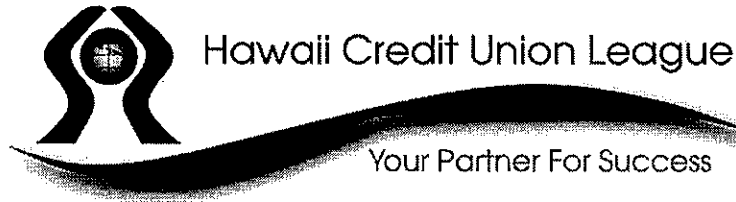


LATE TESTIMONY



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Testimony to the House Committee on Economic Revitalization and Business
And the House Committee on Housing
Tuesday, February 7, 2012, at 11:40 a.m.

Testimony in opposition to HB 2103, Relating to the Bank of the State of Hawaii

To: The Honorable Angus McKelvey, Chair
The Honorable Isaac Choy, Vice-Chair
Members of the Committee on Economic Revitalization and Business

The Honorable Rida Cabanilla, Chair
The Honorable Ken Ito, Vice-Chair
Members of the Committee on Housing

My name is Stefanie Sakamoto, and I am testifying on behalf of the Hawaii Credit Union League, the local trade association for 82 Hawaii credit unions, representing approximately 811,000 credit union members across the state.

We are in opposition to HB 2103, which would establish the Bank of the State of Hawaii, and would authorize it to buy troubled residential mortgages where the mortgagee is a securitized trust that cannot demonstrate it is a holder in due course.

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 would be an extremely dangerous concept, which would place taxpayer money at enormous risk.

Thank you for the opportunity to testify.



LATE TESTIMONY

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

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

House Committee on Economic Revitalization and Business

Hon. Angus L.K. McKelvey, Chair

Hon. Isaac W. Choy, Vice Chair

House Committee on Housing

Hon. Rida T.R. Cabanilla, Chair

Hon. Ken Ito, Vice Chair

Tuesday, February 7, 2012, 11:40 AM

State Capitol, Conference Room 312

Honorable Chair McKelvey, Chair Cabanilla and committee members:

I am Kris Coffield, representing the IMU Alliance, 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, 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 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 2103 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.

As you mull the merits of this proposal as it relates to the the codification of a short-sale program for problematic 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.

Sincerely,
Kris Coffield
Legislative Director
IMUAlliance



LEGAL AID
SOCIETY OF HAWAI'I

LATE TESTIMONY

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Calvin Pang, Esq.
President, Board of Directors

M. Nalani Fujimori Kaina, Esq.
Executive Director

The Honorable Angus L.K. McKelvey, Chair
The Honorable Isaac W. Choy, Vice Chair
House Committee on Economic Revitalization & Business

The Honorable Rida T.R. Cabanilla, Chair
The Honorable Ken Ito, Vice-Chair
House Committee on Housing

Hearing : Tuesday, February 7, 2012, 11:40 a.m.
State Capitol, Conference Room 312

In Support of the Intent of HB 2103 Relating to the Bank of the State of Hawai'i

Chair and Members of the Committees:

My name is Madeleine Young, representing the Legal Aid Society of Hawai'i ("LASH"). 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 the Consumer Unit at the Legal Aid Society of Hawai'i. 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 are testifying in support of the intent of HB 2103 as it would strengthen protections for borrowers in the State of Hawai'i.

HB 2103 would establish the bank of the State of Hawai'i. HB 2103 would direct the state bank to develop a program to acquire residential property in situations where the mortgagor is an owner-occupant and the mortgagee is a securitized trust that cannot adequately demonstrate that it is a holder in due course.

HB 2103 would give the bank of the State of Hawai'i the power to establish a short-sale program for the purpose of acquiring title to residential property encumbered by certain mortgages and connected to promissory notes, the ownership to which are claimed by securitized trusts that fail to adequately demonstrate that the trust has the rights of holders in due course under section 490:3-203(b) and articles 3 and 9 of the Uniform Commercial Code generally.

