DAVID Y. IGE
GOVERNOR

JOSH GREEN
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
335 MERCHANT STREET, ROOM 310
P.O. BOX 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
cca.hawaii.gov

CATHERINE P. AWAKUNI COLÓN
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

Testimony of the Department of Commerce and Consumer Affairs

Before the
House Committee on Committee on Finance
Friday, March 29, 2019
3:30 p.m.
State Capitol, Conference Room 308

On the following measure:
S.B. 537, S.D. 2, H.D. 2, RELATING TO CONSUMER PROTECTION

Chair Luke 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 and suggests amendments.

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 (2.00 FTE) 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 Department notes that H.D. 2 may treat in-state small dollar lenders differently than internet small dollar lenders by requiring in-state small dollar lenders to pay a higher licensing fee based on the number of branches in the State. In contrast, internet lenders do not have in-state branches.

Section 11 of H.D. 2 provides for appropriations but does not specify any CRF appropriation amount. As noted in the Department's prior testimony, the Department requests an appropriation of $220,941 from the CRF to establish the two permanent examiner positions, including employee benefits. 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 Department suggests the following amendments to provide clarity and efficiency in implementing the small dollar lending licensure program:

- Page 9, line 8: Replace "National Credit Union Share Insurance Fund" with "National Credit Union Administration" to maintain consistency with Hawaii Revised Statutes (HRS) chapter 412 (Code of Financial Institutions), article 10 (Credit Unions);
- Page 30, lines 11-15: Move the language in subsection (c) to a new section entitled "Unique Identifier" to require all small dollar lenders to use a unique identifier, not just internet small dollar lenders;
- Page 30, lines 19-20: Delete "savings and loan or building and loan association," as these organizations are no longer recognized as financial institutions;
- Page 30, line 20: Add "financial service loan company", which is recognized as a financial institution;
- Page 32, line 14: Add "as defined in section 412:1-109" after "A financial institution", to maintain consistency with HRS chapter 412 (Code of Financial Institutions);

- Page 37, line 6: Add "state or" before "federal" to allow disqualification of an applicant who is guilty of a felony in another state;
- Page 42, lines 20-21: Add a non-refundable fee of $100 for the change of physical location or mailing address for each branch office or principal place of business;
- Page 55, lines 7-14: Delete subsection (f), as the DFI does not pre-qualify applicants prior to application;
- Page 66, lines 2-5: Delete the provision requiring the licensee to waive the privilege of subpoena or discovery, as the DFI is the entity that determines confidentiality of the information or material provided to the Nationwide Multistate Licensing System;
- Amend the definition of "collection agency" in HRS section 443B-1 (Definitions) to clarify that small dollar lenders are not subject to HRS chapter 443B (Collection Agencies):

> "Collection agency" does not include licensed attorneys at law acting within the scope of their profession, licensed real estate brokers, and salespersons residing in this State when engaged in the regular practice of their profession, nor banks, trust companies, building and loan associations, savings and loan associations, financial services loan companies, credit unions, companies doing an escrow business, individuals regularly employed on a regular wage or salary in the capacity of credit persons or in other similar capacity for a single employer who is not a collection agency, nor any public officer or any person acting under an order of court[~~.~~], nor small dollar lenders provided in chapter _____ (section 2 of H.D. 2).

Finally, H.D. 2 proposes an effective date of July 1, 2050, provided that the licensing requirements for small dollar lenders established by section 2 of the Act take effect on January 1, 2051. The Department requests amending the effective date as follows: "This Act shall take effect on July 1, 2019; provided that the licensing requirements for small dollar lenders established by section 2 of this Act shall take effect on January 1, 2020." This tiered effective date will allow the DFI to hire a staff person to establish the program and allow the industry time to create the required disclosures.

Thank you for the opportunity to testify on this bill.

Mental Health America of Hawai`i

1136 Union Mall, Suite 510
Honolulu, Hawaii 96813
P 808.521.1846 |
mentalhealthhawaii.org

Helping Hawai'i Live Well

To: Representative Sylvia Luke, Chair, Representative Ty Cullen, Vice Chair, Members, House Committee on Finance

From: Trisha Kajimura, Executive Director

Re: TESTIMONY IN SUPPORT OF SB 537 SD2 HD2 Relating to Consumer Protection
Hearing: March 29, 2019, 3:30 pm, CR 308

Thank you for hearing our testimony **in support of Senate Bill 537 SD2 HD2,** which closes the loophole that created unaffordable payday loans in 1999 and establishes a regulatory structure for small dollar installment loans with the goal of ensuring affordable monthly payments for our residents, keeping more money in the pockets of our workers and families for rent and mortgage payments.

Mental Health America of Hawaii is a 501(c)3 organization founded in Hawai'i 77 years ago, that serves the community by promoting mental health through advocacy, education and service. Payday loans under our current law prey on economically vulnerable workers in our state and trap them in cycles of unaffordable debt that cause enormous stress on individuals and families. Stress at these toxic levels can harm or worsen mental health. Since we have better options for small personal loans in our community, there is no reason to allow this practice to continue.

Payday Loan Services allow for quick, short-term loans in times of need. However, these loan services often operate in predatory ways such as stipulating high interest rates, conducting business without a license or from outside of the U.S., and including hidden fees in term agreements. These often result in becoming stuck in a cycle of debt, vulnerable to scams, potentially losing money as well as being at risk for identity theft.[1] Most borrowers, about 69%, use payday loans to cover ordinary living expenses such as rent, food, bills, etc. as opposed to unexpected emergencies.[2] Taking into account a person who is living paycheck-to-paycheck, these payday loans only exacerbate the cycle of debt which can have some negative mental health implications. Research has shown that financial difficulties are associated with stress, anxiety, depression, mental illness and suicide.[3]

Thank you for considering my **testimony in support of SB 537 SD2 HD2**.

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[1] Huffington Post – 5 Ways to Protect Yourself from Payday Loan Scams (https://www.huffingtonpost.com/nextadvisorcom/5-ways-to-protect-yoursel_b_5638533.html)

[2] The PEW Charitable Trusts – Payday Lending in America (http://www.pewtrusts.org/en/multimedia/data-visualizations/2012/payday-lending-in-america)

[3] Moore, T. H. M., Kapur, N., Hawton, K., Richards, A., Metcalfe, C. & Gunnell, D. (2017). Interventions to reduce the impact of unemployment and economic hardship on mental health in the general population: A systematic review. *Psychological Medicine, 47*(6), 1062-1084.

