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Testimony of the Department of Commerce and Consumer Affairs

**Before the
House Committee on Consumer Protection and Commerce
Thursday, March 21, 2019
2:00 p.m.
State Capitol, Conference Room 329**

**On the following measure:
H.C.R. 134, REQUESTING THE AUDITOR TO CONDUCT A FOLLOW-UP ANALYSIS
TO SUNRISE ANALYSIS: CHECK CASHING AND DEFERRED DEPOSIT
AGREEMENTS (PAYDAY LOANS), REPORT NO. 05-11**

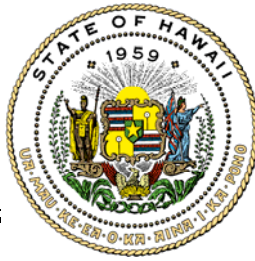
Chair Takumi and Members of the Committee,

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 offers comments on these resolutions.

These resolutions ask the State Auditor to conduct a follow-up analysis on the findings and recommendations in a study titled *Sunrise Analysis: Check Cashing and Deferred Deposit Agreements (Payday Loans)*, Report No. 05-11. In addition, the resolutions ask the State Auditor to analyze the financial services industry to determine if alternative products are available. The Department respectfully submits that a follow-up analysis is not required under Hawaii Revised Statutes (HRS) chapter 26H, as the check cashing or deferred check casher industry is neither an unregulated profession nor a vocation; rather, it is an unlicensed industry.

The Department notes that in the case of many companies supervised by the DFI, consumers do not file complaints against a licensee. However, when the DFI examines a licensee, it may find that the licensee has violated state or federal law and order restitution to the consumer and order compliance with the laws.

Thank you for the opportunity to testify on this bill.



HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

The Honorable Roy M. Takumi, Chair
The Honorable Linda Ichiyama, Vice Chair

H.C.R. NO. 134, REQUESTING THE AUDITOR TO CONDUCT A FOLLOW-UP ANALYSIS TO SUNRISE ANALYSIS: CHECK CASHING AND DEFERRED DEPOSIT AGREEMENTS (PAYDAY LOANS), REPORT NO. 05-11

H.R. NO. 124, REQUESTING THE AUDITOR TO CONDUCT A FOLLOW-UP ANALYSIS TO SUNRISE ANALYSIS: CHECK CASHING AND DEFERRED DEPOSIT AGREEMENTS (PAYDAY LOANS), REPORT NO. 05-11

Hearing: Thursday, March 21, 2019, 2:00 p.m.

The Office of the Auditor has **no position** regarding H.C.R. No. 134 and H.R. No. 124, which request a follow-up analysis to Report No. 05-11, *Sunrise Analysis: Check Cashing and Deferred Deposit Agreements (Payday Loans)*. **However, we offer the following comments.**

First, we note that the concurrent resolution currently does not reference a specific regulatory measure for our office to assess. Hawai'i's Regulatory Reform Act, Chapter 26H, Hawai'i Revised Statutes (HRS), requires that a concurrent resolution identify "a specific legislative bill to be analyzed" to allow our office to assess the **probable effects of the proposed regulatory measure** and whether the proposed regulation is consistent with the policies in Section 26H-2, HRS.

Additionally, under the Hawai'i Regulatory Reform Act, our analysis of proposed regulatory measures is based on statutory criteria identified in Section 26H-2, HRS. The resolutions currently request that we perform work in nine areas related to the regulation of payday loans, including analyzing "the role of short-term lending in the underserved, unbanked credit market in Hawaii and the United States"; analyzing the availability and cost of alternative credit products; and recommending compliance, training, and examination standards for federal and state laws and regulations that apply to financial services provided under Chapter 480F, HRS.

Because the study contemplated by these resolutions requires technical expertise which we likely do not possess, we suggest that another agency – such as the Department of Commerce and Consumer Affairs – may be better suited to perform the requested work.

Thank you for considering our testimony related to H.C.R. No. 134 and H.R. No. 124.

To: Committee on Consumer Protection and Commerce
Centers of Hawaii, inc.

March 20, 2019

Testimony in strong support of HCR134 / HR124

From: Karen Moriwaki,
Manager / Hawaii Check Cashing

For over 30 years Hawaii Check Cashing has been in business and is locally owned.

We do provide our customers with options not required by law to aid our customers to use our services responsibly.

There are steps that we do take in order to ensure that the customer is not doing more than one deferred deposit transaction at a time. Because not caring would most likely end up with a bounced check. And that does not benefit us or the consumer.

We do support and request a follow-up analysis by the State of Hawaii in regards to the 2005 Sunrise Analysis. Any studies and research done by out of state entities should be disregarded. Data and reports regarding Hawaii consumers should be solely based on Hawaii information and not outside/out-of-state statistics that don't even pertain to Hawaii. In all fairness I can't see how a decision can be made based on a report done 13 years ago. In 2014 Law Professor Ronald Mann did a survey of approximately 1,300 customers in five states using various storefront locations and concluded that no bonfide researcher

could claim
that the results from one study can be generalized to the entire market for
payday loans.

Recently the Consumer Financial Protection Bureau (CFPB) proposed to
reexamine the role of
payday lenders which are consistently cast as the villains of the financial
industry.

Payday loans are actually helping thousands of Hawaii residents with very
real financial problems.

We all know Hawaii isn't the most affordable place to live.

The real predatory lenders are the out-of-state/internet lenders whom are
not regulated

by the State of Hawaii and do not pay taxes. Those lenders should be
required to register

and be regulated by the State of Hawaii.

I have seen on several customers paperwork that they have online loans,
sometimes two and three loans in one pay period (of course we did not do
a payday loan for them).

Hawaii has 11 storefront locations. We are the small businesses in Hawaii
that are constantly

being attacked by the large corporations trying to put us out of business.

They have already

succeeded in changing the laws and closing down payday loan storefront
locations in 15 states.

An analysis done now would include approximately 20 years of data versus
data of just a few years
back in 2005.

We support a sensible update of HRS 480F based on the Auditor's
findings.

Thank you.

Sincerely,

Karen Moriwaki, Manager, Hawaii Check Cashing