LASH supports the intent of HB 2103 to provide stability to the local housing market and reduce the number of wrongful and fraudulent foreclosures by establishing a short-sale program for owner-occupant borrowers in Hawai'i, 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, LASH also supports the intent of HB 2103 to afford borrowers the opportunity to buy back a subject property from the bank of the State of Hawai'i.

Conclusion:

The Legal Aid Society of Hawai'i supports the intent of HB 2103 and its efforts to strengthen protections for borrowers in the State of Hawai'i. HB 2103 attempts to strengthen protections for borrowers by establishing the bank of the State of Hawai'i and giving the state-owned and operated bank the power to establish a short-sale program directed at helping owner-occupant borrowers facing foreclosure. Thank you for the opportunity to testify.



LATE TESTIMONY

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

**FROM: REV. SAMUEL L. DOMINGO, FACE Oahu President
TO: HOUSE COMMITTEE ON ECONOMIC REVITALIZATION AND BUSINESS,
And HOUSE COMMITTEE ON HOUSING
FEBRUARY 7, 2012 11:40 AM
HB 2103 Relating to the Bank of the State of Hawaii**

Good morning Chair McKelvey, Chair Cabanilla, and committee members:

I come to testify in support of HB 2103. The creation of a State Bank that is modeled on the Bank of North Dakota, would greatly enhance the way foreclosures are resolved in Hawaii. And I see even greater benefit as the State pursues developing a more robust agriculture base to increase the percentage of food that is locally grown.

The idea of a state bank or partnership bank makes sense when small businesses are crying out for credit and loans. Its really about keeping our tax dollars in-house to support our businesses and families, especially those who are negotiating to modify their mortgages.

I am aware that there are at least 13 state legislatures that are considering similar bills. A quick review of the Bank of North Dakota's website provides a powerful story of how North Dakota was the only state in the nation to emerge unscathed by the recession. 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 HB 2103.

Mahalo,

Rev. Samuel L Domingo

*204 Ku'uhoa Place
Kailua, Hawaii 96734*

LATE TESTIMONY

From: Mitzi [mitzi@hawaii.rr.com]
Sent: Monday, February 06, 2012 5:01 PM
To: ERBtestimony
Subject: LATE TESTIMONY - Aloha from Maui

Aloha we are here to personally share that we a huge success story coming form the passing of Act 48 at the last legislative session. We were on the verge of foreclosure and now the banks worked out an in house modification plan with us. It was a win win for both the banks and us. We keep our house and the bank stretched the term from 30 years to 40 years so in the long run they end up making more money off of the loan and we are able to afford the new lower payment. We all walk away winners.

SUPPORT of HB2103

LATE TESTIMONY

From: Marcy From Maui [marcyfrommaui@gmail.com]
Sent: Monday, February 06, 2012 6:45 PM
To: ERBtestimony
Subject: LATE TESTIMONY - in SUPPORT of HB2103

I am in SUPPORT of HB2103

Marcy Koltun-Crilly Home owner and resident in Maui County
Kihei, HI 96753

LATE TESTIMONY

From: Stan Franco [stanfranco@hawaiiantel.net]
Sent: Monday, February 06, 2012 7:51 PM
To: ERBtestimony
Subject: LATE TESTIMONY - HB2103

I am in support of a State Bank. I got my first home loan for Maui Savings and Loan, a local institution on Maui Today, we do not know where our loans go. Let us build certainty for our local people, who will know that their loans stay here in Hawaii.

