESSION OF 2017

FRIDAY, MARCH 17, 2017  
2:00 P.M.

TESTIMONY ON SENATE BILL 286, S.D. 1, RELATING TO CHECK CASHING

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 (“DCCA”), Office of Consumer Protection (“OCP”) supports Senate Bill No. 286, S.D. 1, Relating to Check Cashing. My name is Stephen Levins and I am the Executive Director of the OCP.

Senate Bill No. 286, S.D. 1 offers several consumer protections for borrowers who take out payday loans. These include:

- A right to rescind;
- A right to convert a payday loan to an installment loan;
- Protections against harmful collection practices;
- Improved loan disclosures;
- Prohibitions on prepayment penalties; and

- Capping the annual percentage rate of payday loans at no more than 36%.

OCP believes that this proposal is necessary and meritorious.

In particular, the OCP is in strong support of setting the APR cap at 36% per annum, as it would reduce the cost of credit for consumers who should not be paying interest on a loan that a relatively short time 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, 18 jurisdictions have either banned payday loans outright or subjected them to a 36% APR 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; Oregon; Pennsylvania; South Dakota; 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 their ability to pay in order to avoid write offs.

Thank you for the opportunity to testify in support of S.B. 286, S.D. 1. I am available for any questions that you may have regarding this Bill.



**SB286 SD1**  
**RELATING TO CHECK CASHING**

House Committee on Consumer Protection and Commerce

March 17, 2017

2:00 p.m.

Room 329

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The Office of Hawaiian Affairs (OHA) **SUPPORTS** SB286 SD1, which offers various provisions to protect low-income families that utilize the deferred deposit loan program, commonly referred to as payday loans. 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 29<sup>th</sup> 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, in addition to providing additional protection for the consumer, places 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 protections may provide our low-income families with access to credit, while allowing AFS to remain profitable. OHA notes that 35 other jurisdictions already provide for similar regulations and place a maximum lending rate cap at 36% or less.

Accordingly, OHA urges the Committee to **PASS** SB286 SD1. Mahalo nui for the opportunity to testify on this important measure.

# A R Recovery Solutions

of Hawaii

1001 Kamokila Blvd #313

Kapolei, HI 96707

(808) 678-8100

(808) 678-8488 fax

TO: Chairman and members of the Senate Committee on Commerce, Consumer Protection and Health

FROM: David Ketzenberger, A R Recovery Solutions of Hawaii

RE: Opposition to SB 286, relating to check cashing

My name is Dave Ketzenberger and I own a collection agency here on Oahu. One category of clients we've collected for, for over a decade, is the payday loan industry.

I have direct access to the CFPB complaint database. I would like to share with you what I've found regarding complaints, or the lack thereof, against many of the payday loan companies represented here today.

Here is a listing of all the complaints listed with the CFPB involving Hawaii residents over the last 3 years.

	Date received	Product	Company	Issue	State	ZIP code
1	06/09/2016	Payday loan	Ad Astra Recovery Services Inc	Payment to acct not credited	HI	96825
2	07/27/2015	Payday loan	Debt Management Partners LLC	Payment to acct not credited	HI	968XX
3	11/04/2015	Payday loan	Elly, LLC	Can't stop charges to bank account	HI	967XX
4	05/16/2016	Payday loan	Flurish Inc.	Received a loan I didn't apply for	HI	968XX
5	12/08/2014	Payday loan	Pentagon FCU	Can't stop charges to bank account	HI	96819
6	03/13/2014	Payday loan	Red Cedar Services, Inc	Charged fees or interest I didn't expect	HI	20653
7	12/22/2014	Payday loan	Risecredit, LLC	Received a loan I didn't apply for	HI	96727
8	07/30/2014	Payday loan	Speedy Cash Holdings	Charged bank acct wrong day or amt	HI	96813
9	12/26/2016	Payday loan	WLCC	Charged fees or interest I didn't expect	HI	967XX

Ad Astra – Registered as “Debt Collection” out of Wichita Kansas – Corp add Union Mall – Registered Agent Svc – Not a even a payday loan company – Probably collecting for an out of state payday loan co  
Debt Management Partners – No Hawaii registration  
Elly LLC – No Hawaii registration  
Flurish Inc.- Registered as online lender out of San Francisco – Corp add Union Mall – Registered Agent Svc

Pentagon FCU – Not registered in Hawaii  
Red Cedar Services – Not registered in Hawaii – Mainland payday loan company  
Risecredit – Not register in Hawaii – Is online payday lender  
Speedy Cash - Not register in Hawaii – Is online payday lender  
WLCC - Wakpamni Lake Community Corporation - Oglala Sioux Tribe – Not registered in Hawaii

It is worth noting that I am unable to locate any complaints listed with the Hawaii BBB regarding payday loan activity.

I have spoken with my payday loan clients and they have given me a heads up that if this legislation were to go through, they will indeed close up causing employee layoffs and forcing even more of the type of complaints to occur as people will simply go to out of state lenders. The same lenders you will no control over as the majority aren't even licensed here and, as such, are totally unaccountable to Hawaii as to how they do business with the residents of Hawaii. My contacts have nothing to gain by telling me, at my level, that they will close if this indeed passes.

