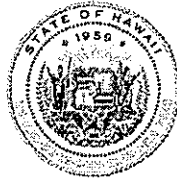


HB1840 HD3

Measure Title: RELATING TO STATE-OWNED BANK.
Report Title: Financial Institutions; State-owned Bank; Task Force
Description: Establishes a task force to review, investigate, and study the feasibility and cost of establishing a state-owned bank. Requires a report to the Legislature. Effective July 1, 2112. (HB1840 HD3)
Companion:
Package: None
Current Referral: CPN, WAM
Introducer(s): OSHIRO, TSUJI

Sort by Date		Status Text
1/13/2012	H	Prefiled
1/18/2012	H	Introduced and Pass First Reading.
1/19/2012	H	Referred to ERB, CPC, FIN, referral sheet 2
1/20/2012	H	Bill scheduled to be heard by ERB on Tuesday, 01-24-12 8:30AM in House conference room 312.
1/24/2012	H	The committees on ERB recommend that the measure be PASSED, WITH AMENDMENTS. The votes were as follows: 9 Ayes: Representative(s) McKelvey, Choy, Awana, Brower, Evans, Hashem, Nishimoto, Tokioka, Tsuji; Ayes with reservations: none; 1 Noes: Representative(s) Marumoto; and 1 Excused: Representative(s) Pine.
2/2/2012	H	Reported from ERB (Stand. Com. Rep. No. 52-12) as amended in HD 1, recommending passage on Second Reading and referral to CPC.
2/2/2012	H	Passed Second Reading as amended in HD 1 and referred to the committee(s) on CPC with Representative(s) Pine, Souki voting aye with reservations; Representative(s) Ching, Ward voting no (2) and Representative(s) Okamura excused (1).
2/3/2012	H	Bill scheduled to be heard by CPC on Wednesday, 02-08-12 2:00PM in House conference room 325.
2/8/2012	H	The committees on CPC recommend that the measure be PASSED,

		WITH AMENDMENTS. The votes were as follows: 13 Ayes: Representative(s) Herkes, Yamane, Brower, Cabanilla, Carroll, Coffman, Ito, Keith-Agaran, Luke, Souki, Tsuji; Ayes with reservations: Representative(s) Marumoto, Thielen; 1 Noes: Representative(s) Ching; and 1 Excused: Representative(s) McKelvey.
2/16/2012	H	Reported from CPC (Stand. Com. Rep. No. 461-12) as amended in HD 2, recommending referral to FIN.
2/16/2012	H	Report adopted. referred to the committee(s) on FIN as amended in HD 2 with Representative(s) Fontaine, Johanson, Pine, Thielen voting aye with reservations; Representative(s) Ching, Marumoto, Ward voting no (3) and Representative(s) M. Lee, Souki excused (2).
2/26/2012	H	Bill scheduled to be heard by FIN on Wednesday, 02-29-12 11:30AM in House conference room 308.
2/27/2012	H	Broadcast of hearing/briefing available. See: www.capitoltv.org
3/1/2012	H	The committees on FIN recommend that the measure be PASSED, WITH AMENDMENTS. The votes were as follows: 17 Ayes: Representative(s) Oshiro, M. Lee, Choy, Cullen, Giugni, Har, Hashem, Ichiyama, Jordan, Kawakami, C. Lee, Morikawa, Tokioka, Yamashita, Riviere; Ayes with reservations: Representative(s) Marumoto, Ward; Noes: none; and Excused: none.
3/2/2012	H	Reported from FIN (Stand. Com. Rep. No. 923-12) as amended in HD 3, recommending passage on Third Reading.
3/2/2012	H	Forty-eight (48) hours notice Tuesday, 03-06-12.
3/6/2012	H	Passed Third Reading as amended in HD 3 with Representative(s) Fontaine, Marumoto, Pine voting aye with reservations; Representative(s) Ching, Thielen, Ward voting no (3) and none excused (0). Transmitted to Senate.
3/8/2012	S	Received from House (Hse. Com. No. 87).
3/8/2012	S	Passed First Reading.
3/8/2012	S	Referred to CPN, WAM.
3/9/2012	S	The committee(s) on CPN has scheduled a public hearing on 03-13-12 9:00AM in conference room 229.



NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
335 MERCHANT STREET, ROOM 310
P.O. Box 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
www.hawaii.gov/dcca

KEALI'I S. LOPEZ
DIRECTOR

TO THE
SENATE COMMITTEE ON
COMMERCE AND CONSUMER PROTECTION

THE TWENTY-SIXTH STATE LEGISLATURE
REGULAR SESSION 2012

Tuesday, March 13, 2012
9:00 a.m.

TESTIMONY ON H.B. 1840, H.D. 3
RELATING TO STATE-OWNED BANK

TO THE HONORABLE ROSALYN H. BAKER, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Iris Ikeda Catalani, Commissioner of Financial Institutions ("Commissioner"). I appreciate the opportunity to provide comments on behalf of the Department of Commerce and Consumer Affairs ("DFI") regarding H.B. 1840, H.D. 3.

