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**Subject:** Submitted testimony for SB598 on Mar 1, 2013 09:05AM  
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SB598

Submitted on: 2/27/2013

Testimony for WAM on Mar 1, 2013 09:05AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Ms Barbara L Franklin	Barbara L. Franklin, Esq., Attorney at Law	Oppose	No

Comments: I fully support limiting the annual rate of interest to 36%; however, the effective date of 2050 appears to be a mistake. That is 37 years from now! I am a bankruptcy attorney and I have seen the damage to households who have used payday loans (and most of those are not using the internet to obtain the loans). We need to protect our most vulnerable consumers by strengthening the protections provided, but 37 years is not acceptable. I am supporting federal legislation to regulate internet based payday loans.

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March 1, 2013

Honorable David Y. Ige, Chairman  
Senate Committee on Ways and Means  
Hawaii State Capitol, Room 229  
Honolulu, HI 96813

**RE: SB598 Relating to Check Cashing**

Dear Chairman Ige:

Thank you, Chairman Ige, for the opportunity to submit testimony regarding Senate Bill 598. My name is Kerry Palombo, and I am Director of Compliance for Dollar Financial Group, Inc. based in Berwyn, Pennsylvania. Through a subsidiary, we operate nine Money Mart<sup>®</sup> stores in the State of Hawaii, where we employ 37 state residents who are drawn from the neighborhoods we serve. These stores offer deferred deposit transactions that would be affected by Senate Bill 598. We oppose the rate-cap provisions of this bill because those provisions set a price ceiling well below our costs and would force us out of business.

Dollar Financial Group is also a board member company of Community Financial Services Association of America (CFSA). CFSA is the deferred deposit industry's national trade association, which represents more than half of storefront locations nationally. I am submitting testimony today on both my company's and CFSA's behalf.

CFSA promotes responsible industry practices through mandatory Best Practices for members. These Best Practices help our customers make sound and informed financial decisions. CFSA also supports state legislation that preserves working families' access to small-dollar,

short-term credit, while ensuring them of substantive consumer protections. To that end, my company and other CFSA members have supported responsible legislation in the 32 states that regulate deferred deposit transactions, including Hawaii.

Dollar and CFSA oppose the rate-cap provisions of Senate Bill 598, although we support the remainder of the bill.

### **Background**

As mentioned, we offer Hawaiians deferred deposit transactions, typically called payday loans. These loans provide a convenient, reasonably-priced, well-regulated option for meeting small, short-term financial needs.

Borrowers must have a steady income and personal checking account in order to be approved for an advance. They are typically middle-income, educated young families. They represent 19 million American households, who choose deferred deposit loans as a cheaper alternative to bounced-check or overdraft-protection fees and late-bill-payment penalties; they also find it more desirable than asking family for money or pledging collateral for a small-dollar loan. Deferred deposit loan customers are overwhelmingly satisfied with the service, a fact confirmed by state regulators who report very few complaints from their citizens who use our service. We count Hawaii among this group.

### **Our Interest in Senate Bill 598**

Across the country CFSA members have demonstrated our commitment to working with policymakers to achieve state regulation that benefits consumers. We support balanced regulation that appropriately protects consumers and enables reputable payday lenders to operate profitably. This second element is the problem with Senate Bill 598: not only would the 36 percent rate cap in this bill prohibit us from operating profitably, it would put payday lenders out of business completely. While we are more than willing to work with this Committee in support of many of the provisions in Senate Bill 598, we oppose legislation that would put us out of business and leave our customers only with less-desirable credit alternatives.

### **The Cost of a Deferred Deposit Advance and Why APR Calculations are Misleading**

Our business serves working families who frequently must choose between a deferred deposit advance and more costly or less desirable alternatives. Our customers generally look at

the real dollar cost of their available credit options and make rational, informed decisions when choosing a payday loan.

By contrast, critics of our industry tend to disregard the true relative costs of short-term credit products. Overly-simplified APR comparisons in this context tend to be quite misleading. In Hawaii, the maximum fee allowed for a deferred deposit transaction is 15% of the face amount of the check. For a \$100 advance, the maximum fee that may be charged is \$17.65. The fee remains \$17.65 whether the advance is paid back in 14 days, 30 days—or a year, for that matter. There is no accrual of interest. Current law caps the cost of our product in terms of fees, not interest, which makes sense because we charge a one-time fee for a loan. It makes no sense to express a limit on our fees in the context of an annual percentage rate.

### **The Impact of Restrictive APR Caps: De Facto Ban**

Many critics have called for capping rates at 36% or a similar APR level, and some states have obliged. The result has been elimination of the deferred deposit advance product in those states. That's because a 36% APR means a lender can only charge about \$1.38 per \$100 borrowed. For deferred deposit lenders in Hawaii, this equates to a 92.2% reduction in gross income—not profit or net income, but gross income—from which all expenses must be paid. Under existing law, gross income on a \$100 transaction is \$17.65. Under this proposal, it is \$1.38. No business can survive a 92.2% decrease in gross income. It doesn't leave enough revenue to pay the light bill, much less employee payroll and benefits.

