

HB 782, HD2 Testimony

EDT



NEIL ABERCROMBIE
GOVERNOR

RICHARD C. LIM
INTERIM DIRECTOR

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

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Statement of
RICHARD C. LIM
Interim Director

Department of Business, Economic Development, and Tourism
before the

SENATE COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY

Wednesday, March 16, 2011

1:15 pm

State Capitol, Conference Room 016

in consideration of

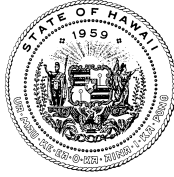
HB 782, HD2

**RELATING TO THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT,
AND TOURISM.**

Chair Fukunaga, Vice Chair Wakai, and members of the Committee. DBEDT supports the intent of HB782, HD2 to establish a special fund for DBEDT operations. This fund would be funded by various surcharge revenues. We defer to the departments who are affected by the surcharges for comment on the impact of this bill to their budget.

We appreciate the Committee's efforts to provide DBEDT with a dedicated source of funding which will enable us to engage in more long term planning, which is crucial to economic development.

Thank you for the opportunity to present this testimony.



NEIL ABERCROMBIE
GOVERNOR

DWIGHT Y. TAKAMINE
DIRECTOR

AUDREY HIDANO
DEPUTY DIRECTOR

**STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

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March 16, 2011

To: The Honorable Carol Fukunaga, Chair
and Members of the Senate Committee on Economic Development & Technology

Date: Wednesday, March 16, 2011

Time: 1:15 pm.

Place: Conference Room 016, State Capitol

From: Dwight Y. Takamine, Director
Department of Labor and Industrial Relations

**Re: H.B. No. 782, H.D. 2 Relating to the Department of Business, Economic Development,
and Tourism**

I. OVERVIEW OF PROPOSED LEGISLATION

- A. Establish a new special fund for the operation of the department of business, economic development, and tourism, and
- B. Impose a \$20 surcharge on certain business- and commerce-related fees and require the surcharge revenues to be deposited into the special fund.

II. CURRENT LAW

N/A

III. HOUSE BILL 782, H.D. 2

- A. Within the department of labor and industrial relations, we believe the proposal would affect the following programs:

Certification/Permitting Operation	Approx Nos.	Range of Fees
Hoisting Machine Operators	200	\$ 50 - \$ 500
Blaster or Pyrotechnics Operator	150	\$50 - \$150
Safety & Health Professional	25	\$ 50 - \$300
Boiler Inspection and Permitting	12,000	\$ 35 - \$1,060
Elevator Inspection and Permitting	6,800	\$100 - \$450

Therefore, the proposed \$20 surcharge would affect 375 individuals and 18,800 businesses with a fee increase ranging from 40% to 2%.

Annual fees collected for the DBEDT special fund by the above programs would be approximately \$160,000 per year as not all fees are paid on an annual basis.

- B. The department is opposed to this measure for the following reasons:
1. The fee would cripple the Boiler and Elevator Inspection Branch and adversely affect the state's economic recovery. Developers installing elevators, escalators, dumbwaiters, and handicap lifts would not be able to get their permits to install or permit to operate on a timely basis thus delaying the start of the business, or compromising the business's ability to provide elderly or the mobility impaired access to their services.

The software program used by the department for boilers and elevators is not capable of accounting for a separate surcharge and would therefore not be able to identify and separate the amounts that would be deposited into a separate fund versus the amount that goes into the general fund.

The software program is no longer being supported by the vendor and is not capable of being easily re-programmed to support the identification of a separate surcharge. The approximate cost of obtaining a new software program has been estimated to be over \$100,000.

If the HIOSH Boiler and Elevator Inspection Branch, which lost all clerical support with the reduction-in-force of November 2009, had to

manually handle the transactions, no other activity, such as issuing permits could be performed. No permits means that developers could not obtain their Certificate of Occupancy from the counties, legally operate their elevators, escalators, and dumbwaiters, and would suffer significant economic losses.

2. The nexus between the activities of the department of business, economic development, and tourism and the additional benefit to the businesses regulated by the department of labor and industrial relations is not as certain and tangible as the benefit to the businesses of having their permits issued on a timely basis.

