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TO THE  
SENATE COMMITTEE ON JUDICIARY AND LABOR  
THE TWENTY-FOURTH STATE LEGISLATURE  
REGULAR SESSION OF 2008

Friday, February 22, 2008  
10:00 a.m.

WRITTEN COMMENTS ON S.B. NO. 3008, S.D.1 - RELATING TO THE CODE OF  
FINANCIAL INSTITUTIONS

THE HONORABLE BRIAN T. TANIGUCHI, CHAIR,  
AND MEMBERS OF THE COMMITTEE:

My name is Nick Griffin, Commissioner of Financial Institutions, and I am submitting written comments on behalf of the Department of Commerce and Consumer Affairs ("Department") on Senate Bill No. 3008, S.D.1. The Department strongly supports this Administration bill.

The purpose of the bill is to amend the Code of Financial Institutions ("Code"), chapter 412 of the Hawaii Revised Statutes ("HRS"), to reduce regulatory burden where significant consumer interests are not adversely affected, update the Code to recognize

changes in the industry and make desirable clarifications to the statute, provide more flexibility in supervising and regulating the industry, ensure adequate protection for the consumer, and make technical amendments of a "housekeeping" nature.

#### Reduce Regulatory Burden

An amendment is made to place a Hawaii licensed foreign bank on equal footing with a Hawaii state-chartered financial institution with respect to relieving the foreign bank of the obligation to obtain written approval from the Commissioner of Financial Institutions ("Commissioner") before relocating a place of business less than one mile from its existing location. Consumers are seldom adversely affected by business relocations within the same neighborhood.

#### Update and Clarify the Statute

A clarification of how prepayment penalties are to be calculated is made to close an incorrectly perceived loophole that may be exploited by some financial services loan companies.

A provision concerning the authority of a person to serve as a trustee or trust company is clarified to focus greater emphasis on the aspect of "holding out" to the general public one's availability to serve in this fiduciary capacity.

#### Provide Flexible Regulation

A provision is added to address the temporary closure of a Hawaii financial institution for up to 180 days as the result of an emergency.

The provision that enables the Commissioner to examine a financial institution holding company is amended to permit such an examination of a financial institution holding company that directly owns twenty-five per cent or more of any class of voting securities of a Hawaii financial institution without a prerequisite finding that there is cause to believe that a holding company is experiencing financial adversity. This will allow the Division of Financial Institutions ("DFI") to determine whether the condition or activities of that holding company may be jeopardizing the safety and soundness of the operations of its financial institution subsidiary even in instances where the holding company itself may not yet be experiencing financial adversity. This amendment will also clarify that the Commissioner shall not examine any financial institution holding company that indirectly controls a Hawaii financial institution through one or more financial institution holding companies unless there is good cause to believe that the indirectly controlling financial institution holding company is experiencing financial adversity that will have a material negative impact on the safety and soundness of the Hawaii financial institution.

The application requirements in the Code for depository and nondepository Hawaii financial institutions are amended to require certain information, along with the requisite fee, necessary to conduct a criminal history record check for specified key individuals associated with an applicant for a financial institution charter or license. This requirement is consistent with, but will not duplicate, current federal requirements for employees of depository financial institutions who routinely have access to customer

funds. Such background checks will help ensure that individuals with prior criminal convictions are not appointed or hired in key managerial positions at a newly formed Hawaii financial institution. A corresponding amendment to section 846-2.7, HRS, is made to complete the formal requirements to authorize the Department to conduct a criminal history record check on the specified individuals.

#### Protection for Consumers

A requirement to display a financial services loan company's license(s) in a conspicuous location at each place of business is added, to enhance consumer confidence and protection.

#### Technical amendment

A technical correction is made to the heading of section 412:2-306, HRS, to restore the word "grounds", which was inadvertently deleted from the heading in a prior amendment of the statute.

#### Summary

The Department strongly supports this bill and asks for your favorable consideration. Thank you for the opportunity to submit written comments to your Committee on this bill.

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February 22, 2008

Senator Brian T. Taniguchi, Chair  
and members of the Senate Committee on Judiciary and Labor  
Hawaii State Capitol  
Honolulu, Hawaii 96813

Re: **Senate Bill 3008, Senate Draft 1 (Code of Financial Institutions)**  
**Hearing Date/Time: Friday, February, 22, 2008, 10:00 A.M.**

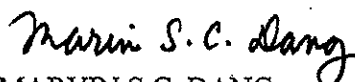
I am the attorney for the Hawaii Financial Services Association ("HFSA"). The HFSA is the trade association for Hawaii's financial services loan companies.

The HFSA **supports** this Bill.

The purposes of this Bill are to: update Hawaii's Code of Financial Institutions by requiring licenses to be conspicuously displayed; address temporary closures during emergencies; clarify how prepayment penalties are calculated; and allow greater access to records by State inspectors.

Concerns we had with this Bill as introduced have been addressed in the Senate Draft 1.

Thank you for considering this testimony.



MARVIN S.C. DANG

Attorney for Hawaii Financial Services Association

(MSCD/hfsa)