



LATE

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**STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

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Testimony of the Department of Commerce and Consumer Affairs

**Before the
Senate Committee on Ways and Means
Thursday, February 21, 2019
10:00 a.m.
State Capitol, Conference Room 211**

**On the following measure:
S.B. 537, S.D. 1, RELATING TO CONSUMER PROTECTION**

WRITTEN TESTIMONY ONLY

Chair Dela Cruz 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 supports this bill to supervise, regulate, and examine this new industry.

The purpose of this bill is to encourage transparency and increase consumer protection in the payday lending industry by: (1) transitioning from lump sum deferred deposit transactions to installment-based small dollar loan transactions; (2) specifying various consumer protection requirements for small dollar loans; (3) beginning January 1, 2020, requiring licensure for small dollar lenders that offer small dollar loans to consumers; (4) specifying licensing requirements for small dollar lenders; and (5) authorizing the DFI to establish and hire two full-time equivalent permanent examiners to carry out the purposes of the small dollar installment loan program, funded via an

increase to the ceiling of the Compliance Resolution Fund (CRF). The bill would enact a new chapter of the Hawaii Revised Statutes, entitled "Small Dollar Installment Loans", for the DFI to administer.

To carry out the purposes of this program, the Department requests that section 11 of the bill be amended to appropriate \$220,941 from the CRF to establish the two permanent examiner positions, including employee benefits. Each DFI program is staffed with examiners who are trained to review the program parameters and to respond to questions from the industry and consumers. For this new program, one examiner position will be required to establish the program for the industry, and one examiner position will be required to conduct examinations and investigations. This timing will allow the DFI to set up the program in fiscal year 2020 and open the application process on January 1, 2020. During this period, the DFI will reach out to the industry and provide education about Hawaii's laws. Meanwhile, the companies in the application process can continue to operate under the new laws while the DFI reviews the application.

The DFI is self-funded from fees paid by the licensees of its various programs. Those funds are designed to pay for staffing in the programs. Application and renewal fees are set without knowing how many applicants or licensees may apply for licensure and later renewal. To maintain this new program, the DFI will need to generate revenues sufficient to cover the additional staff members.

Thank you for the opportunity to testify on this bill.



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February 19, 2019

Senate Committee on Ways and Means
Thursday, February 21, 2019, 10:00am
Conference Room 211

SB537, SD1 - SUPPORT

Aloha Committee Chair, Vice-Chair, and Members:

I am submitting testimony in my capacity as Executive Director of Hawaiian Community Assets (HCA), a nonprofit community development corporation, HUD-approved housing counseling agency, and community development financial institution to **STRONGLY SUPPORT SB537, SD1.**

SB537, SD1 closes the loophole that created unaffordable payday loans in 1999, establishes a regulatory structure to ensure installment loans are affordable for our residents, and would keep more money in the pockets of our workers and families for rent and mortgage payments.

Currently, payday loans charge borrowers 459% APR. This means that \$105 of every \$600 borrowed goes toward interest and fees that often leave our State economy as profits for off-shore payday lenders. Less money in our economy leaves less funds for our homeless services, affordable housing, and critical public programs that have been instrumental in keeping our workers and families in permanent housing. With public programs forming a safety net to prevent homelessness, a statewide Coordinated Homeless Entry System providing emergency grants, a robust credit union network offering low-interest loans, and nonprofit loan funds combining financial education with small dollar loans, it is time to close the loophole on payday loans and save our economy and our people money for affordable housing.

Makes Installment Loans Affordable for Workers and Families

SB537, SD1 defines a regulatory structure for installment loans in Hawaii and caps the total monthly loan payments at 5% of gross monthly income or 6% of net income, whichever is greater. This requirement will achieve the bill's intended goal of ensuring installment loans are affordable for your constituents.

Affordable installment loan payments will result in your constituents saving significant money on interest that can be used to go toward their rent and mortgage, providing more capital for all of us to address our homeless and affordable housing crises.