Despite what industry critics say, a 36% annual rate cap is not a reform approach, it is an outright ban. Unfortunately, that point has been proven in some states, most often with unintended consequences.

- In July 2007 a new law in Oregon capped payday loans at 36% APR plus an origination fee that yielded an effective APR of 154%. Within a year, 75% of the stores closed, and those that remained open offered check cashing and other services to survive. The press reported that 800 jobs had been lost and that state officials were concerned because Oregonians were beginning to use unregulated payday lenders on the Internet.<sup>1</sup> Four years later the Portland Business Journal was still reporting that, “. . . the laws, which capped interest rates at 36%, forced cash-hungry borrowers to turn to the shady world of Internet Payday loans. . . .”<sup>2</sup>

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<sup>1</sup>“[\*Middle-class squeeze leads to a rush at local pawnshop\*](#)”, *The Oregonian*, Sept. 27, 2008.

<sup>2</sup>“*Borrowers flock to online payday lenders*,” *Portland Business Journal*, Feb. 11, 2011.

- In 2008 New Hampshire passed a 36% APR cap on payday and car title loans; and before the law even took effect, most of the payday lending stores had closed.<sup>3</sup> In 2011 a state representative estimated that 200 people had lost their jobs in the lending industry after the law passed. Another said that banning the loans hurt consumers.<sup>4</sup>
- Montana adopted a 36% APR cap by ballot initiative in 2010. A year later, in an editorial entitled “What were voters thinking?” the Daily Inter-Lake paper said, “. . . it didn’t just cripple the payday lending industry in Montana; it flat-out killed it along with an estimated 800 jobs.” The editorial went on to speculate there may have been a perception the rate cap would merely rein in payday lending, not kill it.<sup>5</sup>

These real-world examples are proof of the consequences of restrictive annual rate caps. Stores closed, employees lost their jobs and consumers were left to choose among more-expensive and less-desirable credit alternatives. As noted by a number of policymakers in these states, many payday lending customers turned to unregulated payday advance lenders operating below the radar screen and to offshore Internet payday lenders over which U.S. regulators have no control. Since these unregulated companies do not report to Hawaii’s Department of Commerce and Consumer Affairs, your state would not be able to measure or regulate consumer use of these products.

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<sup>3</sup>“[Good riddance to pricey short-term loans](#),” *Concord Monitor*, Jan. 8, 2009.

<sup>4</sup>“[Bill would lift rate cap on title loans](#),” *Concord Monitor*, February 1, 2011.

<sup>5</sup>“[What were voters thinking?](#)” *Daily Inter Lake*, November 14, 2011.

## **Consumers Suffer Under Payday Loan Ban**

Academic and third party research has consistently found that consumers have suffered in states where payday advances are no longer available, as evidenced by these few examples.

- A staff report from the Federal Reserve Bank of New York notes that consumers in Georgia and North Carolina “. . . *bounced more checks, complained more about lenders and debt collectors, and have filed for Chapter 7 bankruptcy at a higher rate*” following the elimination of the payday lending industry in those two states.<sup>6</sup>
- Another study by Dartmouth College Professor Jonathan Zinman found that restricting access to payday loans “*caused deterioration in the overall financial condition of Oregon households.*”<sup>7</sup>
- In the study *The Case Against New Restrictions on Payday Lending*, Prof. Todd J. Zywicki of George Mason University reports that “[E]fforts by legislators to regulate the terms of small consumer loans (such as by imposing price caps on fees or limitations on repeated use “rollovers”) almost invariably produce negative unintended consequences that vastly exceed any social benefits gained from the legislation.”<sup>8</sup>

## **Closing**

In closing, we would like to point out that Hawaii already has a consumer-friendly deferred deposit statute in place, with a cap on fees and the amount that may be borrowed, as well as a prohibition on rollovers. We support regulation that protects consumers and would like to work with this Committee on improvements it deems necessary in that regard. But we respectfully submit that Senate Bill 598 in its current form—which includes an annual percentage rate cap—will not protect consumers. Instead, it would eliminate a regulated environment and take away their access to a much-needed credit option at a time when families are finding their access to traditional forms of credit limited or cut-off entirely. Furthermore, if Senate Bill 598 is enacted, Dollar Financial Group will be forced to close its nine Hawaii stores and terminate our 37 employees.

We support the provisions of Senate Bill 598 other than the rate cap. However, because of the rate cap alone, which would doom this industry, we urge you to reject the current form of Senate Bill 598.

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<sup>6</sup>“[\*Payday Holiday: How Households Fare after Payday Credit Bans.\*](#)” by Donald Morgan, Federal Reserve Bank of New York, November 2007.

<sup>7</sup>“[\*Restricting Consumer Credit Access: Household Survey Evidence on Effects Around the Oregon Rate Cap.\*](#)” by Dartmouth College Prof. Jonathan Zinman. October 2008.

<sup>8</sup>[\*The Case Against New Restrictions on Payday Lending.\*](#) Prof. Todd Zywicki, George Mason University, July 2009.

Thank you for your consideration. At the Committee's request, I would be pleased to provide additional information or make myself available to answer any follow-up questions you may have.

Respectfully Submitted,

Kerry Palombo  
Director of Compliance