NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR

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KEALI'I S. LOPEZ
DIRECTOR

TO THE HOUSE COMMITTEE ON
FINANCE

THE TWENTY-SIXTH STATE LEGISLATURE
REGULAR SESSION OF 2012

Wednesday, February 29, 2012
11:30 a.m.

TESTIMONY ON H.B. 2103, Proposed H.D. 2
RELATING TO THE BANK OF THE STATE OF HAWAII

TO THE HONORABLE MARCUS OSHIRO, 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 ("Department") on H.B. 2103, Proposed H.D. 2, relating to the proposed Bank of the State of Hawaii (the "Bank").

To briefly summarize, H.B. 2103, Proposed H.D. 2, does several things: (1) directs DCCA to conduct a comprehensive review of relevant state laws to develop legislation to establish the bank of the State of Hawaii; (2) appropriates $500,000 from the attorney general's funds received from the multi-state settlement agreement and

$500,000 from the compliance resolution fund to conduct the review; (3) directs the Hawaii housing finance and development corporation to establish and operate an interim purchase program for distressed residential properties encumbered by problematic mortgages until the Bank is operational; and (4) establishes the minimum percentages of state funds that shall be deposited in the Bank starting in January 1, 2016.

Accordingly, the Department would like to respectfully raise certain concerns about the potential unintended consequences to the financial community and consumers if the State established its own bank.

Comprehensive Review. The Department does not have an objection to conducting a two-year review of the State's laws relating to developing proposed legislation for the establishment of a state bank for the purpose of mortgage lending, housing development, agricultural development and land use. The Department would also like to invite other experts in the field to develop the proposal for a state bank. Experts from the financial community, the developer community, agricultural community, native Hawaiian community may lend thoughtful ideas for discussion as we discuss possibilities for the use of a state bank by consumers.

Funding for the Review. The Department does not take a position on Section 4 of the Bill (page 3) wherein the attorney general's office provides $500,000 for the establishment of the fund to acquire title to problematic mortgages on residential property because, the Department is not sure how the attorney general's office will be using the Settlement Agreement funds for the homeowners in our State. With regard to Section 5 of the bill, the Department notes that the Division of Financial Institutions does not have the funding identified in the bill ($500,000) for the review. Based on current projections, DFI's revenues and expenditures for personnel and other operating expenses, and an assessment for DFI's share of DCCA's administrative overhead, DFI will have a cash flow deficit of $13,785 in FY 2012. In FY13 and FY14, this deficit will increase to approximately $800,000 for each fiscal year.

Interim program to purchase problematic mortgages. The Department does not take a position on the task to be undertaken by the Hawaii Housing Finance and Development Corporation in PART II of the bill. However, the Department notes that some of the provisions in the measure appears to conflict with the recently announced multi-state mortgage servicer settlement agreement ("Settlement Agreement"). The agreement for the five large banks/mortgage servicers mandate that the banks provide loan modifications or principal reductions to eligible homeowners. In addition, the bank regulators and the attorney general will be monitoring compliance with the agreement.

Looking towards the future, the Department believes that the Settlement Agreement terms will be a guideline for all other banks and mortgage servicers as they work with homeowners who are in foreclosure.

The Department has been researching a program in Boston, Massachusetts called the Boston Community Capital ("BCC") 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.

Capitalizing the state bank. First, the Department has concerns that if the State withdraws funds from local banks to deposit State monies in the State-owned bank, it would significantly decrease capital reserves of existing local banks and threaten the safety and soundness of the local banks, which are the backbone of Hawaii's financial institutions. This action may be an unintended consequence for the banking industry.

Second, the funds of the state deposited into local financial institutions are used for operations of the state. The funds must be liquid (available) to meet the State's obligations including of payroll, pension benefits, mortgage or rent on buildings, and of the state funds into the state bank. This may compromise the security and availability of the State's funds.

Third, funds deposited by the State in our local banks are secured with bonds to ensure the security and liquidity (availability) of the funds at all times. It is not clear whether the Bank of the State of Hawaii will also issue bonds to secure the availability of the funds. If not, the safety of those funds would be at risk. If all State funds, such as general and special funds, are required to be deposited in the Bank, then the legislature must consider whether the State should require that those funds be secured.

Thank you for the opportunity to provide these comments on House Bill No. 2103, Proposed H.D. 2. I will be available to respond to any questions.

NEIL ABERCROMBIE
GOVERNOR

KAREN SEDDON
EXECUTIVE DIRECTOR

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IN REPLY REFER TO:

Statement of
Karen Seddon
Hawaii Housing Finance and Development Corporation
Before the

HOUSE COMMITTEE ON FINANCE
February 29, 2012 at 11:30 a.m.
Room 308, State Capitol

In consideration of
H.B. 2103, Proposed H.D. 2,
RELATING TO THE BANK OF THE STATE OF HAWAII.

The HHFDC believes that H.B. 2103, Proposed H.D. 2, has the potential to assist distressed homeowners and stabilize communities, but ***has concerns*** with Part II of the Proposed H.D. 2. We defer to the Department of Commerce and Consumer Affairs with respect to the remainder of the bill.

The Proposed H.D. 2 requires HHFDC to establish an interim purchase program for distressed residential properties encumbered by "problematic mortgages" without specifying a definition for that term. This vagueness makes it difficult to estimate how many households would be likely seek program assistance.

HHFDC provides homebuyer assistance for low and moderate income homeowners, i.e. those earning up to 140 percent of the area median income as established by the U.S. Department of Housing and Urban Development. Accordingly, we believe that this bill should be targeted to assist only low and moderate income homeowners, and should cap the principal loan balance at up to $300,000.

An appropriation of funds would also be required to cover the costs of acquiring eligible distressed properties, and for administrative expenses, including appraisals, counseling services, outreach, and program oversight.

HHFDC also notes that the resale of the distressed properties acquired under the interim purchase program does not fall under an existing exemption from the legislative approval requirements of section 171-64.7, Hawaii Revised Statutes (HRS).

Depending upon the timing of events, it could take up to a full year to obtain the necessary approval to resell these properties back to the homeowners once they have met the necessary requirements of this bill. <u>Accordingly, we suggest that this bill amend section 171-64.7(f), HRS to specifically exempt properties acquired by the HHFDC under the interim purchase program.</u>

Thank you for the opportunity to testify.