Being a collection agency, I am the last stop for the collection of payday loan accounts. We get every excuse in the book for why an account hasn't been paid. What I will tell you is that in my 10+ years of collecting for payday loan clients, I have never heard one of their customer's state that the reason they aren't paying is because the loan was too expensive. Just the opposite. I am more likely to come across guilt statements as they realize they were helped when they needed it and they realize that they should take care of their debt.

Regarding "rolling over loans" – Doesn't happen with our local lenders. I see their collection notes of their collection efforts and payment plans offered to their customers in cases of default. These repayment plans do not entail re-writing or adding any additional costs over the original agreement.

It would appear from the testimony I've read for Friday's hearing, support of this bill is only coming from non-profits and not consumers themselves. Some of these very same none profits are also attempting to insert their self-interests by presenting themselves as an alternative source for loans. When questioned at the last hearing on this in previous years, their volume and bureaucratic processes come nowhere near the performance levels customers currently receive through the private sector.

I was at a hearing in a previous year and one legislator was honest enough to ask just how this payday loan stuff worked. After it was explained, he admitted to previously believing that a 400% APR meant that if someone borrowed \$400 on a payday loan, they would have to pay back \$1,600 when it came due. Not the case.

I'm looking at a payday contract right now. The way the APR is FORCED to be quoted makes this a 429% APR. The amount borrowed is 375.00. That amount, along with a finance charge of 66.18 would need to be paid in 2 weeks' time for a total due of 441.18.

So, one would be charged 66.18 for that 375.00 loan. Does 66.18 look anywhere near being over 400% of the 375.00 amount borrowed? No.

Where the 429% APR would come into play is IF this a consumer took out this loan EVERY two weeks for a year. That's not how these emergency loans are designed to work.

Often times these instant loans are taken out to prevent an eviction or obtain funds for something like car repairs. If this payday loan option was not available when needed, someone might be facing eviction charges many times greater than the 66.18 finance charge. And what's the cost of trying to replace the job you lost

because you couldn't get your car fixed to be able to get to work? These people taking out these loans simply don't have the luxury of qualifying for a normal loan and that's why this works for them. **Payday lenders didn't create the need - they filled it because others couldn't/wouldn't.**

Continually blaring that a \$66.18 finance charge will mean that a consumer will pay 400% for their loan is a bit on the fake news side of things. And, again, consumers aren't the ones pushing this as an issue. If they're outlawed here, people will simply get them over the internet while payday loan companies, and their employees get laid off and close. Government can legislate any APR. This doesn't mean these companies will stay open to do business under those terms.

From the Civil Beat article..."Jeff Gilbreath, executive director of the nonprofit Hawaiian Community Assets, supports the bill and says the nonprofit set up a pilot project involving 24 people and loaned them money at 8 percent annual interest rates."

What was the qualifying criteria? What was the turnaround time? Same day as with payday loans?

If repetitiveness/simultaneous loans are the problem, then handle that as being the problem. Don't punish those who don't abuse the program. Most of these payday lenders are hooked up to a service that can see if other loans are outstanding. Mandate that these loans be registered on that system and the curb the abuse that causes the actual problem.

Don't take away the only option people have when no other options are available to them. If they had friends to help, they would go there. If they had family to help, they would go there. If there were other lenders willing to lend to them, they would go there. Causing the closure of our payday lenders and thinking this will help them in pursuing other avenues, doesn't make those other avenues appear for them.

The current trend is less regulation. This bill sets out to solve a supposed problem that no Hawaii consumer is even formally complaining about and attempts to address negative scenarios (i.e. rewriting loans) that is non-existent here. It is regulation for the sake of regulation and it will hurt the multitude of payday loan employees and the willing customers they serve.

March 16, 2017

TO: Chair Roy M. Takumi and Members of the House Committee on Consumer Protection and Commerce

FROM: Cash in Advance, Inc.  
(Kristin Green)

RE: **SB 286, SD1** - Relating to Check Cashing  
Hearing Date: March 17, 2017  
Time: 2:00 pm

My name is Kristin Green. I am the regional manager for Cash in Advance, Inc. ("CIA"). CIA has been doing business in the State of Hawaii since 1994. It currently has two (2) stores on Oahu.

CIA generally does not oppose the provisions of SB 286, SD1 regarding the right to rescind a deferred deposit, a loan installment plan but not to exceed ninety (90) days, restrictions on collections, the acknowledgment that additional options to deferred deposits may be available and having certain required information in a written agreement for deferred deposits. CIA **opposes** the bill to the extent that it seeks to reduce the fee that can be charged for a deferred deposit transaction.

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 under the current law 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 unless the check is dishonored and returned.

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.

Providing funds on a short term basis obviously comes with some risk. In situations where a check is returned for insufficient funds and collection efforts are unsuccessful, the current fee of 15% allows for CIA and other deferred deposit transaction companies to absorb such a loss while still being able to provide this service.

CIA strongly believes that the current fee of 15% expressed as a flat fee is fair. A reduction in this fee whether expressed by a flat fee or an annual percentage rate would make it difficult for CIA or anyone else to stay in business.

Thank you for considering this testimony.