Permits for boilers and elevators are backlogged by approximately 3 months as of today, e.g., inspections conducted of elevators on November 1, 2010 have yet to receive a permit to operate. The reduction-in-force of November, 2010 eliminated the clerical support whose function was to input the inspection data and generate the report and permits to operate. Without a permit to operate, new businesses are unable to begin operations and existing businesses may face an increase in insurance premiums because of the added liability to the property owner.

The department believes that a more appropriate boost to business would be to adequately fund existing operations that have a more direct impact on business operations and revenue. Businesses we contacted are willing to support an increase in fees only if the fees are dedicated to the inspection and permitting of their specific business activity, e.g. boiler and elevator installation and operation.

3. The fee surcharge is regressive - disproportionately affecting an individual blaster by increasing his/her fees by 40% each year, whereas the owner of a large power boiler would experience a fee increase of only 2%. Small business would be affected more severely by this surcharge.

The first three activities are certificates issued to individuals. The application fee is \$50, the initial certification fee ranges from \$150 to \$500 with renewal fees of \$50 a year to \$500 for a 5-year renewal. There are also special boiler inspector commission fees ranging from \$250 for the examination fee to \$35 for a 3-year renewal fee.

Boiler and elevator installation and inspection fees are assessed to building

owners or contractors of new or renovated buildings or businesses. Many of these are small business owners with a single air compressor or a single commercial rice cooker.

4. The language of the measure is unclear. It requires a “surcharge of \$20 upon every fee charged by the department of labor and industrial relations pertaining to the regulation of a boiler installer or installation, and elevator mechanic or installation”. As the department does not regulate boiler installers or elevator mechanics, it is unclear whether the term “installation” refers to the act of installing, or the premises, “the installation”.

If the term “installation” means the act of installing, then it would only apply to the installation permits, which number approximately 200 per year in total. If the term “installation” means the premises, then it would apply to all regulatory activity affecting the building or establishment. This definition of “installation” would affect approximately 18,800 establishments over a 4-year period – many of whom are very small businesses. The department believes the intent of the bill is this latter definition. However, if the measure moves forward, we request that the language be more clearly written to preclude legal challenge on who should pay this surcharge.

TESTIMONY BY KALBERT K. YOUNG
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE SENATE COMMITTEE ON ECONOMIC DEVELOPMENT AND
TECHNOLOGY
ON
HOUSE BILL NO. 782, H.D. 2

March 16, 2011

RELATING TO THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT
AND TOURISM

House Bill No. 782, H.D. 2, establishes the Department of Business, Economic Development and Tourism Operation special fund and assesses a \$20 surcharge in addition to the various fees charged by the: Department of Commerce and Consumer Affairs; Public Utilities Commission; Department of Labor and Industrial Relations; and the Department of Taxation, and deposits the proceeds of the surcharge into the newly created operation special fund from July 1, 2011 through June 30, 2015.

The department recognizes the benefit of user fees to offset operational expenses and costs. However, as a matter of general policy, the Department of Budget and Finance expects the creation of any special fund would meet the requirements of Section 37-52.3 of the Hawaii Revised Statutes. Special or revolving funds should: 1) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries of the program; 2) provide an appropriate means of financing for the program or activity; and 3) demonstrate the capacity to be financially self-sustaining. In regards to House Bill No. 782, H.D. 2, it is difficult to determine whether there is a clear nexus between the benefits sought and the charges made upon the users or beneficiaries of the program and whether the fund will be self-sustaining.



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Alison Powers
Executive Director

TESTIMONY OF ALISON POWERS

SENATE COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY

Senator Carol Fukunaga, Chair
Senator Glenn Wakai, Vice Chair

Wednesday, March 16, 2011
1:15 p.m.

HB 782, HD2

Chair Fukunaga, Vice Chair Wakai, and members of the Committee, my name is Alison Powers, Executive Director of Hawaii Insurers Council. The Hawaii Insurers Council is a non-profit trade association of property and casualty insurance companies licensed to do business in Hawaii. Member companies underwrite approximately 40% of all property and casualty insurance premiums in the state.

Hawaii Insurers Council **opposes** HB 782, HD2, which would create a new special fund for the operation of the Department of Business, Economic Development and Tourism (DBEDT) to be funded by assessing a \$20.00 surcharge on various fees charged by the Department of Commerce and Consumer Affairs (DCCA), Public Utilities Commission, Department of Labor and Industrial Relations and the Department of Taxation.

