



**STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I**  
**OFFICE OF THE DIRECTOR**  
**DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

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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**  
**Tuesday, March 12, 2024**  
**2:00 P.M**  
**Via Videoconference**  
**Conference Room 329**

**On the following measure:**

**S.B. 2127, S.D. 2, 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 this bill, which would reduce the amount of an application screening fee for a person applying to rent a dwelling unit in certain cases. Reducing the costs of applying for rental housing should be a policy the entire State can support. There is no reason a landlord cannot fold the cost of tenant screening into rent instead of an upfront fee that is charged to multiple prospective tenants who will never live in the unit and may be unable to afford fees charged by every landlord to whom they apply for rental housing.

No landlord is required by law to pass on the costs of screening prospective tenants to a tenant. Indeed, in other states, including Massachusetts and Vermont,

landlords are expressly prohibited from passing on the costs of screening tenants to the tenant. Yet in Hawaii, landlords routinely pass on the costs of screening tenants, and, anecdotal evidence suggests that certain landlords intentionally generate revenues from assessing screening fees to prospective tenants.

The current lack of affordable housing in the State, particularly on the island of Maui, should spur landlords to reconsider whether in good conscience they continue to pass on the costs of tenant screening to tenants.

Prohibiting a landlord from charging an application screening fee in certain instances would help address the financial burden on applicants for residential rental housing. Certain tenant screening companies allow tenants to share their reports with as many landlords as they choose for 30 days at no additional cost. Companies that offer these reusable tenant screening reports securely transmit them to landlords upon the applicant's request, protecting sensitive data, ensuring privacy for the applicant, and agreeing to bear the risk of failure to do so.

OCP supports this bill and policies to reduce junk fees that harm renters, who in many instances are among the most financially vulnerable. Landlords and property managers are in a position to help their neighbors by not charging harmful upfront fees to applicants who may never live in the unit. Their bottom line will be unaffected by the elimination of upfront fees if they set the rent at appropriate levels. By all objective measurements, they have yet to change their behavior, so OCP supports this bill mandating landlords accept trustworthy applicant information in lieu of continuing to charge junk fees.

Thank you for the opportunity to testify on this bill.



*Hawai'i Children's Action Network Speaks! is a nonpartisan 501c4 nonprofit committed to advocating for children and their families. Our core issues are safety, health, and education.*

To: House Committee on Consumer Protection & Commerce  
Re: **SB 2127 SD2 – Relating to the Residential Landlord-Tenant Code**  
Hawai'i State Capitol & Via Videoconference  
March 12, 2024, 2:00 PM

Dear Chair Nakashima, Vice Chair Sayama, and Committee Members,

On behalf of Hawai'i Children's Action Network Speaks!, I am writing in **SUPPORT of SB 2127 SD2**. This prohibits a landlord's agent from charging application fees for background check or credit reports if an applicant can provide them on their own. It also establishes penalties for providing falsely altered copies of background check or credit reports.

About 117,000 children in our state live in families that spend more than 30% of their income on housing, which is considered a high housing cost burden. This equates to 39% of all children in our state, ranking Hawai'i a concerning 49<sup>th</sup> among the states for housing affordability.<sup>1</sup>

It is well established that housing instability has harmful effects on children's health and educational outcomes<sup>2</sup> and that the stresses of childhood poverty have both immediate and long-term effects on keiki's physical and mental health, behavioral self-control, academic achievement, and earnings as adults.<sup>3</sup>

Hawai'i has had a housing affordability and homelessness crisis since long before the pandemic, and our families with keiki are still suffering the consequences of it. Currently, there is no cap on rental application fees, which can be a barrier to access to housing. That's why this bill is so important.

Mahalo for the opportunity to provide this testimony. Please pass this bill.