74 East Swedesford Road,  
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March 17, 2017

Representative Roy M. Takumi, Chair  
Representative Linda Ichiyama, Vice Chair  
House Committee on Consumer Protection & Commerce  
Hawaii State Capitol, Room 329  
Honolulu, HI 96813

**RE: SB 286 SD 1 Related to Check Cashing**

Dear Chair Takumi, Vice Chair Ichiyama and Members of the Committee:

Thank you, Chair Takumi, for the opportunity to submit testimony regarding the bill referenced above. I represent Dollar Financial Group, Inc. based in Malvern, Pennsylvania. Through a subsidiary, we operate nine Money Mart<sup>®</sup> stores in the State of Hawaii, where we employ 35 state residents who are drawn from the neighborhoods we serve. These stores offer deferred deposit transactions that would be affected by Senate Bill 286 SD 1. We oppose the rate-cap provision of this bill because this provision sets a price ceiling well below our costs and would force us out of business in Hawaii.

Dollar Financial Group is 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.

**Our Product**

Money Mart offers deferred deposit transactions, which are sometimes called payday loans, in accordance with HRS chapter 480F. These loans provide a convenient, reasonably-priced, well-regulated unsecured borrowing option for meeting small, short-term financial needs of up to \$600.



Borrowers must have a steady source of income and a personal checking account in order to qualify for a deferred deposit transaction. Our customers come from all walks of life and by and large are the segment of the population whose credit needs are ignored or deemed unprofitable to banks and credit unions. On a national level, payday customers represent 19 million American households, who choose deferred deposit loans as a cheaper alternative to bounced-check or overdraft protection fees or late bill payment penalties. These borrowers also find a deferred deposit transaction to be more desirable than asking family members for money or pledging collateral for a small-dollar loan or title loan. Deferred deposit loan customers are overwhelmingly satisfied with the service, a fact confirmed by state regulators and the Consumer Financial Protection Bureau (CFPB), both of whom report very few complaints from residents who use this service. Hawaii is among this group, as indicated by the State of Hawaii Auditor's Sunrise Analysis on Check Cashing and Payday Loan Agreements, Report No. 05-11 (December 2005), which found "few complaints in Hawai'i and little evidence of harm."

### **Our Interest in Senate Bill 286 SD 1**

Across the country, we have demonstrated our commitment to working with policymakers to achieve state regulations that benefit consumers. We support balanced regulation that appropriately protects consumers and enables reputable payday lenders to operate profitably. Not only would a 36 percent rate cap prohibit us from operating profitably, it would put payday lenders out of business completely in this State. We oppose legislation that would put us out of business and leave our customers in Hawaii only with less-desirable, riskier credit alternatives. You should oppose it because it takes away the only reliable source of credit and liquidity available to our customers and this segment of the people of Hawaii. We believe it is bad policy to eliminate a product as essential to everyday life as credit and liquidity without a viable alternative being implemented. There is particularly true when the customer segment being targeted with this elimination of credit and liquidity, has the least real market opportunities to replace it.

### **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 costlier 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 relative true 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, that means 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. There is no penalty for paying late or not paying at all. 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. With the exception of the Colorado Model which is, by definition a hybrid, payday lending DOES NOT EXIST in any state that regulates the service as an APR—the resulting fee does not work for lenders and thus, the product is unavailable. **That’s because a 36% APR means a lender can only charge about \$1.38 per \$100 borrowed.** For prime customers, that is acceptable given the risk and performance of the pool. For our typical customer, this rate is simply untenable and would yield catastrophic losses as the reduction in rate would equate 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 would be \$1.38. No business can survive a 92.2% decrease in gross income. It doesn’t leave enough revenue to pay the light bill, much less employee payroll and benefits.

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

- In July 2007 a new law in Oregon capped payday loans at 36% APR plus an origination fee that yielded an effective APR of 154%. Within a year, 75% of the stores closed, and those that remained open offered check cashing and other services to survive. The press reported that 800 jobs had been lost and that state officials were concerned because

Oregonians were beginning to use unregulated payday lenders on the Internet.<sup>1</sup> Four years later the Portland Business Journal was still reporting that, “. . . the laws, which capped interest rates at 36%, forced cash-hungry borrowers to turn to the shady world of Internet Payday loans. . . .”<sup>2</sup>

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

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

**If the policy goal is to ban payday lending, this Bill is the exact vehicle for that ban. It will harm the least able among us from a credit availability standpoint and offers only an illusory hope of alternative affordable credit availability some day.**

### **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*

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

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

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

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

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

*and debt collectors, and have filed for Chapter 7 bankruptcy at a higher rate” following the elimination of the payday lending industry in those two states.*<sup>6</sup>

- A study by Dartmouth College by Professor Jonathan Zinman found that restricting access to payday loans “*caused deterioration in the overall financial condition of Oregon households.*”<sup>7</sup>
- In the study *The Case Against New Restrictions on Payday Lending*, Prof. Todd J. Zywicki of George Mason University reports that “[E]fforts by legislators to regulate the terms of small consumer loans (such as by imposing price caps on fees or limitations on repeated use “rollovers”) almost invariably produce negative unintended consequences that vastly exceed any social benefits gained from the legislation.”<sup>8</sup>

### **Closing**

In closing, we would like to point out that Hawaii already has a consumer-friendly deferred deposit statute in place, with a cap on fees and the amount that may be borrowed, as well as a prohibition on rollovers. We support regulation that protects consumers and would like to work with this Committee on improvements it deems necessary in that regard. Most notably, we urge you to consider added enforcement provisions to ensure that consumers are protected from unscrupulous lenders that are not complying with the current law.