Hawaii Insurers Council opposes HB 782, HD2 on several grounds. First, as a matter of fundamental fiscal policy, the special fund proposed in this bill does not meet the statutory criteria set forth in Hawaii Revised Statutes §37-52.3 for the establishment of special funds. Specifically, §37-52.3 provides that the Legislature, in establishing special funds, is to ensure that such funds reflect "a clear nexus between the benefits sought and charges made upon the users or beneficiaries of the program, as opposed to serving primarily as a means to provide the program or users with an automatic means of support that is removed from the normal budget and appropriation process." The disproportionate and diverse impact of the \$20 surcharge proposed in HB 782, HD2

is so diverse and far ranging that it is difficult to discern any direct nexus to the users or beneficiaries of programs administered by DBEDT. The new special fund that would be created by HB 782, HD2 also fails to meet the additional criteria set forth in §37-52.3 of providing “an appropriate means of financing for the program or activity; and [demonstrating] the capacity to be financially self-sustaining.” Accordingly, the special fund proposed in this bill is fundamentally flawed and contrary to the statute governing the establishment of special funds.

It is relevant to note that the \$20 surcharge proposed in HB 782, HD2 would have a disproportionate impact on the property and casualty insurance industry by imposing the surcharge on all insurance-related licensees, including insurers, agents, adjusters and bill reviewers, as well as imposing an additional \$20 surcharge on the “tax on insurance premiums.” This \$20 surcharge would be on top of a new tax just imposed on the insurance industry. Act 59, 2010 (HB 1985, SD1, CD1) doubled all statutory fees for the insurance industry in a separate tax for four years. The property and casualty insurance industry in Hawaii already pays substantial government imposed fees and taxes, including the highest premium tax rate for property and casualty insurance in the nation. In addition to a very high premium tax, which goes into the state general fund, property and casualty insurers are also required to pay an annual assessment to the CRF, as well as underwriting the cost of the Workers’ Compensation Special Compensation Fund, the Hawaii Joint Underwriting Plan, the Hawaii Property Insurance Association and the Hawaii Insurance and Guaranty Association. Simply stated, the property and casualty insurance industry in Hawaii is already paying more than its fair share to regulate itself and support the operations of the DCCA. To impose the additional expense of multiple \$20 surcharges contemplated in this bill would be grossly unfair to the insurance carriers doing business in this state and the consumers and businesses they serve who would ultimately bear this additional expense.

For the foregoing reasons Hawaii Insurers Council respectfully requests that HB 782, HD2 be held.

Thank you for the opportunity to testify.

GOODSILL ANDERSON QUINN & STIFEL

A LIMITED LIABILITY LAW PARTNERSHIP LLP

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TO: Senator Carol Fukunaga
Chair, Committee on Economic Development and Technology
Hawaii State Capitol, Room 216
Via Email: EDTTestimony@Capitol.hawaii.gov

FROM: Gary M. Slovin

DATE: March 15, 2011

**RE: H.B. 782, H.D. 2—Relating to the Department of Business, Economic
Development, and Tourism
Hearing: Wednesday, March 16, 2011 at 1:15 p.m. in Room 016**

Dear Chair Fukunaga and Members of the Committee on Economic Development and Technology:

I am Gary Slovin, testifying on behalf of USAA. USAA, a diversified financial services company, is the leading provider of competitively priced financial planning, insurance, investments, and banking products to members of the U.S. military and their families. USAA has over 82,000 members in Hawaii, the vast majority of which are military-based members.

USAA **opposes** H.B. 782, H.D. 2, which establishes the Department of Business, Economic Development, and Tourism (“DBEDT”) Operation Special Fund to support operations and imposes a temporary surcharge on certain fees charged by certain departments for deposit into the fund.

Specifically, USAA opposes the portion of this measure in Section 2 that permits the Department of Commerce and Consumer Affairs (“DCCA”) to impose a \$20 surcharge on professional licenses (page 2, lines 11-19). USAA has more than 1200 people licensed in Hawai‘i as nonresident insurance producers, and these licensing fees were already raised dramatically via Act 59, SLH 2010. This measure will exact a significant financial burden on USAA, further increasing the amount of licensing fees paid by USAA by \$24,000 annually.

