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TO THE
HOUSE COMMITTEE ON
FINANCE

THE TWENTY-SIXTH STATE LEGISLATURE
REGULAR SESSION OF 2012

Thursday, February 23, 2012
2:00 p.m.

TESTIMONY ON H.B. NO. 2500, H.D. 1
RELATING TO MONEY TRANSMITTERS

THE HONORABLE MARCUS R. OSHIRO, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Iris Ikeda Catalani, Commissioner of Financial Institutions ("Commissioner"), testifying on behalf of the Department of Commerce and Consumer Affairs ("DCCA") in strong support of administrative bill House Bill No. 2500, H.D. 1.

The Division of Financial Institutions ("DFI") in DCCA regulates money transmitter companies that transfer money domestically or internationally outside of the more conventional financial institutions system. DFI regulations protect the consumer by ensuring that these companies understand the rules of money transmission and fulfill

these requirements. DFI also makes every effort to help these companies understand their responsibilities and how to provide for their customers.

Overview of Division of Financial Institutions Budget

The Division of Financial Institutions ("DFI") bases its budget requests on the amount of revenue generated from programs plus the \$2.0 million from the franchise tax. DFI's financial plan detailing our revenues and expenditure patterns from fiscal year 2002 to projected fiscal year 2014 is attached as Exhibit A.

For each year, we calculate the amount of revenues less the expenditures to determine the initial amount of the funds available. That calculation is further reduced by the adjustments which include the division's pro-rata share of the Department's administrative overhead costs to fund programs that do not generate revenues (including the director's office, fiscal office, IT office, personnel office). The Net is the actual amount of funds carried over to the following year. As you can see, DFI is running a deficit and is not bringing in adequate revenue to cover all expenses and adjustments.

Although the franchise tax revenue for a fiscal year is credited to DFI's fund as of June 30, the actual revenue is not deposited into our fund until the July of the next fiscal year. In other words, for fiscal year 2011's budget that ends June 30, 2011, the DFI did not receive the franchise tax deposit for the fiscal year ending June 30, 2011 until July

2011. Thus, to cover monthly expenses, DFI needs cash reserves equivalent to at least 13 months of its annual budget plus overhead in order to meet its total operational needs for the fiscal year.

We are asking for the increase in fees for this and other programs as we need to show a stable source of income for the upcoming accreditation review of DFI by the Conference of State Bank Supervisors. As our current source of funding has been in jeopardy in the last few years, there are indications that if we do not have a stable source of funding, this will weigh heavily against being accredited for another five years. Please note that the prior administration did not seek accreditation and this administration was able to get an extension to be re-accredited. Our accreditation review will occur in May 2012.

In order to be self-sustaining, DFI must seek additional fees to attempt DFI must seek additional fees (1) to keep pace with costs to DFI, as the time spent on this licensee increased due to the increased regulatory oversight required by recent federal regulations and (2) to replace and expand the funding source should DFI not receive its share of the franchise tax. You will note from Exhibit A, the franchise tax revenue is the bulk of the revenues. The remainder of the revenues is generated from the fees charged by DFI.

Money Transmitter Program Costs

All costs are based on staff time charged at \$60 an hour, which is a fraction of the actual costs for the staff time spent on reviewing applications from money transmitters.

DFI must also annually review the money transmitter applications to renew their licenses. The fees for the renewal must not only cover the time spent in renewing the licenses, but also cover time spent throughout the year on other matters for which no fees are paid such as reviewing audited financial statements, responding to inquiries, and processing complaints against money transmitters. In addition, during examinations, we do not charge the money transmitters for training on the latest updates on the federal regulations they must comply with.

Currently, DFI assesses the annual renewal fees by the number of branch locations in the state. However, over the past year, many of the money transmitters do only internet or electronic transfers which don't require branch locations.

To more fairly assess the fees to companies who have large volumes of electronic money transmission activities, which coincidentally coincides with the number of complaints received, we propose to tier the annual renewal fees based on the number of money transmissions. We believe this will benefit our local money transmitters who may own several branch offices, but do not have a large volume of money transmission. Many of the off-shore companies have a large volume of

transmissions and therefore will be assessed the higher tiers of assessments. Based on the data we collected for the 2011 renewals, only one local company may be assessed at an amount higher than they are currently assessed based on their volume of transactions. This is a large volume local money transmitter. All other local companies will likely pay a smaller assessment of the annual renewal fees. Exhibit B shows the current fees and the proposed fees for license applications, renewals, etc.

The services provided to money transmitters take time to process with the increased regulatory oversight. DFI provided a chart illustrating the time spent on reviewing and analyzing applications by escrow depositories as Exhibit C.

For these reasons, DFI supports House Bill No. 2500, H.D. 1, and respectfully asks that the measure be passed.

Thank you for the opportunity to testify. I would be pleased to respond to any questions you may have.