Thank you,

Nicole Woo  
Director of Research and Economic Policy

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<sup>1</sup> <https://assets.aecf.org/m/resourcedoc/aecf-2023kidscountdatabook-2023.pdf>

<sup>2</sup> <https://housingmatters.urban.org/articles/how-housing-affects-childrens-outcomes>

<sup>3</sup> <https://www.apa.org/pi/ses/resources/indicator/2014/06/childhood-poverty>

March 12, 2024

**The Honorable Mark M. Nakashima, Chair**

House Committee on Consumer Protection & Commerce  
State Capitol, Conference Room 329 & Videoconference

**RE: Senate Bill 2127, SD2, Relating to the Residential Landlord-Tenant Code  
HEARING: Tuesday, March 12, 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 Hawaii and its over 11,000 members. HAR **opposes** Senate Bill 2127, SD2, 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 copy of a criminal background check or credit report that has not been falsely altered or makes a comprehensive reusable tenant report available to the landlord or the landlord's agent. Requires a landlord or the landlord's agent to provide, upon request, a copy of an applicant's criminal background check or credit report. Establishes penalties for providing a falsely altered copy of a background check or credit report. Defines "falsely altered". Takes effect 7/1/2040.

The tenant screening process typically begins when the prospective tenant completes a rental application. Property managers manually review information and can rely on a tenant screening company to help produce tenant screening reports to assist with the screening process. It is important to highlight that these screening reports are typically designated as confidential. The Fair Credit Reporting Act<sup>1</sup> strictly governs how the credit information/report is provided, stored, used, with whom it is shared, and how it is retained.

Moreover, we note that the screening process is not limited to just credit reports and criminal background checks. The entire screening process can also include reviewing eviction history, verifying employment, verifying personal references, and other records to properly vet tenants. Property managers are not just concerned about the ability for an applicant to pay rent, but also what kind of tenant the applicant will make. Therefore, this measure may not eliminate the need for an application fee.

Additionally, HAR would note that it is very easy to edit a PDF, so a property manager may be reluctant to accept a criminal background check or credit report from an applicant. It may not be possible for property managers to be able to verify that documentation has not been tampered with, leading property managers to decline these types of applications. This entire process would delay the application process which is ultimately detrimental to tenants who are seeking housing.

Mahalo for the opportunity to provide testimony on this measure.

<sup>1</sup> Federal Trade Commission. (May 2023). *Fair Credit Reporting Act*. [www.ftc.gov/legal-library/browse/statutes/fair-credit-reporting-act](http://www.ftc.gov/legal-library/browse/statutes/fair-credit-reporting-act)



# HAWAII WORKERS CENTER

Defending and Respecting the workers of  
Hawai'i

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March 11, 2024

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**Executive Director**

Sergio Alcubilla III, Esq.

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

Rep. Mark M. Nakashima, Chair

Rep. Jackson D. Sayama, Vice Chair

**RE: STRONG SUPPORT for S.B. 2127 SD2 RELATING TO THE RESIDENTIAL  
LANDLORD-TENANT CODE.**

Dear Chair Rep. Nakashima, Vice-Chair Rep. Sayama, and Members of the Committee on  
Consumer Protection and 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 S.B. 2127 SD2 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 (Compact of Free Association) 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 for housing only to be rejected. This continues to be a burden for  
many of our working families. To make matters worse, we see 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.

S.B. 2127 SD2 will help level the playing field for our working class 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 S.B. 2127 SD2.

Sincerely,

Sergio Alcubilla  
Executive Director



**LATE**

**TESTIMONY IN SUPPORT OF SB 2127 SD2 –**  
**RELATING TO RESIDENTIAL LANDLORD-TENANT CODE**

House Committee on Consumer Protection & Commerce – Room 329 & Videoconference

Representative Mark M. Nakashima, Chair  
Representative Jackson D. Sayama, Vice Chair

Tuesday, March 12, 2024 at 2:00 pm.

The Legal Aid Society of Hawai'i (Legal Aid) submits testimony in support of SB 2127 SD2 – Relating to Residential Landlord-Tenant Code. For Legal Aid, this testimony is submitted by Nicholas J. Severson, the Managing Attorney of Legal Aid's Housing and Consumer Unit, a unit that provides legal assistance on landlord/tenant and housing matters, as well as consumer issues. Legal Aid's focus in rental housing is advocating for the interests of tenants. We have extensive experience with the challenges Hawaii's low-income population faces in finding, leasing, and maintaining their rental housing, more than any other law firm in the State.

SB 2127 SD2 is intended provide alternate means for a tenant to submit a background check or credit report to a prospective landlord, lessening the costly financial burden tenants must overcome when applying for potential residential units.

At Legal Aid we have many clients who struggle with the costs of finding a new home. In such a tight rental market, many low-income families, particularly those with Section 8 Vouchers, have to submit multiple rental applications because of the difficulty of finding a new rental home. There are various resources and organizations that can assist with payment of a security deposit, but the numerous fees associated with background checks and credit reports as part of the application process are not covered through the assistance available to subsidized housing seekers.

In addition, the experience of our clients, particularly those with large families, is that they often have to apply to several properties, each with its own fees to run background and credit checks. This can be very costly, especially with the prolonged housing search Hawaii's tight housing market often creates. This bill demonstrates an awareness of the many costs borne by working families in a continually tight rental housing market.

SB 2127 SD2 can help make navigating the housing search less costly and cumbersome for tenants. This bill provides alternate means for tenants to provide legitimate background and credit check information to landlords, without incurring multiple fees for the same information. The interests of landlords are also sufficiently protected by this legislation, allowing them to continue to use background check and credit information in their tenant screening process.

Thank you for this opportunity to provide testimony. Legal Aid supports SB 2127 SD2.

Sincerely,

/s/ Nicholas J. Severson  
Nicholas J. Severson  
Managing Attorney, Housing and Consumer Unit  
Legal Aid Society of Hawai'i

*The Legal Aid Society of Hawai'i is the only legal service provider with offices on every island in the state, and in 2022 provided legal assistance to over 8,200 Hawai'i residents in the areas of consumer fraud, public assistance, family law, the prevention of homelessness, employment, protection from domestic violence, and immigration. Legal Aid further had over 3,400 cases that addressed stabilizing families and preserving housing. Our mission is to achieve fairness and justice through legal advocacy, outreach, and education for those in need.*

**SB-2127-SD-2**

Submitted on: 3/10/2024 11:18:05 AM

Testimony for CPC on 3/12/2024 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Will Caron	Individual	Support	Written Testimony Only

Comments:

Please support SB2127 SD2.



**SB-2127-SD-2**

Submitted on: 3/10/2024 11:31:34 AM

Testimony for CPC on 3/12/2024 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Renee P Kaiama	Individual	Oppose	Written Testimony Only

Comments:

I oppose this bill in its current form. The amount proposed to be allowed for a Tenant's expenditures for repairs and receive reimbursement on is \$1,000 versus the previous \$500.

Specific language should be added that bans the tenants from completing repairs or hiring a contractor without the owners/property managers written consent. If the owner/property manager fails to address the tenants written request within 14 days of notice, allow the tenant to complete the repairs, or hire a licensed contractor to complete the repairs if necessary. Additionally language should be added that if the tenant hires a contractor or completes the work themselves, the cost of repairs should be deducted from the next months rent after completion of the work and require the tenant to provide receipts and reports regarding the repairs.

Additionally repair in condominiums may require HOA approvals of repairs. There should be additional language that addresses the failures of a tenant or contractor in the repairs.

**SB-2127-SD-2**

Submitted on: 3/10/2024 11:37:57 AM

Testimony for CPC on 3/12/2024 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Edward Codelia	Individual	Oppose	Written Testimony Only

Comments:

I oppose this bill as there is no way to confirm if a criminal background check or credit report is authentic and/or has not been altered with false information when receiving directly from a rental applicant. New technology, such as AI, hinders a landlord or Landlord's Agent from acquiring and being assured of receiving valid and reliable authentic documentation (that has not been falsely altered) unless ordered directly from licensed source or repository by the owner or property manager.

The criminal background check and/or credit report are both considered to be very important information to review and are heavily relied upon for determination of approval of a rental application. Verification of the information provided on a rental application needs to be verified through licensed and reputable outside third party entities with no interest in the transaction.

Copies of a background check or credit report should not be provided by a rental applicant. If a Tenant Applicant's Rental Application is denied due to information retrieved from a background check or credit report, the owner/property manager is required to provide to Applicant on how to obtain a copy of the report for themselves. The landlord or landlord's agent is not allowed to provide out the report or copies of it directly to the Applicant, per the report repositories; the information can not be sold or given out.

**LATE**

**SB-2127-SD-2**

Submitted on: 3/11/2024 2:01:07 PM

Testimony for CPC on 3/12/2024 2:00:00 PM

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

Comments:

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

My name is Julianna Davis and I stand in strong support of SB 2127 SD 2 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.

SB 2127 SD 2 will help level the playing field for our working class 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.

I ask that you please pass and support SB 2127 SD 2. Mahalo for your time and consideration.

Sincerely,

Julianna Davis