SB 2761

Measure Title:	RELATING TO FINANCIAL INSTITUTIONS.
Report Title:	Financial Institutions; Fees
Description:	Adjusts regulatory fees for financial institutions to more accurately reflect today's economy.
Companion:	HB2499
Package:	Gov
Current Referral:	CPN, WAM
Introducer(s):	TSUTSUI (BR)

Sort by Date		**Status Text**
1/25/2012	S	Introduced.
1/25/2012	S	Passed First Reading.
1/25/2012	S	Referred to CPN, WAM.
1/27/2012	S	The committee(s) on CPN has scheduled a public hearing on 02-03-12 9:00AM in conference room 229.

NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR

KEALI'I S. LOPEZ
DIRECTOR

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TO THE
SENATE COMMITTEE ON
COMMERCE AND CONSUMER PROTECTION

THE TWENTY-SIXTH STATE LEGISLATURE
REGULAR SESSION OF 2012

Friday, February 3, 2012
9:00 a.m.

TESTIMONY ON S.B. NO. 2761
RELATING TO FINANCIAL INSTITUTIONS

THE HONORABLE ROSALYN H. BAKER, 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 ("Department") in strong support administration bill, Senate Bill No. 2761.

The Division of Financial Institutions ("DFI") provides numerous services for Hawaii's financial institutions and the public. DFI provides regulatory oversight for Hawaii's financial institutions, including the review of financial institution applications for new applications, change in control, stock purchases, and new branch locations, all done without charging a fee. Currently, the fees for the regulation of financial institutions are low, and have not been reviewed since the 1993 recodification of the financial institutions laws. The new fee structure comports with the regulatory oversight by DFI as the federal and state laws and the financial institution company organizations become more complex to review and analyze.

This bill establishes some new fees and adjusts others. The fees are based on the time spent reviewing and analyzing financial institution requests at the rate of $60 an hour.

The proposed annual renewal fee is the amount of fees DFI will use in its budget analysis to determine any funding needs. Annual fees charged to each financial institution subject to examination by the Commissioner are set out in Section 2 of the bill and are based on the asset size of each financial institution so that the smaller institutions pay less than the larger ones and reflect the amount of time staff spends reviewing and analyzing the financial institution during the annual review. The analysis for the renewal includes review of the financial statements, confirmation that the company is in compliance with business registration laws, confirmation that the company's organizational structure has not changed, and confirmation that the company's locations are up-to-date.

Currently, based on the proposed annual fee, DFI projects it will receive $167,500 in annual fees. Currently, DFI receives $35,100 in annual fees. The analysis for the renewal includes review of the financial statements, confirm that the company is in compliance with business registration laws, confirm that the owners of the company are still the same, confirm that the company has adequate capital and the appropriate bonds, and confirm that the company's offices are up-to-date.

All other fees are grouped together into one statutory section and apply to the various types of financial institutions regulated by DFI. Some of these fees had already been established by statute, while others provided the authority for the Commissioner to establish them by rule. All proposed fees were either added or adjusted to reflect the amount of work necessary for that particular review of the requested service. The amount of each fee, whether an annual fee or some other fee, is based on the amount of work necessary to provide regulatory oversight. The regulatory oversight review includes both compliance with federal and state laws and the impact to consumers and customers.

For these reasons, the Division strongly supports administrative bill, Senate Bill No. 2761 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.

Hawaii Bankers
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Presentation to the Committee on Commerce and Consumer Protection
Friday, February 3, 2012 at 9:00 a.m.
Testimony on SB 2761 Relating to Financial Institutions

In Opposition

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

I am Gary Fujitani, Executive Director of the Hawaii Bankers Association (HBA), testifying in opposition to SB 2761. HBA is the trade organization that represents FDIC insured depository institutions doing business in Hawaii.

This bill raises regulatory fees for financial institutions.

No business likes to see its cost increase, especially in these difficult economic times. However, we **do not** disagree with the practice of periodically reviewing and if justified, adjusting fees by a reasonable amount.