HAWAII APPLESEED
CENTER FOR LAW & ECONOMIC JUSTICE

Testimony of Hawaiʻi Appleseed Center for Law and Economic Justice
Supporting SB 537 SD2 HD2 -- Relating to Consumer Protection
House Committee on Finance
Friday, March 29, 2019, 3:30 PM, conference room 308

Dear Chair Luke, Vice Chair Cullen, and members of the Committee:

Thank you for the opportunity to provide testimony in **SUPPORT** of **SB 537 SD2 HD2**, which would close the loophole that created unaffordable payday loans in Hawaiʻi and establish a regulatory structure to make sure that installment loans are affordable for our residents.

Most of the profits 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 this bill 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 Hawaiʻi 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.

CATHOLIC CHARITIES HAWAIʻI

TESTIMONY IN SUPPORT OF SB 537 SD1 HD2: Relating to Consumer Protection

TO: Representative Sylvia Luke, Chair, Representative Ty Cullen, Vice Chair; and Members, Committee on Finance
FROM: Betty Lou Larson, Legislative Liaison, Catholic Charities Hawaiʻi
Hearing: Friday, March 29, 2019; 3:30 pm; CR 308

Chair Luke, Vice Chair Cullen, and Members, Committee on Finance:

Thank you for the opportunity to provide testimony **in Strong support** of **SB 537 SD1 HD2**, which provides various consumer protection requirements for small dollar loans. I am Betty Lou Larson, with Catholic Charities Hawaiʻi.

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 Hawaiʻi. This bill provides comprehensive protections making payday loans more manageable for consumers, thereby helping them to avoid a debt trap.

House Draft 2 of this bill closes the loophole that created unaffordable payday loans in 1999. It provides a regulatory structure that will enable our residents to acquire loans without being "set up to fail" with loan payments that they are unable to pay. Not only are more than 4 out of 5 payday borrowers unable to repay these loans on time, but attempts by lenders to debit payments from their checking accounts can lead to substantial penalty fees. Rolling over these loans and penalty fees mean that the majority of borrowers pay more in fees than they received in credit!

In Hawaiʻi 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 mainland[1]. 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.

It is critical that action be taken to resolve the debt trap often created by these loans. The high interest on these loans (e.g 459% APR) threaten families' housing stability.

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 me 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.

HAWAIIAN COMMUNITY ASSETS

200 North Vineyard Boulevard, B140
Honolulu, HI 96817
Ph: 808-587-7886
Toll Free: 1-866-400-1116
www.hawaiiancommunity.net

March 27, 2019

House Committee on Finance
Friday, March 29, 2019, 3:30pm
Conference Room 308

SB537, SD2, HD2 – Relating to Consumer Protection

Aloha Chair, Vice-Chair, and Committee Members:

I am submitting testimony on behalf of Hawaiian Community Assets (HCA), the State's largest HUD-approved housing counseling agency and its Department of Treasury certified nonprofit Community Development Financial Institution, Hawaii Community Lending, to **STRONGLY SUPPORT SB537, SD2, HD2**.

SB537, SD2, HD2 closes the loophole that created unaffordable payday loans in 1999 and establishes a regulatory structure for small dollar installment loans with the goal of ensuring affordable monthly payments for our residents, keeping more money in the pockets of our workers and families for rent and mortgage payments.

Closes Payday Loan Loophole

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 Loans Installment Loans Affordable for Your Constituents

SB537, SD2, HD2 defines a regulatory structure for installment loans in Hawaii and caps the total monthly payment of a borrower at 5% of gross monthly income or 6% of net monthly income, whichever is greater. While it is an industry standard for banks, credit unions, and community development financial institutions to factor in a borrower's debt as well as their income when calculating the affordability of a loan, our organization feels the language 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.

Voluntary Repayment Plans
As we witnessed during the mortgage crisis, borrowers must have a variety of loss mitigation options in the event of sudden financial hardship such as loss of a job, reduced work hours, or increased housing payments and living expenses. Loss mitigation options, including forbearance, repayment plans, interest rate reductions, loan term adjustments, and principal reduction helped save lenders, borrowers, and our entire economy billions of dollars in unnecessary foreclosures.

These same loss mitigation options should be available to our workers and families who borrow small dollar installment loans. SB537, SD2, HD2 allows for voluntary repayment plans as as an appropriate option for relief.

HCA highlights the importance of providing borrowers with (1) affordable monthly payments and (2) loss mitigation options such as voluntary repayment plans based on the performance of its loan fund administered by HCL over the last 4 years. As of September 30, 2018, the loan fund had made 289 small dollar loans totaling $603,998 in capital across the state while maintaining a less than 0.5% default rate. Not only did our borrowers address their financial needs with our loan capital, but they went on to access an additional $2 million in capital within the mainstream financial system to further assist with sustaining housing stability.

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.

Bottom-line: Payday loan reform is an affordable housing issue. Support affordable housing.

PASS SB537, SD2, HD2.

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,

Jeff Gilbreath
Executive Director

SB-537-HD-2
Submitted on: 3/27/2019 3:54:18 PM
Testimony for FIN on 3/29/2019 3:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
William Caron	Young Progressives Demanding Action	Support	No

Comments:

Aloha Chair Luke,

I support SB537 SD2 HD2 to close the payday loan loophole and establish a regulatory structure for small dollar installment loans.

Payday loans charge Hawaiʻi borrowers a 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.

Payday loans were first created through a loophole in Hawaii's 480-F statute in 1999, which has primarily benefitted the profit margins of off-shore businesses that are not regulated, nor certified by any government agency. Consumers who borrow payday loans "are being set up to fail with loan payments that they are unable to repay. Faced with unaffordable payments, cash-strapped consumers must choose between defaulting, re-borrowing, or skipping other financial obligations like rent."

Consumer Financial Protection Bureau research shows "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." Further, "One-in-five payday loan sequences… end up in default, often after one or more instances of re-borrowing." And, "Attempts by lenders to debit payments from a consumer's checking account can add a steep, hidden cost to payday loans. CFPB research found that, over a period of 18 months, half of payday and payday-installment online borrowers have at least one debit attempt that overdrafts or fails. These borrowers incur an average of $185 in bank penalty fees, in addition to any fees the lender might charge for failed debit attempts, specifically, a late fee, a returned-payment fee, or both."

A bank account may be closed by the depository institution for reasons such as having a negative balance for an extended period of time. If a borrower is unable to pay their payday loan, they can see their bank account closed, which cuts them off from the mainstream financial institution and other types of loans that are less costly than payday loans. Payday lenders across the nation are entering the installment loan market to increase their profits with higher cost, longer term loans. This is a huge problem for the 48% of families in Hawaiʻi that struggle to make ends meet and live paycheck-to-paycheck.

The solution? To start with, please pass this bill. 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.

SB537 SD2 HD2 defines a regulatory structure for installment loans in Hawaiʻi and ensures they will be affordable for your constituents.