March 15, 2011

Page 2

Additionally, it appears Section 2 will impose a surcharge on the tax on insurance premiums (page 2, line 11 through page 3, line 5) and a surcharge on the bank and financial corporations tax (page 3, line 16 through page 4, line 5). This seems to be incorrect.

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

TESTIMONY BEFORE THE
SENATE COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY

Wednesday, March 16, 2011
1:15 p.m.

H.B. NO. 782, H.D.2
RELATING TO THE DEPARTMENT OF BUSINESS, ECONOMIC
DEVELOPMENT, AND TOURISM.

By Kevin Katsura
Associate General Counsel, Legal Department
Hawaiian Electric Company, Inc.

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

My name is Kevin Katsura providing written testimony in opposition to a portion of H.B. No. 782, H.D.2 on behalf of Hawaiian Electric Company, Inc. and our subsidiary companies, Hawaii Electric Light Company, Inc. and Maui Electric Company, Ltd. (collectively, the Hawaiian Electric Companies).

The Hawaiian Electric Companies oppose the language found on page 3 that increases the filing fee a regulated public utility, other than a telecommunications carrier that is the carrier of last resort, must pay for any documents filed with the Public Utilities Commission (PUC).

The utilities already pay a public utility fee that is deposited into the public utilities commission special fund to fund the PUC and the Division of Consumer Advocacy, Department of Commerce and Consumer Affairs (Consumer Advocate). For fiscal year (FY) 2010, the PUC collected \$20.3 million in public utility fees, more than twice the amount needed to fund the PUC and the Consumer Advocate. Then as required by statute, at the end of FY 2010, the PUC transferred to the general fund a total amount of \$15.8 million, representing its special fund excess balance of \$14.7 million plus central service assessments of \$1.1 million.

Electricity is a necessity of modern living, and an increase in fees imbedded in our cost hurts the lower income consumer the most. Although this fee increase is proposed to be in effect for a limited period, until June 30, 2015, Hawaii consumers can ill-afford this additional cost in these tough economic times.

For these reasons, the Hawaiian Electric Companies respectfully request that this measure be amended by deleting the language increasing the PUC filing fee.

Thank you for the opportunity to testify.

TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS, Surcharge fee on certain services

BILL NUMBER: HB 782, HD-2

INTRODUCED BY: House Committee on Finance

BRIEF SUMMARY: Adds a new section to HRS chapter 92 to provide that between July 1, 2011 and June 30, 2015, a surcharge of \$20 shall be added to every fee charged by: (1) the department of commerce and consumer affairs for the: (a) application, issuance, renewal, or reissuance of a license, permit, or other authorization for a profession, business, or occupation; (b) examination or audit of a person engaged in a profession, business, or occupation; (c) filing, registration, or renewal of a corporate or other business document; (d) application for or registration of a trade name, trademark, or service mark; or (e) tax on insurance premiums; (2) the public utilities commission pertaining to the regulation of a public utility or the filing of any document; except a telecommunications carrier that is the carrier of last resort; (3) the department of labor and industrial relations pertaining to the regulation of a hoisting machine operator, blaster or pyrotechnics operator, safety and health professional, boiler installer or installation, and elevator mechanic or installation; and (4) the department of taxation for the application, issuance, renewal, or reissuance of a license, permit, certificate, or other authorization required under the following taxes: (a) general excise; (b) transient accommodations; (c) rental motor vehicle and tour vehicle; (d) liquor; (e) cigarette and tobacco; (f) liquid fuel; (g) public service company; and (h) banks and financial corporations.

Defines “fee” for purposes of the measure.

No surcharge shall be added to: (1) any service for which no fee is charged; (2) any fine for a violation of a state law; (3) any fee for the dissemination or copying of a public record; or (4) any fee charged to a state, county, or federal agency.

Adds a new section to HRS chapter 201 to establish the department of business, economic development and tourism (DBEDT) special fund between July 1, 2011 and June 30, 2015. Moneys in the special fund shall be expended for the operations of the department, including the salary and fringe benefit costs of department personnel. Transfers any unexpended and unencumbered moneys remaining in the special fund on July 1, 2015 to the general fund.

