



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII

OFFICE OF THE DIRECTOR

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

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Testimony of the Department of Commerce and Consumer Affairs

**Before the
Senate Committee on Commerce and Consumer Protection
Tuesday, February 3, 2026
9:31 a.m.
Via Videoconference
Room 229**

**On the following measure:
S.B. 2495, RELATING TO CONSUMER PROTECTION**

Chair Keohokalole and Members of the Committee:

My name is Radji Tolentino, and I am an Enforcement Attorney with the Department of Commerce and Consumer Affairs' Office of Consumer Protection. The Department opposes this bill.

This bill amends existing law concerning our authority to "receive, investigate, and attempt to resolve any dispute arising under" the Residential Landlord-Tenant Code, Hawaii Revised Statutes chapter 521. The bill description, which is not part of the enacted law, states that the purpose of the bill is to clarify that we may use our authority to enforce laws and bring civil actions with regard to disputes arising under the Residential Landlord-Tenant Code. However, the bill text does not expressly state that we would be authorized to bring civil actions under chapter 521.

At present, we provide a free information service that assists thousands of individuals every year, and we do not bring or defend civil actions for violations of the

Code. Our understanding of chapter 521, Hawaii Revised Statutes, the Residential Landlord Tenant Code, is that it is a self-help law that requires tenants and landlords to bring their own civil actions for enforcement, without government agency intervention, with one exception. A Disciplinary Board opinion issued by the Hawaii Supreme Court in 1976 informs our understanding of our limited role today.

Since the 1970s, we have operated the Hawaii Residential Landlord-Tenant Information Center as a free service to the public. The Information Center provides landlords, tenants, and the public with information about Hawaii's Residential Landlord-Tenant Code. Trained specialists assist callers by explaining landlords' and tenants' rights and obligations under the Code, including common issues such as late rent, security deposits, and property repairs. At present, we assist more than 5,000 callers annually.

Prior to 1976, Hawaii law allowed courts to appoint an attorney from our office to represent indigent tenants in civil actions for violations of the Code. Act 77 (S.L.H. 1976) repealed the requirement that OCP serve as court-appointed counsel for indigent tenants and instead clarified our functions, establishing that we are to continue providing information to the public as a valuable free service and may attempt to informally resolve landlord-tenant disputes.

The 1976 Legislature made this change in response to concerns about conflicts of interest. At the time, the law required us to represent indigent tenants in court, and we ceased providing services to landlords and tenants in response to the Disciplinary Board opinion restricting what we could say to landlords and tenants who called for advice. The Legislature concluded that the public interest would be better served by allowing us to remain neutral, while the Legal Aid Society of Hawaii represented indigent tenants in court proceedings.

Our understanding of existing law and the conflict of interest identified by the Disciplinary Board informs our functions today. We do not bring or defend civil actions on behalf of landlords or tenants for violations of the Code. Requiring our office to bring or defend civil actions returns us to the conundrum that existed in 1976.

We respectfully request that this bill be held in Committee to allow us to continue advising thousands of members of the public every year on their rights and obligations under the existing laws.

Should the Committee pass this bill, we respectfully request clarification on the following points:

- Through this bill, is our office expected to represent tenants and landlords, or only tenants?
- Through this bill, is our office expected to defend tenants?

Should the Committee pass this bill, our office may require additional staff to handle the increased workload. Thank you for the opportunity to testify on this bill.

DISCIPLINARY BOARD
of the
HAWAII SUPREME COURT

Citations:

References:

Ch. 521, H.R.S. (amend. 1974),
Sections 2, 76.
DR 1-102(A)(5)
EC 2-2; 2-3; 2-5.
DR 4-101
EC 4-5

Effective Date: February 11, 1976

FORMAL OPINION 76-2-6

Conclusion: Lawyers employed by a state government agency may, (unless specifically authorized otherwise,) provide only general information on state laws to the public and such dissemination may not be in the form of specific legal advice.

Abstract:

A department of a branch of the state government employs lawyers who investigate and litigate matters involving members of the public and the lawyers, who by law are authorized and required to represent certain indigent persons assigned to them by the courts, must not place themselves in any conflict of interest situation by rendering specific legal advice at any time to members of the public although they may provide general information on state laws.

Facts:

Chapter 521 Residential Landlord-Tenant Code, Hawaii Revised Statutes (amended 1974) includes Sec. 521-2 "Purposes; rules of construction," which states the chapter shall be liberally construed and applied to promote its underlying purposes and policies. The section specifies the law is to

"clarify" the law governing rental of dwelling units, and "encourage landlords and tenants" to maintain and improve the quality of housing in this State. Section 521-76 then allows that in any proceeding by a landlord against an indigent tenant who is otherwise unable to obtain counsel the court may notify the Office of Consumer Protection (OCP) which shall provide counsel for the tenant in the proceedings. Consequently, the present OCP policy is to refrain from providing information on the law to landlords to avoid what may be potential future conflicts of interests. Nevertheless members of the public including landlords request such assistance.