We respectfully submit that Senate Bill 286 SD 1 in its current form—with any restrictive cap on the annual percentage rate—will not protect consumers. Instead, it would eliminate a regulated environment and take away the people of Hawaii’s’ 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 this bill is enacted with a rate cap, Dollar Financial Group will be forced to close its nine Hawaii stores and terminate our 35 employees.

We urge you to reject Senate Bill 286 SD 1.

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,

Lester Wm. Firstenberger,  
Senior Vice President, Global Regulatory and Government Affairs

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

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

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



#### **Board Members**

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Managing Partner,  
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*Program Coordinator*

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*AmeriCorps VISTA*

Avenaoe Galeai

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*AmeriCorps VISTA*

Date: March 15, 2017

To: Representative Roy M. Takumi, Chair; Representative Linda Ichiyama, Vice Chair; and members of the Committee on Consumer Protection & Commerce

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

Re: Strong Support for SB286 SD1

Aloha Chair Takumi, Vice Chair Ichiyama, and Committee Members,

The Hawai'i Alliance for Community-Based Economic Development (HACBED) strongly supports SB286 SD1, which provides a number of critical protections for consumers who take out a payday loan, including specifying a right to rescind, offering the option for conversion into an installment loan, requiring a check casher to provide a written agreement to the customer, and capping the annual percentage rate at 36 percent. This will enact needed measures protecting Hawai'i's most vulnerable against harmful collection practices.

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 facilitated the Hawai'i VITA and Financial Empowerment Program for seven years, 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 a number of critical consumer protections for those who take out a deferred deposit agreement, more commonly known as a payday loan.

Through HACBED's efforts providing VITA services, 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.**

Data show that payday loans are predatory and perpetuate a cycle of debt among Hawai'i residents. In addition, **payday lending disproportionately affects Native Hawaiians and Pacific Islanders**, two of our State's most significant populations. Nearly a third of Native Hawaiians and Pacific Islanders nationwide rely on alternative financial services, such as payday loans, for regular financial needs (FDIC, 2011). This measure is a concrete step to protecting these individuals and families who so often must be harmed by predatory lending.

SB286 SD1 provides a number of critical protections for consumers who are forced to take out a payday loan:

- *Providing Choice & Control* – specifying that a customer has the right to rescind a payday loan by returning the principal amount and permitting a customer to convert a payday loan into an installment loan plan in certain circumstances with specific requirements.
- *Protecting Families* – ensuring those who take out a payday loan are not subject to harmful collection practices, permitting prepayment of payday loans with no additional fees, and requiring a check casher to provide a clear written agreement – all of which are measures traditional borrowers often take for granted.
- *Ensuring Transparency and Fairness* – defining the annual percentage rate and capping it at 36 percent, which follows the precedent set by the U.S. Dept. of Defense and respects the findings of the FDIC, which indicate that small dollar lenders can safely and profitably lend to consumers at this rate.

Data 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 by passage of this measure, these will also be better promoted and marketed. As such, we strongly support the passage of SB286 SD1.

Mahalo for this opportunity to testify,

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



# HAWAII APPLESEED

## CENTER FOR LAW & ECONOMIC JUSTICE

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Testimony of Hawai'i Appleseed Center for Law and Economic Justice  
**Supporting SB 286** Relating to Check Cashing  
House Committee on Consumer Protection and Commerce  
Scheduled for Hearing Friday, March 17, 2017, 2:00 PM, Conference Room 329

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*Hawai'i Appleseed Center for Law and Economic Justice Hawai'i Appleseed is committed to a more socially just Hawai'i, where everyone has genuine opportunities to achieve economic security and fulfill their potential. We change systems that perpetuate inequality and injustice through policy development, advocacy, and coalition building.*

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Dear Chair Takumi, Vice Chair Ichiyama, and Members of the Committee on Consumer Protection and Commerce:

Thank you for the opportunity to testify in support of SB 286, which would enact a number of important consumer protections for deferred deposit agreements, commonly referred to as payday loans. 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.

Some of the protections that would be adopted by SB 286 include the following:

- granting a right to rescind the loan agreement by returning the full amount of the loan within one business day of the origination date;
- allowing customers to convert a payday loan into an installment loan plan if the customer will be unable to timely repay the loan prior to the loan's maturity;
- protecting against harmful and harassing collection practices; and
- capping the annual percentage rate (APR) on payday loans at 36%.

These protections are important because they help payday loan customers avoid the "debt trap" that is so often associated with these types of loans. While payday lending is indicative of broader issues of financial insecurity facing low-income people, these kinds of high interest loans only make a borrower's financial situation even more precarious. According to the Center for Responsible Lending, only two 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.

The protections of SB 286 will help consumers avoid severe financial consequences that so many face as a result of payday loans. The 36% APR cap is particularly important, as it is the only proven,

meaningful way to protect borrowers from high-cost lending. The current fee cap of 15% amounts to a 459% APR that is the primary cause of the payday loan debt trap. Hawai'i has the opportunity to end this exploitative interest rate by imposing a reasonable cap of 36% APR.

The APR takes into account the amount of the loan, any fees or interest, and the length of the loan. It allows borrowers to make an apples-to-apples comparison between lenders and loan options and assess their risk and ability to repay the loans. For these reasons, the federal Truth in Lending Act requires payday lenders to disclose **both** the fees as well as the equivalent APR. This law, passed in 1968, demonstrates the longstanding recognition of the APR as a consumer protection tool that helps put borrowers on a fair playing field with lenders. In 2000, the Federal Reserve Board formally clarified that this requirement does apply to payday lenders, reaffirming the importance the APR for consumers.