Payday loan reform is an affordable housing issue. At a time when Hawaiʻi 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. Please 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.

Mahalo!

DFC GLOBAL CORP

74 Swedesford Road
Suite 150
Malvern, PA 19355
(610) 296-3400 Phone

March 27, 2019

Honorable Sylvia Luke, Chair
Honorable Ty J.K. Cullen, Vice Chair
Committee on Finance
House of Representatives
415 S. Beretania Street
Honolulu, Hawaii 96813

Re: SENATE BILL NO. 537, HOUSE DRAFT 2 RELATING TO CONSUMER PROTECTION

Dear Chair Luke, Vice Chair Cullen and Committee Members:

On behalf of Dollar Financial Group ("DFG"), we respectfully submit the following testimony relating to Senate Bill No. 537, House Draft 2 (SB 537), which will be heard by your Committee on Finance on March 29, 2019, in OPPOSITION to House Draft 2. As discussed below, DFG supports House Draft 1, because House Draft 1 makes the changes necessary for an economically viable installment loan transaction product. DFG opposes House Draft 2 because of our concerns that it ultimately will leave non-prime consumers unserved.

The purpose of SB 537, relating to consumer protection, is to transition Hawaii's non-prime lending market from single-pay deferred deposit transactions (so-called "payday loans") to lower priced, longer term installment loan transactions.

Currently, deferred deposit transactions, which are authorized under chapter 480F, Hawaii Revised Statutes, represent the only available source of small dollar, short-term credit to the underserved credit market in Hawaii. These non-prime consumers, approximately 160 million in the US and Canada, now represent a larger customer segment than prime consumers but are not able to be serviced and underwritten with traditional prime lending products. Non-prime consumers, including thousands of residents of Hawaii, struggle with unexpected financial hardships daily—many of them are shut out of the traditional financial services market, unable to obtain credit from banks or credit unions.

- A recent Federal Reserve report found that nearly half of the people surveyed said they could not cover a hypothetical emergency expense of $400, and the CFPB's first national survey on financial well-being found that more than 40% of U.S. adults struggle to make ends meet. For years, millions of Americans have relied on small-dollar loans to weather unexpected expenses such as medical bills or car repairs.

- According to a recent survey by a strategic research firm, 94% of small-dollar loan borrowers consider obtaining such loans to be a rational decision when they are faced with these unexpected expenses or to avoid far more expensive alternatives, including bank fees (including overdraft protection and bounced checks), cancellation or late charges (including penalties for late bill payments) and unregulated or illegal loans.

Because credit pricing is determined by repayment risk and this non-prime market segment has a substantially higher credit risk than that of prime consumers, the pricing of non-prime credit products necessarily must be higher than prime credit products in order to support a viable non-prime lending market. In addition, the credit products tailored for this non-prime consumer segment present unique risk underwriting, information technology, compliance, customer need and operational challenges and requirements that differ substantially from traditional credit products offered to prime consumers. As a result, other lower credit risk lenders (e.g., banks) have been unwilling, and, in many respects, unable, to service this non-prime market. DFG and most industry observers do not expect this to change. The alternative financial products available to this non-prime market segment, such as check overdrafts, unregulated internet lending or loan sharks, can be costlier and overall less desirable than appropriately structured deferred deposit and installment lending products. Without adjustment to SB 537, non-prime consumers in Hawaii will likely be left with only these options.

DFG currently is the largest non-prime, small-dollar lender in the State of Hawaii, with 8 places of business, employing 32 employees, with over 21,000 customers within the state. DFG is a leader in the US and Canada in the transition from payday loans to small dollar installment loans. Over the last three years, installment lending, as a percentage of DFG's overall loan portfolio, has increased from 25% to 81%. DFG has recent experience in other U.S. states, including California and Florida, and in nearly every province in Canada, with the introduction of new, small dollar installment loans similar to what is proposed in SB 537. DFG's subsidiary, Aspen Financial Direct, began operations in 2018 and offers installment loan products online in 13 states. Aspen is licensed and regulated in each state in which it does business. Non-prime consumers in Hawaii would greatly benefit from access to installment lending products such as those DFG has begun providing in these other jurisdictions.

Based on its recent experience, DFG strongly believes that the optimal regulatory framework is one that enables the delivery of appropriately priced products best suited to the needs of its non-prime customers. Depending on the customer's circumstances, a small dollar short term loan may be the best option and, in other cases, a larger, longer term installment loan may be more appropriate. Contrary to the views of many, non-prime customers are capable of making rational and informed loan product choices that suit their particular requirements. When access to small-dollar loans is restricted, consumers are harmed.

- Recognized and respected academic studies have shown that when small-dollar loans are removed as an option, consumers bounced more checks, complained more about lenders and debt collectors, and filed for Chapter 7 bankruptcy at higher rates.

- Recent interpretations by regulators of studies previously relied upon to justify stricter regulatory treatment of small dollar loans now indicate that there is not "a sufficiently robust and reliable basis" to support the view that consumers fail to understand the risks and requirements of these loans or their ability to repay them.

DFG would support the implementation of a new small dollar installment loan program in Hawaii, such as that proposed by SB 537, provided that, as contained in House Draft 1, certain limited changes are made to SB 537 to harmonize the installment lending terms with those DFG is complying with in other jurisdictions (in both its retail and online businesses) and, thereby, enable and support an economically viable non-prime lending market in Hawaii.

The economic reality is that there is greater risk associated with lending in this non-prime credit market segment and longer term credit products will introduce even greater degrees of credit risk. This is one of the reasons that other, prime-focused financial institutions are unwilling to extend credit to this market segment and would be even less willing to provide longer term installment loans. Without a few adjustments to SB 537, the credit risk associated with this market segment is likely to make the desired small dollar installment loan program economically unsustainable and cause current lenders to this non-prime customer base to substantially curtail lending operations or cease operating in Hawaii entirely. Based on DFG's modeling and its loan loss experience with the non-prime market in Hawaii, for each dollar of installment loan debt, the interest and fee revenue permitted under the current terms of SB 537 would barely cover the loan loss reserve that would be necessary for this customer credit class in Hawaii. After accounting for the lender's own cost of funds, its other operating costs and expenses and an expected level of early prepayments, the SB 537 installment loan product as currently configured becomes an unattractive product to any lender in Hawaii (even to a financial institution with extremely low funding costs). We believe several local banks have validated this assertion.