Exhibit A

FINANCIAL PLAN - DFI

	FY 02	FY 03	FY 04	FY 05	FY 06	FY 07	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13	FY 14
	<i>act</i>	<i>act</i>	<i>act</i>	<i>act</i>	<i>act</i>	<i>act</i>	<i>act</i>	<i>act</i>	<i>act</i>	<i>act</i>	<i>est</i>	<i>est</i>	<i>est</i>
Revenues:	2,745,917	1,888,789	2,239,073	2,175,645	2,180,745	2,798,163	2,620,852	2,599,918	2,822,798	3,429,771	3,146,015	3,108,440	3,101,965
Expenditures:	(1,439,447)	(1,533,551)	(1,739,489)	(1,928,179)	(1,944,171)	(1,881,023)	(2,104,693)	(2,421,699)	(2,183,440)	(2,456,854)	(2,631,432)	(3,384,920)	(3,384,920)
Over/Under	1,306,470	355,238	499,584	247,466	236,574	917,140	516,159	178,219	637,358	972,918	514,583	(276,480)	(282,955)
Adjustments	(475,416)	(2,569,185)	(300,314)	(311,093)	(266,812)	(497,749)	(509,619)	(520,108)	(398,804)	(586,818)	(528,368)	(528,368)	(528,368)
Rev+Exp+	831,054	(2,213,947)	199,270	(63,628)	(30,238)	419,391	6,540	(341,889)	238,554	386,100	(13,785)	(804,848)	(811,323)
Year Begin	5,121,434	5,952,488	3,738,540	3,937,811	3,874,183	3,843,945	4,263,336	4,269,876	3,927,987	4,166,540	4,552,640	4,538,855	3,734,007
Ending Bal (\$)	5,952,488	3,738,540	3,937,811	3,874,183	3,843,945	4,263,336	4,269,876	3,927,987	4,166,540	4,552,640	4,538,855	3,734,007	2,922,684
Ending Bal (mo.)	25.2	16.9	18.4	17.2	16.8	16.6	15.8	13.0	15.2	13.2	14.2	11.7	9.2

Exhibit B

Statutory Section	Current fee	Proposed fee
489D-10 Application fee		
Initial application fee	\$2,000 + \$300 per location	5000 + \$60/hr in excess of 80 hours spent on the applications; not to exceed \$25,000
Initial annual license renewal fee	\$2,000 + \$300 per location	\$5,000
489D-12 Renewal fees		
Renewal fees	\$2,000 + \$300 per location	\$5,000 for money transmitters with fewer than 5,000 money transmissions;
		\$6,000 for money transmitters with 5,000 or more but fewer than 50,000 money transmissions;
		\$8,000 for money transmitters with 50,000 or more but fewer than 100,000 money transmissions;
		\$12,500 for money transmitters with 100,000 or more but fewer than 200,000 money transmissions; and
		\$15,000 for money transmitters with 200,000 or more money transmissions.
489D-14.5 Name Change	\$250	\$1000
489D-15 Change in Control of ownership	\$2000	\$2,500 + \$60/hr in excess of 40 hours spent on the applications; not to exceed \$10,000
489D-17 examination fee	\$40	\$60
489D-28 civil penalties	up to \$500 per day	up to \$1000 per day

Notes:

- 1. fees are based on hourly rate of \$60**
- 2. additional fees proposed based on money transmission program experience and other states additional fees collected**

Exhibit C

<p>Type of Service New application</p>	<p>Staff hrs @\$60/hr 100.</p>	<p>Staff Duties:</p> <ul style="list-style-type: none"> • Review: <ul style="list-style-type: none"> ○ Pro forma financial statements, ○ Knowledge in the area of licensure, ○ Knowledge of the escrow officer, ○ Organizational structure to determine if the licensee is responsible for the actions of company & employees or another organization up the corporate ladder ○ Whether the company has sufficient capital ○ Whether the company is legally organized in Hawaii ○ Whether the owners of the organization for any past financial crimes ○ Type of money transmission services the company wants to provide as some newer applications have novel ideas for transmission of funds.
<p>Examination</p>	<p>Varies on the size of the escrow depository; generally DFI sends 1-2 people for 2-3 days. NOTE: Other states charge from \$100 to \$140 an hour.</p>	<ul style="list-style-type: none"> • NOTE: Exams now include confirmation that the companies comply with the federal regulations on the Bank Secrecy Act and the filing of suspicious activity reports. This area has expanded and local companies need extra assistance in complying with the requirements. • NOTE: The federal Consumer Financial Protection Bureau has not determined additional areas of review, however, DFI, in anticipation of the increased review items has started reviewing individual money transmissions based on an independent method to include wires, money orders, gift cards, and stored value cards to determine if the company follows its own policy and state laws.
<p>Annual fees</p>	<p>100</p>	<ul style="list-style-type: none"> • Review: <ul style="list-style-type: none"> ○ Audited financial statements ○ Organizational structure to determine if the licensee is responsible for the actions of company & employees or another organization up the corporate ladder ○ Whether the company has sufficient capital ○ Number and location of branches ○ The company's registration to do business in the state ○ Items requested during renewal to determine if the company paid the appropriate annual fee