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**STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

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TO THE HOUSE COMMITTEE ON
INTRASTATE COMMERCE

TWENTY-NINTH LEGISLATURE
Regular Session of 2018

Tuesday, February 6, 2018
10:30 a.m.

TESTIMONY ON HOUSE BILL NO. 2609, RELATING TO SHORT-TERM LOANS.

TO THE HONORABLE TAKASHI OHNO, CHAIR, AND MEMBERS OF THE
COMMITTEE:

The Department of Commerce and Consumer Affairs (“Department”) appreciates the opportunity to testify on H.B. 2609, Relating to Short-Term Loans. My name is Iris Ikeda, and I am the Commissioner of Financial Institutions (“Commissioner”) for the Department’s Division of Financial Institutions (“DFI”). The Department submits these comments.

The purpose of this bill is to allow lenders to make affordable "short-term loans" to borrowers who have limited access to credit, on terms that sufficiently compensate short-term lenders for their risk. The bill would enact a new chapter of the Hawaii Revised Statutes (“HRS”), entitled “Short-Term Loans” (“new chapter”), administered by DFI.

The Department's main concerns about H.B. 2609 are: 1) the registration program, rather than a full licensure scheme; 2) certain loan terms that may cause borrowers to pay substantial amounts in interest and fees; 3) customer confusion with two programs for short-term loans; and 4) creation of a new regulatory program in DFI without staffing.

Under the new chapter, “short-term lenders”:

- Must register with DFI and renew their registration annually;
- May make a loan in the principal amount of \$2,000, a repayment term of up to thirty months, and an interest rate of 36% per year, plus a monthly maintenance fee of \$30 per month. DFI calculates that over thirty months, a borrower would pay a loan maintenance fees of \$900 (\$30/mo. x 30 months), plus precomputed interest of over \$1,000;
- Short-term loans are precomputed loans, payable in substantially equal installments of principal, fees, and interest combined. “Precomputed loan” means the debt is a sum of the principal amount and the amount of fees and interest computed in advance, on the assumption that all scheduled payments will be made when due. Fees and charges cannot exceed 50% of the original loan amount. Multiple loans are prohibited under certain circumstances.

The bill requires the Commissioner to:

- Report to the Legislature on the availability and affordability of short-term loans two years after the bill’s effective date, and recommend whether the payday loan authorization in HRS section 480F-4 should be repealed. The bill’s short-term loan provisions sunset June 30, 2020.
- Have the authority to revoke, suspend, or refuse to renew the registration of a short-term lender that is in violation of the chapter; and
- To assess a daily fine for violations and a civil penalty after notice and an opportunity for a hearing.

All industries overseen by DFI are regulated by full licensure schemes set out in HRS, rather than by a simple registration program envisioned by H.B. 2609. Licensure begins with submission of a completed application and a fee to DFI. The Commissioner investigates the applicant’s financial responsibility, character, and general fitness. If authorized by HRS, criminal background checks are obtained of the applicant’s key persons and reviewed for statutory disqualifiers. The applicant must meet all HRS requirements, including net capital, bonding and security requirements, and payment of

fees. The Commissioner grants a license to qualified applicants. The licensee must adhere to statutory requirements relating to business operations, supervision, locations, branches, sale or change of control of the licensee, and others. The licensee must apply to renew the license annually, submit an annual report, pay a fee, and continue to meet the qualifications required at the time of initial licensure. The licensee is periodically examined by DFI and pays DFI's examination costs. Licensure schemes usually set out grounds for denying a license application, license revocation, suspension, and cease and desist orders. The enforcement scheme is robust with specific prohibitions, violations and grounds for fines, disciplinary action, and penalties. DFI seeks to administer HRS to appropriately balance consumer protection interests with the needs of each industry's licensees. A registration program cannot accomplish this.

In addition, DFI is self-funded from fees paid by the licensees of its various programs. To set up this program, DFI would need funds to hire additional staff. Later, depending on industry compliance or lack of compliance, additional staff members may be needed to enforce the chapter and respond to consumers. To maintain this new program, the program would need to generate revenues sufficient to cover the additional staff.