EFFECTIVE DATE: July 1, 2011

STAFF COMMENTS: This measure proposes to impose a surcharge of \$20 on certain fees assessed by the department of commerce and consumer affairs, public utilities commission, department of labor and industrial relations and department of taxation. The proceeds of the surcharge shall be deposited into a DBEDT special fund which shall be used to for the operations of DBEDT including salary and fringe benefit costs of its employees. While the measure proposes that revenues from the DBEDT special fund shall be used to pay for the operation of DBEDT, it is questionable whether the special fund would be

the only source of funding for DBEDT as there is no provision to disconnect DBEDT from receiving funds from the state budgetary process. If the special fund is the sole source of funding for DBEDT, and if the revenues from the surcharge are insufficient, there is no doubt the surcharge amount will have to be increased to provide adequate funds to operate DBEDT resulting in an indirect “tax increase” to taxpayers.

It should also be noted that the proposed measure would add another special fund to the numerous other special funds. It should also be remembered that the State Auditor’s report on special funds noted that: “Special funds give agencies full control of these unappropriated cash reserves, provide a way to skirt the general fund expenditure ceiling, and over time erode the general fund. Many experts say that special funds are likely to hamper budget administration. And from a legislative perspective, they are less desirable because they are not fully controlled by the appropriation process.”

Given the findings of the Auditor and the current financial crisis, it is quite clear that the creation of numerous special funds has eroded the integrity of state finances. It should be remembered that moneys in special funds are neither subject to the general fund expenditure limitation nor to the close scrutiny that general funds are subject to in the budgeting process. The use of special funds which fly under the radar will inevitably lead to a call for tax increases even though money abounds in these special funds. One only has to review the measures introduced each year which set up numerous new special funds or add new fees or charges the receipts of which are earmarked for special funds, to see the prolific establishment of special funds. Rather than create another special fund which will allow DBEDT to operate without financial scrutiny, lawmakers should repeal the numerous special funds and require these programs to compete for general funds like all other programs.

Although conjecture, it would appear that the rationale behind this measure is that all of the fees targeted for the surcharge are fees paid by businesses in the state and that somehow these businesses should give a little more to support the department that oversees the development of the business community and the economy as a whole. That is the kind of logic that leads policymakers to believe that taxes can be raised on businesses much as the counties impose higher real property tax rates on non-residential properties while lowering the rates on residential properties. Unfortunately, that added burden on business must be passed on to the customers of those businesses, customers who are consumers of the goods and services those businesses sell. Thus, this proposal represents nothing more than an indirect tax increase on all consumers/taxpayers in the state as well as outside the state for those businesses who export their goods and services.

If lawmakers lack the funds and truly can’t fund the department, then raise the income tax so that at least taxpayers know that they are being taken to the cleaners. Hiding a revenue increase in fees paid by businesses is less than honest.

Digested 3/11/11

HAWAII FINANCIAL SERVICES ASSOCIATION

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March 16, 2011

Sen. Carol Fukunaga, Chair,
and members of the Senate Committee on Economic Development and Technology
Hawaii State Capitol
Honolulu, Hawaii 96813

Re: **House Bill 782, HD 2 (Department of Business, Economic Development, and Tourism)**
Hearing Date/Time: Wednesday, March 16, 2011, 1:15 P.M.

I am the attorney for the **Hawaii Financial Services Association** ("HFSA"). The HFSA is a trade association for Hawaii's consumer credit industry. Its members include Hawaii financial services loan companies (which make mortgage loans and other loans and which are regulated by the Hawaii Commissioner of Financial Institutions), mortgage lenders, and financial institutions.

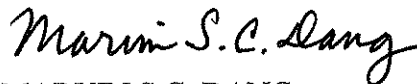
The HFSA **opposes** this Bill as drafted.

This Bill: (1) Establishes the Department of Business, Economic Development, and Tourism Operation Special Fund to support operations; and (2) Imposes a temporary surcharge on certain fees charged by certain departments for deposit into fund.

The \$20 fee surcharge mandated under Section 2 of this Bill will have a negative impact on companies that are examined or audited by the Division of Financial Institutions ("DFI") of the Department of Commerce & Consumer Affairs. On page 2, line 20 of this Bill, a \$20 surcharge would be imposed on the examination fee that financial institutions (such as financial services loan companies and state chartered banks) pay to the DFI. Under HRS Chapter 412 (Code of Financial Institutions), the current examination fee is \$40 per hour. The \$20 surcharge would result in an examination fee of \$60 per hour. This would be a 50% increase in these hourly fees which already cost financial institutions tens of thousands of dollars annually.