Our opposition stems from the inordinate percentage of the fee increases being proposed by the Division of Financial Institutions (DFI). For example the bank annual fee estimated percentage increase will range from a low of almost 100 % to a high of over 1,500%. In fact the two newest and smallest Hawaii headquartered banks will see astronomical percentage increases of 1,150% and 1,566%. Additionally, the examination hourly fee will increase 50% on top of 41 **new** fees **not previously charged** and almost all these new fees range from $1,000 to $20,000.

Because this fee increase will be paid only by state chartered banks, one-third of Hawaii banks will not be impacted by this bill.

While the annual fee increase may draw the greatest scrutiny, the real impact will be the 50% increase for the hourly rate for examinations. It is likely that DFI will conduct multiple separate examinations of each state-chartered bank each year. Since it is difficult to predict the number of hours spent on each examination, it is difficult to predict with certainty the amount of the increase, but it would be reasonable to predict a 50% increase in fees.

Further the amount charged for new fees should be lower, as an example, the $2,000 fee to review a wild card application. A wild card application is an application to DFI to exercise the same banking power enjoyed by a federally chartered bank. This is necessitated because Hawaii's banking laws and regulations provides little guidance to a state chartered bank as to whether it has the power to engage in a certain banking activity. It also does not reflect current innovations, such as electronic banking, resulting from changes in federal law. On the other hand, national banks enjoy detailed regulations and laws as to what it may or may not do, as well as the benefit of a compendium of prior OCC decisions on bank powers. Thus to engage in ordinary banking activity, a state chartered bank may feel the need to file a wild card application out of an abundance of caution.

It is our understanding that the projected revenue increase from these various fees, for **all** the industries DFI regulates, is approximately $800,000 annually. This amount is almost 23% of DFI's operating annual budget of $3.5 million, which is a very ambitious fee increase to implement at once. Obviously, any private business that tried to increase prices by such an extraordinary percentage would face the ire of its customers and probably not be able to do so.

Fee increases of 100 to 1,500 percent range are just too much to charge all at once. Rather, any fee increase of this magnitude needs to **be justified** to DFI customers, and if justified, should be phased in over a period of time.

We look forward to working with DFI to implement a more palatable schedule of fee changes.

Thank you for this opportunity to testify.

Gary Y. Fujitani
Executive Director

HAWAII FINANCIAL SERVICES ASSOCIATION

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February 3, 2012

Senator Rosalyn H. Baker, Chair
and members of the Senate Committee on Commerce & Consumer Protection
Hawaii State Capitol
Honolulu, Hawaii 96813

Re: **Senate Bill 2761 (Financial Institutions)**
<u>Hearing Date/Time: Friday, February 3, 2012, 9:00 a.m.</u>

I am Marvin Dang, 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.**

The stated purpose of this Bill is to adjust regulatory fees for financial institutions to more accurately reflect today's economy.

However, under this Bill, the Division of Financial Institutions will create new fees and increase other fees for financial institutions such as financial services loan companies, banks, and savings banks

Some of the 41 fees that are listed in Section 1 of this Bill (pages 1 through 11) are new fees (e.g. reviewing and approving the relocation of a principal office or branch). Others are increases of existing fees, such as the doubling of the fee to review and approve a new branch (to $1,000). These fee increases don't take into account the type or size of the financial institution (e.g. a small non-depository financial services loan company rather than a larger financial institution).

Another example is a 50% increase in the hourly rate for examinations (from $40 to $60 per hour). Because the number of hours that a state examiner spends at a financial services loan company can vary, the exact dollar amount of this increase is difficult to estimate. However, it will definitely be at least 50% more than the thousands of dollars that are presently being paid annually by a financial services loan company in examination fees.

In Section 2 of this Bill (pages 12 through 13), the amount that some of the smaller non-depository financial services loan company will pay as an annual fee could increase <u>from</u> a range of about $600 - $1,100 <u>to</u> a range of about $5,000 - $7,500 depending on the size of the company and the number of its branches. These are increases of about 600% - 800%.

The fees as stated in this Bill will negatively impact and financially burden non-depository financial services loan companies and thereby hinder Hawaii's economic recovery.

Thank you for considering our opposition to this Bill as drafted.

Marvin S. C. Dang
MARVIN S.C. DANG
Attorney for Hawaii Financial Services Association

(MSCD/hfsa)