At a time when Hawaii reports the highest homeless rate per capita of any state in the nation and 57.6% of our renters pay more than 30% of their monthly income toward housing, we cannot afford any more money to go from the pockets of our workers and families to 459% APR payday loans or unaffordable long-term small dollar installment loans. Close the loophole that created unaffordable payday loans in 1999, establish a regulatory structure that ensures installment loans are affordable for our residents, and keep more money in the pockets of our workers and families for rent and mortgage payments. **PASS SB537, SD1.**

Mahalo for your time, leadership and consideration. Please contact me directly at 808.587.7653 or jeff@hawaiiancommunity.net should you have any questions or need additional information.

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

To: Donovan M. Dela Cruz, Chair
Gilbert S.C. Keith-Agaran, Vice Chair
Committee on Ways and Means

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

February 21, 2019

In opposition to SB537 SD1

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.

SB537 SD1 would replace deferred deposit transactions authorized under the check cashing law, HRS 480F, with an unproven installment loan scheme that would be expensive to administer and enforce. This bill isn't consistent with the State Auditor's report from 2005* which found no evidence of harm to Hawaii consumers from local check cashers. At that time the Auditor made recommendations, including registration of short-term lenders, which the Legislature failed to act upon.

SD537 SD1 requires licensing. We note that the Hawaii Regulatory Reform Act requires any new regulatory measure that would subject unregulated professions and vocations to licensing or other regulatory controls be referred to the State Auditor by concurrent resolution:

- **§26H-6 New regulatory measures.** New regulatory measures being considered for enactment that, if enacted, would subject unregulated professions and vocations to licensing or other regulatory controls shall be referred to the auditor for analysis. Referral shall be by concurrent resolution that identifies a specific legislative bill to be analyzed. The analysis required by this section shall set forth the probable effects of the proposed regulatory measure and assess whether its enactment is consistent with the policies set forth in section 26H-2. The analysis also shall assess alternative forms of regulation. The auditor shall submit each report of analysis to the legislature.

We note that the licensing scheme proposed in SD537 SD1 has funding problems. It appropriates funds of over \$220,000 to hire two positions to set up the program and to appropriately supervise, regulate, and examine licensees. In addition, the program would need to generate revenues sufficient to cover the additional staff members. The 11 storefront companies operating in Hawaii will only generate a little over \$47,000 in licensing fees. This leaves \$173,000 to be funded by an unknown number of out-of-state lenders.

In addition, license fees proposed in SB537 SD1 favor out-of-state internet lenders over local lenders with multiple locations by charging them higher licensing fees. The majority of out-of-state internet lenders currently operate in Hawaii with impunity, ignoring Hawaii law and accounting 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. We find it is difficult to believe these lenders who currently ignore their tax obligation would readily apply for a license.

We note that the 2005 Sunrise Analysis* is over 15 years old. The legislature should authorize a follow-up Audit so that we have more up-to-date data for Hawaii, including the increased impact of out-of-state internet lenders.

** 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.



CATHOLIC CHARITIES HAWAI'I

TESTIMONY IN SUPPORT OF SB 537 SD1: Relating to Consumer Protection

TO: Senator Donovan Dela Cruz, Chair, Senator Gilbert Keith-Agaran, Vice Chair;
and Members, Committee on Ways and Means
FROM: Betty Lou Larson, Legislative Liaison, Catholic Charities Hawai'i
Hearing: **Thursday, 2/21/19; 10:00 AM; CR 211**

Chair Dela Cruz, Vice Chair Keith-Agaran, and Members, Committee on Ways and Means:

Thank you for the opportunity to provide testimony **in strong support** of **SB 537 SD1**, which provides various consumer protection requirements for small dollar loans. I am Betty Lou Larson, with Catholic Charities Hawai'i.

