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

**Before the  
House Committee on Housing  
Friday, March 17, 2023  
9:30 AM  
Conference Room 312 & Via Videoconference**

**On the following measure:  
S.B. 930, S.D. 1, RELATING TO RESIDENTIAL LANDLORD-TENANT CODE**

Chair Hashimoto 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. The Department supports this bill.

The purposes of this bill are to: (1) allow a landlord or landlord's agent to charge an application screening fee at the time a rental application is processed for residential property; (2) cap the amount of an application screening fee at \$25; (3) prohibit fees to be charged for each member of a household; (4) require the landlord or landlord's agent to provide a receipt for payment of the application screening fee and copy of any report obtained, if requested by the applicant, and within ten days of the applicant's request; and (5) require the landlord or landlord's agent to return any unauthorized fee amounts to the applicant.

This measure is desirable because current law does not specifically regulate the nature and amount of application fees that landlords may charge prospective tenants.

However, S.D. 1 deleted two provisions that would have removed certain barriers applicants face when searching for a place to rent.

First, S.D. 1 deleted the application screening fee cap of \$25.00 and inserted a blank amount. Over the years, the OCP has received allegations from prospective tenants claiming that the cost of their application fees does not correlate with the costs of background and credit checks. The most troubling reports involve claims from prospective tenants who have been asked to pay \$50 to \$100 for an application screening fee that in actuality costs \$10 to \$25. The Department recommends amending S.D. 1 by capping the application screening fee to \$25.00.

Second, S.D. 1 removed language that would have limited a landlord or their agent to charge only one application screening fee per application and prohibit charging an application screening fee for each member of a household. The Department recommends that the provision limiting one application screening fee per application be reinstated because it will help reduce the abusive practice of charging families multiple application screening fees unnecessarily. If, for example, a family of four adults that includes two college-aged children who do not contribute to the rent applies for a rental unit, that family could potentially be charged a \$100 application screening fee, even if the credit worthiness of the two college students is not considered in the family's ability to pay the rent. In Hawaii's tight housing market, this family may have to submit multiple applications and pay hundreds of dollars in application fees before signing a rental agreement.

Excessive application fees are particularly egregious in circumstances when a landlord or his agent receives scores of applications for one apartment, most of which are not even seriously considered. Instead of engaging in a valid tenant screening process, the landlord or agent is abusing his or her bargaining position to create a supplemental source of income. This bill will deter that conduct by directly addressing this inequity. Subsection (c) on page 1, line 16, to page 2, line 3 requires an applicant to be given a copy of his or her credit report upon request, as well as a receipt to confirm that the application screening fee paid to the landlord or the landlord's agent was used for the purposes it was intended. Additionally, subsection (d) on page 2, lines

4 to 8 requires the landlord to return any amount of the application screening fee that was not used for the purposes authorized by this measure.

Thank you for the opportunity to testify on this bill.

**TESTIMONY IN SUPPORT OF SB 930 –**  
**RELATING TO RESIDENTIAL LANDLORD-TENANT CODE**

House Committee on Housing – Room 312 & Videoconference

Representative Troy N. Hashimoto, Chair  
Representative Micah P.K. Aiu, Vice Chair

Friday, March 17, 2023 at 9:30 a.m.

The Legal Aid Society of Hawai`i (Legal Aid) submits testimony in support of SB 930 – 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 930 is intended to limit the screening fee for new tenants and assure that the application fee is used for its intended purpose. The bill will have a positive impact on making the process of finding a new rental home less burdensome to those with limited income.

At Legal Aid we have many clients who struggle with the costs of finding a new home. In the tight rental market, we have many families with Section 8 Vouchers who have to submit multiple rental applications because of the difficulty in finding a new rental home. There are various resources and organizations that can assist with payment of a security deposit, but the multiple application fees are rarely covered through the assistance available to subsidized housing seekers.

In addition, the experience of our clients with larger families is that they often have to apply at several properties, each with its own screening/application fee. 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 continuing tight affordable housing market.

SB 930 is part of what can be done to make housing just that little bit less costly. While Legal Aid would ultimately hope to see additional provisions included in this legislation, including specific caps on fees and the number of application fees that can be charged, SB 930 is a noble first step in decreasing the costs renters pay to secure housing.

Thank you for this opportunity to provide testimony. Legal Aid supports SB 930. We will be available in-person to testify at the Friday, March 17, 2023 meeting.

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-930-SD-1**

Submitted on: 3/16/2023 9:15:24 AM

Testimony for HSG on 3/17/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Theresa Harden	Hawaii Dream Realty LLC	Oppose	Remotely Via Zoom

Comments:

This bill will hurt applicants if I as a landlord, can only have one applicant's (if husband and wife) credit report and use one applicant's financials to "qualify". Fewer folks will be approved and it will take longer to find the best qualified applicant.

My company uses software built in to charge the applicant for the \$30 credit / criminal background / eviction report and each adult is required to pay this fee if I approve the application to move on to the credit check phase. The applicants (each adult) must approve the request order for the credit and background check and pay the \$30 fee (set by the service provider) directly to the third-party, secure provider. I do not usually allow more than one group at a time to do this step as I do not want anyone to pay a fee if they are not the best selection. I have had approved applicants rent elsewhere if they chose another property instead. Then I would move on the next applicant. Many times, the applicant does not move forward with paying the fee and then the application is incomplete and cannot be approved.