The purpose of the Bill is to establish a task force to study the feasibility of establishing a state-owned bank in Hawaii. It is believed that a state-owned bank would promote agriculture, education, community development, economic development, housing and industry in the State by building a resource to help stabilize and grow the State's economy; use the resources of the people of the State within the State; support

the common good and public benefit of the State; and leverage the State's financial capital and resources.

The task force members are from the government departments, legislative appointments, and members of the community. The Department would also like to invite other experts in the field to develop the proposal for a state bank. Experts from the developer community, agricultural community, and native Hawaiian community may lend thoughtful ideas for discussion as we discuss possibilities for the use of a state bank.

As part of establishing the task force under the bill, the Department believes it is important for the task force to take a broader look at many options that the State should consider. The state bank is one of the options that should be explored by the task force. To that end, the Department recommends that the purpose of the task force be expanded on page 2, line 18, to authorize the task force to consider other programs or options to meet the purpose of the state-owned bank.

Other options to consider are:

1. The Boston Community Capital's SUN initiative (Stabilizing Urban Neighborhoods). The BCC is a nonprofit community development financial institution. The SUN provides foreclosed homeowners with a new 30-year, fixed rate mortgage. A bi-weekly payment plan helps homeowners build up reserves that can be used to pay down

the mortgage principal and reduce the length of the loan, or used to pay for necessary repairs.

Here's how it works: after receiving foreclosure notices, families can contact BCC to initiate participation in the program. In order to be eligible to participate, the homeowner must have a stable and predictable income that can support a mortgage at current rates offered by SUN. As a condition to participate, families receive financial counseling and advice to insure their financial security. Families are required to make a \$5,000 down payment as a token of "good faith". Mortgage payments are automatically withheld from paychecks in an effort to eliminate default. The terms of the mortgage are 6.00% APR and 30 years fixed. The annual percentage rate (interest rate) is higher than the market; however, these borrowers would not be eligible for the "best" interest rates due to their poor credit histories.

Homeowners are required to keep their homes in habitable condition as a requirement to maintain their loans with BCC. Homeowners are expected to live at their homes mortgaged through SUN for a period of time. If the homeowners sell their homes at a profit, the homeowners must split the proceeds with

BCC. BCC has made about 200 loans through the SUN initiative over the last year and to date has only three defaults.

The BCC is funded through accredited investors who make five-year loans to support SUN's work. Currently SUN has approximately \$5 million available for the program.

2. The Small Business Administration, which offers loans and financial assistance to small businesses.
3. Until 2003, the state administered the Hawaii Capital Loan Program, which provided loans to eligible Hawaii businesses. During the 2011 session, S.B. No. 757 was introduced to reestablish the Hawaii Capitol Loan Program. Currently pending is a hearing to appropriate \$2 million dollars to the program.
4. Agricultural loan programs both at the federal and state levels.

For the state bank option, the task force would benefit from guidance from the legislature regarding the following items:

1. What does the legislature want the state bank's mission or focus to be? The state bank of North Dakota was established to provide loans to farmers who were not able to qualify for agricultural loans in the 1900's. Its lending practices have not changed significantly since the establishment of the bank focusing on agricultural loans, and since 1967 adding student loans.

2. Whether the legislature wants the state bank to comply with the requirements that state funds deposited in banks be fully secured. Currently, all banks are required to maintain a minimum level of capital during the ongoing operations of the bank. In the alternative, whether the legislature wants to allow the state to float bonds to then invest as capital in the bank?
3. Where the capital to establish the state bank would come from and whether the state will put up the capital and be the 100% owner of the bank. The capital contribution would then not be considered state funds, but would be an investment of the state. Then, if the state also required that all state funds (e.g. general funds, special funds etc.) be deposited in the bank, then the question is whether the state will require that those funds be secured? In North Dakota, the original act of 1919 provided that all public funds were to be deposited with the Bank of North Dakota. An initiated measure in 1921 changed this by providing that all political subdivisions, with the exception of the state itself, make deposits either with private institutions or with the Bank of North Dakota.
4. Under what circumstances would the state bank be required to distribute dividends to the general funds? The State Bank of North Dakota did not provide a dividend to the state until 1945, about 26 years after the establishment of the bank.

TESTIMONY ON HOUSE BILL NO. 1840, H.D. 3
March 13, 2012, 9:00 a.m.
Page 6

The Department would also like to note that if some of the task force members are from the neighbor islands, it may be a financial hardship for those task members to pay out of pocket costs to attend task force meetings which the members from Oahu would not incur. To that end, we would propose that the legislature consider adding \$1,750 for each member from a neighbor island to pay for the airfare and ground transportation for the meetings. We anticipate at least 5 meetings (monthly from August to December 2012).

Thank you for the opportunity to provide comments and the proposed amendment for travel cost for neighbor island members. I am available to answer any questions the committee might have.