WRITTEN ONLY

TESTIMONY BY KALBERT K. YOUNG
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE HOUSE COMMITTEE ON FINANCE
ON
HOUSE BILL NO. 2103, H.D.1

February 29, 2012

RELATING TO THE BANK OF THE STATE OF HAWAII

House Bill No. 2103, H.D.1, requires a comprehensive review of the State's laws relating to financial institutions, mortgage lending, housing development, agricultural development, and land use for the purpose of developing proposed legislation to establish a bank of the State of Hawaii. A report of this review is due to the 2014 legislature and requires the Department to deposit with the bank of the State of Hawaii a sum of not less than $500,000,000 of State funds on January 1, 2016, and deposit additional specified amounts of State funds on January 1 of 2017 and 2018.

The Department opposes sections 8, 9 and 10 of the bill, which requires the Director of Finance to deposit funds with the yet to be established bank of the State of Hawaii in 2016, 2017 and 2018. The Department believes that any statutory requirement to transfer or deposit funds into a bank of the State of Hawaii should be enacted after the study is completed and the statutory framework of the bank of the State of Hawaii is established.

The deposit and management of funds as part of the State treasury is a serious function and responsibility. Hawaii Revised Statutes requires that funds be deposited with focus on balancing safety of principle as well as maximizing of a rate of return for taxpayers. The state treasury is expected to ensure that whatever banks or financial institution holds public funds are solvent and insured. Until the bank of the State of Hawaii is established, I believe it premature to commit or require significant taxpayer funds.

Thank you for the opportunity to submit testimony on this bill.

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Executive Director

The Honorable Marcus R. Oshiro, Chair
The Honorable Marilyn B. Lee, Vice Chair
House Committee on Finance

Hearing : Wednesday, February 29, 2012, 11:30 a.m.
State Capitol, Conference Room 38

In Support of the Intent of Proposed HB 2103, HD2 Relating to the Bank of the State of Hawaiʻi; In Opposition to Appropriation

Chair and Members of the Committees:

My name is Madeleine Young, representing the Legal Aid Society of Hawaiʻi ("Legal Aid"). I am advocating for our clients who include the working poor, seniors, citizens with English as a second language, disabled, and 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 proposed HB 2103, HD2, as it would establish the Bank of the State of Hawaiʻi to strengthen protections for mortgage consumers, and create an interim purchase program for distressed residential properties encumbered by problematic mortgages, including provisions for selling the property back to the former owner in certain circumstances. It would also direct the Department of Commerce and Consumer Affairs to review state laws relating to the establishment of a state-owned bank in Hawaiʻi. However, Legal Aid has reservations regarding the provision in proposed HB 2103, HD2, which would appropriate $500,000 to the DCCA from the multi-state settlement agreement with mortgage lenders for this purpose.

Legal Aid supports the provisions of proposed HB 2103, HD2 regarding the establishment of an interim purchase program run by the Hawaii Housing Finance and Development Corporation ("HHFDC") for distressed residential properties in situations where the mortgagee cannot adequately demonstrate its right to collect on the borrower's indebtedness, or prove that the mortgagee has legal authority to foreclose on a property. As an approved housing counselor under chapter 667, HRS, Legal Aid also supports Section 6, subsection (g)(6) of proposed HB2103, HD2, requiring borrowers to consult with an approved housing counselor to in order to assess their feasibility of buying back a subject property from the bank of the State of Hawai'i, and subsection (g), whereby HHFDC would provide grants to approved housing counselors and approved budget and credit counselors as defined under chapter 667, HRS, that are based within Hawai'i for the purposes of subsection (g). We believe such grants would directly benefit homeowners in Hawai'i seeking foreclosure relief and the unnecessary loss of homes in Hawai'i.

The multi-state settlement agreement with the five largest national loan servicers was intended to address foreclosure misconduct and direct "hard dollars" to states, including Hawai'i, for counseling, public education, mediation, and the enforcement of laws protecting mortgage consumers. It is not clear that appropriating $500,000 of the settlement funds to DCCA to conduct a study on the feasibility of a state-owned bank would satisfy the intended purpose of the settlement.

<u>Conclusion</u>:

The Legal Aid Society of Hawai'i supports the intent of proposed HB 2103, HD2 and its efforts to strengthen protections for mortgage consumers in the State of Hawai'i by establishing a state-owned bank and establishing an interim purchase program directed at helping owner-occupant borrowers facing foreclosure. However, we oppose the appropriation to DCCA of funds from the multi-state settlement agreement with mortgage lenders. Thank you for the opportunity to testify.

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Testimony to the House Committee on Consumer Protection and Commerce
Wednesday, February 29, 2012

Testimony in opposition to HB 2103 (proposed) HD2, Relating to the Bank of the State of Hawaii

To: The Honorable Marcus Oshiro, Chair
The Honorable Marilyn Lee, Vice-Chair
Members of the Committee on Finance

My name is Stefanie Sakamoto, and I am testifying on behalf of the Hawaii Credit Union League, the local trade association for 81 Hawaii credit unions, representing approximately 811,000 credit union members across the state.

We are in opposition to HB 2103 HD2 (proposed), which would direct the Department of Commerce and Consumer Affairs to conduct a review of laws with the purpose of developing legislation to establish the Bank of the State of Hawaii. This bill would also establish an interim program to purchase distressed properties that are considered encumbered by troubled mortgages.

Our main concern is simply that funds being deposited into a state bank would be insured by the state itself. Without the benefit of being insured by a separate entity like the National Credit Union Administration (which insures and oversees all credit unions in the State of Hawaii), the state would be in an extremely precarious situation in the event of any financial difficulty within the bank, and within the state. Coupled with the notion of purchasing troubled mortgages, this could be an extremely dangerous concept, which would place taxpayer money at enormous risk.

Thank you for the opportunity to testify.

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Presentation to the Committee on Finance
Wednesday, February 29, 2012 at 11:30 a.m.
Testimony on HB 2103, HD2 Relating to the Bank of the State of Hawaii

In Opposition

TO: Honorable Marcus R. Oshiro, Chair
Honorable Marilyn B. Lee, 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 2103, HD2. HBA is the trade association representing FDIC insured depository institutions operating branches in Hawaii.

HB 2103, HD2 directs DCCA along with State Departments to conduct a comprehensive review of relevant state laws to develop legislation to establish the bank of the State of Hawaii. Directs the Hawaii housing finance and development corporation to establish and operate an interim purchase program for distressed residential properties encumbered by problematic mortgages until the bank of the State of Hawaii is operational. Establishes minimum percentages of state funds that shall be deposited in the bank of the State of Hawaii.

