

LATE

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA

STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I
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
House Committee on Consumer Protection & Commerce
Tuesday, March 31, 2026
2:05 p.m.
Via Videoconference
Conference Room 329

On the following measure:
S.B. 2396, S.D. 1, RELATING TO PROPERTY

Chair Matayoshi and Members of the Committee:

My name is Emma Olsen, and I am an Enforcement Attorney for the Department of Commerce and Consumer Affairs' (Department) Office of Consumer Protection (OCP). The Department respectfully opposes the bill as drafted and offers comments.

The purpose of this measure is to require the Department to establish and maintain a public registry of on-island agents designated by absentee owners or landlords on OCP's website, require registration of those agents and properties they manage, prohibit tenants from being designated as agents, and impose penalties for violations. The measure also requires absentee or off-island condominium owners to provide their associations with contact information of an on-island agent.

We have concerns with requiring the Department to establish and maintain a public registry of on-island agents on OCP's website. Establishing such a registry would require the Department to develop a new information system, collect and verify submissions,

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monitor for updates, and ensure that the information remains accurate over time. The Department also must give “proper notification of the violation” to an absentee owner or landlord. (Page 4, lines 4-10.) Presumably, these new administrative burdens would include responding to information requests from tenants seeking to enforce their rights through the courts. In short, this bill would impose new administrative burdens on the Department without making appropriations for new resources to carry out the functions demanded from the Department.

Turning to enforcement matters, the bill creates dual enforcement mechanisms: tenants can seek to enforce their rights through the courts, and the Department is given the responsibility to enforce violations against landlords by bringing enforcement actions to collect penalties. There are few parallels for this in the Residential Landlord-Tenant Code. In other areas where government enforcement was apparently contemplated, OCP’s neutral role in operating the Residential Landlord-Tenant Center and providing advice to landlords and tenants limits our ability to represent members of the public, whether landlords or tenants, to enforce their rights under the Residential Landlord-Tenant Code.

The new requirement that non-compliant absentee owners or landlords shall be subject to a fine or penalty payable to the Department does not clarify how the fine shall be collected. (See Page 2, lines 9-11, and Page 4, lines 4-10). Matters involving remedies and fines payable to the State are typically referred to the House Committee on Judiciary and Hawaiian Affairs. If this bill is to advance with the provisions requiring enforcement and collection of penalties payable to the State, we would respectfully request a re-referral to the House Committee on Judiciary and Hawaiian Affairs.

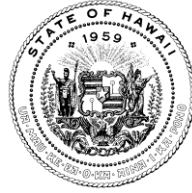
To briefly state the problem, the question not answered in this bill is whether enforcement of the fines provision is to be through a civil or administrative action, and either path offers obstacles to OCP enforcement. If enforcement is through administrative action, then OCP does not currently possess legal authority to undertake an administrative enforcement action for the enforcement of rights created by statute. See HRS § 487-5(6) (establishing the functions, powers, and duties of the Office, including enforcement “by bringing civil actions or proceedings”). If enforcement is through civil

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action, a Disciplinary Board opinion issued by the Hawaii Supreme Court in 1976 informs OCP's understanding that our role in bringing civil actions to enforce rights created by the Residential Landlord-Tenant Code, HRS chapter 521 must be intentionally limited to avoid judicial conflicts of interest. We have attached a copy of our testimony on S.B. 2495, which describes our understanding regarding the limited role of our office in enforcing rights created by Code (see Attachment A).

For the foregoing reasons, the Department respectfully opposes the bill and requests that if the bill is to advance, the registry provision (Section I at Page 1, line 1, to Page 2, line 18) and the Department's enforcement role (Section II at Page 3, lines 4-10), be deleted from the bill.

Thank you 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 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

Testimony of DCCA
S.B. 2495
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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.

Testimony of DCCA

S.B. 2495

Page 3 of 3

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.



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Attachment A - Referenced in DCCA's testimony on S.B. 2396, S.D. 1

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

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"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).

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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.



LIBERTARIAN
PARTY of HAWAII
IN OPPOSITION TO SB2396

The Libertarian Party of Hawaii is in strong opposition to SB2396. This bill would require the Department of Commerce and Consumer Affairs (DCCA) to create and maintain a public Registry of Agents for any “absentee” owner or landlord (defined as anyone living outside the State or on a different island from their property). It would mandate registration of every such agent and property, prohibit absentee owners from designating a tenant as their agent, impose ongoing fines equal to the greater of one month’s rent or \$2,000 until compliance, and force off-island condominium owners to supply on-island agent contact information to their association boards.