Issues:

Whether lawyers with the Office of Consumer Protection who may provide information about the law under Chapter 521 to landlords as well as Tenants, would violate or be acting contrary to:

1. DR 1-102(A)(5) by engaging in conduct that is prejudicial to the administration of justice.
2. EC 2-2 which states the legal profession should assist laymen to recognize legal problems.
EC 2-3 which states the giving of advice that one should take legal action, could fulfill the duty of the legal profession to assist laymen in recognizing legal problems.
EC 2-5 which states talks and writings by lawyers for laymen should caution them not to attempt to solve individual problems upon the basis of the information contained therein.
3. DR 4-101 by engaging in conduct that may not preserve the confidence and secrets of a client who may be a tenant.
EC 4-5 A lawyer should not use information acquired in the course of the representation of a client to the disadvantage of the client; no employment should be accepted that might require such disclosure.

Discussion:

1. Section 521-76, H.R.S. places the responsibility as counsel on OCP only after it is duly notified by the court as to a particular proceeding. Prior to such notification there is no authorization or duty of OCP to act as legal counsel for any tenant. OCP may not represent landlords. Therefore, OCP may lawfully provide only general information as to the law of Chapter 521 to the public including landlords and tenants without violating DR 1-102(A)(5).

2. OCP is a government agency with legal personnel who should attempt to carry out EC 2-2 by assisting laymen to recognize legal problems. The extent of legal assistance rendered under that principle must conform to EC 2-3 which, in practice, means that statements to a layman by OCP lawyers may help pinpoint legal issues but should not serve to solve or instigate legal action. Those steps are properly reserved for legal counsel actually retained by the layman. Such restraint applicable to OCP lawyers is explained in EC 2-5 which permits the dissemination of information about the laws but not general statements that purport to be specific legal advice.
3. Where OCP lawyers provide only "information on the laws" to landlords, tenants, and the public, and do not attempt to render "legal advice" to them, there would not be occasion for the lawyers to gain any knowledge of "confidences and secrets" covered under DR 4-101. There would not be established either an attorney-client or professional relationship as prerequisite.

Opinion:

Lawyers with the Office of Consumer Protection (OCP) appear to have the authority and duty as government employees to disseminate general information on the laws of Chapter 521 H.R.S. to the public including landlords and tenants. The role of these lawyers may not include rendering specific legal advice to members of the public, in order to avoid becoming legal counsel for such lay persons and potential future conflicts of interest. With respect to landlords, any general information provided by the lawyers should include the statement that if the landlord desires "legal advice" he should contact an attorney in private practice. Thus, in the event the court notifies OCP to serve as legal counsel for a tenant in a proceeding there would be no adverse representation even if an OCP lawyer gave relevant general information previously to the landlord and/or tenant involved in the proceeding. It is suggested in order to avoid even the appearance of impropriety the particular OCP lawyer who previously gave information to a landlord should not be assigned as counsel for the landlord's present or past tenant.

February 3, 2026

The Honorable Jarett Keohokalole, Chair

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

RE: Senate Bill 2495, Relating to Consumer Protection

HEARING: Tuesday, February 3, 2026, at 9:31 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 Hawaii and its over 10,000 members. HAR provides **comments** on Senate Bill 2495, which clarifies that the Office of Consumer Protection within the Department of Commerce and Consumer Affairs may use its authority to enforce laws and bring civil actions with regard to disputes arising under the Residential Landlord-Tenant Code.

With approximately 38% of Hawaii residents living in rental housing, the rental market plays a critical role in meeting the State's housing needs. In 2025, the Legislature passed Senate Concurrent Resolution 123, HD1, which established a three-year Landlord-Tenant Working Group, of which Hawai'i REALTORS® and other key stakeholders are members.

The Working Group is currently conducting a comprehensive review of the Residential Landlord-Tenant Code, and HAR believes the issues addressed in this measure could be an important topic for discussion by the Working Group.

Hawai'i REALTORS® believes that a healthy rental market depends on a strong partnership between housing providers and tenants. We look forward to continuing to work with lawmakers and stakeholders to develop a balanced, clear, and modern framework that supports safe and accessible rental housing in Hawaii.

Mahalo for the opportunity to testify.

SB-2495

Submitted on: 1/30/2026 7:26:15 PM
Testimony for CPN on 2/3/2026 9:31:00 AM

Submitted By	Organization	Testifier Position	Testify
Johnnie-Mae L. Perry	Individual	Support	Written Testimony Only

Comments:

I, Johnnie-Mae L. Perry Support

2495 SB RELATING TO CONSUMER PROTECTION.	CPN	CR 229 & Videoconference	Feb 3, 2026 9:31 AM
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