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Testimony of the Department of Commerce and Consumer Affairs

**Before the
House Committee on Consumer Protection and Commerce
Thursday, March 21, 2019
2:00 p.m.
State Capitol, Conference Room 329**

On the following measure:

**H.R. 124, REQUESTING THE AUDITOR TO CONDUCT A FOLLOW-UP ANALYSIS
TO SUNRISE ANALYSIS: CHECK CASHING AND DEFERRED DEPOSIT
AGREEMENTS (PAYDAY LOANS), REPORT NO. 05-11**

Chair Takumi and Members of the Committee,

My name is Iris Ikeda, and I am the Commissioner of Financial Institutions for the Department of Commerce and Consumer Affairs' (Department) Division of Financial Institutions (DFI). The Department offers comments on these resolutions.

These resolutions ask the State Auditor to conduct a follow-up analysis on the findings and recommendations in a study titled *Sunrise Analysis: Check Cashing and Deferred Deposit Agreements (Payday Loans)*, Report No. 05-11. In addition, the resolutions ask the State Auditor to analyze the financial services industry to determine if alternative products are available. The Department respectfully submits that a follow-up analysis is not required under Hawaii Revised Statutes (HRS) chapter 26H, as the check cashing or deferred check casher industry is neither an unregulated profession nor a vocation; rather, it is an unlicensed industry.

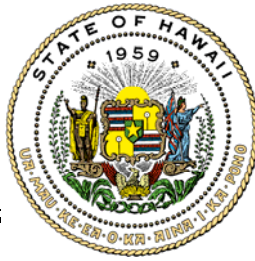
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The Department notes that in the case of many companies supervised by the DFI, consumers do not file complaints against a licensee. However, when the DFI examines a licensee, it may find that the licensee has violated state or federal law and order restitution to the consumer and order compliance with the laws.

Thank you for the opportunity to testify on this bill.



HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

The Honorable Roy M. Takumi, Chair
The Honorable Linda Ichiyama, Vice Chair

H.C.R. NO. 134, REQUESTING THE AUDITOR TO CONDUCT A FOLLOW-UP ANALYSIS TO SUNRISE ANALYSIS: CHECK CASHING AND DEFERRED DEPOSIT AGREEMENTS (PAYDAY LOANS), REPORT NO. 05-11

H.R. NO. 124, REQUESTING THE AUDITOR TO CONDUCT A FOLLOW-UP ANALYSIS TO SUNRISE ANALYSIS: CHECK CASHING AND DEFERRED DEPOSIT AGREEMENTS (PAYDAY LOANS), REPORT NO. 05-11

Hearing: Thursday, March 21, 2019, 2:00 p.m.

The Office of the Auditor has **no position** regarding H.C.R. No. 134 and H.R. No. 124, which request a follow-up analysis to Report No. 05-11, *Sunrise Analysis: Check Cashing and Deferred Deposit Agreements (Payday Loans)*. **However, we offer the following comments.**

First, we note that the concurrent resolution currently does not reference a specific regulatory measure for our office to assess. Hawaii's Regulatory Reform Act, Chapter 26H, Hawaii Revised Statutes (HRS), requires that a concurrent resolution identify "a specific legislative bill to be analyzed" to allow our office to assess the **probable effects of the proposed regulatory measure** and whether the proposed regulation is consistent with the policies in Section 26H-2, HRS.

Additionally, under the Hawaii Regulatory Reform Act, our analysis of proposed regulatory measures is based on statutory criteria identified in Section 26H-2, HRS. The resolutions currently request that we perform work in nine areas related to the regulation of payday loans, including analyzing "the role of short-term lending in the underserved, unbanked credit market in Hawaii and the United States"; analyzing the availability and cost of alternative credit products; and recommending compliance, training, and examination standards for federal and state laws and regulations that apply to financial services provided under Chapter 480F, HRS.

Because the study contemplated by these resolutions requires technical expertise which we likely do not possess, we suggest that another agency – such as the Department of Commerce and Consumer Affairs – may be better suited to perform the requested work.

Thank you for considering our testimony related to H.C.R. No. 134 and H.R. No. 124.

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

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

March 20, 2019

In support of HCR134 / HR124.

Money Service Centers of Hawaii, Inc. is a locally owned and operated money service business (MSB) headquartered in Kapaa, Kauai. We operate fee-based money service centers throughout the State under the trade name PayDayHawaii. Over the past 19 years we have provided check cashing services to over 44,000 Hawaii residents. We provide safeguards not required by law to encourage the responsible use of our short-term credit product. We offer free financial education on our website and mobile devices, 24/7, to help Hawaii's working families in times of financial stress.

We are pleased to testify in strong support of HCR134/124 which requests a follow-up analysis by the State Auditor to the 2005 Sunrise Analysis* on check cashing and deferred deposit agreements. The original study is now over 15 years old. While there have been bills introduced in past sessions to implement the recommendations from this analysis, none have been enacted by the legislature.

HRS 480F has been a contentious law since its passage in 1999. Efforts to make changes to the law in recent years cite a study by the Pew Charitable Trust. The Pew Charitable Trust has never studied check cashing businesses operating in Hawaii. Their data and reports are based only on the 48 contiguous states. It's important to be specific to our State with a different law and different outcomes. We need to look at what is happening in our community from a provable standpoint and not base conclusions on data from the mainland.

Most other states which allow "payday loans" allow rollovers and multiple loans. As the DCCA noted in their testimony from 12/12/17, HRS 480F prohibits rollovers and only allows a single deferred deposit transaction per consumer. As a result of these prohibitions Hawaii consumers use deferred transactions less often, renew transactions at a significantly lower rate and default less often when using local storefront companies and responsible on-line lenders adhering to Hawaii law.

The only study on transactions allowed under HRS 480F is the 2005 Sunrise Analysis*. This study found no evidence of harm to Hawaii consumers from local check cashers. However this was before on-line lending became common. There are currently 11 companies operating storefronts in Hawaii and at least 35 out-of-state internet lenders. This is a significant change from 2005.

Unaffiliated out-of-state internet lenders often operate in Hawaii with impunity, ignoring Hawaii law and account for all but one complaint to the DCCA. We have identified 30 internet lenders operating in Hawaii who are not registered to pay GET taxes. The Auditor should research the increasing impact of out-of-state internet lenders who operate unlawfully in Hawaii.

We now have almost two decades of data to draw on, from local companies and responsible on-line lenders represented by the Online Lenders Alliance, to measure the impact of HRS 480F on Hawaii's consumers. We support a sensible update of HRS 480F based on the Auditor's findings.

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

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