Based on DFG's experience in the other U.S. states (including with its online lending business) and Canada, the following limited changes, which are contained in House Draft 1, are necessary to make the small dollar installment loan framework viable in Hawaii:

1. Maximum Loan Amounts: increase from $1,000 to $2,500

2. Affordability Requirements: increase the verified gross monthly income and verified net monthly income maximums by 1%

3. Monthly Fee Caps: change as follows:

    - Loans up to $300: $20
    - Loans between $300 and $499: $30
    - Loans of $500 or more: $40

4. Installment Lending Transition Period: provide for an 18-month period for the transition from deferred deposit transactions to small dollar installment loans by making elimination of deferred deposit transactions effective on January 1, 2021.

Maximum Loan Amount and Affordability Requirements. With respect to the increased loan amount, because SB 537 includes requirements limiting the amount of monthly payments to specified percentages of the borrower's income, borrowers will be protected against over-extending themselves (DFG's own underwriting controls are also designed to prevent against this). The change will also provide greater flexibility for customers and will more closely align the SB 537 installment lending terms with those for suitable and viable lending products that we now, and are now required to, provide in other jurisdictions. Our recent experience has shown that only when a viable, new installment loan product can be provided to our non-prime customers, can the lending market provide those customers with suitable alternatives to, and facilitate a diversification away from, payday-type products. Based on our risk underwriting and loan loss experience with this particular borrower class, an increase of 1% to the two income affordability measures would not be unreasonable and would appropriately expand access to this needed credit product and provide greater depth to the local lending market.

Fees. As mentioned above, this type of credit product has substantial and extensive operational, compliance, IT and customer service requirements that would justify a moderately higher fee structure and render the product viable for a responsible lender at the authorized interest rate. DFG is a market leader in implementing operations and systems enhancements to make the delivery of credit products to its customers more efficient. Substantial investments in operational improvements, technology and proprietary risk analytics optimized for the non-prime market enable DFG to more effectively scale its lending operations and provide compliant lending products at the most competitive pricing in the industry. DFG believes that only the most operationally sophisticated and efficient lending organizations will be able to participate in this market in a compliant manner in the future and we are the most capable non-prime lender in Hawaii in this regard. However, without an increase to the authorized fees, installment loan revenue will only cover expected loan losses and provide little, if any, additional margin to cover costs and expenses associated with the business.

Implementation Period. If deferred deposit transactions are completely eliminated, then a transition period will be necessary to avoid a total market disruption in Hawaii because SB 537-compliant installment loans will require a substantial investment in operational, IT, compliance and customer service enhancements before the product can prudently be brought to market. Lenders will need time not only to comply with the licensing requirements contained in SB 537, but to successfully bring about and test the enhancements described above. Similar legislation (including federal CFPB, California, Florida and various provinces throughout Canada) have provided for 12-18-month transition periods. Without a longer transition period, the Hawaii non-prime lending market will shut down for extended periods of time with adverse effects on consumers.

For the reasons we have set forth above, DFG believes it would be inadvisable to completely remove deferred deposit transactions from the marketplace and inevitably force many non-prime consumers into a credit product that may not best suited for their immediate requirements. A regulatory regime that forces non-prime consumers to take loans in larger amounts, repayable over longer periods of time in those cases when smaller, shorter-duration single payment loans may be most appropriate, will not be beneficial for consumers or the marketplace. The non-prime consumer has substantially higher needs for short term credit support than the typical prime consumer. With appropriate regulatory modifications, both short term single payment loans and longer term, installment loans can serve as suitable credit options for non-prime consumers. Numerous other jurisdictions, including Florida and many Canadian provinces, have successfully done just this and permit, and regulate, both non-prime installment loans (which provide longer term credit solutions) and the equivalent of deferred deposit transactions (which address immediate and short term financial stresses, emergencies and other immediate needs of non-prime consumers).

In summary, without the modifications to SB 537 contained in House Draft 1, a new market for non-prime installment loans will not be sustainable in Hawaii under the proposed regulatory scheme. As presently proposed, SB 537 would eliminate deferred deposit transactions without making a viable credit alternative available to Hawaii's non-prime consumers. This, in turn, is likely to force these borrowers to use less attractive (and oftentimes illegal) alternatives such as check overdrafts, unregulated internet lending or loan sharks. However, with the changes we propose, responsible and operationally efficient non-prime installment lenders could support a viable non-prime lending market in Hawaii and more effectively serve the needs of the non-prime consumers in the state. In the long run, a more effective non-prime lending market can help these borrowers by providing better tailored credit products and enabling them to develop better credit histories, which ultimately will reduce their cost of credit when they are able to access lower credit risk products.

Thank you for your consideration of our testimony.

Very truly yours,

DOLLAR FINANCIAL GROUP

James Odell
Executive Vice President and General Counsel

To: Representative Sylvia Luke, Chair

Representative Ty J.K. Cullen, Vice Chair

Committee on Finance

From: Gary Hughes, Partner, Colortyme Rent to Own and Payday Loans

March 28, 2019

In opposition to SB537,SD2,HDS (HSCR1594)

Reading Section 1 of this bill makes this seem like a utopian plan; however in my opinion it simply will not work:

IF THIS BILL WERE TO BE ENACTED NO ONE WILL BE IN THE BUSINESS MAKING EMERGENCY LOANS TO THOSE IN NEED IN HAWAII.

I have attached a copy of a Cato Institute research paper regarding Payday Lending Regulations. One thing the research points out is the cost of making short term unsecured loans is approximately $13.33 per $100. This bill would only allow $3.00 per hundred, significantly less than the cost of doing business. This bill, if passed, would take away the ability of hundreds or even thousands of Hawaii citizens from accessing the cash they need for emergencies.

The bill seems to be patterned after a bill recently enacted in Ohio. That bill goes into effect soon and already 90% of Businesses offering short term Loans have announced that they are closing. I believe by the end of the year, or when their leases have expired, they all will be gone. It would seem prudent to wait and see if the Ohio's "unproven idea" will actually work before a similar plan is adopted in Hawaii.

I have also attached several letters from our customers expressing how important they feel access to Emergency cash is for them and their families. As the Senate bill points out there is a real need for Hawaii consumers to have access to emergency cash. SB537 would take that away.

February 19, 2019 1:45PM

The CFPB and Payday Lending Regulations

By Peter Van Doren

Share

The Consumer Financial Protection Bureau (CFPB) recently proposed the elimination of new payday lending rules created under the Obama Administration and imposed in 2017. Payday lenders are frequently vilified—a recent *New York Times* editorial declared that the CFPB "betrayed financially vulnerable Americans last week by proposing to gut rules…that shield borrowers from predatory loans"—but recent evidence indicates that the predatory costs of payday loans may be nonexistent and the benefits are real and measurable. Thus, the original regulatory restrictions were unnecessary.

Most Americans take access to credit for granted, but many lower-income Americans have difficulty meeting the requirements to get a credit card or take out collateralized loans. With minimal approval requirements that are easier to meet—often just a bank account statement, a pay stub, and a photo ID—payday lenders offer short-term, uncollateralized loans. These loans are advances against a future paycheck, typically about $100-$500 per loan, and customers usually owe a fee of around $15 per $100 borrowed for two weeks.