Charlotte A. Carter-Yamauchi
Acting Director

Research (808) 587-0666
Revisor (808) 587-0670
Fax (808) 587-0681



LEGISLATIVE REFERENCE BUREAU
State of Hawaii
State Capitol, Room 446
415 S. Beretania Street
Honolulu, Hawaii 96813

Written Testimony

HB1840, HD3
RELATING TO STATE-OWNED BANK

Testimony by the Legislative Reference Bureau
Charlotte A. Carter-Yamauchi, Acting Director

Presented to the Senate Committee on Commerce and Consumer Protection

Tuesday, March 13, 2012, 9:00 a.m.
Conference Room 229

Chair Baker and Members of the Committee:

I am Charlotte Carter-Yamauchi, Acting Director of the Legislative Reference Bureau.

Thank you for this opportunity to comment on H.B. No. 1840, H.D. 3, which establishes a task force to study the feasibility of establishing a state-owned bank in Hawaii.

The Bureau takes no position on the merits of the measure but submits the following comments and concerns.

Section 3 of the bill requires the Bureau to assist the task force in preparing its findings, recommendations, and proposed legislation. The task force is directed to study, at minimum, eleven specific items identified in the bill. It may be anticipated that considerable information will be contained in the task force's report, involving substantial effort on the part of Bureau staff. Accordingly, to allow us to manage our workload effectively and minimize interference with our ability to draft bills for legislators during the busy period prior to the start of session, we would request that the task force be directed to transmit a draft of recommendations and any proposed legislation to the Bureau no later than November 1, 2013. This would allow sufficient time for review by the task force of a draft of the report and necessary edits and still enable timely completion of the report.

Faith Action for



Community Equity

Oahu and Maui Chapters

Gamaliel Foundation Affiliate

1352 Liliha Street, Room 2
Honolulu, HI 96817

Phone (808) 522-1304
Fax (512) 532-7448
face.office@facehawaii.org
www.facehawaii.org

The Rev. Alan Mark
Statewide President

The Rev. Sam Domingo
Oahu President

The Rt. Rev. Monsignor
Terrence Watanabe
Maui President

Mr. Rosario Baniaga
Statewide Treasurer

Ms. Judy Ott
Statewide Secretary

Mr. Drew Astolfi
Executive Director

Mr. Patrick Zukemura
Oahu Lead Organizer

Ms. Terri Erwin, PhD
Maui Lead Organizer

**TESTIMONY FOR HB 1840, HD3
MARCH 12, 2012**

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

**Senator Rosalyn H. Baker, Chair
Senator Brian T. Taniguchi, Vice Chair**

**Faith Action for Community Equity (FACE) strongly supports
the creation of a State Bank in Hawaii.**

FACE SUPPORTS the creation of a Task Force as described in
HB 1840 HD3, but we hope that other current state bank bills will
pass this session and the Task Force will not be needed.

I am including with this testimony a report that FACE issued last
year describing in detail the benefits a State Bank could provide for
Hawaii and its people, including increased small business lending
and job creation.

Thank you for the opportunity to testify.

A handwritten signature in black ink, appearing to read "Kim Harman", written over a horizontal line.

**Kim Harman
Policy Director
FACE HAWAII**

Demos



PUTTING HAWAII MONEY TO WORK FOR HAWAII: INTRODUCING THE HAWAII PARTNERSHIP BANK

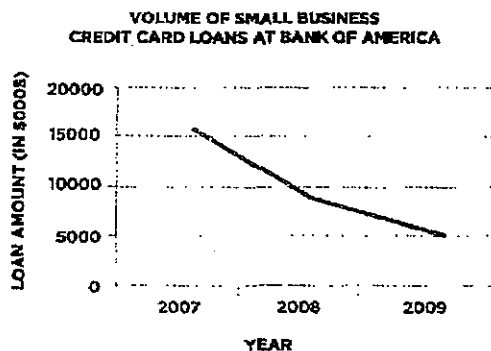


SUMMARY

Hawaii can put deposits of our state tax revenue to use in ways that create local jobs by tilting the economic playing field back toward our neighborhood businesses and state-chartered and community banks. A Hawaii Partnership Bank—like the successful Bank of North Dakota—will generate new revenue for Hawaii, save local governments money, and make us less dependent on big offshore banks that are dramatically reshaping life for families and businesses in Hawaii.

KEEPING HAWAII'S NEIGHBORHOOD BUSINESSES GROWING

Nearly 24,000 Hawaii families have lost their homes to foreclosure in the three years since the bank crisis and Great Recession began,¹ and the state faces a \$410 million budget shortfall this year.² Now more than ever, rebuilding Hawaii's middle class depends on the health of our neighborhood business and entrepreneurial economy. Yet the engine of a thriving small business economy—affordable credit—has stalled in our state since 2008. Hawaii has lost 33,350 jobs³ and seen more than 200 small businesses go bankrupt in the first two years of the recession,⁴ many because they could not get loans.



Source: FFIEC Community Reinvestment Act disclosure reports

The fall in bank lending through the government's Small Business Administration 7(a) program, which offers quality loans to neighborhood businesses, is stark. From 2007 to 2010, the amount of money loaned to Hawaii businesses through SBA 7(a) fell by 36 percent,⁵ robbing businesses of much-needed funds.

