

February 7, 2023

**The Honorable Jarrett Keohokalole, Chair**

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

**RE: Senate Bill 930, Relating to the Residential Landlord-Tenant Code,  
HEARING: Tuesday, February 7, 2023, at 9:15 a.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 offers **comments** on Senate Bill 930, 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 at \$25 and prohibits fees to be charged for each member of a household. 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.

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 a tenant.

Under this measure, it notes that only one member of a household can be charged an application screening fee. It is a general standard practice that any potential tenant over the age of 18 that will be on the rental agreement is required to undergo an application screening check. Under Fair Housing law, they are treating all applicants equally. Furthermore, it is not uncommon for multiple applicant's incomes in a household, such as spouses or roommates, to be used to qualify to rent a property.

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 well over \$25.

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 marked confidential and are not allowed 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.

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



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

**Before the  
Senate Committee on Commerce and Consumer Protection  
Tuesday, February 7, 2023  
9:15 AM  
Conference Room 229 & Via Videoconference**

**On the following measure:  
S.B. 930, RELATING TO 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. 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.

S.B. 930 is desirable because current law does not specifically regulate the nature and amount of application fees that landlords may charge prospective tenants.

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 appreciates the limit of charging one application screening fee per application in this measure 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 2, lines 3 to 7 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 8 to 11 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.

**LATE**

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

Senate Committee on Commerce and Consumer Protection – Room 229 & Videoconference

Senator Jarrett Keohokalole, Chair  
Senator Carol Fukunaga, Vice Chair

Tuesday, February 7, 2023 at 9:15 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 Dan O’Meara and I am 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 cap the screening fee for new tenants and assure that the application fee is used for its intended purpose. The bill may not seem dramatic, but in its simplicity, it will have a positive impact on making the process of finding a new rental home more transparent and 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 a Section 8 Voucher 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. Those fees often exceed the \$25

cap in SB 930 and tap into the already limited resources of families. SB 930 is mindful of the myriad challenges in the housing market in the State, while still allowing landlords to screen tenants with some compensation. This bill demonstrates an awareness of the many costs borne by working families in a continuing tight affordable housing market.

SB 930 is a consumer driven piece of legislation that is a piece of what can be done in the effort to make affordable housing just that little bit less costly.

Thank you for this opportunity to provide testimony. Legal Aid supports SB 930 and the companion HB 644. We will be unavailable to testify at the Tuesday February 7, 2023 meeting.

Sincerely,

/s/ Daniel J. O'Meara

Daniel J. O'Meara, Esq.  
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.*