Stan Franco
Haiku, Maui
214-3575

LATE TESTIMONY

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 06, 2012 9:54 PM
To: ERBtestimony
Cc: KimHarman@FACEHawaii.org
Subject: LATE TESTIMONY - Testimony for HB2103 on 2/7/2012 11:40:00 AM
Attachments: FACE report on Hawaii State Bank.pdf

Testimony for ERB/HSG 2/7/2012 11:40:00 AM HB2103

Conference room: 312
Testifier position: Support
Testifier will be present: No
Submitted by: Kim Harman
Organization: Faith Action for Community Equity
E-mail: KimHarman@FACEHawaii.org
Submitted on: 2/6/2012

Comments:

Faith Action for Community Equity STRONGLY SUPPORTS HB 2103, the creation of a state bank for Hawaii. I am attaching a report that FACE issued last year that clearly shows the benefits a State Bank would provide for Hawaii's families, communities and small businesses.

Thank you for your time and consideration of this matter.

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

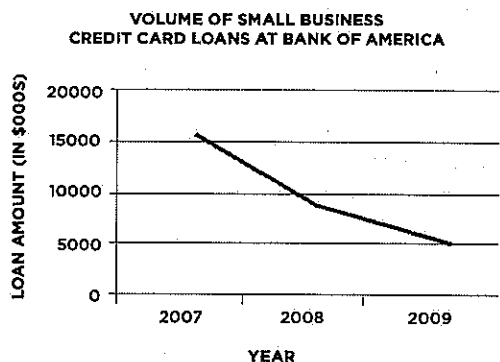


SUMMARY

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 OREGON 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 DĒMOS

Dēmos is a non-partisan public policy research and advocacy organization. Headquartered in New York City, Dēmos 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. Dēmos was founded in 2000.

In 2010, Dēmos 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

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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>
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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>
11. Center for State Innovation, "Oregon State Bank Analysis," February 2011 (accessed March 30, 2011) <http://www.stateinnovation.org/State-Banks-Materials/CSI-Oregon-State-Bank-Analysis-020411.aspx>
12. Bank of North Dakota Policy of the Bank, 1920 in Bank of North Dakota Annual Report 2009 (accessed March 30, 2011) http://www.banknd.nd.gov/financials_and_compliance/pdfs/annualreport09.pdf
13. Michael Corkery, "New hit to strapped states. Borrowing costs up as bond flops; refinancing crunch nears," *Wall Street Journal*, January 14, 2011 (accessed March 30, 2011) <http://online.wsj.com/article/SB10001424052748704307404576080322679942138.html>

LATE TESTIMONY

From: Bobnakata239@aol.com
Sent: Monday, February 06, 2012 11:45 PM
To: ERBtestimony
Subject: LATE TESTIMONY - HB2103Relating to theState Bank ofHawaii

To:Rep. Angus McKelvey, Chair
House Committee on Economic Revitalization and Business
Rep. Rida Cabanilla, Chair,
House Committee on Housing
From: Rev. Bob Nakata, FACE Board Member

Chairs McKelvey, Cabanilla, And Members of the Committees,

Thank you for this opportunity to speak in strong support of HB2103, Relating to the State Bank of Hawaii. We also strongly support the provision for a program to help those who face foreclosure from a lender who cannot establish the right to Foreclose

Deposits into this Bank would be from State revenues. The bank would not initiate loans, but join in partnership on loans initiated by other banks so as not to competing with them but assisting them. This feature has made North Dakota home to the highest number of banks pe capite in the nation. This results in better servicing and transparency. As a result, North Dakota is not dominated by "to big to fail" banks whose risky and frequently shady practices led to the economic collaps in 2008 from which we are still suffering. Just one percent of these giant banks control more branches than the rest of the 99%. They have continued to grow even bigger during the recession they caused, as smaller banks went under or were taken over.

State Banks like the one proposed in HB2103 can help to revere this trend by shoring up small banks by partnering with them on loans. Loans would be more readily available to local businesses in local communities.

More local bankers would be making home loans to local people, reducing the abusive practices of the giant banks, resulting in fewer foreclosures and more open and transparent processes.

When foreclosures do occur, this bill allows for the State Bank to buy the home if the lender cannot prove the right to foreclose. The Bank can then sell the home to the owner, or if the owner cannot buy it, he may be able to rent it.

We urge passage of this bill.