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COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Sen. Rosalyn Baker, Chair

Sen. Brian Taniguchi, Vice Chair

Friday, February 20, 2015

9:00 a.m.

Room 229

SUPPORT for SB 737 - REGULATING PAYDAY LOANS

Aloha Chair Baker, Vice Chair Taniguchi and Members of the Committee!

My name is Kat Brady and I am the Coordinator of **Community Alliance on Prisons**, a community initiative promoting smart justice policies for almost two decades. This testimony is respectfully offered on behalf of the 5,600 Hawai'i individuals living behind bars, always mindful that more than 1,600, and soon to be rising number of Hawai'i individuals who are serving their sentences abroad, thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Native Hawaiians, far from their ancestral lands.

SB 737 reduces the maximum fee a check casher may charge under a payday loan agreement for deferring the deposit of a check from 15% to 7% of the face value of the check.

Community Alliance on Prisons supports this bill. The clientele of these payday loan businesses are generally the most vulnerable people in our community – the economically-challenged, the elderly, those exiting incarceration, etc.

APR MATTERS¹

APR matters whether a borrower takes out a single loan or is indebted to a payday lender for an entire year. Regardless of how often borrowers use payday loans, they must be able to compare these loans with other options, such as a cash advance on a credit card or an unsecured loan from a finance company. Disclosure of the APR also signals to consumers, policymakers, and regulators that this type of loan carries costs that are far above what is considered acceptable. In times of economic stress, corrective measures take on an importance that is hard to overestimate.

¹ **APR Matters on Payday Loans** Interest rate disclosures allow apple-to-apple comparisons, protect free market competition. The Center for Responsible Lending, June 2009. <http://www.responsiblelending.org/payday-lending/research-analysis/apr-matters.pdf>

APR, or Annual Percentage Rate of Interest²

Loan terms are often complex and may include a number of extra fees that make the real cost to the borrower difficult to decipher and difficult to compare across credit options. Congress developed the APR, or Annual Percentage Rate of Interest, as a standard measure that calculates the simple interest rate on an annual basis (including most fees), accounts for the amount of time the borrower has to repay the loan, and factors in the reduction in principal as payments are made over time.

Texas has been addressing this problem through ordinance enacted in many counties. A recent article³ reported Dallas City Council Member Jerry Allen saying, *“By passing the unified ordinance, cities across the state are boldly saying, we will do what we can to promote prosperity for our citizens and local economies. We will no longer stand on the sidelines and allow this abusive lending to proliferate in our communities.”*

The unified city ordinance adds basic, common-sense standards to control predatory practices in the payday and auto title lending marketplace. A violation of the ordinance is a criminal act and carries a penalty of \$500.

*“We are finding that smaller cities that neighbor larger Texas cities are adopting the ordinance to ensure payday and auto title lending businesses abide by the same standards. **We know that meaningful reform works. Reform is a critical first step toward a marketplace that fosters borrower success,**”* said Ann Baddour, director of the Fair Financial Services Project at Texas Appleseed.

LENDERS FIGHT BACK AND NOW EVERYONE PAYS!

Six months after the above referenced article appeared, Texas Appleseed filed a complaint⁴ with state and federal regulators of the payday loan industry after obtaining data showing that Texas borrowers are facing threats of criminal prosecution, arrest warrants, court appearances, jail time and fines stemming from the industry’s illegal practice of using the criminal justice system to collect on debts. This complaint comes amidst local, state, and national scrutiny of payday lending practices that too often trap desperate borrowers in high-cost debt. Many borrowers find themselves incapable of repaying the loans in full due to the onerous fees and terms. In Texas, payday loans carry average APRs in excess of 500 percent. **(Hawai’i’s APR is reported as 459%). “In addition to their outrageous rates and lending practices, payday loan businesses are illegally using the criminal justice system to coerce repayment from borrowers,”** said Ann Baddour, director of the Fair Financial Services Project at Texas Appleseed.

² *The State of Lending in America & its Impact on U.S. Households*. The Center for Responsible Lending, Susanna Montezemolo, September 2013. www.responsiblelending.org

³ **Push to Rein in Predatory Payday and Auto Title Lending Gains Momentum** - Ordinances Limiting usurious loans now cover over 7 million Texans in 18 Texas cities, Texas Appleseed, June 25, 2015. http://www.texasappleseed.net/index.php?option=com_docman&task=doc_download&gid=1125&Itemid=

⁴ **Payday Businesses Unlawfully File 1,500 Criminal Complaints Against Borrowers to Collect Money**, Texas Appleseed, December 17, 2014. http://www.texasappleseed.net/index.php?option=com_docman&task=doc_download&gid=1180&Itemid=

Texas' experience is very instructive for our legislature.

The fight-back of this industry while it is under governmental scrutiny, should propel our legislature into action to protect our people.

For small loans, the 36% rate has wide-spread and long-standing support. It is high enough to make up for the small dollar values on which the interest is accrued, but low enough to avoid predatory lending.⁵
(...)

Congress, three federal agencies and seventeen states have adopted rates of 36% or less as the benchmark for affordable small loans. The rate has gains widespread acceptance not only for its historical pedigree, but also because it results in payments for small loans that borrowers are likely to afford.⁵

Community Alliance on Prisons hopes that statewide regulation of this industry will be the decision of our legislature to protect our most vulnerable citizens struggling to make ends meet.

Mahalo for this opportunity to testify.