It is unclear, but, this bill **appropriates either <u>$500,000 or $1 million</u>** to review state laws for the purpose of developing legislation in order to establish a state owned bank **<u>without first conducting a comprehensive feasibility study.</u> Forming a state-owned bank is a complex and potentially costly process and deserves thorough analysis to determine whether there is truly a legitimate unfulfilled need. Legislators must ask if it can be accomplished without risking the public's money and if it can be operated in a safe and sound manner.**

We are not aware of any detailed business plan that addresses any of these issues or that speaks to the future success of such a bank. This should be especially important considering the state's fragile economic climate and the state's lack of prior experience in operating a for-profit business, especially a bank. **Without proper vetting and consideration, the state could be burdened with more costly bureaucracy, not to mention the cost to set up the initial banking infrastructure.**

<u>With this in mind, HBA has a number of concerns:</u>

- **Start Up Time and Diversion of Funds:** It could easily take a couple years before the State Bank is operational, thus paying for all costs during the startup and diverting unknown amounts of taxpayer funds for a speculative venture. This will divert funds away from cash-short programs that benefit the public at large. This is asking for use of taxpayer funds to pursue a business idea without concrete justification.

- **Unknown Funding Source:** What is the source of funding to start the bank and carry the bank until it makes a profit, if ever.

- **State Liability:** In the previous version of this bill the State would incur liability to guarantee the public deposits. This could impact the State's bond rating and potentially lower the State Bond rating as a guarantor of the State Bank public deposits.

- **Policy Conflict:** There could also be a potential public policy conflict of the Bank's mission of doing social good instead running a sound bank for profit. The potential exists for politics to influence lending policies that lead to lower quality loans with increased likelihood of nonpayment.

- **Tying Up Public Funds:** Public deposits are intended to pay for current operating expenses. Turning them into loans that would be repaid over a number of years will impact the availability of these funds to pay for current operating expenses. It is critical to the well-being of any bank to match assets and liabilities. It is a fundamental error to match short-term assets (operating income) with long-term liabilities (30-year mortgages). Unlike a bank that has short term and long-term assets as well as short term and long term borrowing sources, a State Bank will only have short-term assets and thus buying long-term assets would not be in the best interest of the State.

- **Unfair Competition:** There is the **potential** for unfair competition from a State Bank over Hawaii banks since it would enjoy a Hawaii tax-free status and not have to comply with costly and burdensome federal regulations.

In regard to the proposal to buy troubled mortgages there are several specific issues:

- **Bailing out Toxic Lenders:** In those instances where the State Bank may buy trouble mortgages where lender ownership cannot be clearly established is essentially bailing out toxic lenders

- **Defective Mortgage Titles:** This uses public taxpayer money to buy a loan that the state will not be able to prove it owns. The rationale for this is not clear since the eligibility to buy is a loan the foreclosing entity cannot prove it owns. Therefore, automatically, the state cannot prove its ownership as well since the chain of title is suspect.

- **Making Sub-Prime Mortgages:** Making and holding sub-prime mortgages in the bank where troubled borrowers were previously denied a loan modification, due, in part, to not having income necessary to make lower payments. As been demonstrated in the current housing crises, sub-prime mortgages increase the risk of default and also places the State in a difficult position of possibility foreclosing on these troubled borrowers.

HBA suggests that there may be alternative ways to address these matters:

- **Existing Loan Programs**: If legislators desire to quickly address niche needs like the distressed property program, loans to small businesses and farmers that may not meet the qualifying requirements from a financial institution, then a quicker solution exists. The Legislature can use existing loan programs and government agencies as a faster and more effective way to meet gaps in capital markets than establishing an entirely new organization.

- **Control State Loss:** Using existing state programs and agencies will control losses by minimizing startup expenses, cap the dollar amount of potential losses by funding a pre-determined amount to the loan fund and using existing state resources instead of creating an unnecessary bureaucracy.

Recommendation

It is recommended that an in depth analysis of the feasibility of such a high risk and potentially costly venture be done before considering creating a State Owned Bank. Therefore, HB 1840, that proposes to create a Task Force to study the feasibility of creating a State Owned Bank, is a more prudent and responsible action to undertake before spending either $500,000 or up to $1 million and risking public funds without proper justification.

Thank you for this opportunity to testify.

Gary Fujitani
Executive Director

IMUA ALLIANCE

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

TESTIMONY FOR HOUSE BILL 2103, HOUSE DRAFT 2, RELATING TO THE BANK OF THE STATE OF HAWAII

House Committee on Finance
Hon. Marcus R. Oshiro, Chair
Hon. Marilyn B. Lee, Vice Chair

Wednesday, February 29, 2012, 11:30 AM
State Capitol, Conference Room 308

Honorable Chair Oshiro 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 HB 2103, HD 2, relating to 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 derivates 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 2103, HD 2 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 studying 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.

As you mull the merits of this proposal as it relates to the the codification of a purchase program for distressed mortgages, please keep in mind the following post-crash economic context regarding those suffering from fraudulent lending practices. During the housing bubble, big banks sold mortgage-backed securities to their largest, and frequently most gullible, customers. When the tech bubble burst, investment entities–sovereign wealth funds, pension funds, investment trusts, hedge funds, bank investment funds, etc.–discovered mortgage bundles (officially known as "Residential Backed Mortgage Securities") earning, accruing, and paying sharp dividends in the artificially inflated, but nevertheless booming housing market. Imagine you own an ice cream stand. You make 1,000 sundaes each day, selling most of your product. Then, one day, 1,000,000 customers show up. You'd try your best to meet the demands of your new customer base, right? Well, in the case of the banks, "meeting demand" meant encouraging mortgage bundlers to create newer, faster, cheaper products and instruments to facilitate heavier transaction loads. Bundlers, in turn, pressured mortgagees, like Countrywide to lower restrictions for home loans to keep the already artificially inflated bubble expanding. For a prime (subprime?) piece of the pie, companies like Countrywide complied, selling the paperwork to RBMS shops, who rebranded them as "securities" and sold them to banks. The banks, in turn, sold the end-bundled product to investors. A major catch to this nefarious plot: Many of the mortgages were never recorded, and many people were lied to in the process of bundling and selling these mortgages. Moreover, many mortgage industry executives and employees, to this day, engage in the practice of "robosigning," or cutting corners to keep pace with crushing foreclosure rates by signing a mortgage affidavit document without verifying the information, failing to comply with notary procedures, or forging an executive's signature, all leading to questionable–read: illegal–signatures on mortgage documents. Worst of all, some mortgagees simply lost their mortgage documents, tainted or otherwise, and have yet to provide a plausible reason for why the displacement occurred. Oops. Big freakin' oops.

For the sake of local mortgagors taken advantage of by this financial conspiracy (and let's face it, a "conspiracy" is exactly what it should be called), we urge you to pass this bill. 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, last 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 HB 2103, HD 2.