Sixteen states have already taken action and implemented an APR cap of 36% or below 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 recognize that residents, including low-income workers, may sometimes need small dollar loans. But FDIC research shows that small dollar lenders can indeed safely lend at an APR of 36% or less.

By adopting the protections proposed by SB 286, Hawai'i consumers will be better able to avoid the harmful consequences so many currently face as a result of exploitive payday loans. Thank you very much for hearing and considering this important bill.



**HAWAII CHECK CASHING**

March 16, 2017

To: Chairman Roy Takumi and members of the Commerce and Consumer Affairs Committee

From: Hawaii Check Cashing (Doreen Rodrigues)

**Opposing SB 286**

**Concerning Deferred Deposit**

My name is Doreen Rodrigues and I am one of the owners of Hawaii Check Cashing. Hawaii Check Cashing was the first check cashing company to open in Hawaii 31 years ago. **I Oppose SB286.** Payday loans are one of the many services we provide. It basically is a small, unsecured, short- term loan until payday. The consumer is usually middle class who have an established checking account and employment history. Most of our payday loan customers live on a tight budget that leaves little room for financial missteps. Being able to get a payday loan helps people get through a cash crunch without paying late fees or bouncing checks.

We currently do business following HRS 480F which allows \$15 for a postdated \$100 check. Changing the rate to 36% annual will earn us \$1.50. This would put us and all other check cashing stores out of business and our employees out of a job.

I urge you to read the Auditor's Sunrise Analysis: Check Cashing and Deferred Deposit Agreements before making any decisions. Also note that the Pew Charitable Trust is irrelevant to Hawaii because a study of check cashing businesses in Hawaii was not part of the study. The conclusions of the study are not relevant to HR 480F our State's check cashing law.

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". Have you uncovered evidence of abuses? There is only one complaint filed with DCCA since the Auditor's Report in 2005.

There are no present claims of abuse in Hawaii when it comes to payday loans. Problems will occur if the only alternative to a small loan \$100-\$600 is for the consumer to turn to unregulated Internet payday lenders. Unregulated Internet payday lenders volume has increased about 1000% over the past 15 years or so. An article at Bankrate.com calls the growth "explosive."

I respectfully ask that the Auditor's Sunrise Analysis: Check Cashing and Deferred Deposit Agreements be updated or a task force be put together to review the industry in Hawaii.

I respectfully submit this testimony and thank you for your open-minded evaluation of these bills.

Sincerely,

Doreen Rodrigues, Hawaii Check Cashing

(808) 842-1152

1284 Kalani Street 103

Honolulu HI 96817



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Honolulu, HI 96817  
Ph: 808-587-7886  
Toll Free: 1-866-400-1116  
[www.hawaiiancommunity.net](http://www.hawaiiancommunity.net)

March 15, 2017

House Committee on Consumer Protection and Commerce  
Friday, March 17, 2017, 2:00pm  
Conference Room 329

**SUPPORT: SB286, SD1 – Relating to Check Cashing**

Aloha Chair and Committee Members:

I am submitting testimony in **SUPPORT** for Senate Bill 286, Senate Draft 1 – Relating to Check Cashing, legislation that will help regulate payday loans in Hawaii and cap the interest rate on deferred deposit loans at 36% APR.

I am presenting my testimony in my capacity as Executive Director of Hawaiian Community Assets (HCA), the state's largest 501c3 HUD-certified housing counseling agency and financial education provider, and Hawaii Community Lending (HCL), HCA's nonprofit lending subsidiary. HCA's mission is to build 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 5,807 Hawaii children and families secure or sustain affordable housing.

**Payday loans are predatory and keeps our very-low and low-income Hawaii families from reaching their economic goals.** In our 16-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 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](https://www.fdic.gov/householdsurvey/2012_unbankedreport.pdf).

**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 (CFSAA) - 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 CFSAA.

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.

**Hawaii pilot shows lenders' earning potential with payday loans at 36% APR.** Beginning January 2015, Hawaii Community Lending (HCL) piloted an installment loan product in the State of Hawaii that local residents could use to pay off high-interest financial products and derogatory debt including payday loans, OneMain Financial loans, collections, judgments, liens, and credit cards. Fixed at 8% APR and at 24-month terms, 24 loans were originated totaling \$53,211 in principal. All borrowers were required to receive government-certified counseling from HCA prior to loan closing. The operational cost of underwriting, originating, and servicing the loans was at \$6,909 and paid for with grant funds. A total net profit of \$2,513 has been realized through 2016 with no defaults, while borrowers saved a total of \$63,435 in interest and fees as a result of paying off high-interest debt.

While HCL chose to provide this loan product at 8% APR, projections have been made to demonstrate the earning potential for a lender if they were to charge 36% APR. For example, if HCL had underwritten, originated, and serviced 24 loans totaling \$53,211 in principal at 36% APR instead of 8% APR, we would have realized \$11,903 in profit. This profit would not only cover the costs associated with lending (\$6,909), but would also result in \$4,994 in net profit. This amounts to \$208.08 per loan. See more information in the enclosed one page overview.

**These results demonstrate that capping the APR at 36% on payday loans can be both good for the community and good for business.**

Other pilots have been implemented recently demonstrating similar impacts, including the FDIC's small dollar loan pilot.