Catholic Charities Hawai'i (CCH) is a tax exempt, non-profit agency that has been providing social services in Hawai'i for over 70 years. Our mission is to provide services and advocacy for the most vulnerable in Hawai'i. CCH's advocacy priority is reducing poverty in Hawai'i. This bill would help with that goal by making payday loans more manageable for consumers, thereby helping them to avoid a debt trap.

In 2006 the U.S. Department of Defense made it illegal to make loans with interest rates greater than 36% APR to active-duty service members and their families. Currently, 17 other states have adopted this policy and protected their consumers while allowing affordable small loans. At this rate of interest, borrowers are more likely to be able to pay back their loans without rolling them over into another loan and accruing more debt. Our local people deserve the same protection!

In Hawai'i many people are struggling with the high cost of living and may resort to these loans. People living below the poverty line are especially hard hit in Hawaii, with the highest cost of shelter in the country. A family of four in Hawaii pays 68% more for food than families on the mainland¹. The January 2018 "ALICE" report from Aloha United Way found **that nearly half of isle households are living on a survival budget**, with barely enough to cover basic needs, much less save for an emergency. This population is frequently teetering at the brink of homelessness. Any change to their financial situation like a decrease in wages or increase in rent might tip them over into homelessness. Some may use a payday loan to get by. Yet, a 2017 analysis found that 4 out of 5 payday loans were rolled over, since the borrower was not able to repay the loan on time. It is critical that Hawaii's people be protected from unreasonable rates and fees that will accumulate to create a greater problem for them. The high interest on these loans (e.g 459% APR) threaten families' housing stability. This pathway INTO homelessness must stop. Our community must provide the safeguards in this bill.

We urge your support. We appreciate this opportunity to discuss one of the challenges faced by people living with low wages and low incomes. Please contact our Legislative Liaison, Betty Lou Larson, at 373-0356 or bettylou.larson@catholiccharitieshawaii.org, if you have any questions.

¹ Based on the U.S. Department of Agriculture's Thrifty Food Plan, which is used as the basis for Supplemental Nutrition Assistance Program benefits. See <http://www.cnpp.usda.gov/usdafoodplanscostoffood.htm>.



SB-537-SD-1

Submitted on: 2/19/2019 5:01:55 PM

Testimony for WAM on 2/21/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
RICHARD DAN	Testifying for Maui Loan Inc.	Oppose	No

Comments:

Maui Loan Inc., 50 N. Market St., Wailuku, HI 96793 , 808-242-5555

February 19th, 2019

RE: Testimony in Opposition of SB 537

My name is Richard Dan. My wife and I have operated Maui Loan Inc., a company on Maui for decades. I oppose SB 537 because there is no problem that needs to be addressed. Since the sunrise report in 2005 there's been plenty of opportunity for any problems to be brought to the attention of the legislature and that hasn't happened.

Complaints about locally owned and operated deferred deposit institutions are insignificant, almost unknown.

The abuse of borrowers comes from the unregulated Internet lenders based outside the state of Hawaii and beyond the control of this legislature. Regulation of local lenders would only push local borrowers into the arms of the unscrupulous Internet lenders.

State legislative committees have looked at deferred deposit lending since the sunrise audit and over a dozen years have not felt the need to do anything. This was prudent.

Sincerely,

Richard Dan



HAWAII APPLESEED

CENTER FOR LAW & ECONOMIC JUSTICE

Testimony of Hawai'i Appleseed Center for Law and Economic Justice
Supporting SB 537 SD1 -- Relating to Consumer Protection
Senate Committee on Ways and Means
Thursday, February 21, 2019, 10:00 AM, conference room 211

Dear Chair Dela Cruz, Vice Chair Keith-Agaran, and members of the Committee:

Thank you for the opportunity to provide testify in **SUPPORT** of **SB 537 SD1**, which would close the loophole that created unaffordable payday loans in Hawai'i and establish a regulatory structure to make sure that installment loans are affordable for our residents.