Sincerely,
Kris Coffield
Legislative Director
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February 29, 2012

HEARING BEFORE THE
HOUSE COMMITTEE ON FINANCE

TESTIMONY ON HB 2103, Proposed HD2
RELATING TO THE BANK OF THE STATE OF HAWAII

Room 308
11:30 AM

Chair Oshiro, Vice Chair Lee, and Members of the Committee:

I am Brian Miyamoto, Chief Operating Officer and Government Affairs Liaison for the Hawaii Farm Bureau Federation (HFBF). Organized since 1948, the HFBF is comprised of 1,800 farm family members statewide, and serves as Hawaii's voice of agriculture to protect, advocate and advance the social, economic and educational interest of our diverse agricultural community.

HFBF **supports the intent of HB 2103, Proposed HD2**, which would authorize a comprehensive review of state laws, including those relating to agricultural development, for the purpose of developing legislation to establish a bank of the State of Hawaii. A lack of sufficient capital for agribusiness ventures is one of the many impediments to the expansion of agriculture and aquaculture in Hawaii. If a state-owned bank provided additional funding for loans and investments in agricultural development, it would support the State's goal of greater agricultural self-sufficiency. We appreciate HB 2103, Proposed HD2's inclusion of the Department of Agriculture and the Agribusiness Development Corporation as members of the review.

Earlier versions of HB 2103 would have established a state-owned bank immediately, rather than waiting for a study or review to be completed. As HFBF stated in its testimony on HB 2103 HD1, we believe that it is premature to establish the bank without first studying its feasibility. We therefore feel much more comfortable with HB 2103, Proposed HD2 than with earlier versions of the bill. We still have concerns with Part III, however, which would establish the bank on January 1, 2016, and would allocate specific proportions of state funds to the bank on a fixed schedule. It seems more prudent to include such matters as the appropriate establishment date and funding schedule among the items for review under Part I.

I can be reached at (808) 848-2074 if you have any questions. Thank you for the opportunity to submit comments on this important measure.

Written Testimony of
Mike Krauss, President and Chair of the Pennsylvania Project, Inc.
Before the House Committee on Finance of the
Hawaii State Legislature
HB 2103 HD 1
"Establishes the bank of the State of Hawaii"
On February 28, 2012
Testimony Transmitted by Email.

Mr. Chairman Oshiro and members of the committee, thank you for this opportunity to testify. My name is Mike Krauss and I submit testimony today on behalf of the Pennsylvania Project, of which I am President and Chair.

Today, the legislature and people of the State of Hawaii join those in seventeen other states to take steps to realize the benefits of public banking: a sustainable supply of locally generated and locally directed affordable credit and liquidity for Main Street, to spur economic and social development and jobs creation; and create a significant and new source of non tax revenue for the purposes of the people of the state, which can grow steadily and continue into perpetuity.

The Pennsylvania Project, Inc. is a not-partisan and non-profit public policy advocacy organization chartered in the Commonwealth of Pennsylvania. We educate and advocate on behalf of partnership banks, often referred to as "public banks."

We note that HB 2103 HD 1 is one of four bills now pending that approach the idea of a public "state-owned" bank of Hawaii in a variety of ways.

We offer our unqualified support for HB 2103, which will create a state bank, and in separate testimony offer our qualified support of HB 1849, which proposes a task force to in effect study the concept of a state bank.

We understand the attraction of a study, but other such studies have generally been an opportunity for large, out-of-state banks to kill the proposed legislation, which they fear (and perhaps rightly) will deprive them of deposits and business. We understand that.

But we believe these "too-big-to-fail" bank have had their day, with ruinous consequences, and if a study is decided, we urge that it be charged to determine HOW to proceed with a state bank, and not WHETHER to proceed.

We believe a public, state bank of Hawaii will assist the people of Hawaii to remedy the destabilizing and economically damaging actions of a private banking industry that, through its corporate business model, has precipitated the economic imbalances now witnessed across the US economy.

In so doing, we are mindful of the probability that any partnership, public bank in any state may differ from the model of the hugely successful public Bank of North Dakota, now in operation for almost one hundred years (www.bndnd.nd.org).

But at the same time, the success of the BND points to issues that this or any legislation that contemplates public banking must address, among them: mission, capitalization, governance, management, accountability, transparency and risk management.

Mission will vary with the needs and aspirations of the people you represent.

Capitalization will depend to some degree on the mission identified and the scope of the beneficial impacts you wish to realize, and over what time frame.

Governance, management and accountability are closely linked. Unlike the Federal Reserve which is accountable to virtually no-one, we urge you to vest governance of any proposed public bank in state-wide elected officials, who the people can remove from office. But we urge you to create a "fire wall" between the governors and the management, so that while governance will select the management, establish its duties and monitor its performance, it will have no role in the day- to- day decisions of management.

Any institution created must provide the most transparent review of its activities – independent and published audits and regular reports.

And of course, as public funds are involved, legislators' responsibility must be to insure that the practices and policies of management meet the highest standards of prudent risk management. The people of Hawaii and all the United States have already suffered the consequences of banks run like casinos.

As an assist to your efforts, we append an FAQ from our web site that may be of assistance.

Thank you for the opportunity to testify.

Mike Krauss
Chair, the Pennsylvania Project
www.papublicbnakproject.org

Addendum follows and can be downloaded from
http://papublicbankproject.org/wp/wp-content/uploads/2012/01/PA-PBP-FAQ-Complete-and-Revised.pdf

Pennsylvania Public Bank Project

Banking in the Public Interest - Keystone of a New Prosperity

A Pennsylvania Partnership Bank

Key Questions and Answers for Pennsylvania Elected Officials and Policy Makers State Treasury Staff, Bankers Taxpayers and Voters

An initiative of
The Pennsylvania Project, Inc.
PO Box 4390 | Harrisburg, PA 17111
A non-partisan, not for profit
Public policy advocacy organization

www.papublicbankproject.org
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Dear Fellow Pennsylvanian,

Not so long ago, the words "banker and banking" were synonymous with prudence, probity and respectability. But say those words today, and millions of Americans react with anger and scorn.

What happened?

With the support of several administrations and Congresses of both political parties, a significant portion the vast network of community banks that served local depositors, businesses and communities was gobbled up in the creation of the new, "money center" mega banks. This is the Wall Street banking cartel that operates through the Federal Reserve and controls the nation's supply and cost of money and credit.

Then Washington allowed these banks to combine their banking and investment operations into the "too-big-to fail" banks, which then gambled away the hard assets of the American people – mortgages, savings, pensions and investments.