[https://www.fdic.gov/bank/analytical/quarterly/2010\\_vol4\\_2/FDIC\\_Quarterly\\_Vol4No2\\_SmallDollar.pdf](https://www.fdic.gov/bank/analytical/quarterly/2010_vol4_2/FDIC_Quarterly_Vol4No2_SmallDollar.pdf).

On behalf of Hawaiian Community Assets and Hawaii Community Lending, I encourage the committee to pass SB286, SD1 to help regulate payday loans in Hawaii and cap the interest rate on deferred deposit loans at 36% APR.

Mahalo for your consideration in supporting SB286, SD 1 – Relating to Check Cashing with suggested amendments. Please feel free to contact me directly at 808.587.7653 or at [jeff@hawaiiancommunity.net](mailto:jeff@hawaiiancommunity.net) should you have any questions or need clarification.

Sincerely

A handwritten signature in black ink that reads "Jeff Gilbreath". The signature is written in a cursive, slightly slanted style.

Jeff Gilbreath  
Executive Director



**Hawaii Community Lending  
 Small Dollar Loan Pilot  
 January 2015 – December 2016**

	<b>8% APR (Actual)</b>	<b>36% APR (Estimated)</b>
<b>Number of Loans</b>	24	24
<b>Loan Term</b>	24 months	24 months
<b>Principal Amount</b>	\$53,211	\$53,211
<b>Operational Expenses</b>	\$6,909	\$6,909
<b>Grant Funds</b>	\$6,909	\$0
<b>Total Interest/Fees Earned</b>	\$2,513	\$11,909
<b>Net Profit</b>	\$2,513	\$4,994
<b>Borrower Savings</b> (from high-interest products)	\$63,435	\$54,039
<b>Net Profit per Loan</b>	\$104.71	\$208.08

Based on these results, Hawaii Community Lending estimates that a lender would be able to pay 1 full-time staff equivalent at \$52,020 with every 250 loans originated and serviced.

In light of the fact that payday lenders do not conduct traditional underwriting, it is likely that the operational expenses could be even less for payday lenders than Hawaii Community Lending.

03/16/2017

TO: Chairman Roy Takumi and members of the **Consumer Protection & Commerce** Committee

FROM: Richard Dan, Maui Loan LLC

RE: opposition to SB 286 SD1, deferred deposit loans

Aloha

Year after year, opponents of the payday loan business have introduced bills that will have the effect of shutting down local lenders and forcing borrowers to find other sources of credit. In other states, that has meant the unregulated, corrupt and unanswerable Internet lending business.

Don't do that to your constituents.

In the Senate report on SB 286, it says: "research from the National Consumer Law Center has shown that regulation is essential to ensure that households using alternative financial services for basic necessities are not further trapped in cycles of debt and poverty."

Hawaii already has probably the best consumer protection regulations of any state, which explains:

1. why there are so few consumer complaints against local — emphasize local — lenders
2. why during several sessions of the Legislature, the foes of payday lending have never produced any local example of a customer caught in a spiral of debt.

The opponents of payday lending contend that lenders can make a profit even if rates are limited to 36% apr. This has not worked in practice in any other state, and I want to thank Jeff Gilbreath of Hawaiian Community Assets for offering testimony pretending to show how it could be done in Hawaii.

Please read his testimony, and, especially if any of your members has ever run a business, pay close attention to the pro forma he submitted on HCA's demonstration project.

This project ran for 2 years and made several loans. The line I want you to study is "Operating Expenses." HCA had Operating Expenses of \$6,909 for 2 years.

I assure you, Maui Loan's operating expense were quite a bit higher than that.

In summary, under existing regulations, Hawaii's payday lenders have supplied credit to thousands of borrowers who, for whatever reason, have few or no other source of small loans; and that have done so without allowing the abuses that have occurred in other states.

It ain't broke; don't fix it.

Sincerely

*Richard Dan*  
Maui Loan Inc

To: Representative Roy M. Takami, Chair  
Representative Linda Ichiyama, Vice Chair  
House Committee on Commerce Consumer Protection and Commerce

March 15, 2017

In opposition to SB286 – Urging an updated study by the State Auditor.

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. We have served over 40,000 Hawaii residents in over 16 years in business with only a single complaint to the DCCA, and that complaint was dismissed.

The preamble of the bill cites a study by the Pew Charitable Trust. It should be noted that the Pew Charitable Trust has never studied check cashing businesses operating in Hawaii. Therefore the conclusions the study makes are not relevant to HRS480F, the State's check cashing law. SB286 should not be passed based on unsubstantiated anecdotal evidence and studies from other states which do not have the consumer protections we have in our check cashing law.

The only comprehensive study of HRS480F was conducted by the State Auditor in 2005. The Auditor found few complaints and little evidence of harm. The proper course of action would be to accept the conclusions of the State Auditor and incorporate her recommendations from the Sunrise Analysis into SB286. Or, given the fact that the study is now twelve years old, request an updated study.

Twelve years ago local Hawaii check cashers opened their doors and their books to the Hawaii State Auditor. After careful and thorough research, the State Auditor said, "*We conclude there is little evidence that payday lenders have harmed Hawaii consumers.*"\*

The preamble in SB286 states that the high annual percentage rate can trap Hawaii borrowers in a cycle of high interest loans. 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.*"\*

The preamble in SB286 notes that: "*According to the Consumer Federation of America, the nationwide trend is toward an annual percentage rate cap at thirty-six per cent or less on these types of small loans.*" What is not noted is that short-term deferred deposit credit is no longer available in states which have adopted an all-in APR of 36%. The preamble cites Colorado and Washington as examples of states which have enacted reforms without denying consumers access to short-term credit, however neither state adopted the 36% APR cap.

