



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I
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Testimony of the Department of Commerce and Consumer Affairs

Office of Consumer Protection

Before the
House Committee on Consumer Protection & Commerce
Wednesday, January 31, 2024
2:00 p.m.
Via Videoconference

On the following measure:
H.B. 2085, RELATING TO THE RESIDENTIAL LANDLORD-TENANT CODE

Chair Nakashima and Members of the Committee:

My name is Mana Moriarty, and I am the Executive Director of the Department of Commerce and Consumer Affairs' (Department) Office of Consumer Protection (OCP). The Department supports the intent of this bill, which would reduce the amount of an application screening fee for a person applying to rent a dwelling unit in certain cases. However, the Department opposes the provisions that make the Department responsible for (1) certifying copies of a credit report and a criminal background check to be presented to a landlord; and (2) determining penalties for altering or modifying a credit report or a criminal background check.

Existing law, effective May 1, 2024, authorizes a landlord to charge an application fee to cover the cost of obtaining information about an applicant and requires a landlord, upon request, to provide an applicant a receipt for the payment of an application screening fee and a breakdown of the costs covered by the application

screening fee. It also requires a landlord to return to the applicant any amount of the application screening fee that is not used for purposes authorized by law within thirty days after the landlord has submitted the screening request.

Prohibiting a landlord from charging an application screening fee when an applicant for a dwelling unit presents the landlord a current criminal background check or credit report obtained from another landlord would help address the financial burden on applicants for residential rental housing. Absent this prohibition, each landlord could charge a prospective tenant a separate application screening fee to obtain identical, or nearly identical information about the prospective tenant.

Establishing a process to certify credit reports and criminal background checks at the Department, however, would require additional State resources and add costs that would have to be offset by new fees or provided for by an appropriation. Moreover, using state resources to certify credit reports and criminal background checks could expose the State to tort claims related to the certification process, including claims related to modifying or altering a credit report or a criminal background check.

A more practical solution that does not require new fees or appropriations is already available to applicants. There are tenant screening companies that allow tenants to share their reports with as many landlords as they choose for 30 days at no additional cost. Requiring landlords and their agents to accept these reports would reduce the cost to the applicants. Companies that offer these reusable tenant screening reports securely transmit reports to landlords upon the applicant's request, protecting sensitive data, ensuring privacy for the applicant, and bearing the risk of failure to do so.

Thank you for the opportunity to testify on this bill.



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 1259 A'ala Street, Suite 300
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January 31, 2024

The Honorable Mark Nakashima, Chair
House Committee on Consumer Protection & Commerce
State Capitol, Conference Room 329 & Videoconference

RE: House Bill 2085, Relating to the Residential Landlord-Tenant Code

HEARING: Tuesday, January 31, 2024, at 2:00 p.m.

Aloha Chair Nakashima, Vice Chair Sayama, and Members of the Committee:

My name is Lyndsey Garcia, Director of Advocacy, testifying on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i and its over 11,000 members. HAR **opposes** House Bill 2085, which prohibits a landlord or the landlord's agent from charging an application fee for a criminal background check or credit report if an applicant provides a certified copy of a criminal background check or credit report. Requires a landlord or the landlord's agent to provide, upon request, a certified copy of an applicant's criminal background check or credit report.

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 tenants.

Upon request, this provision enables an applicant to obtain a certified copy of their criminal background check and credit reports, both of which must be less than 30 days old, from a landlord or the landlord's agent. It is important to highlight that these screening reports are typically designated as confidential and should not be shared by the housing provider or property manager. Moreover, obtaining a certified copy (notarization) involves additional expense and procedural steps for applicants.

Mahalo for the opportunity to provide testimony on this measure.





HAWAII WORKERS CENTER

Defending and Respecting the workers of
Hawai'i

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January 30, 2024

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Sergio Alcubilla III, Esq.

Hawai'i State House of Representatives
Committee on Consumer Protection & Commerce

Rep. Mark M. Nakashima, Chair

Rep. Jackson D. Sayama, Vice Chair

RE: STRONG SUPPORT for H.B. 2085 RELATING TO THE RESIDENTIAL LANDLORD-TENANT CODE.

Dear Chair Rep. Nakashima, Vice-Chair Rep. Sayama, and Members of the Committee on Consumer Protection & Commerce:

The Hawai'i Workers Center (HWC) envisions a Hawai'i in which all workers are empowered to exercise their right to organize for their social, economic and political well-being.

It is a resource of information, education, training and organizing for Hawaii's workers.

The HWC stands in strong support of H.B. 2085 which prohibits a landlord or the landlord's agent from charging an application fee for a criminal background check or credit report if an applicant provides a certified copy of a criminal background check or credit report.

Members of HWC's COFA Workers Association have brought this issue to the forefront when applying for rental housing, often spending a minimum of \$100 every time they submit an application only to be rejected. This continues to be a burden for many of our working families. To make matters worse, landlords on Maui have used the recent disaster and shortage of housing, to pocket these rental application fees without the real intention of renting to applicants.