Fraud became a business model and the "too-big-to-fail" banks failed. The American people lost many trillions of dollars of their wealth. The middle class was devastated, while the gamblers made off with their fortunes.

Nothing has changed, and the American people are awakening to the reality that the federal government has been "compromised" – as one reporter writing for the Wall Street Journal so carefully put it.

Tens of millions of dollars of annual lobbying by the banks, and now who knows how many millions of campaign contributions (The sources can now be are hidden in the so-called "Super PACS.") guarantee federal inaction.

But America needs a sound, effective and responsible banking industry. And it is within reach.

Across the nation, support is growing for the creation of state, municipal and county "Partnership Banks," based on the model of the hugely effective Bank of North Dakota.

We invite you to learn about Partnership Banking, and join our effort to create a Pennsylvania Partnership Bank.

Sincerely,

Mike

Mike Krauss
Chairman, the Pennsylvania Project, Inc.

A Pennsylvania Partnership Bank

Key Questions and Answers for Pennsylvania Elected Officials and Policy Makers State Treasury Staff, Bankers Taxpayers and Voters

The following information was drawn from already published material prepared by the *Center for State Innovation*, *Demos* and the *Public Banking Institute*, with additional research by the *Pennsylvania Project, Inc. / Pennsylvania Public Bank Project*.

Q: How will a Pennsylvania Partnership Bank work?

A: Participation loans

A Partnership Bank (also sometimes referred to as a public bank, development bank, or state bank) primarily interacts with the banking community through participation loans made with community banks to small businesses, homebuyers, farmers and students. The loans help increase a private bank's lending power and small businesses' job creating power. A Partnership Bank can also purchase part or all of a loan after it has been issued, to help a private bank stay within its capital adequacy and portfolio balance requirements.

Direct bank stock lending

A Partnership Bank can also provide capital to private banks through bank stock loans for mergers and acquisitions, capital refinancing, or capital expansion.

Infrastructure funding

Partnership Banks can be a source of funding for local governments when they buy debt for infrastructure investments. Access to low cost funds from the regional Federal Home Loan Banks, along with low overhead and an emphasis on public-purpose lending, allow the bank to lend its own assets, often at lower rates than private sources.[1]

The banks can also provide reliable Letters of Credit for tax-exempt bonds at lower interest rates.

Banker's bank functions

The Bank of North Dakota (BND) acts as a mini-reserve bank for the state's banking industry and serves the functions of a bankers' bank — a 'wholesale' bank providing core services including participations to smaller banks. There are only 22 bankers' banks in the country and a Partnership Bank could help provide community banks with lower cost, higher quality services.[2] Banks are free to continue working with private bankers' banks—a Partnership Bank is simply another option for community banks to use.[3]

Q: How much capital is needed to start a Partnership Bank? Where would it come from?

A: That depends on how much impact policy makers want the Bank to have on the commonwealth's economy and job creation, and how soon. Of course, a Partnership Bank would need to sustain its capital adequacy, so depending on the size of state deposits that will be held at the Partnership Bank, this could drive the capital needs. It seems likely that there will be a transition stage where the Partnership Bank's participation loan portfolio grows and there are arguments for growing the capital at a similar rate.

Ultimately, a Partnership Bank can be thought of as an economic engine that will be greatly impacted by the inflow of state deposits and reinvestment of profits into Partnership Bank capital. Center for State Innovation analysis shows that even after accounting for debt service obligations due to start-up capital, Partnership Banks in Oregon, Washington State, Hawaii and other states would be profitable in about two to three years with an actual return on equity of about seven to 10 percent per year, and could be scaled up to full operation within five years.[4]

The likely sources of Partnership Bank start-up capital are a General Obligation bond issue, or other dedicated state funds, such as "rainy day" funds. The Partnership Bank will replace the rainy day fund, maintained because states and municipalities do not have ready access to lines of credit. In an emergency the state can borrow from the bank – effectively itself - at no or very low interest. This is precisely what North Dakota did in the immediate aftermath of the devastating Grand Forks Fire and Flood of 1997.

Moreover, funds in the Partnership Bank can be reliably expected to provide greater returns to the economy and treasury than rainy day funds.

In the event that the controversial privatization and sale of state owned liquor stores occurs, Pennsylvania legislators and policy makers may wish to consider capitalizing a Pennsylvania Partnership Bank in part with proceeds from the sale.

Q: Will a Partnership Bank compete with community banks?

A: No. In fact, as 'participation lenders,' Partnership Banks are designed to complement community banks, not compete with them. Partnership Banks are primarily banker's banks and do not have branches. They generally do not originate business loans, take in deposits from businesses or individuals, or offer consumer banking products.

The BND Charter states explicitly that the bank is "[t]o be helpful to and to assist in the development of state and national banks... and not in any manner to destroy or to be harmful to existing financial institutions."[5]

The North Dakota Bankers Association and its member banks strongly support the Bank of North Dakota.

Not competing over loans
A Partnership Bank has no interest in competing for the origination or refinance of private loans, so private banks need not fear that allowing participation will lead to a loss of customers.

Not competing for deposits
A Partnership Bank can be prohibited from taking private deposits,[6] as well as local government deposits. In fact, the bank can help community banks secure local government deposits less expensively through Letters of Credit. Under some proposed Partnership Bank legislation, private banks would no longer receive, or would receive fewer, short-term state deposits. But most community banks receive little or none of this money at present as states currently require 100 percent collateral or higher for these funds.

Overall competitiveness of the banking market
Due in part to BND's supportive role, North Dakota has one of the lowest Herfindahl-Hirschman Indexes (HHI) for banks—a measure of market concentration—in the U.S., much lower than the HHIs of similar states such as Montana, South Dakota, and Wyoming.[7] Despite being one of the least-populous states, North Dakota has more community banks than Hawaii, Maine, and New Hampshire combined.

No North Dakota bank has more than 10 percent of total deposits, and the two biggest out-of-state banks—Wells Fargo and U.S. Bank—actually lost market share there in the last three years.[8]

In contrast, since 1997 Pennsylvania has lost more than 175 banks chartered in the commonwealth - 29 in the last four years alone. The total assets of In-State Banks have declined from about $479 billion in 2007 to a little over $281 billion in 2010. Of that total, more than 90% is held by only one bank. (Source, FDIC and the Federal Reserve)

Q: Does a Partnership Bank have to take in all state deposits?

A: No, a Partnership Bank is not required to take in all state deposits. In fact, a new bank cannot put all of a state's deposits to work right away in productive investments, and needs a ramp-up and capital-development period of several years.