Big off shore banks even cut back on small business credit card loans, which have higher interest rates and are more profitable to banks. At Bank of America, the number of business card loans fell by 50 percent from 2007 to 2009, with the value of those loans falling by 68 percent.⁶

A SOLUTION FROM THE HEARTLAND: WHAT NORTH DAKOTA KNOWS

Instead of sending taxpayer money out-of-state by banking with Wall Street banks each year, the 91-year-old Bank of North Dakota (BND) keeps public funds in-state, cycling them back through community banks to help neighborhood businesses add local jobs.

The Bank of North Dakota doesn't compete with community banks; it supports them to create a 'crowding in' effect. From 2007 to 2009—through the trough of the financial crisis—BND's participation loans with local banks actually *grew by 35 percent*.⁷ In the meantime, it returned \$60 million in revenue to the state treasury, allowing the state to both cut taxes and balance their budgets during the recession.⁸

That's the essence of countercyclical, and Hawaii needs to look closely at this model.

A FULLY OPERATIONAL BND-STYLE BANK IN HAWAII CAN HELP GENERATE:

- 2,840 new small business and farm jobs
- \$1.7 billion in new lending
- \$98 million in profits for the state over 10 years

Source: Center for State Innovation

BND has helped keep local banks serving local business borrowers in tough times. BND allows community banks to level the playing field in markets that would otherwise be dominated by big out-of-state banks. BND supports local banks with the participation loans, bank-stock purchases, and interest rate buy-downs that make possible productive loans that would otherwise not be made.

BND has done all that in partnership with the state's economic development programs and at a profit, about half of which it pays annually into North Dakota's General Fund.

It's a tremendous success as a business and as economic policy.

MAKING HAWAII'S MONEY WORK FOR HAWAII

Elected leaders serious about crafting policies that produce new jobs and new revenue know that a BND-style Partnership Bank is one of a very few good options. In Hawaii, legislators want to put public money to work leveraging what Hawaii businesses need most: access to the affordable capital they need to grow.

A Hawaii Partnership Bank will partner with local banks to keep public money at home, where it will:

- **Generate new revenue for Hawaii** with bank dividends. The annual dividend from a fully-operational Partnership Bank would mean **\$61 million a year for Hawaii's General Fund.**⁹ Over the past decade, BND's dividend to the state has been worth more than \$300 million.¹⁰ The bank would also lead to higher tax receipts as in-state jobs are created and neighborhood business markets improve.
- **Create new jobs and spur broader economic growth.** A recent study predicted that a fully-operational state bank would help Hawaii's community banks expand lending by \$1.7 billion and lead to **2,840 new small business and farm jobs** in the first 3-5 years. This would be accomplished at a profit for Hawaii.¹¹
- **Strengthen local banks.** A Partnership Bank invests in local banks and partners with them on large loans to help free up local bank capital for even more lending. As a result of BND's support, North Dakota's local banks are thriving. BND's charter is clear that it must "be helpful to and to assist in the development of [North Dakota banks]," not compete with them.¹²
- **Serve vital Hawaii public needs.** Partnership banks can provide bridges to our state when federal funds—whether disaster relief or health care reimbursements—are slow in coming. They also offer local governments a more affordable alternative to volatile Wall Street prices with Letters of Credit for infrastructure projects.¹³

WHO'S AFRAID OF A STUDY?

Hawaii has every reason to study this successful model closely. A Hawaii Partnership Bank has the opportunity to put Hawaii's money to work here, supporting the neighborhood businesses, entrepreneurs, and community banks that make Hawaii go.

Jason Judd is President of Cashbox Partners, a Maryland-based neighborhood business, former director of SEIU's banking campaign, and a consultant to Dēmos.

Heather McGhee is Washington office Director of Dēmos and co-author of "Six Principles for True Systemic Risk Reform."

Research Assistance by Sarah Babbage, Dēmos.

ABOUT DÉMOS

Demos is a non-partisan public policy research and advocacy organization. Headquartered in New York City, Demos works with advocates and policymakers around the country in pursuit of four overarching goals: a more equitable economy; a vibrant and inclusive democracy; an empowered public sector that works for the common good; and responsible U.S. engagement in an interdependent world. Demos was founded in 2000.

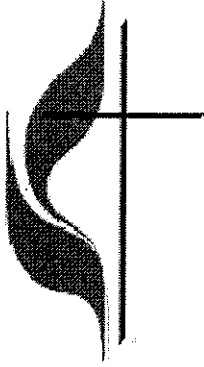
In 2010, Demos entered into a publishing partnership with *The American Prospect*, one of the nation's premier magazines focusing on policy analysis, investigative journalism, and forward-looking solutions for the nation's greatest challenges.

ABOUT FACE

Faith Action for Community Equity (FACE), a Gamaliel Foundation affiliate, is a faith-based grassroots organization in Hawaii founded in 1996. FACE's membership reflects the cultural and socio-economic diversity of our community. FACE exists to allow its members to live out our common, faith-based values by engaging in actions that challenge the systems that perpetuate poverty and injustice.

