



DAVID Y. IGE  
GOVERNOR

JOSH GREEN  
LT. GOVERNOR

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

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CATHERINE P. AWAKUNI COLÓN  
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DEPUTY DIRECTOR

**Testimony of the Department of Commerce and Consumer Affairs**

**House Committee on Housing  
Thursday, February 3, 2022  
9:30 a.m.  
Via Videoconference**

**On the following measure:  
H.B. 2139, RELATING TO THE RESIDENTIAL LANDLORD-TENANT CODE**

Chair Nakamura and Members of the Committee:

My name is Stephen Levins, and I am the Executive Director of the Department of Commerce and Consumer Affairs' (Department) Office of Consumer Protection (OCP). The Department supports this bill.

The purposes of this bill are to: (1) Allow a landlord, when processing an application to rent residential property, to charge an application screening fee up to a maximum of \$25 for the cost of requesting tenant report or credit report for a potential tenant; (2) require landlords to refund any unused amount of the application screening fee; and, (3) upon request, provide a receipt of the fee and a copy of any report obtained via the screening process to the applicant.

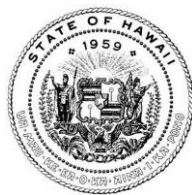
H.B. 2139 is desirable because current law does not specifically regulate the nature and amount of application fees that landlords may charge prospective tenants. Over the years, the OCP has received allegations from prospective tenants claiming that the cost of their application fees does not correlate with the costs of background and credit checks. The most troubling reports involve claims from prospective tenants

who have been asked to pay \$50 to \$100 for an application screening fee that in actuality costs \$10 to \$25.

The Department appreciates the limit of charging one application screening fee per application in this measure because it will help reduce the abusive practice of charging families multiple application screening fees unnecessarily. If, for example, a family of four adults that includes two college-aged children who do not contribute to the rent applies for a rental unit, that family could potentially be charged a \$100 application screening fee, even if the credit worthiness of the two college students is not considered in the family's ability to pay the rent. In Hawaii's tight housing market, this family may have to submit multiple applications and pay hundreds of dollars in application fees before signing a rental agreement.

Excessive application fees are particularly egregious in circumstances when a landlord or his agent receives scores of applications for one apartment, most of which are not even seriously considered. Instead of engaging in a valid tenant screening process, the landlord or agent is abusing his or her bargaining position to create a supplemental source of income. This bill will deter that conduct by directly addressing this inequity. Subsection (c) on page 3, lines 10 to 15 requires an applicant to be given a copy of his or her credit report upon request, as well as a receipt to confirm that the application screening fee paid to the landlord or the landlord's agent was used for the purposes it was intended. Additionally, subsection (d) on page 3, lines 16 to 18 requires the landlord to return any amount of the application screening fee that was not used for the purposes authorized by this measure.

Thank you for the opportunity to testify on this bill.



EXECUTIVE CHAMBERS  
HONOLULU

February 3, 2022

TO: The Honorable Representative Nadine K. Nakamura, Chair  
House Committee on Housing

FROM: Scott Morishige, MSW, Governor's Coordinator on Homelessness

SUBJECT: **HB 2139 – RELATING TO THE RESIDENTIAL LANDLORD-TENANT CODE.**

Hearing: Thursday, February 3, 2022, 9:30 a.m.  
VIA VIDEO CONFERENCE

**POSITION:** The Governor's Coordinator supports this administration measure.

**PURPOSE:** The purpose of the bill is to allow a landlord or landlord's agent to charge an application screening fee at the time a rental application is processed for residential property. The bill also caps the amount of an application screening fee at \$25 and prohibits fees to be charged for each member of a household; requires the landlord or landlord's agent to provide a receipt for payment of the application screening fee and copy of any report obtained, if requested by the application, within ten days of the applicant's request; and requires the landlord or landlord's agent to return any unauthorized fee amounts to the applicant.