Referring to the bill being considered when the Sunrise Analysis was conducted the State Auditor had this to say about the proposed 36% APR cap:



*“The lack of evidence of harm to consumers makes many provisions of Senate Bill No. 1413 unnecessarily restrictive. If enacted, Senate Bill No. 1413 would likely drive Hawai‘i payday lenders out of business by capping any fees or interest charges at 36 percent APR. Payday lenders say that they cannot operate with a 36 percent APR cap. Should the payday lending industry cease to operate in Hawai‘i, the alternatives for consumers are few and may be less desirable.”\**

The State Auditor’s recommendation:

*“Payday lenders say that the charges for payday loans are reasonable in view of the high-risk nature of their loans. It is reasonable to expect that those who have poor credit have to pay more for their loans. However, indications are that the payday lenders could still profitably stay in business in Hawai‘i under a reduced rate cap somewhere between 309 percent and 390 percent APR. In addition to reducing the fee cap, the law should be amended to clarify that any fee charged must include any and all other charges. Some payday lenders are said to charge a general excise tax in addition to the fee.”\**

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 before making a decision. You will see that the bill being considered is not an accurate reflection of her conclusions.

The State Auditor concluded, *“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.”\**

I would like to invite each of you to visit one of our PayDayHawaii offices. Talk to our experienced managers, our 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.

*\* 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.*

Sincerely,

R. Craig Schafer

President. Money Service Centers of Hawaii, Inc.

To: Representative Roy M. Takami, Chair

Representative Linda Ichiyama, Vice Chair

House Committee on Consumer Protection and Commerce

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

March 15, 2017

In opposition to SB286

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 thirteen 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. *Some advocates make 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

To: Representative Roy M. Takami, Chair  
Representative Linda Ichiyama, Vice Chair  
House Committee on Consumer Protection and Commerce

From: Patti Lacio, Senior Branch Manager,  
PayDayHawaii Stadium Mall, Money Service Centers of Hawaii, Inc.

March 15, 2017

In Opposition. Calling for a new study by the State Auditor.

I have managed the check cashing store in Stadium Mall for over 16 years. I'm testifying in opposition to SB286 SD1, A Bill for an Act, relating to Check Cashing (HRS480F) which was referred to your Committee. I challenge the Committee report as it makes assertions based on out-of-state studies that do not include data for check cashing companies in Hawaii.

The only comprehensive study of HRS480F was conducted by the State Auditor in 2005. The Auditor found few complaints and little evidence of harm. Given that the study contradicts the findings of the committee and the study is now twelve years old, I request a resolution for an updated study to establish the truth of the matter.

What is at stake is the survival of local businesses, the jobs created by these businesses and the taxes generated by these businesses which are imperiled by this ill-conceived bill.

I challenge the following assertions made by the Committee:

"According to testimony received by your Committee, research by the Center for Responsible Lending shows that only two percent of borrowers were able to pay off a payday loan the first time and the average payday loan borrower remains in debt for double the length of time recommended by the Federal Deposit Insurance Corporation."

Fact: At Money Service Centers of Hawaii, Inc. Of 1773 deferred deposit transactions originated in January, only 40 remain unpaid in full, or 2.26%. This is the complete opposite of the CRL's research. The CRL did not use any data from Hawaii where HRS480F is distinctly different from laws in other states.

"Furthermore, the Consumer Financial Protection Bureau found that four out of five payday loans are rolled over or renewed and, due to high rates and frequent rollovers, three out of five payday loans are made to borrowers whose fees exceed the original amount borrowed."

Fact: At Money Service Centers of Hawaii, Inc. only 61% of all deferred deposit transactions originated in January were followed by another transaction by the same client. The CFPB did not use any data from Hawaii where HRS480F is distinctly different from laws in other states.

The Hawaii State Auditor: *We found no evidence of harm relating to rollovers or of borrowers falling into a debt trap in Hawai'i.*

“Your Committee additionally finds that there are a number of safe, regulated, small dollar loans with interest rates far below the rates currently charged for deferred deposit agreements.”

Fact: These small dollar loans do not exist in Hawaii for consumers with credit challenges. This is why Money Service Centers of Hawaii, Inc. asked Senator Kouchi to introduce SB869, the Hawaii Credit Creation Pilot Program. This bill would create a safe and responsible credit alternative for our clients who cannot qualify for traditional credit but need a longer term solution than a 32 day deferred deposit transaction. The bill is modelled on a successful credit creation program developed in California by and for the Hispanic community. Unfortunately, it did not get a hearing this year.

The Hawaii State Auditor: *Should the payday lending industry cease to operate in Hawai'i, the alternatives for consumers are few and may be less desirable.”\**

“Furthermore, research from the Federal Deposit Insurance Corporation has indicated that small dollar lenders can safely lend at an annual percentage rate of thirty-six percent or less.”

Fact: Short-term deferred deposit credit is no longer available in states which have adopted an all-in APR of 36%. 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.