We ask that you do not pass this bill as drafted because any surcharges on the hourly examination or audit fees will be detrimental to Hawaii financial institutions which need to maintain capital levels and add to reserves.

Thank you for considering our testimony.



MARVIN S.C. DANG

Attorney for Hawaii Financial Services Association

(MSCD/hfsa)

TESTIMONY OF THE AMERICAN COUNCIL OF LIFE INSURERS
IN OPPOSITION TO HOUSE BILL 782, HD 2, RELATING TO THE DEPARTMENT OF
BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM

March 16, 2011

Via E Mail: edttestimony@capitol.hawaii.gov

Hon. Senator Carol Fukunaga, Chair
Committee on Economic Development and Technology
State Senate
Hawaii State Capitol, Conference Room 016
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Fukunaga and Committee Members:

Thank you for the opportunity to testify in opposition to HB 782, HD 2, relating to the Department of Business, Economic Development and Tourism (“DEBDT”).

Our firm represents the American Council of Life Insurers (“ACLI”), a national trade association, who represents more than three hundred (300) legal reserve life insurer and fraternal benefit society member companies operating in the United States. These member companies account for 90% of the assets and premiums of the United States Life and annuity industry. ACLI member company assets account for 91% of legal reserve company total assets. Two hundred sixty-nine (269) ACLI member companies currently do business in the State of Hawaii; and they represent 93% of the life insurance premiums and 95% of the annuity considerations in this State.

HB 782, HD 2, would impose a \$20 surcharge on every fee imposed by stated departments and commissions to be deposited into a special fund to finance the activities of DBEDT. In the case of the Department of Commerce and Consumer Affairs (“DCCA”) the \$20 surcharge would be imposed on the filing of every application, license, permit or any other matter relating to a business’ (including life insurers’) authority to do business in the State. In the case of an insurer only, the \$20 surcharge would also be imposed on the payment of its tax on insurance premiums.

Section 1 of HB 782, HD 2, states that the basis for this bill as applied to life insurers and other businesses regulated by DCCA is that the success of DBEDT in fulfilling its statutorily mandated mission benefits their business. Accordingly, imposing a surcharge upon the fees paid by them to fund DCCA’s operation is appropriate and justified.

ACLI respectfully disagrees.

The general objectives, functions and duties of DBEDT is “. . . to make broad policy determinations with respect to the economic development in the State and to stimulate through research and demonstration projects those industrial and economic development efforts that offer the most immediate promise of expanding the economy of the State.” Section 201-2, HRS.

To fulfill its mission the specific functions, positions, offices or programs established within DBEDT include (but are not limited) the following:

- a. Research and Promotion in the following areas: industrial development, land development, credit development, promotion of present and new industries and investments in the State, tourism research and statistics, establishing and updating self-sufficiency standards and coordinating film permit activities . §201-3, HRS.
- b. Energy planning and conservation. §201-12, HRS.
- c. Renewable energy facilitator whose duties include establishing and administering a permitting process for renewable energy projects. §201-12.5, HRS.
- d. Marine resources and affairs. §201-13, HRS.
- e. Collection of data information. §201-13.8, HRS.
- f. Film permitting processing. §201-14, HRS.
- g. Office of International Affairs. §201-17, HRS.
- h. Research and statistics for growth industries. §201-19, HRS.
- i. Office of Aerospace Development. §201-72, HRS.

ACLI submits that the foregoing functions, positions, offices and programs of DBEDT do not directly benefit life insurers. The nexus of requiring insurers to pay the proposed surcharge and the services provided to them by DBEDT is at best tenuous.

Moreover, the \$20 surcharge is imposed on an insurer not only on the filing of every one of its applications, licenses or permits but also on the insurer's payment of its insurance premium tax. This is patently unfair as it singles out only insurers with this additional fee.

Life insurers already pay their fair share of the costs of government.

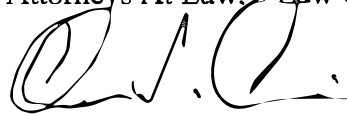
Life insurers are subject to and pay an insurance premium tax of 2.75% of their gross income derived from premiums received on contracts issued to Hawaii residents. At 2.75%, Hawaii already has one of the highest life insurance premium tax rates in the nation (the national average is 1.9%).