ENDNOTES

1. Andrew Gomes, "Fixing the foreclosure 'mess'," *The Star Advertiser*, February 13, 2011 (accessed April 4, 2011) http://www.staradvertiser.com/business/20110213_Fixing_the_foreclosure_mess.html
2. Elizabeth McNichol, Phil Oliff and Nicholas Johnson, "States continue to feel recession's impact," Center on Budget and Policy Priorities, March 9, 2011 (accessed March 30, 2011) <http://www.cbpp.org/cms/?fa=view&cid=711>
3. Research and Statistics Office, "Labor Market Dynamics," State of Hawaii Department of Labor and Industrial Relations, July 2010 (accessed March 23, 2011) <http://hawaii.gov/labor/rs/whats-new/Hawaii%20Labor%20Market%20Dynamics%202010.pdf>
4. Small Business Administration Hawaii Profile 2010 (accessed March 24, 2011) <http://www.sba.gov/sites/default/files/files/hi10.pdf>
5. FOIA request by the Service Employees International Union to the Small Business Administration.
6. Community Reinvestment Act disclosure reports, Federal Financial Institutions Examination Council (accessed March 24, 2011) <http://www.ffiec.gov/craadweb/DisRptMain.aspx>
7. Bank of North Dakota Annual Report 2009 (accessed March 30, 2011) http://www.banknd.nd.gov/financials_and_compliance/pdfs/annualreport09.pdf
8. Center for State Innovation, "Washington State Bank Analysis," December 2010 (accessed March 31, 2011) <http://www.stateinnovation.org/Home/CSI-Washington-State-Bank-Analysis-020411.aspx>
9. Center for State Innovation, "Building State Banks," October 2010 (accessed March 30, 2011) <http://www.stateinnovation.org/State-Banks-Materials/Building-state-development-banks-SEIU-0910.aspx>
10. Center for State Innovation, "Washington State Bank Analysis," December 2010 (accessed March 31, 2011) <http://www.stateinnovation.org/Home/CSI-Washington-State-Bank-Analysis-020411.aspx>



**From the Desk of
The Rev. Samuel L. Domingo**

**FROM: REV. SAMUEL L. DOMINGO, FACE Oahu President
TO: SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
MARCH 12, 2012 9:00 AM
HB 1840 Draft 3, RELATING TO STATE BANK**

Good morning Chair Baker and committee members:

I am The Rev. Samuel L. Domingo, President of the Oahu Chapter of FACE, Faith Action for Community Equity.

Our organization of over 50 churches, temples, tenant associations, community advocates, and a labor union, here on Oahu and on Maui, is very much in support of the establishment of a State Partnership Bank, based on the North Dakota model. The idea of a state partnership bank came out of conversations on Maui when we began work with homeowners facing foreclosure from predatory banks. Last year, this chair and this committee, played a significant role in the passage of Act 48, to give assistance to homeowners and provide further protection against predatory lending institutions. A state bank would give assistance to homeowners in loan modification or refinancing. We feel that the establishment of a state bank would serve the interests of the consumer, and would truly back the economic and development priorities of our state.

The idea of a state bank or partnership bank makes sense when small businesses are crying out for credit and loans. It's really about keeping our tax dollars in-house to support our businesses and families and with financing new starts in green energy and also as we look to increasing food production in the State.

I am aware that there are at least a dozen state legislatures that are considering similar bills. I believe that a State Bank would greatly benefit the people of Hawaii and usher a return in the confidence of the people in their government.

I urge passage of this bill.

Mahalo,

Rev. Samuel L Domingo

*204 Ku'uhoa Place
Kailua, Hawaii 96734*

**LAW OFFICE OF GEORGE J. ZWEIBEL
45-3590A Mamane Street
Honoka'a, Hawaii 96727
(808) 775-1087**

Senate Committee on Commerce and Consumer Protection

**Hearing: Tuesday, March 13, 2012, 9:00 a.m.
Conference Room 229, State Capitol, 415 South Beretania Street**

IN SUPPORT OF HB 1840, HD3

Chair Baker, Vice Chair Taniguchi, and Committee Members:

My name is George Zweibel. I am a Hawaii Island attorney and have for many years represented mortgage borrowers living on Oahu, Hawaii, Kauai and Maui. Earlier, I was a regional director and staff attorney at the Federal Trade Commission enforcing consumer credit laws as well as a legal aid consumer lawyer. I have served on the Legislature's Mortgage Foreclosure Task Force since its inception in 2010.

HB 1840, HD3 would establish a task force to study the feasibility of establishing a state-owned bank in Hawaii. The potential benefits of creating a state bank, as described in Section 1, are compelling and worthy of serious consideration. Accordingly, I support establishment of a Hawaii State bank and the intent of HB 1840, HD3. However, I respectfully request that certain revisions be considered.