H.B. 2085 will help level the playing field for our working families in competing for limited housing rentals throughout Hawai'i while still allowing landlords their due diligence when selecting tenants. It will also help address the unfortunate exploitation and greed seen post-disaster from those who seek to profit off such a tragedy on Maui.

We ask that you please pass and support H.B. 2085.

Sincerely,

Sergio Alcubilla
Executive Director

Hawai'i State House of Representatives
Committee on Consumer Protection & Commerce
Rep. Mark M. Nakashima, Chair
Rep. Jackson D. Sayama, Vice Chair



Testimony in SUPPORT of HB 2085
RELATING TO THE RESIDENTIAL LANDLORD-TENANT CODE

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

My name is Krizhna Bayudan, and I am a born and raised Lahaina resident, a community organizer for the Hawaii Workers Center, and a survivor of the Lahaina wildfires. I am writing to express my strong support for HB 2085, a bill that addresses a pressing issue affecting not only my family but many local residents in our community.

In the aftermath of the Lahaina wildfires, my family found ourselves housed in hotels as part of the Red Cross housing program, anxiously awaiting our next "move-out dates." The urgency to secure stable, long-term housing became a priority, leading us to apply as renters to various property management companies, landlords, and even online platforms like Zillow. However, the significant financial burden imposed on us came in the form of rental application fees, ranging up to \$75 per adult.

These fees, charged by landlords, and often by out-of-state landlords, have become a considerable obstacle for local residents like us who are grappling with the Lahaina fire aftermath. While we understand the need for thorough tenant screening processes, being charged inflated fees merely to be considered as rental applicants is both exploitative and exacerbates the challenges we face in rebuilding our lives. It is disheartening to witness the exploitation of our situation by landlords seeking to profit from our desperation.

HB 2085 prohibits landlords or their agents from charging an application fee if an applicant provides a certified copy of a criminal background check or credit report. This sensible provision not only protects individuals and families like mine from unjust financial burdens but also ensures that the screening process remains fair and accessible to all.

As a community organizer and someone who has experienced firsthand the challenges of navigating post-disaster housing searches, I urge you to consider the implications of HB 2085 on the lives of local residents. This bill represents a step towards ensuring that our community members are not further burdened during times of crisis and that our government takes decisive action to prevent exploitation by landlords.

I appreciate your time and consideration of my testimony in support of HB 2085. Mahalo for your commitment to addressing the needs of our community.

Sincerely,
Krizhna Bayudan

HB-2085

Submitted on: 1/30/2024 9:30:26 AM

Testimony for CPC on 1/31/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Julianna Davis	Individual	Support	Written Testimony Only

Comments:

Aloha

My name is Julianna Davis and I am writing to you in support of HB2085 which would prohibit a landlord or landlord's agent from charging an application fee for a criminal background check or credit report if you can provide it on your own. With no caps on rental fees, renters are disadvantaged whilst landlords continue to profit. In the aftermath of the Maui wildfires, we need to be looking out for renters now more than ever. It is not okay for landlords on Maui, or any of the islands for that matter, to use rental application fees as a way to further their profits.

Mahalo for your time and consideration.

Sincerely,

Julianna

HB-2085

Submitted on: 1/30/2024 9:48:36 AM

Testimony for CPC on 1/31/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
KianaRose	Individual	Support	Written Testimony Only

Comments:

Landlords should not charge fees for criminal background and credit report checks if the applicant is already submitting relevant information. Charging fees allow landlords to profit off of already displaced residents without ever intending to rent to them.

HB-2085

Submitted on: 1/30/2024 9:55:50 AM

Testimony for CPC on 1/31/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Brenton Lee	Individual	Support	Written Testimony Only

Comments:

As a renter living in HD 39 and SD18, I support this legislation. It is difficult enough finding affordable places to rent in Hawai'i without the various fees and charges landlords impose on applicants for not meeting certain criteria. Anything done to regulate those practices is a positive in my book.

HB-2085

Submitted on: 1/30/2024 10:02:16 AM

Testimony for CPC on 1/31/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Nanea Lo	Individual	Support	Written Testimony Only

Comments:

Hello,

My name is Nanea Lo. I'm born and raised in the Hawaiian Kingdom. I live in Mō'ili'ili. I'm writing in STRONG SUPPORT of HB2085.

I'm currently a renter and in the Honolulu Tenants Union. We need more protections on our renters like me. This bill prohibits a landlord or the landlord's agent from charging an application fee for criminal background check or credit report if an application provides a certified copy of a criminal background check or credit report.

For working families living with kupuna, young families, and young adults this continues to be a challenge when needing to submit multiple rental applications. Some landlords on Maui are even using this as a way to profit with the increased housing shortages from the disaster. This is not right and needs to be addressed immediately.

me ke aloha 'āina,

Nanea Lo

HB-2085

Submitted on: 1/30/2024 1:16:00 PM

Testimony for CPC on 1/31/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Nikhil Khurana	Individual	Support	Remotely Via Zoom

Comments:

Hello,

Today I am testifying as a renter and resident of Honolulu. I am in support of HB2085 since I myself have many a time been placed in a stressful situation of having to pay application fees for multiple apartments without knowing whether I will be accepted or not. As a tenant in Honolulu, due to the high increase in rent, moving and looking for a new place has become extremely stressful. There are only a handful of options truly affordable and coming up with the deposit and 1 months rent is often difficult enough as is. Meanwhile, property management companies or scam artists often have really high application fee's in the realm of \$50-\$70 dollars. There is no guarantee that your application will even be considered so it feels like you are throwing money away. The credit check and background check should only be conducted with the guarantee that if you pass, you will receive the apartment. Otherwise you have a situation where landlords and property managers stand to make money off of application fees alone. Additionally, these checks are free to conduct using various online services.