⁵ *The State of Lending in America & its Impact on U.S. Households*. See Footnote 2

Faith Action for



Community Equity

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Hawaii Coalition for Immigration
Reform

To: The Senate Committee on Commerce and Consumer Protection
From: Kim Harman, FACE Policy Director
Hearing: 9:00AM, Friday, February 20, 2015, Room 229
Re: **Testimony in Support of SB737**

Faith Action for Community Equity (FACE) offers this **testimony strongly in favor of SB737**, which caps the interest rate on Payday loans at 36% APR and requires that the interest rate be added to the required written disclosure to borrowers. Predatory lending has no place in Hawaii. Our families are working too hard to support their families to allow payday lenders to charge over 450% interest, often trapping families in a cycle of debt that destroys their credit and their chances of financial success.

According to the Consumer Federation of America, 18 states have capped Payday Loan interest rates 36% or have banned Payday Loans completely.

Here is a rundown of what 18 states plus the District of Columbia have done to combat Payday Loans:

Arkansas:	Payday Loans are illegal
Arizona:	State does not authorize any Payday Loans.
Colorado:	45% APR cap
Connecticut:	State does not authorize any Payday Loans.
Georgia:	All Payday Loans violate state racketeering laws
Maine:	Interest capped at 30% APR
Maryland:	State does not authorize any Payday Loans.
Massachusetts:	State does not authorize any Payday Loans.
Montana:	35% APR cap
New Hampshire:	Interest capped at 35% APR
New Jersey:	Payday Loans are illegal (violation of usury statutes)
New York:	Payday Loans are illegal (violation of usury statutes)
North Carolina:	State does not authorize any Payday Loans.
Ohio:	Interest capped at 28% APR cap
Oregon:	Interest capped at 36% APR
Pennsylvania:	State does not authorize any Payday Loans.
Vermont:	State does not authorize any Payday Loans.
West Virginia:	State does not authorize any Payday Loans.
District of Columbia:	State does not authorize any Payday Loans.

In addition, all states must abide by the national 36% cap on interest rates for all military families.

Through the Military Lending Act of 2006, federal government capped the maximum interest rate allowable for Payday lenders to charge military families at 36% APR. This law has been applauded for nine years and now it is time to provide that same protection for all families. In fact, the 36% cap on Payday loans for military families has been so successful for military families, that five months ago, the Department of Defense requested that the law be expanded to cover other forms of lending.

As a membership organization, FACE has heard from individuals and clergy about the devastating effect Payday loans and their cycle of debt are causing in Hawaii. As an organization consisting of predominantly religious organizations, we are taking significant direction from Hawaii's faith leaders and national faith leaders in our request for a 36% APR cap on Payday loans.

Dozens of faith leaders from Maui and Oahu have already signed on to a position statement endorsing a cap on Payday Loan interest at 36%. This position statement reads:

"As Faith and Community leaders in Hawaii, it is vital that we speak out against predatory lending practices hurting the families in our congregations and communities. Payday loans, short term loans where our families are being charged more than 450% APR, are spreading on our islands, trapping families in a cycle of debt.

As many of our faith traditions have taught us, this is usury and all major religious traditions share a deep opposition to usury. In our ministries and communities, we see many households struggling financially. As we work together to empower families and strengthen our economy, the last thing we need to do is saddle households with bottomless debt.

We believe that a limit of 36% APR on Payday Loans in Hawaii would be more fair, would parallel the national protections already on the books for military families and would make it more likely for our local families to be able to pay these debts without falling further and further behind."

Thank you for your attention to this vital issue. Please feel free to contact FACE any time with questions, 808-375-9560 or face.office@facehawaii.org.

The Twenty-Eighth Legislature
Regular Session of 2015

THE SENATE

Committee on Commerce and Consumer Protection

Senator Rosalyn H. Baker, Chair

Senator Brian T. Taniguchi, Vice Chair

State Capitol, Conference Room 229

Friday, February 20, 2015; 9:00 a.m.

STATEMENT OF THE ILWU LOCAL 142 ON S.B. 737 RELATING TO CHECK CASHING

The **ILWU Local 142** supports S.B. 737 which places a cap on the interest that a check casher can charge pursuant to a deferred deposit agreement at 36 per cent per annum. S.B. 737 is preferred over S.B. 731, which is a step in the right direction but does not go far enough.

“Payday loans” is the commonly used term for deferred deposit agreements for small, short-term, unsecured loans that are made with the promise of repayment from the borrower’s next paycheck. These payday loans are insidious. On one hand, the loan may be desperately needed for immediate cash by a borrower unable to secure a loan by any other means. On the other hand, the loan comes with an exorbitant fee that continues to grow as long as the debt is not repaid in full. Most people who use payday loans find themselves on a debt treadmill, unable to get off due to the high loan fees.

S.B. 737 proposes to adopt what the Military Lending Act did for service members using payday loans by capping the fee to 36 per cent APR. Apparently, the law for military personnel has been successful and has reduced debt for countless service members. In the name of fairness, we believe the same should apply to all who find themselves needing payday loans.

Ideally, everyone should be able support themselves with their earnings. However, given the low wages and salaries in Hawaii and the high cost of living, not everyone is able to pay for the necessities of life with their earnings alone. Payday loans take advantage of the working poor, putting them further and further in debt. S.B. 737 will cap the debt from interest fees and allow more who rely on payday loans to work themselves out of debt and be able to qualify for more conventional loans from credit unions and the like.

The ILWU urges passage of S.B. 737. Thank you for considering our testimony.

From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: cwatanabe@unitehere5.org
Subject: Submitted testimony for SB737 on Feb 20, 2015 09:00AM
Date: Friday, February 20, 2015 7:52:43 AM

SB737

Submitted on: 2/20/2015

Testimony for CPN on Feb 20, 2015 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Cade Watanabe	UNITE HERE Local 5	Support	No

Comments: On behalf of our 10,500 hotel, health care and food service workers we stand in support of reforming current rules that put workers at a disadvantage when using payday lending services.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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