I do not charge a showing fee or a screening fee – only the credit check fee which the applicant pays directly through the online system and I do not take or receive money other than the rent or pro-rated rent and deposit if they are approved. Many times tenants do not show up for the appointment and so many property managers charge a fee so they are dealing with seriously interested parties only. My company does not charge a showing fee only the credit report fee which they must approve and pay if they wish to be considered to rent.

Additionally, the credit reporting agency DOES NOT ALLOW a copy to be given to the applicant as they must request their credit report from the agency directly; there are very strict rules. What you have put into this bill is not legal. I always provide the applicant at lease signing to review the reports I print for my files however legally I have been instructed that I can NOT provide a copy to the applicant.

While there maybe some who takes a fee upfront regardless if the credit report is requested or not, this bill will harm ALL THE VALID PROPERTY MANAGEMENT COMPANIES and the tenants as a whole.

This bill must be rejected in it's entirety.

PS - you do not realize how difficult it can be to deal with BAD TENANTS and credit reports with the background criminal report and eviction check are the only way to find the best

qualified applicant. I have had condo associations demand unruly tenants who constantly violate the building's house rules DEMAND A TENANT BE EVICTED while fining the owner for the excessive violations.



March 17, 2023

**LATE**

**The Honorable Troy Hashimoto, Chair**

House Committee on Housing

State Capitol, Conference Room 229 & Videoconference

**RE: Senate Bill 930, SD1, Relating to the Residential Landlord-Tenant Code,**

**HEARING: Friday, March 17, 2023, at 9:30 a.m.**

Aloha Chair Hashimoto, Vice Chair Aiu, 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 offers **comments** on Senate Bill 930, SD1, which allows a landlord or landlord's agent to charge an application screening fee at the time a rental application is processed for residential property. Caps the amount of an application screening fee. Requires the landlord or landlord's agent to provide a receipt for payment of the application screening fee and copy of any report obtained, if requested by the applicant, and within ten days of the applicant's request. Requires the landlord or landlord's agent to return any unauthorized fee amounts to the applicant. Effective 7/1/2050.

The tenant screening process typically begins when the prospective tenant completes a rental application. Property managers can order various reports or rely on a tenant screening company to produce a tenant screening report. The screening report can include credit reports, criminal background checks, eviction history, and other public records to properly vet tenants. It is not uncommon for multiple adults over the age of 18 to live in a single household, such as spouses, adult children, or roommates. Under federal Fair Housing law, housing providers may not discriminate against different applicants. The housing provider is required to document that each applicant was treated the same and screened by the same standards. An application consists of all prospective tenants in a household who all have an impact on the space they are renting. All adult applicants must, therefore, be screened.

Additionally, HAR would also note that the costs of screening reports vary. If a property management company has bulk reports, it may be slightly cheaper. However, if not, costs to run the report can be higher. As such, we respectfully recommend that an amount not be included in statute.

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





We appreciate the intent of this bill and should this measure move forward, we suggest the following amendments to Section 1 of the bill to address the concerns we noted above:

"§521- Application screening fee. (a) When a landlord or the landlord's agent receives a request from an applicant to rent residential property, the landlord or the landlord's agent may charge the applicant an application screening fee at the time the application is processed for the residential property to cover the costs of obtaining information about the applicant including all adult tenants 18 years of age and older and emancipated minors. Information sought by the landlord or the landlord's agent charging the fee may include personal reference checks, tenant reports, and credit reports produced by any consumer credit reporting agency.


~~(b) [The amount of the application screening fee shall not exceed \$\_\_\_\_\_.~~

~~\_\_\_\_\_ (c) Upon request by the applicant, the landlord or the landlord's agent shall provide to the applicant a receipt for payment of the application screening fee and a copy of any report obtained by the landlord or landlord's agent within ten days of the applicant's request.~~

~~\_\_\_\_\_ (d)]~~ The landlord or the landlord's agent shall return to the applicant any amount of the application screening fee that is not used for the purposes authorized by this section within thirty days after the landlord has submitted the screening request.



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([e]c) For the purposes of this section, the terms "consumer credit reporting agency" and "credit report" shall have the same meanings as in section 489P-2."

Thank you for your consideration of our comments. Mahalo for the opportunity to testify.



**SB-930-SD-1**

Submitted on: 3/15/2023 10:38:19 PM

Testimony for HSG on 3/17/2023 9:30:00 AM

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

Comments:

While I appreciate that this bill caps the amount that a prospective landlord can charge for a screening application fee, I personally believe that landlords should not be allowed to charge such fees at all. Even "modest" fees can stack up when prospective tenants are forced to apply for housing options over and over again. In the midst of a move—which is already extremely costly—these added fees, when stacked up, can make finding a rental even harder than it already is.

Having recently been forced to move because my old landlord needed my unit for his own family, I can say from recent experience that rental application fees not only made my move far more expensive than it would have otherwise been, it also made it far more mentally stressful. The move I went through was expensive enough to make me put off an important, but not vital, medical procedure which I still have not been able to save up enough for since moving, and these fees were a big part of the expense. In such a tight housing market, I was forced to fill out close to a dozen applications that required screening fees, costing me nearly \$1,000 on top of all the other moving expenses I was forced to incur through no fault of my own.

It would actually be great if lawmakers would support renters and outlaw screening application fees instead, or at the very least force landlords to refund the fee amounts to applicants they reject, and make such a refund automatic with the onus on the landlord, not the prospective tenant.