Consumer advocates oppose these terms for two reasons. First, they argue the terms are onerous. They convert the loan terms into an annual percentage rate (APR) that would be disclosed by a conventional credit-card issuer, and the result is 391 percent. This number shocks the sensibilities of the average person and easily leads to the conclusion that the payday lender is ripping off the consumer.

The APR is misleading because the fixed costs of lending as well as the default costs must be defrayed over much smaller sums than conventional loans. According to research reviewed by Victor Stango in the fall 2012 issue of *Regulation*, the fixed and marginal costs of the average $300 loan are $25. Thus, with no risk of default, the break-even per-loan charge is $25. But 5 percent of customers default increasing the break-even per-loan charge to $40, or $13.33 per $100 borrowed.

In addition, the revenues of payday lenders do not seem to lead to excess profits. Payday lending appears to be very competitive. There are more physical payday lenders (24,000) than there are banks and credit unions (16,000). And according to research cited in Stango's article, payday lenders do not earn "excess returns" in the stock market.

The second objection consumer advocates have against payday lenders is the inability of some consumers to pay back their loans after the initial two weeks. If borrowers rollover their loans, the fees grow larger quickly.

Two papers, which I reviewed in the spring 2017 issue of *Regulation*, utilize data from the military to investigate the effects of payday loans and challenge this objection. In the mid-2000s active duty military members were three times more likely than civilians to take out a payday loan, and as many as 20 percent of active duty military members had used a payday loan in the past year. The belief that payday loans were predatory and that they adversely affected young soldiers' performance led Congress to cap the APR on loans for military servicemembers and their families at 36 percent in the Military Lending Act of 2007 (MLA), effectively banning payday lending to the military nationwide.

The authors of both studies exploit the fact that military members are randomly assigned to bases across the nation (in states that ban payday loans and in states that do not). Thus, using the military's rich administrative data, the studies are able to analyze differences between individuals in states with and without payday lending bans, before and after the MLA.

In the first paper, Susan Payne Carter and William Skimmyhorn of the United States Military Academy examine labor market and credit outcomes for military members. Specifically, Carter and Skimmyhorn analyze involuntary separation from the military (which may reflect financial mismanagement or stress that affects service members' job performance) and the denial or revocation of security clearances (which, because the military considers high levels of debt as a threat to individuals with clearances, provides another indicator of negative payday loan effects). The authors find that access to payday loans did not increase involuntary separation or denial of clearances because of bad credit.

In the second paper, Mary Zaki investigates how access to payday loans allowed service members to smooth consumption over their pay cycle by using data on sales at on-base stores to analyze consumption behavior. Exploiting the same differences between state laws and before and after enactment of the MLA, she finds that after the ban sales on paydays were 21.74 percent higher than sales on non-paydays, but sales on bases before the ban and near payday lenders were only 20.14 percent higher—a 1.6 percent smaller gap between payday and non-payday spending. The variance in spending across the pay cycle was lower (i.e., consumption was smoother) when soldiers had access to payday lending services.

Together, these results undermine consumer advocates' claims of the negative impacts of payday loans and demonstrate the consumption smoothing benefits. Carter and Skimmyhorn found no negative effects (as measured by involuntary separation from the military or revocation of security clearances) for members of the military even though they utilize payday lending more than civilians. And Zaki illustrates that payday loans, like all loans, allow consumers to smooth consumption.

Though often portrayed as predatory, payday lenders provide many Americans, who often don't have access to traditional bank services, with the opportunity to smooth consumption or get cash quickly when emergencies arise. The apparently "high" fees are a natural outcome of lending small amounts to riskier borrowers. Any restrictions that limit these fees or impose increased costs on lenders may eliminate access to any loans, leaving former borrowers with less-desirable, higher-cost options.

Written with research assistance from David Kemp.

https://www.cato.org/blog/cfpb-payday-lending-regulations to whom it may concern. 3-13-19

Colortymes payday loans really helps me in between paychecks if I need extra money for food & gas.

I wouldnt go to the bank for just a few hundred dollars. They would have to pull my credit.

R. A

3 · 13 · 2019

To whom it may Concern,

I was moving out of my apartment due to last minute changes & I needed $300 more. If it was not because of ColorTyme, I would have not gotten the money I needed. I tried asking the bank & was not able to get the money I needed; I did not have credit.

Thank you Color Tyme!! :)

JB

Feb. 15' 2019

To who it may Concern

I was short on cash and I went to the first Hawaiian bank which is my member bank for 12 years. I went for borrow money and they won't let me of what I needed. So, I went to Colortyme of Payday loan. They helped me of what I needed right away. Colortyme is awesome. I always come back when I'm short of money. I paid back right away! Thank you!!

A.L.R

3/13/2019

To whom it may concern,

I Have short in budget at this time and I needed a money right away. colortyme it helps me a lot to pay my bills in a short period of time. easy to pay not like in the bank a lot of documents needed.

Thank you Colortyme for helping me on the time. most especially Emergency loan.

Maria [illegible] [illegible]

DATE:

COLORTYME PAYDAY LOAN #23

Q: HOW DOES THE PAYDAY LOAN HELP YOU AS A CUSTOMER?

IT HELPS ME PAY MY RENT, AND OTHER BILLS. BUY FOOD UNTIL MY NEXT PAY. COLORTYME PAYDAY LOAN IS A GREAT HELP TO ME & MY FAMILY. ALOHA

PRINT NAME: J G.

MAR 12 2019

SIGNATURE:

DATE:

COLORTYME PAYDAY LOAN #23

Q: HOW DOES THE PAYDAY LOAN HELP YOU AS A CUSTOMER?

helped me with an emergency unforseen bills that suddenly happned. and is convient with paying.

PRINT NAME: JK

MAR 12 2019

SIGNATURE:

DATE:

COLORTYME PAYDAY LOAN #23

MAR 1 3 2019

Q: HOW DOES THE PAYDAY LOAN HELP YOU AS A CUSTOMER?

It helps me to pay my Bill
my dentist, hospital, some loan

PRINT NAME: Annette B. [illegible]

SIGNATURE: Annette B. [illegible]

I use pay day loan to pay my utilities and easier for me than going to the bank to make loan because they still your credit.

Nita S. Cano
3/13/19

3-13-19

I'M GOING TO A PAYDAY LOAN
TO PAY FOR EXPENSES FOR
A VACATION INSTEAD OF
GOING TO A BANK & GO
THROUGH THE LOAN PROCESS.