The stated goal is improved communication and accountability, but this approach is fundamentally flawed and contrary to core American and Hawaiian values of individual liberty and to private property rights.

Discrimination without justification.

Treating owners differently based solely on their island of residence or out-of-state status is arbitrary and discriminatory. It singles out a class of citizens for special regulatory burdens, undermining equal protection under the law.

Violation of property rights and freedom of contract.

Property owners have the fundamental right to manage their own assets as they see fit, including choosing who (if anyone) acts on their behalf. The State has no legitimate role in dictating that an owner may not select a trusted tenant, family member, or friend, nor in forcing owners to hire a third-party manager simply because they live on another island. Voluntary agreements between landlords and tenants already govern these relationships. The government should not override these.

Punitive and disproportionate penalties.

Daily or monthly fines of \$2,000 or one month’s rent until compliance is nothing short of financial coercion. **That’s up to \$60,000 a month for a paperwork violation; more if your rent is higher!** Such penalties will discourage investment in rental housing, especially by out-of-state or inter-island owners who provide much-needed supply. But I suppose that is the actual agenda, isn’t it? Hawaii already struggles with high rents and low inventory. Adding even more regulatory risk and fines will only make the problem worse.

Unnecessary bureaucracy at taxpayer expense.

SB2396 forces the DCCA to build, maintain, and publicize yet another government database. This diverts agency resources from genuine consumer protection to regulatory busywork. The costs will ultimately be borne by Hawaii taxpayers and passed along to renters



through higher costs and/or reduced supply. It is precisely the opposite outcome our islands need amid an ongoing housing crisis.

Want to actually fix the crisis? The free market already offers practical solutions. Professional property-management companies, clear lease contracts, small-claims court, and existing DCCA complaint processes already exist. If communication failures occur, remedies are available through civil action. The government should not preemptively insert itself into every landlord-tenant relationship “*just in case.*”

The Libertarian Party of Hawaii urges the Committee to reject SB2396 in its entirety. Hawaii needs less regulation, not more. True solutions can and would emerge through strong property rights, and voluntary cooperation if allowed. New state registries and fines exacerbate the crisis.

Mahalo for your consideration. We appreciate the opportunity to defend the principles of liberty, personal responsibility, and limited government that have historically made Hawaii a place where people want to live, work, and own property.

Abbra Green | LPHI Secretary | LibertarianHawaii.com | (808)824-LPHI

March 31, 2026

The Honorable Scot Z. Matayoshi, Chair

House Committee on Consumer Protection & Commerce
State Capitol, Conference Room 329 & Videoconference

RE: Senate Bill 2396, SD1, Relating to Property

HEARING: Tuesday, March 31, 2026, at 2:05 p.m.

Aloha Chair Matayoshi, Vice Chair Grandinetti, 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 **supports the intent** of Senate Bill 2396, SD1, which requires the Department of Commerce and Consumer Affairs to establish and maintain a Registry of Agents designated to manage a property on behalf of an absentee owner or landlord, which shall be available for public access on the Office of Consumer Protection's website. Requires an absentee owner or landlord to register any agents managing a property on their behalf with the Department of Commerce and Consumer Affairs. Prohibits an absentee owner or landlord from designating a tenant as an agent. Establishes penalties for an absentee owner or landlord that fails to register an agent with the DCCA or fails to designate an agent. Requires member owners of a condominium association who live outside the State or on another island of the State from where the unit is located to provide the association's board with the contact information of a designated on-island agent for the unit, which shall be included on the address list maintained by the association. Effective 7/1/2050.

With approximately 38% of Hawaii residents living in rental housing, the rental market plays a critical role in meeting the State's housing needs.¹ Real estate licensees who are professional property managers do far more than assist with the rental process. They handle the day-to-day operations of rental properties and provide essential consumer protections by ensuring compliance with the Residential Landlord-Tenant Code, helping to keep rental housing safe and habitable. Property managers also serve as the primary point of contact for both owners and tenants and are responsible for coordinating routine and emergency repairs, conducting inspections, addressing emergencies and other complaints, among many other responsibilities.