First, I recommend adding to Section 2(e) a paragraph (12) specifically stating that the task force will review and evaluate the ways in which a state bank may be able to help address the foreclosure crisis and avoid the unnecessary loss of homes in Hawaii. For example, the state bank could operate a purchase program for distressed residential properties encumbered by problematic mortgages, including provisions for selling the property back to the former owner in certain circumstances.

Given the impact a Hawaii State Bank would have on everyone living in Hawaii, it is important to retain the list of members appearing in Section 2(a) to ensure representation on the task force of consumers, homeowners, elders and low-income persons – as well as special interests and government. However, language should be added to Section 2(a) to also ensure representation of those who live on neighbor islands. In addition, the sunshine law requires task force members to attend Honolulu meetings in person, and the cost of doing so is

substantial. To ensure that considerations uniquely affecting Hawaii residents living on other islands are raised with the task force, Section 2(c) should be revised to provide for reimbursement of travel expenses to neighbor island members. Specifically, Section 2(c) could state:

"(c) The members of the task force shall not receive compensation for their services, except that travel expenses reasonably incurred by a member residing on a neighbor island in order to attend task force meetings shall be reimbursed."

For two years, I have been the only member of the Mortgage Foreclosure Task Force from a neighbor island. Because I do not get paid to advocate on behalf of borrowers, I have been forced to personally pay almost all of my travel expenses to attend Task Force meetings. In its December 2011 report to the Legislature (at page 3), the Task Force asks the Legislature to give due consideration to ensuring adequate representation from the neighbor islands on all future task forces and working groups and providing for their travel expenses. Hopefully, this past oversight will not be repeated in the task force envisioned by HB 1840, HD3.

Thank you for your consideration of my testimony.



LEGAL AID
SOCIETY OF HAWAI'I

Telephone: (808) 536-4302 • Fax: (808) 527-8088
Mailing Address: P.O. Box 37375 • Honolulu, Hawaii 96837-0375
924 Bethel Street • Honolulu, Hawaii 96813

Calvin Pang, Esq.
President, Board of Directors

M. Nalani Fujimori Kaina, Esq.
Executive Director

The Honorable Rosalyn H. Baker, Chair
The Honorable Brian T. Taniguchi, Vice Chair
Senate Committee on Commerce and Consumer Protection

Hearing : Tuesday, March 13, 2012, 9:00 a.m.
State Capitol, Conference Room 229

In Support of Intent of HB 1840, HD3 Relating to State-Owned Bank

Chair, Vice-Chair, and Members of the Committee:

My name is Madeleine Young, representing the Legal Aid Society of Hawai'i ("Legal Aid"). I am advocating for our clients who include the working poor, seniors, citizens who speak English as a second language, the disabled, other low and moderate income families who are consumers, and families facing default and foreclosure on their homes. I provide bankruptcy services as a staff attorney in Legal Aid's Consumer Unit. Specifically, I teach a clinic to show individual consumer debtors how to prepare and file their own petition for chapter 7 bankruptcy relief, as well as provide full representation to Legal Aid clients in bankruptcy matters. I give counsel and advice to clients on protected income sources, exempt assets, and settlement options regarding their consumer debts. I also provide legal services to clients regarding mortgage default and foreclosure matters, wage garnishment avoidance, fair debt collection practices, debt collection defense, as well as student loan, tax debt, and other consumer debt problems.

We support the intent of HB 1840, HD3, as it would establish a task force within the Department of Commerce and Consumer Affairs to study the feasibility of establishing a state-owned bank in Hawai'i, whose purpose would be to promote economic development, agriculture, education, community development, housing, and industry in Hawai'i. Legal Aid also supports the provisions in HB 1840, HD3 requiring sufficient consumer representation on the task force, to ensure that the interests of Hawai'i's consumers (including homeowners, elders, and low-income persons) are adequately represented.

Conclusion: The Legal Aid Society of Hawai'i supports the intent of HB 1840, HD3 and its efforts to strengthen protections for consumers in Hawai'i. Thank you for the opportunity to testify.



TEL:
808-524-5161
FAX:
808-521-4120
ADDRESS:
1800 Bishop Street, Suite 3018
Honolulu, HI 96813-4203

Presentation to the Committee Commerce and Consumer Protection
Tuesday, March 13, 2012 at 9:00 a.m.
Testimony on HB 1840, HD3 Relating to State-Owned Bank

In Opposition

TO: The Honorable Rosalyn H. Baker, Chair
The Honorable Brian T. Taniguchi, Vice Chair
Members of the Committee

My name is Gary Y. Fujitani, Executive Director of the Hawaii Bankers Association (HBA), testifying in opposition to HB 1840, HD3, which proposes to establish a task force to study the feasibility and cost to start a state-owned bank.

While HBA acknowledges the intent behind the efforts to create a state-owned bank, HBA opposes the proposed legislation policy of putting public funds in a potentially highly risky venture. The primary purpose of public funds is to pay for operations of the state. Therefore, those funds must be liquid (available) to meet the state's obligations such as payroll, pension benefits, and rent on buildings. The funds currently deposited in local financial institutions are collateralized (secured) thereby ensuring the safety and future availability of those funds. It is not clear whether or not the state intends to provide similar security and safety of public funds once withdrawn from our local banks.