GAIL QUILANTANG

We are coming to the Payday loan for vacation expenses. Going to a bank uses credit services we choose not to use.

13 MAR 2019

March 13, 2019

To Whom it may Concern.

payday Ceastyme has diffinitely help me to get out of a hole I would have not been able to get out if they hadn't given me a loan.

Sincerely,
Jana Alesna

Jana Alesna

To Whom It May Concerns,

Hi, I'm Lataniga Setu and I always loan from Color Time Pay Day Loan, when I needed help for my Rent or Electricity Bills, Thank You for letting me borrowed from your place. I appreciated.

Thanks

Lataniga Setu

Setu

DATE: MAR 13 2019

COLORTYME PAYDAY LOAN #2

Q: HOW DOES THE PAYDAY LOAN HELP YOU AS A CUSTOMER?

→ I needed $400 more to Pay my Bills. I dont want to go to the bank because they going to Check my Credit. I dont have good Credit. thank you.

PRINT NAME: Anson Ande

SIGNATURE: X

DATE: 3/17/18

COLORTYME PAYDAY LOAN #23

Q: **HOW DOES THE PAYDAY LOAN HELP YOU AS A CUSTOMER?**

THE EXTRA NEEDED PAYDAY LOAN IS A NEEDED ADDITION TO HELP WITH FOOD COST BEING THAT MY EARNED INCOME IS FOR BILLS TO INCLUDE RENT, UTILITIES, INSURANCE, CAR PAYMENTS WHICH IS JUST THE BASIC NESSASARY EVERYDAY BILLS TO MAKE A LIVING IN HAWAII. I UTILIZE THIS ~~SORRE~~ SOURCE TO HELP ME MAKE ENDS MEET. WHEN AT TIMES MY INCOME MAY FALL SHORT & THERE IS NO OTHER RESOURCE TO RELY ON.

PRINT NAME: Regina Dayton

SIGNATURE: Regina Dayton

DATE: 3/16/18.

COLORTYME PAYDAY LOAN #23

Q: **HOW DOES THE PAYDAY LOAN HELP YOU AS A CUSTOMER?**

It helped me with an emergency unforeseen. Bills that suddenly happened. and is Convenient with paying.

PRINT NAME: Dana Kaheaku

SIGNATURE: [signature]

DATE: 3/8/2018

COLORTYME PAYDAY LOAN #23

Q: HOW DOES THE PAYDAY LOAN HELP YOU AS A CUSTOMER?

IT helped me pay ~~[illegible]~~ my bills between Paychecks since the cost of living in Hawaii is so high

PRINT NAME: Patricia Arike

SIGNATURE: [illegible]

TO WHOM IT MAY CONCERN, 03.17.18

USED LOAN FOR PERSONAL FUNERAL REASON QUICKER THAN GOING THRU BANKS. MOST HELPFULL IN TIME OF NEED. BANKS DON'T GIVE ANYTHING LESS THAN $1500.00.

TY. E. BIRD

2/1/18

I would like to thank Color Tyme Waipahu for having the loan services open

It helps alot to be able to borrow as times in Hawaii is hard. Thank you for your help

you guys help me make ends meet for my family and I.

Mahalo so much.

Leelani Castillo

[signature]

03/07/18

Jeresha helped me with a Loan that helped me Get by till pay day. Definitely going to come back w/ referr others to come @ here. Quick service & Awesome customer service.

Bridget paaoao salonicman

Wednesday 03/07/2018.

To: whom it may concern.

This letter is to inform you that color tyme pay / loan facility has been really convienate for me. I've been a regular customer from 2016. The worker aka re are always willing to help and is awsome with customer service. I feel they are very honest and trust worthy. these are the reason why I come back when I need to get a loan. colortyne is the place I would recomend my friends or family to come too.

Thank you
your customer
Kufen, Tiareapetahi
kulkar, Tiareapetahi

Gmail **Waipahu Colortyme Loan Dept Store 21**

Mahalo

1 message

Fri, Mar 9, 2018 at 2:02 PM

Loan Department Manager,

I just want to say a big mahalo to your loan department. Recently, my dog, Pua (14 years old), became very ill, we took her to the vet and were told if she did not have emergency surgery that night, she would not make it. They quoted the price as being between $2,100 - 3,000.00 for the surgery and accommodations. We were short, but had to act fast as the pet hospital expects at least half of the money to be paid before the surgery. We sought assistance at your facility to help us reach the necessary amount, paid the hospital and our beautiful dog is alive and doing well after her surgery. (See attached pictures taken at the pet hospital).

Again, mahalo nui loa for your assistance with a loan, it helped save my dog's life.

Your staff is always friendly and helpful.

Sincerely,

Carol Evans

Pua.pdf
225K

DATE: 3 9. 2018

COLORTYME PAYDAY LOAN #23

Q: **HOW DOES THE PAYDAY LOAN HELP YOU AS A CUSTOMER?**

When my paycheck is small and I need extra money. It helps me pay for my bills and things for my children.

PRINT NAME: Heidi-Yim Iverson

SIGNATURE: [signature]

Aloha,

To whom it may concern,

I am writing to ask you to consider your decision about the Payday Loans department located at ColorTyme Rent-To-Own Wahiawa (45 N Kamehameha Hwy, Wahiawa, HI 96786). I am asking on behalf of my family, that you please do not close out the Payday loans department.

Living in Hawaii is very expensive. Me, and my husband used Payday loans numerous times and they've ALWAYS done a fantastic job. Just the other day I took out a small loan to pay the bills because my paycheck was short. The application process is free, quick, and easy, and funds can be receive within the same day versus going to the bank, and wait for approval for a period of one to two weeks.

Payday loans support families like mines that are living paycheck after paycheck, and during times of extreme misfortune. Payday loans help families keep food on the table, and pay the bills. So please keep Payday loan open, and thank you for everything you do. God Bless!

Mahalo,

Efa Ramos

Efa Ramos

3/8/18

I would Really Really like
to thank Colortyme Waipahu
for having the loan Services. It
helps w/ all my needs & troubles!
You being there is a great
help to me and my family
& you all are friendly and
helpful!
it helps me w/
my bills (overdue)
and I know that
If I went to a
bank, I would not
be helped as I have
been helped here!

"w/ great appreciation"

3/8/18

3/9/18

To whom it may concern,

I really appreciate the opportunity to be able to get help when my family & I need it.

Its hard to survive in Hawaii as it is. Living paycheck to paycheck with a family is difficult! But with colortyme, it feels good knowing I can get help when I need it.

It would be extremely difficult to go to a bank and be pressured into applying for a higher loan just to cover a couple of bills. Going to a bank would put myself & my family in a greater debt & struggle.