The Bank of North Dakota grew into its role over several decades. First capitalized with a General Obligation bond of $2 million—worth $23.9 million in 2011 dollars—the bank now has assets of more than $4 billion.[9]

Roughly half of BND profits are plowed back into the bank's capital to expand its lending capacity, and the rest returned to the state's general fund – revenue without taxation.

Q: How can a Partnership Bank guard against imprudent risk?

A: The Bank of North Dakota has stringent safeguards in place to protect taxpayers. As a result, BND has never suffered major losses from loans and has always turned a profit for taxpayers, even when losses from loans are included.

• Independent audits. The bank is audited annually by an outside firm, and biennially by the North Dakota Department of Financial Institutions. Partnership Banks operate like independent financial institutions rather than state agencies. However, BND's outside auditor publicly presents its review of the bank's financial condition—perhaps the only public review in the country.

• Legislative oversight. The bank is required to present its audit annually and its budget biannually to the legislative committees of the North Dakota House and Senate.

• Loan loss reserves. No loan portfolio is immune to individual loan failures, and as with other banks around the world, a Partnership Bank would have a loan loss provision and would follow prudent banking practices. Thus, even if some loans held by the Partnership Bank fail, it could not only cover its deposits, but continue to provide a profit to both the bank and the state. In 2010, BND's loan-loss allowance was 1.79 percent, less than the 2.03 percent average at similarly-sized banks. BND's Asset Liability committee constantly monitors loan-loss ratios.[10]

• Capital standards. BND maintains its capital ratio at eight to ten percent for all levels of capital, higher than the Federal Reserve's standard.

• Lending limits, underwriting standards. All loan decisions are reviewed by committee, senior management, and even the bank's Advisory Board and governing board.

• Credit review. An internal independent department reports directly to the bank president and Advisory Board on risk ratings. In addition to being monitored by state regulators, a Partnership Bank would be required to meet external safety and soundness standards such as S&P ratings in order to maintain access to its own liquidity.

Thus even if some loans held by a Partnership Bank fail, the Bank could not only cover its deposits but provide a profit to both the bank and the state through state dividend payments. In 2009, BND showed a profit of $58 million, including loan defaults.[11] Over the past decade, BND has returned an average of $30 million per year to the state general fund.[12] Analysis suggests this would be the case in other states as well.

In North Dakota, it is the bank that has helped the state manage its risk. During the recession that followed the bursting of the dot-com bubble, BND was able to pay a special one-time dividend that helped North Dakota close a $40 million budget deficit.[13] And the role of the bank in providing capital and partnering with community banks helped stabilize the state's banking industry and lower the risk of bank failures in the financial crisis that began in 2008. In fact, no banks in North Dakota failed as a result of the recent banking industry collapse.

Further, a Partnership Bank is just that — a bank — and not also an investment, trading or speculation enterprise. There will be no participation in the exotic and risky "financial products" such as derivatives or credit default swaps that led to the collapse of Wall Street.

Q. Wouldn't political interests end up forcing a Pennsylvania Partnership Bank to make bad loans?

A: No. In addition to the safeguards outlined above, we propose that in Pennsylvania as in North Dakota, the Partnership Bank will be run by a professional banking staff, not any state agency, authority or committee of the state legislature, adhering to prudent financial policies, not high risk practices.

Managers and officers will be salaried civil servants and receive no bonuses or commissions for loan volume, activity or increased profits. No officer or manager can have any "stock position" or compensation package of the kind that led to the reckless pursuit of short term profit that collapsed Fannie Mae and Freddie Mac.

The primary assets of a Partnership Bank are participation loans in which the loan originator is a private bank. This public-private partnership provides market-driven checks against manipulation by political actors.

It is important to note that the Bank of North Dakota has enjoyed the support of both Democratic and Republican administrations and legislators. U.S. Sen. John Hoeven—also a Republican former Governor of North Dakota—was President of the Bank of North Dakota earlier in his career.

Q: Won't this just increase regulations on private banks in the state?

A: No. A Partnership Bank does not add any regulatory burden for private banks, nor is it a financial bailout to private banks, like the federal government's Troubled Asset Relief Program. A Partnership Bank is not pushed into risky lending instruments by stockholderdriven profit-maximization and can act as a stabilizing, market-driven force in Pennsylvania credit markets.

Q: Doesn't Pennsylvania already have economic development programs that do these things?

A: A Partnership Bank is not an economic development program, and does not replace current state economic development efforts. A Partnership Bank can be a source of liquidity to help organize funding for projects designed by the state's economic development agency that meet the Bank's strict lending criteria. BND works closely with North Dakota's economic development agency—they are housed together.[14]

Unlike revolving loan funds, a Partnership Bank has the power to leverage funds—ten-to-one as a rule of thumb—and can therefore increase the state's ability to fund economic development.

The creation of a Partnership Bank may also be an opportunity, as Oregon Treasurer Ted Wheeler argues in his January 2011 letter to Oregon legislators, to "consolidate [the state]'s existing economic development funds and programs under a single roof... to better align these efforts with our objectives."[15]

Q: The Treasurer of the Commonwealth of Pennsylvania already gets a good return on the commonwealth's investments. Why change that?

A: A Partnership Bank is not a substitute for an investment manager, and we would expect that the Treasurer would retain these functions. For example, in North Dakota, BND does not manage the state pension fund investments.

Also note that deposit income does not suffer. A Partnership Bank pays the state Treasury a market-average rate for its deposits. In fact, in FY 2009-2010, that added up to an estimated $23.4 million from the interest on state deposits held at BND (along with $63.2 million in FY 2009-2010 BND profits, a total of 5.28 cents per dollar deposited).[16] Compare that to the 2.53 cents per dollar that Washington State's Treasurer received in 2009-2010 from its depository banks.[17]

Q: Can a Pennsylvania Partnership Bank act as the state's fiscal agent or concentration bank? Would it be cost-prohibitive to set up that operation?

A: The Bank of North Dakota handles the functions of a fiscal agent for North Dakota and remains profitable. Partnership Banks tend to have much lower overhead than comparable private banks due to the lack of costs like branches, ATMs and marketing. Over the last 15 years (1995-2009) the Bank of North Dakota averaged an efficiency ratio of about 28 percent, while small- and medium-sized banks in North Dakota averaged about 62 percent.[18]

Once up and running, the bank costs the state nothing to operate and in fact returns money to the state. The primary difference is that while a concentration bank such as Bank of America is the only bank to benefit from state deposits, a Partnership Bank would spread the benefit to small- and medium-sized banks throughout the state through participation loans.

Q: Would a Pennsylvania Partnership Bank impair liquidity in state deposits?