In addition to the fees, premium taxes and other charges imposed under Hawaii's Insurance Code, life insurers (like other businesses regulated by DCCA) are required to pay a fee into the compliance resolution fund ("CRF"). The stated purpose of the fund is to cover DCCA's cost of its compliance activities as required under the laws of this State. §26-9(o), HRS.

For the foregoing reasons, ACLI strongly opposes this bill and requests this committee defer passage of this bill.

Again, thank you for this opportunity to testify in opposition to House Bill 782, HD 2.

CHAR HAMILTON
CAMPBELL & YOSHIDA
Attorneys At Law, a Law Corporation

A handwritten signature in black ink, appearing to read 'O.T. Chikamoto', written over a faint, illegible typed name.

Oren T. Chikamoto
737 Bishop Street, Suite 2100
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Senate Committee on Economic Development and Technology
Senator Carol Fukunaga, Chair
Senator Glenn Wakai, Vice Chair

Date of Hearing: March 16, 2011
Time: 1:15 pm

RE: House Bill 782, HD2 – Relating to the Department of Business, Economic Development and Tourism

Chair Fukunaga, Vice Chair Wakai, and members of the Committee, the National Association of Insurance and Financial Advisors (NAIFA) Hawaii is made up of life and health insurance agents throughout Hawaii, who primarily sell life insurance, annuities, long term care and disability income policies.

We **oppose** HB 782, HD2. This measure will create a new special fund in DBEDT by assessing a \$20.00 surcharge on various fees charged by Department of Commerce and Consumer Affairs (DCCA), Department of Taxation, Department of Labor and Industrial Relations, and the Public Utilities Commission. This special fund will help to finance DBEDT's operations.

We will limit our comments to DCCA, specifically Insurance Division. Last session, ACT 59 (HB 1985, SD1, CD1) was enacted that **doubled all statutory fees in Insurance Division for the next four years. The amounts collected from the new “insurance license and service tax” will be deposited into the general fund** not the Compliance Resolution Fund. With HB 782, HD2, a \$20 surcharge will be added to the recently enacted doubling of fees.

Insurance agents when renewing their licenses will have to pay the regular fee plus the new “insurance license and service tax” and then, the \$20 surcharge for a total of \$220 for a 2-year license.

We are having difficulty understanding where the nexus is between those being charged the \$20 and the operation of the programs and activities of DBEDT.

We respectfully ask that this measure be held.

Mahalo for this opportunity to share our views.

Cynthia Takenka
Executive Director
Ph: 394-3451



SENATE COMMITTEE ON
ECONOMIC DEVELOPMENT AND TECHNOLOGY

March 16, 2011

House Bill 782, HD 2 Relating to the Department of Business,
Economic Development, and Tourism

Chair Fukunaga and members of the Senate Committee on Economic Development and Technology, I am Rick Tsujimura, representing State Farm Insurance Companies, a mutual company owned by its policyholders.

State Farm OPPOSES House Bill 782, HD 2 to the extent that it attempts to impose any surcharges upon its licenses, fees, renewals and premium tax payments.

House Bill 782, HD 2 is defective in its title by attempting to impose such surcharges upon entities which are regulated by the Department of Commerce and Consumer Affairs. Article III, Section 14 of the Hawaii Constitution states in relevant part:

Section 14. No law shall be passed except by bill. **Each law shall embrace but one subject, which shall be expressed in its title.** (emphasis added.)

The reason for this requirement is to avoid surprise. The title of this measure is “RELATING TO THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM.” The contents of the bill, however, sway far from this mark by attempting to surcharge businesses which have no regulatory connection to the department. Indeed, the contents of the bill make it clear that other departments are collecting this surcharge to fund what is normally funded by the general fund of the state. The policy implications of this bill are far reaching, because if adopted by the legislature and this state, presumably one could surcharge private school students who board public buses a surcharge fee for the department because they benefit from the economy. The nexus is strained logic.

Moreover, the logic is further strained by imposing a surcharge on the payment of premium taxes to the state, a requirement of the state to remain in business, yet it does not impose a similar fee on other tax payments to the state. Such a surcharge we believe is unfair at best and at worst unconstitutionally defective as violative of the equal protection clause.