Most of the profits of from payday small-dollar loans are flowing out of our state's economy to unregulated and uncertified out-of-state payday lender institutions. The provisions contained in SB 537 SD1 would help keep more money in the pockets of our local workers, families, and businesses and, as a result, improve our local economy.

It is estimated that payday loans in Hawai'i charge borrowers an astounding 459 percent annual interest rate. Research by the Consumer Financial Protection Bureau finds that “that more than four out of five payday loans are re-borrowed within a month... The majority of short-term loans are borrowed by consumers who take out a least 10 loans in a row, with the borrower paying far more in fees than they received in credit.”

In other words, people who take out paydays loans – most of whom are in low-income or working-class households – face repayment terms that set them up to fail. When they are faced with unaffordable payments, they are forced to choose between terrible options, such as taking out more unfair loans to pay off the first one, defaulting on their loan, falling behind on rent and other bills, or declaring bankruptcy. This is not good for them, nor for our overall economy.

We appreciate your consideration of this testimony.

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.

OFFICE OF INFORMATION PRACTICES

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To: Senate Committee on Ways and Means

From: Cheryl Kakazu Park, Director

Date: February 21, 2019, 10:00 a.m.
State Capitol, Conference Room 211

Re: Testimony on S.B. No. 537, S.D. 1
Relating to Consumer Protection

Thank you for the opportunity to submit testimony on this bill, which would set out a regulatory scheme for payday lenders. The Office of Information Practices (“OIP”) takes no position on the substance of this bill. One of the amendments made by the Senate Committee on Commerce, Consumer Protection, and Health in the S.D. 1 addressed a concern OIP raised with the bill as introduced, and OIP has no further concern with this bill.

Thank you for the opportunity to testify.

SB-537-SD-1

Submitted on: 2/19/2019 7:10:01 PM

Testimony for WAM on 2/21/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Dawn Morais Webster Ph.D.	Individual	Support	No

Comments:

STRONG SUPPORT I implore you to please advance this bill to end the predatory practices of offshore corporations who take a pound of flesh from desperate Hawaii residents and burden them with debt that keeps them mired in poverty, often driving them to homelessness. The outrageous interest rates that are charged to the already over-burdened poor is unconscionable. This bill demonstrates that we have the means of ending this practice. The progress in making other reasonable loan options available from credit unions and nonprofits, and other community mechanisms to extend a helping hand to the poor, make it possible to act now to end continued gouging of the most vulnerable. Thank you for moving this much needed legislation forward. Mahalo.

SB-537-SD-1

Submitted on: 2/20/2019 9:42:47 AM

Testimony for WAM on 2/21/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Dylan P. Armstrong	Individual	Support	No

Comments:

LATE

Gary L. Hooser

5685 Ohelo Rd.

Kapaa, HI 96746

garylhooser@gmail.com

February 20, 2019

Aloha Committee Chair and members,

I am writing in **strong support of SB 537 SD1** Relating to Consumer Protection. This measure establishes oversight and a much needed regulatory structure to the payday lending industry. These consumer protections will help to ensure that our Hawaii residents have adequate safeguards against what can be described as a predatory industry.

This measure creates transparency and sets limits on the loan amounts as well as the interest that can be charged. This is crucial so that a borrower can actually take out a loan they will be able to pay back in the future. Many families rely on the payday lending industry as a last resort and do not realize the short-term interest rates become exorbitant annual percentage rates. These excessive and disproportionate fees are detrimental to families and individuals. Currently US service members and their dependents receive protection from these predatory rates through the Military Lending Act which capped the APR at 36%.

This measure will also require licensure for lenders, setting up governmental oversight by the Division of Financial institutions of the Dept. of Commerce and Consumer Affairs. Being able to track and monitor lenders will help the State to fully understand the scope of the industry as well as make sure predatory lending doesn't continue to occur.

I ask the Committee to **pass SB547 SD1**.

Mahalo for your time and favorable consideration,

Gary L. Hooser