A: No. Like any private bank, a Partnership Bank has to carefully manage liquidity day-to-day in order to be able to meet all its operational needs. State deposits in a private financial institution are managed so that funds are available to the state to withdraw to meet payroll and other obligations as necessary. A Partnership Bank would be no different, and the Bank of North Dakota has demonstrated over the past 92 years that it can do so capably—and still turn a profit.

Q: Isn't setting up a Pennsylvania Partnership Bank just too complex?

A: There are more than 8,000 thousand banks in operation in the U.S. and new private banks are formed every year. This is not something never before done — like putting a man on the moon.

A Partnership Bank is more straightforward to set up than a private bank. As a 'wholesale' bank, it would have one location, no marketing, very little or no direct lending and a single source of deposits—the state government. A focus on participation loans also reduces the need for bank loan officers and loan brokers. Costs of operation are substantially reduced.

Q: Isn't the reason that banks curtailed lending 2008-2010 due to a decrease in loan demand?

A: No, it is one of several factors. While a reduction in lending during an economic downturn is in part a reflection of decreased demand for new loans—businesses holding off on expansion—much of the loan demand curve is tied directly to the cost of debt. Reacting to the excesses of Wall Street, regulators tightened their underwriting standards and increased the interest cost to borrowers, and demand for new loans naturally dropped. Center for State Innovation analysis shows that banks in North Dakota reduced lending 33 to 45 percent *less* than comparable states, due in no small part to the stabilizing effects of its Partnership Bank.[19]

Q: Isn't North Dakota's economy strong not because of the state bank, but because of recently discovered natural gas and oil deposits?

A: In part. But a booming energy economy does not explain the underlying strength of North Dakota's lending markets. The Center for State Innovation analyses compare North Dakota's lending market against those in states with similar populations and economies: Montana, South Dakota, and Wyoming. All four states also have benefited from a boom in energy prices. In fact, Montana and Wyoming have extracted much more gas than North Dakota. But North Dakota ranks ahead on the measures that BND influences: loan-to-asset ratios, average loans per capita, quality of bank assets, HHI, and numbers of banks per capita.[20]

The above cited CSI analysis that explores and attempts to tease apart the economy-lending linkage a little—though obviously the two are quite intertwined—has found that BND's support of North Dakota's small- and medium-sized bank lending market has helped keep that market strong, independent of other major components of the state's economic health such as the housing market and the oil and gas industries.

It is also worth noting that oil and gas production and extraction tax revenues provided $71 million to the state general fund over the 2007-2009 biennium (the statutory cap), while the Bank of North Dakota returned $60 million; thus the bank's direct impact on the state budget surplus has been almost as great as that of the oil and gas industries.[21]

Additionally, while other states have had far larger energy industries and revenues for far longer than North Dakota, unemployment is substantially lower in North Dakota (it is the lowest in the nation) compared to, for example, Alaska and Texas.

In sum, the above suggests that while oil and gas revenues are certainly important to North Dakota's economy and fiscal health, they are not the only factor driving it, and that the state's Partnership Bank plays a major role.

But Pennsylvania is also developing substantial natural gas reserves. The revenue and jobs from the industry, combined with the broader reach of a Partnership Bank into the economy, suggests that Pennsylvania has a remarkable opportunity to create an era of sustainable and broadly shared prosperity and economic development, reaching into every county and community in the commonwealth.

Notes

1. Oversight of Federal Home Loan Bank System (S. Hrg. 108-834), 108th Congress (2003) http://www.access.gpo.gov/congress/senate/pdf/108hrg/21384.pdfFederal Home Loan Bank of Dallas, Economic Development Program guidelines and application, February 2011 (accessed April 18, 2011) https://www.fhlb.com/community/data/EDP_CommLending_5-09.pdf

2. Center for State Innovation, Demos, Progressive Maryland and the Public Banking Institute, "Rebuttal to Opposition Testimony on HB 1066/SB789: A bill to study the creation of a State Bank of Maryland," March 2011 (accessed April 18, 2011) http://www.stateinnovation.org/State-Banks-Materials/Response-to-MBA-Opposition-Testimony-HB-1066,-SB-7.aspx

3. There is room for both a healthy Partnership Bank and healthy bankers' banks in most markets. North Dakota is an excellent example: it hasboth a large, healthy, and long-running Partnership Bank and a private bankers' bank operating in the state's credit market. In fact, the Minnesota-based United Bankers' Bank works with community banks in North Dakota and is even a member of the North Dakota Bankers Associationwhich is very supportive of the Bank of North Dakota. Over the last seven years, United Bankers' Bank has more than doubled its assets anddeposit base and has averaged about $2.5 million in net income while sharing markets with the Bank of North Dakota.Fargo-based PartnershipBank and Trust is another example. The bank provides correspondent lending services to community banks in North Dakota. Over the last seven years, Partnership Bank and Trust's assets have grown by over 70 percent to over $2 billion, and profits average about $13 million per year.

4. Center for State Innovation, "Oregon State Bank Analysis," February 2011 (accessed April 14, 2011) http://www.stateinnovation.org/State-Banks-Materials/CSI-Oregon-State-Bank-Analysis-020411.aspx 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

5. Bank of North Dakota, Policy of the Bank, 1920 (accessed April 18, 2011) http://www.stateinnovation.org/Services-for-State-Executives/Initiatives/State-Banking-Reform/State-Banks/BND-Policy.aspx

6. Less than two percent of the Bank of North Dakota's deposits come from private individuals.

7. Center for State Innovation, "Oregon State Bank Analysis," February 2011 (accessed April 14, 2011) http://www.stateinnovation.org/State-Banks-Materials/CSI-Oregon-State-Bank-Analysis-020411.aspx

8. Federal Deposit Insurance Corporation, Deposit Market Share Report (accessed April 5, 2011) http://www2.fdic.gov/sod/sodMarketBank.asp?barItem=2. Contrast these numbers with those of Vermont, another predominantly rural state with similar demographics: two out-of-statebanks control 42.8 percent of deposits, and the state had only 23 institutions in 2010, compared to 100 in North Dakota.

9. North Dakota's Gross State Product in 2009 was $31.87 billion. Bureau of Economic Analysis, "Economic Downturn Widespread AmongStates in 2009" U.S. Department of Commerce, November 18, 2010 (accessed April 18, 2011) http://www.bea.gov/newsreleases/regional/gdp_state/2010/pdf/gsp1110.pdf

10. FDIC insurance is unnecessary and costly for a bank that holds state deposits and has no private depositors. The FDIC's $250,000 cap covers atiny portion of any state's deposits. A Partnership Bank would be closely regulated by state regulators.