In considering a state-owned bank HBA has concerns:

1. **Limited Role Model:** Only one state (North Dakota) started in 1919, has a state bank and comparisons between our states are not valid since there are different banking environments and economic drivers. North Dakota's state bank basically services other banks, a function not needed by our local financial institutions.

The State of North Dakota (ND) is very unique in that it has a population of approximately 650,000 residents and yet 90 banks operate in the state (Hawaii has 9 headquartered FDIC insured banks). To compare ND and Hawaii is inappropriate. ND is a sparsely populated state with many banks. We are densely populated with few banks. Thus, we are more in line with Massachusetts which decided a state bank was inappropriate for it. ND is a state dependent on agriculture and energy. We are dependent on tourism and government spending. A better comparison to ND is South Dakota whose economy is similar to ND in terms of stability and it

has no state bank. The idea that a state bank is important to economic success of the state is decried even by the head of the ND state bank.

In a study by the Federal Reserve Bank of Boston regarding the feasibility of a state bank for Massachusetts, the study stated the potential costs of starting up a state-owned bank could be significant. Capitalizing a new bank along the lines of the initial size of Bank of North Dakota, but scaled up to reflect the current size of the Massachusetts economy, would require funds roughly equal to 20% of the Massachusetts general obligation debt.

2. Lack of expertise: The state currently lacks the expertise to operate a bank. Under other State Bank proposals, no bank board member would have any experience running a bank and no one is required to have banking experience in any of the bank's other intended areas of operation such as short sales and real property transactions, mortgage servicing, property management or clearinghouse functions.
3. Uncertain future: It could be years before the state bank becomes profitable and it is questionable as to how effective the state bank would be in resolving the problems it intends to address. In one proposal HB 2103, tying up public funds by purchasing troubled mortgages with defective title or seeking to purchase homes from homeowners experiencing financial difficulty is something that raises warning flags and should be a cause of concern.
4. Possible harm to state's credit rating: Using public funds to capitalize the bank could harm the state's credit/bond rating. It puts public funds at risk. An appropriation would be required for an undetermined amount of capital to start up and operate a bank for a period of time without any offsetting revenues. There would be no guarantee that the bank would make money in a reasonable period of time, if ever.
5. Deprives other state programs: Diverting funds to the state bank reduces funding in other areas and there are existing government programs capable of addressing the state bank's goals without risking public funds.
6. Potential policy conflict: A potential public policy conflict could arise between the bank's mission of doing social good and running a sound bank for profit. There is potential for politics to influence lending policies that lead to lower quality loans with increased likelihood of nonpayment of loans.

The State of Massachusetts established a Commission to study the feasibility of establishing a state-owned bank in 2010. **The Commission recommended against establishing a state owned bank.**

Below is an excerpt from the "Report of the Commission to Study the Feasibility of Establishing a Bank Owned by the Commonwealth" dated August 8, 2011.

*"The Commission recommends that the Legislature not pursue establishing a bank owned by the Commonwealth or by a public authority constituted by the Commonwealth. The primary reasons for the Commission's recommendation are that (1) a state-owned bank would require significant initial capital investment and it remains unclear that there is a proven need to justify the investment; (2) the only existing model of a state-owned bank is that of North Dakota which is inadequate given the vast differences in the banking industries and economies of North Dakota and Massachusetts; (3) **the public funds of the Commonwealth would be exposed to unacceptably high risk if deposited in a state-owned bank, the public funds would be used to provide risky gap financing, and the rate of return would need to match that currently earned under the management of the Treasurer;** (4) the infrastructure investment activities in Massachusetts are substantially more established than in North Dakota; and (5) Massachusetts has a prominent network of public agencies, quasi-public agencies, and non-profits which offer various lending programs and services, including lending to help support infrastructure. **We believe that bolstering these programs, policies and agencies is a faster and more effective way to meet gaps in our capital markets than establishing an entirely new organization.**"*

The link to the Commission report follows:

<http://www.mass.gov/hed/docs/eohed/report-of-the-commission-to-study-the-feasibility-of-establishing-a-bank-owned-by-the-commonwealth.pdf>

The Massachusetts study clearly outlines the reasons a state owned bank would also not be appropriate for Hawaii. Instead the Commission recommended using programs, policies and government agencies as a faster and more effective way to meet gaps in capital markets than establishing an entirely new organization.

In previous testimony on the State Bank bills, even Budget and Finance suggests there are other avenues to accomplish the intended goals without pursuing the complex, risky, expensive and time-consuming implementation process of forming a state bank.

Thank you for allowing us to testify on this bill and we ask that this bill be held.



Gary Y. Fujitani
Executive Director



46-063 Emepela Pl. #U101 Kaneohe, HI 96744 · (808) 679-7454 · Kris Coffield · Founder/Legislative Director

TESTIMONY ON HOUSE BILL 1840, HOUSE DRAFT 3, RELATING TO STATE-OWNED BANK

Senate Committee on Commerce and Consumer Protection

Hon. Roslyn H. Baker, Chair

Hon. Brian T. Taniguchi, Vice Chair

Tuesday, March 13, 2012, 9:00 AM

State Capitol, Conference Room 229

Honorable Chair Baker and committee members:

I am Kris Coffield, representing the IMUAlliance, a nonpartisan political advocacy organization that currently boasts over 150 local members. On behalf of our members, we offer this testimony in support of, with consideration of amendments for HB 1840, HD 3, creating the task force on establishing the Bank of the State of Hawaii.

Beginning in 2007, the American economy began slipping into a sharp recession, a result of, among other things, profligate speculation on risky derivatives by Wall Street bankers and plummeting property values. As the credit crisis deepened, national unemployment rates soared, eventually surpassing 10 percent. The coupling of high unemployment with a decimated housing market led to extreme budget shortfalls for most states, finally culminating in monoline bond insurers, like Moody's, reducing many states' credit ratings. Hawaii was not spared, as its outlook on \$4.7 billion of general-obligation bonds fell to "negative" from "stable," in 2010, on the basis of budget reserve depletion prompted by decreased tax collections.

While the federal stimulus program and Troubled Asset Relief Program helped stem the hemorrhaging of jobs into unemployment lines, they failed to resolve the credit crunch or spur lending to states, businesses, and individuals. What's more, financial firms receiving bailout funds have worked to undermine regulatory mechanisms put in place to protect investors and have disbursed huge bonuses to the some of the same executives that sanctioned the trading schemes underlying the recession. As Hawaii grapples with a \$1.3 billion deficit and billions more in unfunded liabilities, it's clear that something has to be done. Exploring the notion of a state-owned public bank, via the enactment of HB 1840 is exactly the kind of innovative solution needed to offset future losses.

By consolidating state assets under a single fiduciary umbrella, a public bank would allow the state to leverage its own resources to finance operations free of interest, since the State of Hawaii would own the Bank of the State of Hawaii and return excess earnings to the state's general fund. Moreover, a public bank would not be beholden to the profit-based agendas of private banks, thereby permitting the Bank of the State of Hawaii to leverage capital on a fractional basis without consideration for shareholder earnings or market expectations. The capital reserves of private banks, today, are tainted with so-called "toxic" assets and subject to quarterly earnings statements. Because neither of these limitations would apply to a

public bank, however, the Bank of the State of Hawaii would be able to better engage in long-term planning based on available deposits and revenue forecasts.

Perhaps the best argument in favor of establishing a task force to study the feasibility of creating a public bank resides not in Hawaii, but North Dakota. Currently, North Dakota is the only state in the country with a public bank, called the Bank of North Dakota. Tasked with maintaining the vitality of local government businesses through collective leveraging and management of state assets, the BND has helped North Dakota escape the economic downturn and, instead, enter recent calendar years with a *\$1 billion surplus*. Granted, North Dakota is home to myriad small banking institutions (unlike Hawaii, whose fiscal landscape boasts a small number of comparatively large institutions). The BND's 25 percent return on equity and \$60 million dividend payment to the state, in 2009, cannot be easily dismissed, though, particularly when contextualized by the roughly \$300 million that the bank has injected into North Dakota's general fund coffers over the last decade, according to the Public Banking Institute.

Nevertheless, the IMUAlliance believes this bill can be strengthened through the adoption of several amendments. First, we believe that the enumerated members of the proposed task force contained in section 2, subsection (a) should be revised to include a representative from the Department of Business, Economic Development and Tourism, the agency responsible for providing the statistical and financial expertise that guides the state's economic development efforts, in the form of the director of DBEDT or the director's designee. Second, we submit that section 2, subsection (b) of the proposal should stipulate that the director of or director's designee from the Department of Budget and Finance shall service as the task force's vice-chairperson. Third, we feel that the list of considerations recommended for review by the task force, as enumerated in section 2, subsection (e), should be modified to encourage investigation of public finance models tied to renewable energy production. Thus, we suggest that the committee amend Section 2, subsection (e)(3) to read: "The Green Bank of Kentucky, Clean Energy Finance and Investment Authority of Connecticut, and other models used in other states and banking institutions." Fourth and finally, we urge you to allow the task force to review reports by non-governmental economic agencies, when considering the feasibility of a state bank, by adding an additional point to the enumerated items in Section 2, subsection (e), to read: "Findings from non-governmental studies in creating a state-owned bank, including reports by Demos and the Center for State Innovation."

As Ellen Brown, president of the Public Banking Institute, has indicated, the projected collective state budget deficit for 2011 stood at \$140 billion, a total that pales in comparison to the \$12.3 trillion in liquidity and short-term loans extended, by the Federal Reserve, to bail out Wall Street. Yet, Fed Chairman Ben Bernanke announced, in January, that a bailout for local and state governments had been taken off the table. States, then, must act to protect their own interests, and passage of this measure would be a smart first step. Mahalo for the opportunity to testify in support of this bill

Sincerely,
Kris Coffield
Legislative Director
IMUAlliance