

Honolulu, Hawaii

APR 07 2017

RE: H.B. No. 223  
H.D. 2  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Twenty-Ninth State Legislature  
Regular Session of 2017  
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Health,  
to which was referred H.B. No. 223, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO THE RESIDENTIAL LANDLORD-  
TENANT CODE,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Allow a landlord or landlord's agent to charge an application screening fee as part of the applicant screening process for renting residential property;
- (2) Limit the amount that may be charged for an application screening fee;
- (3) Require the landlord or landlord's agent to return any unauthorized fee amounts to an applicant; and
- (4) Require the Department of Commerce and Consumer Affairs to submit a report to the Legislature on the application screening fees charged by landlords and their agents.

Your Committee received testimony in support of this measure from the Office of Hawaiian Affairs, The CHOW Project, Catholic Charities Hawai'i, Partners in Care, and one individual. Your



Committee received testimony in opposition to this measure from Young Hawaii Homes, Inc.; Cornerstone Properties; Clark Realty Corporation; Hawai'i Association of REALTORS; Foster Realty, Inc.; National Association of Residential Property Managers, Oahu Chapter; Gustafson Real Estate LLC; Lighthouse Properties; Marie Hansen Properties, Inc.; Locations LLC; Kona Aloha Property Services; and one individual. Your Committee received comments on this measure from the Governor's Coordinator on Homelessness, Office of Consumer Protection of the Department of Commerce and Consumer Affairs, Consumer Data Industry Association, and three individuals.

Your Committee finds that existing law does not specifically regulate the nature and amount of application fees that landlords may charge prospective tenants. Furthermore, application screening fees may be a significant barrier to housing for low-income residents, including elderly persons and individuals and families who are homeless or on the brink of homelessness. According to testimony from the Office of Consumer Protection, it has received allegations from prospective tenants claiming that the cost of an application fee does not correlate with the cost of background checks. The Office of Consumer Protection also indicated that excessive application fees are particularly egregious in those circumstances when a landlord or the landlord's agent receives numerous applications for one apartment, most of which are not seriously considered. Rather, the landlord or the landlord's agent takes advantage of their bargaining position to create a supplemental source of income merely by screening potential tenants. This measure therefore sets a limit on the amount that could be charged to a prospective tenant, while still enabling landlords to be compensated for the expense associated with credit checks.

Your Committee notes that this measure requires the Department of Commerce and Consumer Affairs to submit a report to the Legislature on the application screening fees charged by a landlord or a landlord's agent. However, the Office of Consumer Protection indicated to your Committee that this reporting requirement is unnecessary, as the Office has already surveyed tenant screening services online that include a credit check and criminal background check and determined that such services cost \$25 or less.



Your Committee has heard the testimony regarding landlords charging an application fee and receiving multiple applications for a single unit. Your Committee notes that, realistically, there are only so many tenant applications that can reasonably be accepted and considered at one time for a single available rental unit. Thus, further discussion may be needed regarding potentially limiting the number of tenant applications for a rental unit that can be received at one time.

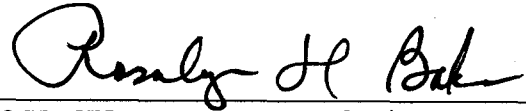
Your Committee has amended this measure by:

- (1) Clarifying that only one application screening fee may be charged per application, and specifying that a landlord or the landlord's agent shall not charge an application screening fee for each member of a household;
- (2) Deleting language that would have required the Department of Commerce and Consumer Affairs to submit a report to the Legislature on the application screening fees charged by a landlord or a landlord's agent;
- (3) Inserting an effective date of July 1, 2050, to encourage further discussion;
- (4) Inserting a sunset date of June 30, 2020; and
- (5) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 223, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 223, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.



Respectfully submitted on  
behalf of the members of the  
Committee on Commerce, Consumer  
Protection, and Health,



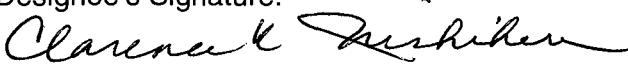
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ROSALYN H. BAKER, Chair



The Senate  
Twenty-Ninth Legislature  
State of Hawai'i

**Record of Votes**  
**Committee on Commerce, Consumer Protection, and Health**  
**CPH**

Bill / Resolution No.:* <b>HB223 HD2</b>	Committee Referral: <b>CPH</b>	Date: <b>4/5/17</b>		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	/			
NISHIHARA, Clarence K. (VC)	/			
CHANG, Stanley				/
ESPERO, Will	/			
IHARA, Jr., Les	/			
KIDANI, Michelle N.	/			
RUDERMAN, Russell E.	/			
<b>TOTAL</b>	<b>6</b>			<b>1</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
<b>Distribution:</b> Original                      Yellow                      Pink                      Goldenrod File with Committee Report    Clerk's Office            Drafting Agency        Committee File Copy				

\*Only one measure per Record of Votes