11. Bank of North Dakota, 2009 Annual Report (accessed April 18, 2011) http://www.banknd.nd.gov/financials_and_compliance/pdfs/annualreport09.Pdf

12. Center for State Innovation, Demos, Progressive Maryland and the Public Banking Institute, "Rebuttal to Opposition Testimony on HB 1066/SB789: A bill to study the creation of a State Bank of Maryland," March 2011 (accessed April 18, 2011) http://www.stateinnovation.org/State-Banks-Materials/Response-to-MBA-Opposition-Testimony-HB-1066,-SB-7.aspx

13. Josh Harkinson, "How the Nation's Only State-Owned Bank Became the Envy of Wall Street," *Mother Jones*, March 27, 2010 (accessed April 18,2011) http://motherjones.com/mojo/2009/03/how-nation%E2%80%99s-only-state-owned-bank-became-envy-wall-street

14. Progressive States Network/Center for State Innovation phone conference with North Dakota state Sen. Tim Mathern, January 11, 2011.

15. Oregon State Treasurer Ted Wheeler, letter to Oregon legislature, January 13, 2011.

16. Center for State Innovation calculations, March 2011. All numbers are for the fiscal year beginning July 1, 2009 and ending June 30, 2010.

17. Ibid.

18. 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

19. Center for State Innovation, Demos, Progressive Maryland and the Public Banking Institute, "Rebuttal to Opposition Testimony on HB 1066/SB789: A bill to study the creation of a State Bank of Maryland," March 2011 (accessed April 18, 2011) http://www.stateinnovation.org/State-Banks-Materials/Response-to-MBA-Opposition-Testimony-HB-1066,-SB-7.aspx

20. 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

21. North Dakota Office of State Tax Commissioner, 49th Biennial Report, December 1, 2009 (accessed April 18, 2011) http://www.nd.gov/tax/genpubs/49thbiennialreport.pdf

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House Committee on Finance

Hearing: Wednesday, February 29, 2012, 11:30 a.m.
Conference Room 308, State Capitol, 415 South Beretania Street

IN SUPPORT OF INTENT OF PROPOSED HB 2103, HD2;
IN OPPOSITION TO APPROPRIATION

Chair Oshiro, Vice Chair Lee, 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.

Proposed HB 2103, HD2 would direct DCCA to review state laws relating to establishment of the bank of the State of Hawaii and establish an interim purchase program for distressed residential properties encumbered by problematic mortgages, including provisions for selling the property back to the former owner in certain circumstances. It would also use $500,000 received from the multi-state settlement with mortgage lenders to conduct the review of other states' laws.

I agree with the intent of creating the Hawaii State Bank and establishing a purchase program for distressed residential properties encumbered by problematic mortgages. However, I strongly oppose diverting $500,000 from the multi-state settlement to DCCA as described in proposed HB 2103, HD2.

The settlement reached by state attorneys general with the five largest mortgage servicers addresses massive mortgage loan servicing and foreclosure abuses and fraud. The settlement will include direct payments to participating states, including Hawaii. Given the nature and magnitude of the practices that led to the multi-state settlement, some states have already announced they will use the settlement funds they receive to directly benefit affected homeowners. Utilizing any of the money Hawaii will receive from the mortgage fraud settlement in connection with creating a state bank is not an appropriate use of money clearly intended for consumer protection.

Regarding the interim purchase program in Section 6, the foreclosure crisis in our state is far from over. On the contrary, mortgagees' decision to stop doing nonjudicial foreclosures (when as many as 100 a day were being advertised in the Star-Advertiser in late 2010) due to their perceived liability risk following enactment of Act 48, has created a huge backlog of foreclosures waiting to happen. The increase in judicial foreclosures is modest compared to the number of foreclosures yet to come. Ongoing efforts to implement effective foreclosure mediation (dispute resolution) programs in both judicial and nonjudicial foreclosures are critical in avoiding the unnecessary loss of homes as well as addressing the courts' growing foreclosure backlog. Section 6 of proposed HB 2103, HD2 would complement those efforts and help address the continuing problem of mortgagees' failure to prove they have the right to collect or to foreclose.

Thank you for your consideration of my testimony.

Rep. Marcus R. Oshiro, Chair
Rep. Marilyn B. Lee, Vice Chair
HOUSE COMMITTEE ON FINANCE

HEARING: Wednesday, February 29, 2012 at 11:30am in conference room 308

Supporting House Bill 2103 relating to the Bank of the State of Hawaii

Chair Oshiro, Vice Chair Lee and members of the committee,

I am supportive of all four bills on Agenda #2 today. I commend this committee for its entrepreneurial efforts and thank you for the opportunity to explain my support in person.

Mahalo,
Ian Chan Hodges
Haiku, Hawaii

FINTestimony

‾rom:	mailinglist@capitol.hawaii.gov
ent:	Tuesday, February 28, 2012 5:22 PM
To:	FINTestimony
Cc:	df@mauiventure.net
Subject:	Testimony for HB2103 on 2/29/2012 11:30:00 AM

Testimony for FIN 2/29/2012 11:30:00 AM HB2103

Conference room: 308
Testifier position: Support
Testifier will be present: No
Submitted by: David B. Fisher
Organization: Maui Venture Consulting LLC
E-mail: df@mauiventure.net
Submitted on: 2/28/2012

Comments:
I support the intent of the bill, but have real concerns about the strategy for implementation. I think it is unrealistic to expect DCCA to do this. Commissioner Catalani has testified as much.

I think it is important to have a champion. Someone who is both knowledgeable and able to be entrepreneurial and diplomatic with all the different stakeholders. The knowledge of creating a state bank is pretty unique--and the obvious first choice would be to hire someone who was in a senior position at Bank of North Dakota.

ɪf you go for the task group, BE VERY CAREFUL in selecting its members to ensure that it is not all people who do not want to see the state bank happen. Of course, you do need to have representatives from our existing banks, and people who will be critical; but the overall balance must be people who will be hard working, creative, and positive. USE TELECOMMUNICATIONS and include neighbor islanders and people with knowledge outside of Hawaii.

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 27, 2012 10:08 AM
To: FINTestimony
Cc: jade@steadfastpt.com
Subject: Testimony for HB2103 on 2/29/2012 11:30:00 AM

Testimony for FIN 2/29/2012 11:30:00 AM HB2103

Conference room: 308
Testifier position: Support
Testifier will be present: No
Submitted by: Jadine L Brown
Organization: Individual
E-mail: jade@steadfastpt.com
Submitted on: 2/27/2012

Comments: