



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I  
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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  
Senate Committee on Commerce and Consumer Protection  
Wednesday, February 14, 2024  
9:30 AM  
Via Videoconference  
Conference Room 209

On the following measure:  
**S.B. 2127, RELATING TO THE RESIDENTIAL LANDLORD-TENANT CODE**

Chair Keohokalole 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. The Department offers a friendly amendment that would avoid unnecessary government entanglement and exposure to tort claims.

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—and many already do—charge a prospective tenant a separate application screening fee to obtain identical, or nearly identical information about a prospective tenant.

Certain tenant screening companies already 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 agreeing to bear the risk of failure to do so.

The OCP respectfully offers the following friendly amendments:

1. Add the following language to Section 521-46 to require landlords and their agents to accept reusable tenant screening reports:

"(3) If a comprehensive reusable tenant screening report is made available to the landlord or the landlord's agent and is received within thirty days, the landlord or the landlord's agent shall not charge an application fee."

2. Remove the provisions requiring the Department of Commerce and Consumer Affairs to certify the reports, decide the penalties for tampering with the reports, and adopt rules.

Delete Page 4, Lines 12-15:

~~(d) If a person is found to have altered or manipulated a criminal background check or credit report, that person shall be subject to a penalty as determined by the department of commerce and consumer affairs.~~

Delete Page 5, Lines 1-10:

~~SECTION 3. The department of commerce and consumer affairs shall adopt rules pursuant to chapter 91, Hawaii Revised Statutes, to establish:~~

~~(1) A certification process for a landlord or the landlord's agent to certify copies of criminal background checks and credit reports produced by any consumer credit reporting agency; and~~

~~(2) Penalties for a person who is found to have altered or manipulated a criminal background check or credit report.~~

Thank you for the opportunity to testify on this bill.

February 14, 2024

**The Honorable Jarrett Keohokalole, Chair**

Senate Committee on Commerce and Consumer Protection  
State Capitol, Conference Room 229 & Videoconference

**RE: Senate Bill 2127, Relating to the Residential Landlord-Tenant Code**

**HEARING: Wednesday, February 14, 2024, at 9:30 p.m.**

Aloha Chair Keohokalole, Vice Chair Fukunaga, 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** Senate Bill 2127, 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 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. Property managers may end up requesting the Department of Commerce and Consumer Affairs ("DCCA") determine if a tenant has altered a tenant screening report which would be a large administrative burden for the DCCA and would ultimately delay the application process which is detrimental to tenants seeking housing.

Mahalo for the opportunity to provide testimony on this measure.

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<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

**LATE**

**LATE**

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February 13, 2024

**Executive Board  
Committee**

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*Vice Chair*

Dr. Arcelita Imasa  
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**Executive Director**

Sergio Alcubilla III, Esq.

Hawai'i State Senate  
Committee on Commerce and Consumer Protection  
Senator Jarrett Keohokalole, Chair  
Senator Carol Fukunaga, Vice Chair

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

Dear Chair Sen. Keohokalole, Vice-Chair Sen. Fukunaga, and Members of the Committee on Commerce and Consumer Protection:

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 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 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 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.

Sincerely,

Sergio Alcubilla  
Executive Director

**LATE**

**LATE**



**MAUI**  
CHAMBER OF COMMERCE  
**VOICE OF BUSINESS**

**HEARING BEFORE THE SENATE COMMITTEE ON  
COMMERCE AND CONSUMER PROTECTION  
HAWAII STATE CAPITOL, SENATE CONFERENCE ROOM 229  
Wednesday, February 14, 2024 AT 9:30 A.M.**

To The Honorable Senator Jarrett Keohokalole, Chair  
The Honorable Senator Carol Fukunaga, Vice Chair  
Members of the committee on Commerce and Consumer Protection

**SUPPORT SB2127 RELATING TO RESIDENTIAL LANDLORD-TENANT CODE**

The Maui Chamber of Commerce **SUPPORTS SB2127.**

The Chamber notes that there are numerous barriers to accessing affordable housing for low-income households and people experiencing homelessness. There is significant competition for rental units in the State, with landlords often receiving multiple applications per unit. Individuals and families often must apply to as many open rentals as possible, which can cost hundreds of dollars. While the Chamber recognizes that landlords and their agents need to collect application fees in order to vet all applicants, we believe that the costs of multiple applications for prospective tenants may result in economic hardship, especially in a tight housing market.

The State enacted Act 200, Session Laws of Hawaii 2023, which authorizes an application screening fee for rental applications to ensure that costs associated with vetting an application are used only for that purpose and any remaining fees are returned to the applicant. However, an applicant will still be required to submit multiple application fees to landlords or their agents who are using those fees to obtain similar information. Allowing an applicant to receive a certified copy of certain information to provide to another landlord or the landlord's agent will further reduce the financial burden of applying for rental units and reduce the work of landlords and their agents to obtain certain information.

We note that this is another tool in the affordable housing tool box. As many tools as we can get can only help with our local residents get into affordable housing.

For these reasons we wholeheartedly **SUPPORT SB2127.**

Sincerely,

Pamela Tumpap  
President

To advance and promote a healthy economic environment for business, advocating for a responsive government and quality education, while preserving Maui's unique community characteristics.

**SB-2127**

Submitted on: 2/10/2024 10:35:18 AM

Testimony for CPN on 2/14/2024 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Jacqueline S. Ambrose	Individual	Support	Written Testimony Only

Comments:

Aloha,

**RELATING TO MEAT PROCESSING.**

Requires the Department of Agriculture, in collaboration with other state agencies, to develop and implement a plan to expand the meat processing capacity in the State to allow for meat from axis deer and other wild game to be processed for distribution by non-profit food distribution services by 7/1/2025. Appropriates funds.