We urge the committee to hold this measure as it is unfair, and both procedurally and substantively unconstitutional.

Thank you for the opportunity to present this testimony.



"The Tour and Trolley People"



March 16, 2011

Senate Committee on Economic Development and Technology
Chair Sen. Carol Fukunaga, Vice Chair Sen. Glenn Wakai, and Committee Members
Public Hearing, March 16, 2011; 1:15 p.m., Conference Room 16

**TESTIMONY OF KATSUMI TANAKA, CEO
E NOA CORPORATION
IN OPPOSITION TO H.B. 782 HD 2**

My name is Katsumi Tanaka, I am the Chief Executive Officer of E Noa Corporation, a locally owned transportation company which has for over 30 years provided quality service to our island visitors and residents. Until such time as the economic conditions begin to stabilize, we oppose further increases to conduct business in the State of Hawai'i, this is particularly apparent in the aftermath of the tragic earthquake and tsunami in Japan which is resulting in substantial cancelations of our Japanese visitors.

We fully appreciate and understand the intent of this proposed measure, however the impact of these additional surcharges imposed by a myriad of State Departments are but another burden on the ground transportation industry which is struggling to remain financially solvent.

It is suggested that any increase be deferred during these economic times, and any future consideration be reviewed after the economy has had an opportunity to stabilize, this is particular critical for segments of the industry and the State's economy which rely heavily on tourism.

We would be willing and able to meet with all interested and effected parties in an effort to constructively find an amicably resolution to the State's budgetary shortfalls, however it should not be at the expense of the multi-island's critical transportation services.

Mahalo for the opportunity to comment on HB782 HD2 in opposition to the measure

Respectfully,

Katsumi Tanaka
CEO

E Noa Corporation are members of the following organizations:





Property Casualty Insurers
Association of America

Shaping the Future of American Insurance



LATE TESTIMONY

To: The Honorable Carol Fukunaga, Chair
Senate Committee on Economic Development and Technology

From: Mark Sektnan, Vice President

Re: HB 782 HD2: Relating to the Department of Business, Economic
Development and Tourism
PCI Position: Oppose

Date: Wednesday, March 16, 2011
1: 15 p.m.; Conference Room 016

Aloha Chair Fukunaga and Members of the Committee:

The Property Casualty Insurers Association of American (PCI) PCI is opposed to HB 782, H.D. 2, which establishes the Department of Business, Economic Development, and Tourism ("DBEDT") Operation Special Fund to support operations and imposes a temporary surcharge on certain fees charged by certain departments for deposit into the fund.

PCI is opposed to Section 2 of this bill which permits the Department of Commerce and Consumer Affairs ("DCCA") to impose a \$20 surcharge on professional licenses including those of agents, adjusters and bill reviewers. These fees were recently raised in legislation last year and the additional surcharge will impose a significant financial burden on PCI members who rely on services. In addition, it is difficult at best, to determine the relationship or nexus between these surcharges and the regulation of insurance.

Additionally, it appears Section 2 will impose a surcharge on the tax on insurance premiums. Hawaii already has the highest premium tax rate in the nation and this increase will negatively impact low income policyholders who must have insurance but struggle in this current economic environment to maintain basic needs.

For these reasons, PCI asks the committee to hold this bill in committee.

LATE

Natalie J. Iwasa, CPA, Inc.
1331 Lunalilo Home Road
Honolulu, HI 96825
808-395-3233

TO: Committee on Economic Development and Technology

HEARING

DATE: Wednesday, March 16, 2011, 1:15 p.m.

RE: HB782, HD2 Relating to New Fees for DBEDT - **OPPOSE**

Aloha Chair Fukunaga, Vice Chair Wakai and Members of the Committee,

Following is a summary of oral testimony I presented at the hearing.

This bill would impose new fees on small businesses. I am a sole practitioner. I already pay fees for an individual CPA license, individual permit, firm permit and annual registration of my corporation. Last year the IRS came out with a new annual fee as well. In addition, I am known as "Bike Mom" and will be paying fees to register that name. The renewals related to all of these state registrations, licenses and permits would be assessed a \$20 surcharge under this bill.

All of these fees add up and are especially hard on small businesses. Given the recent earthquake and crisis in Japan and its expected negative impacts on Hawaii, this is not the time to institute new fees.

I urge you to vote "no" on this bill.