In December 2021, the Hawaii Interagency Council on Homelessness (HICH) – a 27-member advisory council chaired by the Coordinator – adopted policy priorities for the 2022 legislative session, including adopting policies to address upfront barriers to accessing rental housing. One upfront barrier is the lack of regulation for application screening fees for rental housing, which adds to the cost of housing search for low-income renters, including individuals and families experiencing homelessness

Homelessness service providers have shared that homeless individuals seeking housing often pay multiple application fees for potential units, with application screening fees ranging from \$25 to \$50. In many cases, the applicant may pay a screening fee even if no applicant

screening, such as a credit report, is conducted. In addition, while some landlords charge a single screening fee per household, others may charge a fee per adult member of the household who will be added to the rental agreement.

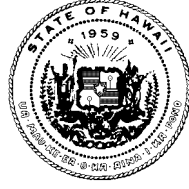
On its surface, a \$25 fee may seem small, but this can be a significant amount to an individual who is low-income and homeless, and these fees can add up substantially over time. By setting limits on the application screening fees and requiring the landlord to return unauthorized or unused fees, this bill adds protection for homeless individuals seeking housing; it ensures they will receive their money back if the landlord does not conduct a credit or other background check.

The need for regulation of application screening fees and other upfront barriers to accessing rental housing is especially critical given the ongoing COVID-19 pandemic and its impacts on low-income households. In January 2021, the Economic Roundtable released a report that projected the pandemic recession would increase chronic homelessness in the United States by 49% over the next four years. Similarly, historical data for the statewide homeless Point in Time (PIT) count also indicates that demand for homeless services is likely to increase in the wake of the current economic recession. Following the last significant downturn in 2009, the statewide PIT count increased 37% between 2009 and 2016. Reducing barriers to housing access will assist in mitigating future upward trends in homelessness.

The Coordinator understands that regulating application screening fees is just one piece of a more comprehensive effort to address homelessness and housing instability. In addition to reducing upfront housing barriers, the HICH prioritizes low-income housing development for individuals transitioning out of homelessness, supports landlord incentive programs, and expansion of programs that assist key homeless sub-populations (e.g., unsheltered youth, adults with severe mental illness, etc.). For more information about the 2022 HICH policy priorities, visit: <https://homelessness.hawaii.gov/advocacy>.

Thank you for the opportunity to testify on this bill.

DAVID Y. IGE  
GOVERNOR



CATHY BETTS  
DIRECTOR

JOSEPH CAMPOS II  
DEPUTY DIRECTOR

STATE OF HAWAII  
**DEPARTMENT OF HUMAN SERVICES**

P. O. Box 339  
Honolulu, Hawaii 96809-0339

February 2, 2022

TO: The Honorable Representative Nadine K. Nakamura  
Member of House Committee on Judiciary and Hawaiian Affairs

FROM: Cathy Betts, Director

SUBJECT: **HB 2139 – RELATING TO THE RESIDENTIAL LANDLORD-TENANT CODE.**

Thursday, February 3, 2022, at 9:00 a.m.  
Via Videoconference, State Capitol

**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) supports this administration measure.

**PURPOSE:** The purpose of the bill will allow a landlord when processing an application to rent residential property, to charge an application screening fee up to a maximum of \$25 for the cost of requesting a tenant report or credit report for a potential tenant. Requires landlords to refund any unused amount of the application screening fee and, upon request, provide a receipt of the fee and a copy of any report obtained via the screening process to the applicant.

In Hawaii's tight and expensive housing environment, fixed- and low-income residents do not have the financial wherewithal to pay multiple fees, especially if the landlord does not run a background check or take the application seriously. In Hawaii's large multigenerational households, the fees could be several hundred dollars. Therefore, requiring landlords to refund any unused screening fee will give back the applicant resources to apply for another rental or use it on necessities.

Thank you for the opportunity to provide comments on this measure.