Sincerely

Joylene Brioso. Colortyme loan Customer for 8 years

Joylene Brioso

DATE: March 17, 2018

COLORTYME PAYDAY LOAN #23

Q: HOW DOES THE PAYDAY LOAN HELP YOU AS A CUSTOMER?

Payday loan helps me pay a lot of my monthly bills At some locations I can't even get loans because of my credit score but Payday loan helped me out so much. Mahalo!

PRINT NAME: Roslyn Vanderford Dayton

SIGNATURE: R. Dayton

- Reslyn Dayton.

3/9/18

Payday loan has been such a Great Help in providing me on my short comings on my financial it's specifically avoided water and or electric shut off. I've been turned away from Banks due to my past history on credit. Payday loan doesn't check credit and has a market for people like me.

Heidi F. Semli

To: Representative Sylvia Luke,, Chair
Representative Ty J.K. Cullen, Vice Chair
Committee on Finance

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

March 29, 2019

In opposition to SB537 SD2 HD2

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 SD2 HD2 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 is not just bad for our business. It is bad for consumers because it allows multiple loans by removing the one transaction per consumer provision.

The bill encourages long term indebtedness which raises the fees charged to the vast majority of consumers who currently use deferred deposits responsibly. We appreciate the bill's intent to provide affordable credit. We would support a well thought out credit building installment loan bill similar to California's Pilot Program for Increased Access to Responsible Small Dollar Loans as an alternative to HB480F, not as a replacement.

The preamble of the bill cites a study by the Pew Charitable Trust. The Pew Charitable Trust has never studied check cashing businesses operating in Hawaii. Their data and reports are based only on the 48 contiguous states. It's important to be specific to our State with a different law and different outcomes. We need to look at what is happening in our community from a provable standpoint and not jump to conclusions based on data from the mainland.

SB537 SD2 HD2 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.

In prior testimony DFI has stated that SD537 SD2 HD2 is not subject to HRS 26H: "The Department respectfully submits that a followup analysis is not required under Hawaii Revised Statutes (HRS) 26H, as the check cashing or deferred check casher industry is neither an unregulated profession nor a vocation; rather, it is an unlicensed industry."

We believe this statement is inaccurate and inconsistent for two reasons:

1) HRS 26H does not offer a definition of profession or vocation, however we note that owners, managers and staff at Hawaii check cashing stores must comply with more than ten different financial services laws and receive on-going compliance training like other professions. Before being allow to work as a teller new employees must sign for, read and satisfactorily pass a test on our 120 page compliance manual. Each supervisory level requires more extensive training. We must show proof of training during Title 31 and CFPB field exams.

2) Testifying earlier this session on a bill relating transient vacation rentals, the DCCA made the following statement: "As a general matter, the Department notes that under Hawaii Revised Statutes (HRS) section 26H-6, new regulatory measures being considered for enactment must be referred to the State Auditor for a sunrise analysis. Referral is required to be made by concurrent resolution that identifies a specific legislative bill to be analyzed. The statute further requires that the analysis set forth the probable effects of regulation, assess whether its enactment is consistent with the legislative policies of HRS 26H-6, and assess alternative forms of regulation. Accordingly, this bill [SB960] should be deferred in accordance with HRS section 26H-6 until the State Auditor conducts a sunrise analysis on this measure."

This is problematic. If this bill is enacted into law it could be subject to a possible legal challenge.

We note that the licensing scheme proposed in SD537 SD2 HD2 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 as proposed in SB537 SD2 HD2 favor out-of-state internet lenders over local lenders with multiple locations, by charging them higher licensing fees. While some out-of-state internet lenders currently operate in Hawaii legally, many ignore Hawaii law and account 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 those lenders who currently ignore their tax obligation would readily apply for a license.

SB537 SD2 HD2 isn't consistent with the prior 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. Unfortunately the report's data is now over 15 years and should be updated so that we have more up-to-date data for Hawaii, including the increased impact of out-of-state internet lenders.

We are pleased that concurrent resolutions have been introduced requiring an update. We urge the committee to defer SB537 SD2 HD2 as required by law under HRS 26H and reconsider the bill in the next session after the State Auditor has completed the update.

* *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.

SB-537-HD-2
Submitted on: 3/28/2019 3:28:33 PM
Testimony for FIN on 3/29/2019 3:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Dustin Daniel	Colortyme	Oppose	No

Comments:

To:Representative Sylvia Luke, Chair

Representative Ty J.K Cullen, Vice chair

The Committee on Finance

From: Dustin Daniel, Payday Loan Manager / Colortyme Rent to Own and Payday Loans

March 28, 2019

In opposition to SB537,SD2,HD2 (HSCR1594)

I have been a part of the payday loan industry for an accumulation of 8 years in total. For all those years, I can't even log an estimated count of all the people we have helped out of a financial emergency situation.

Ultimately, if this bill does pass, it wouldn't be feasible for a majority of the payday loan businesses in the state to remain operational. It would hurt the customers who are currently working to fix their credit and can't qualify for generalized bank loans in the meantime. This bill would eventually put many of us out of business, out of a employment, and many of the consumers this bill is proposed to help would lose access to short term emergency cash.

Thank you, Dustin Daniel, Payday Loan Manager / Colortyme Rent to Own and Payday Loans

HOUSE OF REPRESENTATIVES
THE THIRTIETH LEGISLATURE
REGULAR SESSION OF 2019

COMMITTEE ON FINANCE
Rep. Sylvia Luke, Chair
Rep. Ty J.K. Cullen, Vice Chair

DATE: Friday, March 29, 2019
TIME: 3:30 P.M.
PLACE: Conference Room 308
State Capitol 415 South Beretania Street

HEARING

SB537 SD2, HD2

POSITION: STRONG SUPPORT **SB 537 SD2, HD2**

Having read the contents of Bill SB537 Relating to Consumer Protection I feel this bill is very important into looking at the issue of debt and or debt collection in a holistic manner. This bill addresses the predatory mater that lenders have structured loans which exacerbate the problem of the consumers ability toward repayment. In any case, imposing heavy fines on a person's inability to pay does not make it easier for them to remedy the situation nor does it make the overall goal of repayment within reach. Furthermore, the payments (lump sum or partial or monthly) are nowhere near affordable. This bill addresses some of those issues along with other areas of consumer protection. I stand behind this bill and hope to see this become law. The is not just a matter of being compassionate but when a person must choose between paying those debt(s) and housing or even sustenance there must be a better way.