Currently, under the Landlord Tenant Code, Hawaii Revised Statutes ("HRS") §521-43, any owner or landlord who resides outside the State or on another island from where the rental unit is located shall designate on the written rental agreement an agent residing on the same island where the unit is located to act on the owner's or

¹ State of Hawaii Department of Business, Economic Development & Tourism. (June 2024). *Overcrowding in Housing*. https://files.hawaii.gov/dbedt/economic/reports/Overcrowding_in_Hawaii_Housing.pdf

landlord's behalf. In the case of an oral rental agreement, the information shall be supplied to the tenant, on demand, in a written statement. HAR would note that on our Rental Agreement standard form there are provisions for including the information of an on-island landlord, owner, or designated agent, including their address, telephone #, emergency phone #, email, and whether the designated agent is licensed.

In practice, however, compliance may be inconsistent especially if they are not following the Landlord-Tenant Code. In some instances, particularly with absentee owners, it may be difficult to identify an on-island agent, and tenants may have trouble determining who is responsible for addressing maintenance issues or responding to emergencies.

Under the definitions set forth in HRS §467-1 governing the licensure of real estate brokers and salespersons, a license is required when an individual, for compensation or other valuable consideration, leases or offers to lease, rents or offers to rent, or manages or offers to manage real property or any improvements thereon. Although the Regulated Industries Complaints Office² has indicated that an on-island agent is not required to hold a real estate license unless engaged in real estate activities, it remains unclear which "real estate activities" may be performed by an on-island agent without a license, what constitutes "managing" a property in which a license would be required, and whether this regulatory framework provides adequate consumer protection. Therefore, we support a greater regulatory framework on this issue and believe it merits further discussion.

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 this issue would be an important topic for the Working Group to discuss.

Mahalo for the opportunity to testify.

² Regulated Industries Complaint Office. (July 19, 2018). *Information for Owners of Rental Properties*. <https://cca.hawaii.gov/wp-content/uploads/2026/01/REC-190718-Info-for-Owners-of-Rental-Property-1.pdf>

SB-2396-SD-1

Submitted on: 3/28/2026 8:03:23 AM

Testimony for CPC on 3/31/2026 2:05:00 PM

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

Comments:

I, Johnnie-Mae L. Perry, Support

2396 SB RELATING TO PROPERTY.

SB-2396-SD-1

Submitted on: 3/29/2026 8:43:54 PM

Testimony for CPC on 3/31/2026 2:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Mishka Sulva	Individual	Support	Remotely Via Zoom

Comments:

Aloha Committee on Consumer Protection and Commerce,

I strongly support this measure to strengthen the existing on-island agent law and introduce penalties for violators.

Requiring on-island agents protects Hawai‘i residents--tenants and neighbors alike--from the long-distance neglect of absentee landlords. However, the current law does not include enforcement or penalties and as a result, the good guys follow the rules while the others ignore them.

Many of us in Hawai‘i are grateful if we can just have a home to call our own. My first and only home is one side of a duplex. I don’t want to own more properties, I just want to make a home for my family. My neighbor is great, but the owner of the unit next door lives all the way in Florida. I’m sure you can imagine how a distance of over 4,000 miles and 5 time zones can complicate things like maintenance or other issues between owners.

Before this, we lived in a two-bedroom walk-up rental in Kapahulu. The owner who was retired military, lived in another state and hired a local property management company which worked well. However, one day, a “snow bird” from Washington came back for winter and decided to take a bath in his unit on the fourth floor. After over a year away from Hawai‘i, his unit’s pipes had dried up and rusted out—and being on the third floor, we were the first to know. We had to live with open walls and contractors entering our unit for over a week. It also resulted in thousands of dollars of damage to both units and headaches for all involved. If the "snow bird" had only designated a local company to tend to his unit, it would have saved money and the stress of repairs.

Absentee landlords and owners make it more difficult for tenants, neighbors, and communities to thrive and ensure a basic standard of living.

I would like to request that you to complete this bill by including the time frames that were left blank in this draft. I believe a period of less than 30 days should be entered so as to ensure all relevant parties can update their contacts within a typical monthly rental cycle.

Owning housing in Hawai‘i should represent a kuleana to our people, the ‘āina, and our communities. Let’s make the law matter and pass this measure.

Mahalo for scheduling this bill for a hearing and considering my testimony.

Mishka Sulva

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SB-2396-SD-1

Submitted on: 3/31/2026 10:10:37 AM

Testimony for CPC on 3/31/2026 2:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Billy Toyozaki	Individual	Support	Written Testimony Only

Comments:

Aloha Committee on Commerce and Consumer Protection,

As a landlord and property owner who follows the rules, I strongly support this measure to require on-island agents for absentee landlords. Having these measures in place, will contribute to the local economy, keep absentee landlords accountable, and ensure local concerns are taken care of.

Mahalo for your time and consideration.

Billy Toyozaki