DAVID Y. IGE  
GOVERNOR OF HAWAII



ELIZABETH A. CHAR, M.D.  
DIRECTOR OF HEALTH

**STATE OF HAWAII**  
STATE COUNCIL  
ON DEVELOPMENTAL DISABILITIES  
PRINCESS VICTORIA KAMĀMALU BUILDING  
1010 RICHARDS STREET, Room 122  
HONOLULU, HAWAII 96813  
TELEPHONE: (808) 586-8100 FAX: (808) 586-7543  
February 03, 2022

**LATE**

The Honorable Representative Nadine K. Nakamura, Chair  
House Committee on Housing  
The Thirty-First Legislature  
State Capitol  
State of Hawai'i  
Honolulu, Hawai'i 96813

Dear Representative Nakamura and Committee Members:

SUBJECT: HB2139 Relating to Residential Landlord-Tenant Code

The Hawaii State Council on Developmental Disabilities **SUPPORTS SB2139** which allows a landlord, when processing an application to rent residential property, to charge an application screening fee up to a maximum of \$25 for the cost of requesting a tenant report or credit report for a potential tenant. Requires landlords to refund any unused amount of the application screening fee and, upon request, provide a receipt of the fee and a copy of any report obtained via the screening process to the applicant.

Many individuals with intellectual/developmental disabilities (I/DD) are a part of our low-income community. Many individuals with I/DD benefit from Section 8 Housing Choice Voucher Program. For our individuals, the section 8 program is the only way many can live independently and helps integrate them into our communities. When looking for a home to rent, paying for rental applications is a roadblock for our I/DD community members. Some of our individuals often have to apply to over ten separate listings. If the application cost per listing is \$50 with no guarantee that they will be accepted, our individuals would have to pay \$500 in these application fees with no guarantee of finding a home. These costs are too high for our community members to pay and the cost creates a barrier to entry for low-income individuals looking for rental spaces within our state.

Thank you for the opportunity to submit testimony in **support of HB2139**

HB2139 Relating to Residential Landlord-Tenant Code

February 03, 2022

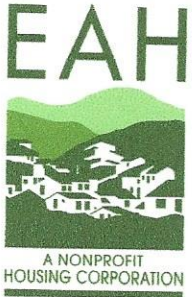
Page 2 of 2

Sincerely,



Daintry Bartoldus

Executive Administrator



February 1, 2022

Hawaii State Legislature  
Housing Committee on Housing  
Attn: Chair Nadine K. Nakamura and Vice Chair Troy N. Hashimoto

**Subject: HB 2139 Relating to the Landlord Tenant Code, Hearing February 3, 2022, at 9:30pm, State Capitol, Room 433**

Aloha Chair Nakamura, Vice Chair Hashimoto, and Members of the House Committee on Housing, I am Kevin Carney, Vice President for EAH Housing hereby submitting comments regarding HB 2139 which would amend the Landlord Tenant Code to include a Tenant Application Fee not to exceed \$25 per application.

EAH Housing is a non-profit developer and manager of low-income rental housing serving those with incomes at or below 60% of the area median income. Our managed inventory currently consists of 2,178 apartment units on Kauai, Maui, and Oahu with another 272 units in our development pipeline. We note that HUD financed properties do not allow for an application fee to be charged. For most other programs the application fees are restricted. Typically, the restriction is the actual cost and up to a \$5.00 administrative fee.

It is standard practice in our industry to conduct criminal background and credit checks on all adult members of the household. It is our responsibility to our residents to ensure that we are providing a safe environment for each and every family. We use a reporting service for this purpose and charge \$35 per adult household member. Charging an application fee is typically a function of market demand. On initial lease-ups we will not charge an application fee as the purpose is to lease all the units as soon as possible. On older properties if the project has units to fill and there is little demand, then an application fee is not likely to be employed. With high demand for units, we will use an application fee.

Also, standard practice is all payments must be in the form of a check or money order. We do not accept cash for any type of payment. Therefore, the applicants canceled check or money order receipt is the verification of payment. This helps to reduce our administrative costs.