Mahalo,

Ken Farm

Board Member, Member CAC, OMPO
Neighborhood Board No. 15
Kalihi-Palama

SB-537-HD-2
Submitted on: 3/27/2019 9:38:00 PM
Testimony for FIN on 3/29/2019 3:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kathy Jaycox	Individual	Support	No

Comments:

SB-537-HD-2
Submitted on: 3/27/2019 2:55:50 PM
Testimony for FIN on 3/29/2019 3:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Ann S Freed	Individual	Support	No

Comments:

Aloha Chair Luke, Vice Chair Cullen and members,

I am strongly in favor of this measure. It’s about time these grifters were reigned in. They victimize those on the lower end of the pay scale, making those barely ekeing out a living even more vulnerable to slipping deep into poverty.

Please protect our workers. Pass this bill.

Mahalo, Ann S. Freed

SB-537-HD-2
Submitted on: 3/27/2019 2:52:19 PM
Testimony for FIN on 3/29/2019 3:30:00 PM

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

Comments:

Thank you for addressing the scourge of payday loans and alleviating the burden on the already struggling poor. This is a smart bill and it is time to make it law.

To: Representative Sylvia Luke,, Chair
Representative Ty J.K. Cullen, Vice Chair
Committee on Finance

From: Pattiann Lacio, Branch Manager, PayDayHawaii Stadium Mall

March 29, 2019
In opposition to SB537 SD2 HD2

My name is Pattiann Lacio. I have over 19 years' experience with short-term credit under HRS 480F. I became the Manager of Stadium Mall store under Mr. Cash brand in 2001 and the Branch Manager under the PayDayHawaii brand since 2007. No one in Hawaii has more experience working with Hawaii's short-term credit consumers than I do.

SB537 SD2 HD2 would replace deferred deposit transactions authorized under the check cashing law with an unproven installment loan scheme. This bill is bad for consumers because it allows multiple loans by removing the one transaction per consumer provision. The bill encourages long term indebtedness and will increase the fees charged to the vast majority of consumers who currently use deferred deposits responsibly.

Under current law a consumer may only have one deferred transaction at a time and may not pay off a deferred deposits with the proceeds of another deferred deposit. So a consumer is only charged a single 15% fee on a single transaction even if it takes them months to pay it off. So no consumer can ever owe more than the original principle and fee of up to $600.

However, SB537 SD2 HD2 says, "A lender shall not lend an amount greater than $1,000 nor shall the amount financed exceed $1,000 by any one lender at any time to a consumer." So a consumer can get as many short-term loans as they wish. They can borrow over and over again even while they are still paying off their original transaction.

Many consumers who live paycheck to paycheck habitually spend what they make each pay period. They are not in the habit of saving. So imagine what will happen when they find themselves short of cash and have access to 11 storefront lenders and 35 or more internet lenders operating in Hawaii. They can easily pile up thousands of dollars in principle, interest and monthly fees.

The average credit card debt in the United States is about $5000 with 18% interest and a $125 annual fee. Under SB537 SD2, a consumer can easily pile up $5000 in installment debit with 36% interest and $125 in monthly fees! The two most important contributors to bankruptcy filings are credit card debt medical bills. So think about how this bill will contribute to Hawaii's homeless problem! This is not what I want for my customers.

I appreciate the bill's intent to provide affordable installment credit, but there are better alternatives such as California's Pilot Program for Increased Access to Responsible Small Dollar Loans. The California law not only helps consumers build credit but provides financial education to help improve spending and savings habits.

I agree that HRS 480F can be improved by adding protections such as payment plans and access to financial education. But the wrong approach is to remove a protection that already exists under current law. Let's not make the mistake of ignoring the one transaction per customer principal that protects consumers and makes HRS 480F better than the law in most other states.

Sincerely, Pattiann Lacio

Pono Hawaiʻi Initiative

LATE

Josh Frost - President • Kauʻi Pratt-Aquino - Secretary • Patrick Shea - Treasurer
Kristin Hamada • Nelson Ho • Summer Starr

Thursday, March 28, 2019
Testifying in Support

Aloha Committee Chair and members,

The Pono Hawaiʻi Initiative (PHI) **is in strong support of SB 537 SD2, HD2** 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 Hawaiʻi residents have adequate safeguards against what can be described as a predatory industry.

This measure creates transparency and sets limits on the total monthly payment a borrower can make. This will help create realistic regulatory structures for installment loans. This is crucial so that a borrower can actually take out a loan they will be able to pay back in the future without putting them further in to debt or requiring they take out secondary loans to payoff an initial loan. 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 small dollar lenders, setting up governmental oversight. 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 SB537 SD2 HD2.**.

Mahalo for your time and favorable consideration,

Gary L. Hooser
Executive Director
Pono Hawaiʻi Initiative, an organization member of the Common Good Coalition

PHOCUSED

PROTECTING HAWAII'S OHANA, CHILDREN, UNDER SERVED, ELDERLY AND DISABLED

TO: Rep. Sylvia Luke, Chair
Rep. Ty J.K. Cullen, Vice Chair
Members of the Committee on Finance

FROM: Pedro Haro, Advocacy Director, PHOCUSED

SUBJECT: Testimony in Support of SB 537, SD2, HD2 RELATING TO CONSUMER PROTECTION

Hearing: March 29, 2019 at 3:30 PM
Conference Room 308

Chair Luke, Vice Chair Cullen, and members of the Committee on Finance,

Thank you for the opportunity to testify in support of Senate Bill 537, SD2, HD2. I am Pedro Haro, Advocacy Director for PHOCUSED.

PHOCUSED supports Senate Bill 537, SD2, HD2, which closes the loophole that created unaffordable payday loans in 1999 and establishes a regulatory structure for small dollar installment loans with the goal of ensuring affordable monthly payments for our residents, keeping more money in the pockets of our workers and families for rent and mortgage payments.

PHOCUSED is a nonprofit, nonpartisan organization dedicated to increasing the safety for, visibility of, and investment in the children and adults in Hawaii who are marginalized, impoverished, and under-served. Our organization has been a leading voice in advocating for our homeless populations since our formation, as the membership of PHOCUSED and our Board of Directors represent many of the major providers of human services across our state.

1822 Keeaumoku St; Ulu House Honolulu, HI 96822 P: 808.521.7462
www.phocused-hawaii.org admin@phocused-hawaii.org

Payday loans were first created through a loophole in Hawaii's 480-F statute in 1999, which has primarily benefitted the profit margins of off-shore businesses that are not regulated, nor certified by any government agency. Consumers who borrow payday loans are being set up to fail with loan payments that they are unable to repay. Faced with unaffordable payments, cash-strapped consumers must choose between defaulting, re-borrowing, or skipping other financial obligations like rent. Less money in our economy leaves fewer funds for our homeless services, affordable housing, and critical public programs that have been instrumental in keeping our workers and families in permanent housing.

Payday loans have no place in our community. **Please help to reform this predatory practice and support our working families by passing SB 537 SD2 HD2**. Thank you for your consideration of our testimony.

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