I think the bill can go even further, if the landlords are so concerned as to the quality of their tenants, they should provide credit and background check services themselves. Often these are just used as a shield for discriminatory practices. Did they disqualify you because of your credit score or background check, or did they disqualify you for the way you look or the language you speak? Maybe someone else came after you but has a higher income or social class. Either way, these tactics are used by landlords on desperate tenants to milk more money out of them. They should not be allowed to carry on with this.

Sincerely,

Nikhil Khurana

HB-2085

Submitted on: 1/30/2024 1:27:06 PM

Testimony for CPC on 1/31/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Leif Salveson	Individual	Support	Written Testimony Only

Comments:

Predatory application fees hurt renters badly, and give landlords the opportunity to scalp the most desperate while never intending to even rent to them in the first place. Limiting the ability of such fees to be charged for already provided information is an important step forward in protecting prospective tenants. The housing market is tight; I have personally had to wade through numerous listings and applications in order to find a new place to live. Application fees make that harder, and fees for already provided information makes the already difficult process downright predatory. I hope the legislature takes action to help the people of Hawaii.

HB-2085

Submitted on: 1/30/2024 1:53:28 PM

Testimony for CPC on 1/31/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Nathan F. Abril	Individual	Support	Written Testimony Only

Comments:

I support this resolution because charging fees for already provided information is not only predatory, but it should be illegal. It makes an already difficult process that much harder, and, for many, it is financially prohibitive. This is especially true for lower income tenants that have only scrambled a few thousand dollars. Just to pay for their first and second month's rent, which is the standard for many properties. Why should a tenant have to pay another fee if they already possess the information required by a landlord or housing agency? It is just another way that greedy and selfish landlords are trying to exploit those desperate for housing.

It is not only morally wrong, but it makes our current houseless situation that much worse. If a tenant has certified proof they have already completed the steps necessary to verify their background and credit, then that should be enough. Tenants should not be forced to pay hundreds, if not thousands, of dollars just to pay for information they already possess.

HB-2085

Submitted on: 1/30/2024 1:54:43 PM

Testimony for CPC on 1/31/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Emi Jenkins	Individual	Support	Written Testimony Only

Comments:

Rental application fees are simply a way for greedy landlords to extort more money from people desperate for housing. The fees themselves do not pay for any service that the landlords are providing and gives them a perverse incentive to flood the marketplace with advertisements for their properties to encourage people to apply, wasting time and energy in an already stressful process. In the context of the Lahaina fires, many families are overwhelmed by the high costs of losing their home, taking care of their children, any medical issues from the fires themselves and the rental application fees are another unnecessary cost. We need to protect Hawai'i's tenants who, as primarily wage laborers, make up the backbone of the economy.

LATE

HB-2085

Submitted on: 1/30/2024 2:00:38 PM

Testimony for CPC on 1/31/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Sorcha McCarrey	Individual	Support	Written Testimony Only

Comments:

Aloha, charging unnecessary fees to renters makes it difficult for those already facing financial barriers to find housing. This is common sense. Personally, I have been in those situations where I have struggled to become independent, and off the wall fees for background and credit checks have prevented me from having access to safe and affordable housing. End this exploitative practice, all people deserve safe and comfortable living arrangements!

LATE

HB-2085

Submitted on: 1/30/2024 8:15:04 PM

Testimony for CPC on 1/31/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Kiana Otsuka	Individual	Support	Written Testimony Only

Comments:

Aloha Chair, Vice Chair, and Committee Members,

I am writing in **strong support of HB 2085**, which would prohibit a landlord from charging application fees for background or credit reports if a person can provide their own.

Currently, there is no cap on rental application fees, and landlords can charge fees for each adult applicant in the household. These fees, particularly with no cap present an additional barrier to access housing for many residents.

Thank you for the opportunity to provide testimony.

Mahalo,

Kiana Otsuka

LATE

HB-2085

Submitted on: 1/31/2024 11:44:14 AM

Testimony for CPC on 1/31/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Terri Yoshinaga	Individual	Support	Written Testimony Only

Comments:

I support this bill.

LATE

HB-2085

Submitted on: 1/31/2024 1:55:58 PM

Testimony for CPC on 1/31/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Will Caron	Individual	Support	Written Testimony Only

Comments:

Application fees create additional barriers to renters finding housing and are often predatory in nature. Application fees should be banned, or at the very least capped at a low level, such as \$25 per household application (not per adult). It's already hard, and sometimes impossible, to find affordable rental housing. These fees take away badly-needed funds from renters to enrich homeowners or corporations that do not need the money.