To summarize, not being able to charge the exact cost of the review for each adult member of the household plus a small administrative fee places a burden on the property. Requiring a receipt is also an administrative burden on properties serving lower incomes which have very slim operating budgets.

We trust you will take our comments regarding our affordable low-income multi-family housing properties into consideration when deliberating on the merits of this proposed bill. What works for single family housing does not necessarily apply to our industry. Thank you for the opportunity to share our mana`o.



Sincerely,

A handwritten signature in black ink that reads "Kevin R. Carney". The signature is written in a cursive style with a large, sweeping initial "K".

Kevin R. Carney, RB-16444  
(PB), NAHP-E  
Vice President, Special Projects, Hawaii

## TESTIMONY IN SUPPORT OF HB 2139

TO: Chair Nakamura, Vice Chair Hashimoto, & Committee Members

FROM: Nikos Leverenz  
Grants & Advancement Manager

DATE: February 3, 2022 (9:30 AM)

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Hawai'i Health & Harm Reduction Center (HHRC) **supports** HB 2139, which caps the amount of an application screening fee at \$25 and prohibits fees to be charged for each member of a household. The bill also requires a landlord or their agent to provide a receipt for payment of the application fee and any report obtained, if any, within ten days of an applicant's request.

This measure recognizes that many low-income persons and families who obtain needed assistance have great difficulty in finding and securing rentals in a perennially high-cost, low-supply housing landscape. This includes people living with HIV who receive federal housing assistance and are provided medical case management services by HHHRC staff.

HHRC Executive Director Heather Lusk currently serves as Board Chair of [Partners in Care O'ahu](#), a planning, coordinating, and advocacy alliance that develops recommendations for programs and services to fill needs within O'ahu's continuum of care for homeless persons. HHHRC provides homeless outreach and housing placement navigation services in urban Honolulu and the Upper Windward Coast, including North Shore.

HHRC's mission is to reduce harm, promote health, create wellness, and fight stigma in Hawai'i and the Pacific. We work with many individuals impacted by poverty, housing instability, and other social determinants of health. Many have behavioral health problems, including those related to substance use and mental health conditions. Many of our program clients and participants have also been deeply impacted by trauma, including histories of physical, sexual, and psychological abuse.

Thank you for the opportunity to testify on this measure.



## CATHOLIC CHARITIES HAWAII

### TESTIMONY IN SUPPORT OF HB 2139: RELATING TO THE RESIDENTIAL LANDLORD-TENANT CODE

TO: House Committee on Housing

FROM: Rob Van Tassell, President and CEO, Catholic Charities Hawai'i

Hearing: Thursday, 2/3/22; 9:30 am; via videoconference

Chair Nakamura, Vice Chair Hashimoto, and Members, Committee on Housing:

Thank you for the opportunity to provide testimony **in support of HB 2139, with one critical amendment.** This bill would allow a landlord to charge an application fee at the time the landlord initially receives an application. The fee would be used for screening costs. I am Rob Van Tassell, with Catholic Charities Hawai'i. We are also a member of Partners In Care (PIC).

Catholic Charities Hawai'i (CCH) is a tax exempt, non-profit agency that has been providing social services in Hawai'i for over 75 years. CCH has programs serving elders, children, families, homeless, and immigrants. Our mission is to provide services and advocacy for the most vulnerable in Hawai'i. Catholic Charities Hawai'i has a long history of working in the areas of affordable housing and homelessness.

Catholic Charities Hawai'i strongly supports the Intent of this bill, but **respectfully suggests an amendment to clarify when the landlord may collect this fee. If the landlord collects this fee upfront when they first receive the application (as stated in this bill), this remains a big barrier. We suggest language to clarify that: The Landlord may charge an application screening fee at the time that they will screen the applicant for an available unit and will obtain personal reference checks, tenant reports, and credit reports produced by any consumer credit reporting agency.** We support the other provisions of this bill

Some may feel that no application fees should be charged since screening prospective tenants could be considered a usual business expense. However, we consider the amended language to be a balanced approach, allowing the landlord to charge a fee to screen the applicant but only when they are actually being considered for a unit. Too many people apply for a housing unit and pay the application fee, never to hear back from the landlord. With the scarcity of rental units, the more applications submitted, the better chance to find a unit. Without some regulation of these fees (e.g. \$25/household), there may be a severe financial penalty for multiple application fees. This not only limits the number of applications that lower income people can afford to submit, it decreases the savings of the applicant for the deposit and first month's rent.