The Hawaii State Auditor: *If enacted, Senate Bill No. 1413 would likely drive Hawai'i payday lenders out of business by capping any fees or interest charges at 36 percent APR.*

It is popular for some to hold Hawaii check cashers in contempt but it is not a view shared by consumers. Out of 5252 complaints received by the Consumer Financial Protection Bureau over the past five years, zero complaints were made against brick and mortar stores operating in Hawaii. And only one complaint was made against a Hawaii company to the DCCA compared to dozens of complaints against banks.

I do not know if it is too late to call for an updated study by the State Auditor, but I believe this is the correct course of action to reliably establish the facts about Hawaii check cashers operating under HRS480F.

Respectfully, Patti Lacio, Senior Branch Manager, PayDayHawaii Stadium Mall

March 15, 2017

House Committee on Consumer Protection and Commerce  
Friday, March 17, 2017, 2:00pm  
Conference Room 329  
SUPPORT: SB286, SD1 – Relating to Check Cashing

Aloha Chair and Committee Members:

I am submitting testimony in SUPPORT for Senate Bill 286, Senate Draft 1 – Relating to Check Cashing, legislation that will help regulate payday loans in Hawaii and cap the interest rate on deferred deposit loans at 36% APR.

I am presenting my testimony to support the words of Jeff Gilbreath who serves in the capacity of Executive Director of Hawaiian Community Assets (HCA), the state's largest 501c3 HUD-certified housing counseling agency and financial education provider, and Hawaii Community Lending (HCL), HCA's nonprofit lending subsidiary. I am a Kahua Waiwai Financial Trainer and was trained by Jeff Gilbreath.

HCA's mission is to build 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 5,807 Hawaii children and families secure or sustain affordable housing.

Payday loans are predatory and keeps our very-low and low-income Hawaii families from reaching their economic goals. In our 16-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 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](https://www.fdic.gov/householdsurvey/2012_unbankedreport.pdf).

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 CFSAA.

Our very-low and low-income Hawaii families do need access to short-term, small dollar loans to weather 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.

Hawaii pilot shows lenders' earning potential with payday loans at 36% APR. Beginning January 2015, Hawaii Community Lending (HCL) piloted an installment loan product in the State of Hawaii that local residents could use to pay off high-interest financial products and derogatory debt including payday loans, OneMain Financial loans, collections, judgments, liens, and credit cards. Fixed at 8% APR and at 24-month terms, 24 loans were originated totaling \$53,211 in principal. All borrowers were required to receive government-certified counseling from HCA prior to loan closing. The operational cost of underwriting, originating, and servicing the loans was at \$6,909 and paid for with grant funds. A total net profit of \$2,513 has been realized through 2016 with no defaults, while borrowers saved a total of \$63,435 in interest and fees as a result of paying off high-interest debt.

While HCL chose to provide this loan product at 8% APR, projections have been made to demonstrate the earning potential for a lender if they were to charge 36% APR. For example, if HCL had underwritten, originated, and serviced 24 loans totaling \$53,211 in principal at 36% APR instead of 8% APR, we would have realized \$11,903 in profit. This profit would not only cover the costs associated with lending (\$6,909), but would also result in \$4,994 in net profit. This amounts to \$208.08 per loan. See more information in the enclosed one page overview. These results demonstrate that capping the APR at 36% on payday loans can be both good for the community and good for business.

Other pilots have been implemented recently demonstrating similar impacts, including the FDICs small dollar loan pilot.

[https://www.fdic.gov/bank/analytical/quarterly/2010\\_vol4\\_2/FDIC\\_Quarterly\\_Vol4No2\\_SmallDollar.pdf](https://www.fdic.gov/bank/analytical/quarterly/2010_vol4_2/FDIC_Quarterly_Vol4No2_SmallDollar.pdf).

On behalf of the community and people I serve as well as Hawaiian Community Assets and Hawaii Community Lending, I encourage the committee to pass SB286, SD1 to help regulate payday loans in Hawaii and cap the interest rate on deferred deposit loans at 36% APR. Mahalo for your consideration in supporting SB286, SD 1 – Relating to Check Cashing with suggested amendments.

If you have any question for me, please contact me at [dwallace@hawaii.edu](mailto:dwallace@hawaii.edu). (My testimony uses words directly from Jeff Gilbreath's testimony, because I support his advocacy for Hawai'i families)

Mahalo for your time and consideration,

*From a humble Native Hawaiian Student, product of low-income families and communities, and advocate for change,*

D. U'ilani Kiaha

MSW Student at UH Mānoa Myron B. Thompson School of Social Work

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, March 16, 2017 7:32 PM  
**To:** CPCtestimony  
**Cc:** stanfranco@hawaiiantel.net  
**Subject:** Submitted testimony for SB286 on Mar 17, 2017 14:00PM

**SB286**

Submitted on: 3/16/2017

Testimony for CPC on Mar 17, 2017 14:00PM in Conference Room 329

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
stan franco	Individual	Support	No

Comments: As a retired deacon of the Catholic Church and a retired social worker of the State Judiciary, I support capping the interest rate our poor people would pay for payday loans made to take care for their immediate needs. I see our current system which allows up to 459% interest rates as immoral and not pono. As we struggle with issues like affordable housing for our very low and low incomes persons and families, they should not have these exorbitant interest rates so that they will have more money to pay for their basic needs including housing. Thanks for working for all our people especially those least fortunate. Mahalo.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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