If Hawai'i is to end homelessness it must create systems that support both tenants and landlords. This bill is a good step forward, with the suggested amendment.

Please contact our Legislative Liaison, Betty Lou Larson at (808) 373-0356 or [bettylou.larson@catholiccharitieshawaii.org](mailto:bettylou.larson@catholiccharitieshawaii.org) if you have any questions.





February 3, 2022

**The Honorable Nadine K. Nakamura, Chair**

House Committee on Housing

Via Videoconference

**RE: H.B. 2139, Relating to the Residential Landlord-Tenant Code**

**HEARING: Thursday, February 3, 2022, at 9:30 a.m.**

Aloha Chair Nakamura, Vice Chair Hashimoto, and Members of the Committee,

I am Ken Hiraki, Director of Government Affairs, testifying on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its over 10,800 members. HAR **opposes** H.B. 2139, which allows a landlord or landlord's agent to charge an application screening fee at the time a rental application is processed for residential property. Caps the amount of an application screening fee at \$25 and prohibits fees to be charged for each member of a household. Requires the landlord or landlord's agent to provide a receipt for payment of the application screening fee and copy of any report obtained, if requested by the applicant, and within ten days of the applicant's request. Requires the landlord or landlord's agent to return any unauthorized fee amounts to the applicant.

The tenant screening process typically begins when the prospective tenant completes a rental application. Property managers can order various reports or rely on a tenant screening company to produce a tenant screening report. The screening report can include credit reports, criminal background checks, eviction history, and other public records to properly vet a tenant.

Under this measure, it notes that only one member of a household can be charged an application screening fee. It is a general standard practice that any potential tenant over the age of 18 that will be on the rental agreement is required to undergo an application screening check. Under Fair Housing law, they are treating all applicants equally. Furthermore, it is not uncommon for multiple applicant's incomes in a household, such as spouses, to be used to qualify to rent a property.

Furthermore, there are administrative and labor costs that are a part of the application process, such as administrative staff time, calling references, amongst other costs to vet a tenant, and it is unclear if this would be covered under this measure. Additionally, HAR would also note that the costs of screening reports vary. If a property management company has bulk reports, it may be slightly cheaper. However, if not, costs to run the report can be well over \$25, which doesn't even take into account the administrative costs.



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Finally, this measure allows an applicant to receive a copy of any report obtained within ten days of the applicant's request. These screening reports are marked confidential and are not allowed be shared by the housing provider or property manager. In the alternative, prospective applicants can request up to three free credit reports a year from credit report agencies, such as TransUnion, Experian or Equifax.

Mahalo for the opportunity to testify.



**LATE**

**HB-2139**

Submitted on: 2/2/2022 9:33:48 AM

Testimony for HSG on 2/3/2022 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Kristen Alice	HOPE Services Hawai'i	Support	Yes

Comments:

HOPE Services Hawai'i strongly supports capping rental application screening fees at \$25.

**LATE**

**HB-2139**

Submitted on: 2/2/2022 10:47:19 AM

Testimony for HSG on 2/3/2022 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Arjuna	Individual	Support	No

Comments:

I fully support this measure capping the amount a landlord can charge for a person's application. In the peak of the pademic when unemployment was near impossible to get and jobs were shut down I spent over \$200 on rental applications and never heard back from a single landlord. The current practice is predatory and some landlords charge up to \$80 PER applicant. In one situation a landlord collected \$240 (\$60 from 4 applicants) from my friends and I and we never heard from them again, allowing for this practice to continue unregulated is predatory and creates and draining for tenants.