If the Legislature would like DFI to regulate a loan program to meet the described purpose of this bill, DFI prefers the full licensing structure that allows the Commissioner to regulate, supervise, and examine companies for the benefit of consumers.

Thank you for the opportunity to share the Department's comments.



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February 4, 2018

House Committee on Intrastate Commerce
Tuesday, February 6, 2018, 10:30am
Conference Room 429

HB2609 – Relating to Short-Term Loans

Aloha Chair Ohno, Vice-Chair Choy, and Committee Members:

I am submitting testimony on behalf of Hawaiian Community Assets (HCA), the State's largest HUD-approved housing counseling agency and its Department of Treasury certified nonprofit Community Development Financial Institution (CDFI), Hawaii Community Lending, to **OPPOSE HB2609**.

HB2609 would violate the Federal Truth-in-Law, disregard lending industry standards for determining loan affordability for a borrower, and create a loophole for for-profit businesses to expand the reach of payday loan type instruments that are unaffordable for your constituents and would reduce the amount of money available for our workers and families to make rent and mortgage payments as well as our State economy in the midst of our homeless and affordable housing crises.

As a HUD-approved housing counseling agency and Department of the Treasury certified CDFI that specializes on financial education and access to affordable credit and capital for low-income workers and families, we have identified key concerns with the legislation as follows:

1. Unknown Costs Would Violate Federal Truth-in-Lending Law

In its current form, HB2609 would allow short-term lenders to charge:

- A 36% interest rate
- Up to \$30 in a monthly maintenance fee
- A \$25 annual check collection fee, and
- The cost of drawing payments directly from the borrower's bank account which is not defined.

This does not allow for the calculation of an Annual Percentage Rate (APR), which is would violate the Federal Truth-in-Lending Law, a law that requires any and all loans disclose to the borrower the cost of interest and fees in terms that are comparable with other credit products using APR.

2. HB2609 Would Expand Reach of Unaffordable Payday Loans

In 1999, the Hawaii Legislature voted to create a loophole in the State's usury laws under Hawaii Revised Statutes section 480-F to allow for payday loans. Currently, payday loans charge borrowers 459% APR. This means that \$105 of every \$600 borrowed goes toward interest and fees that often leave our State economy as profits for off-shore payday lenders. Less money in our economy leaves less funds for our homeless services, affordable housing, and critical public programs that have been instrumental in keeping our workers and families in permanent housing. With public programs forming a safety net to prevent homelessness, a statewide Coordinated Homeless Entry System providing emergency grants, a robust credit union network offering low-interest loans, and nonprofit loan funds combining financial education with small dollar loans, it is time to close the loophole on payday loans and save our economy and our people money for affordable housing.

Unfortunately, HB2609 would expand the reach of unaffordable payday loans under a new title – short-term loans.

More specifically, according to the bill, a borrower who is unable to pay within 10 days of the due date would have the total amount of the loan, accrued interest, and an unknown amount of fees taken out of their bank account. This feature, where a balloon payment is due for the total amount of the loan, plus interest and fees, is the same feature in payday loans that makes them unaffordable in the first place.

Furthermore, if the borrower does not have funds in their account to pay for this balloon payment, the consequences would be:

- (1) a closed bank account making the borrower unable to go to any credit union or bank to access lower-cost credit and capital,
- (2) fees and penalties levied by the credit union or bank on the borrower for an overdrawn bank account, and
- (3) damages and fees collected by the short-term lender equal to the total amount of the original loan IN ADDITION TO THE BALLOON PAYMENT CONSISTING OF PAST DUE FEES, PENALTIES, INTEREST, AND TOTAL LOAN AMOUNT.

Access to the mainstream financial system and affordable credit and capital is a vehicle to affordable housing and economic self-sufficiency. Closing this option off for your constituents would mean less money for workers and families to make rent and mortgage payments and less money for the State due to increased use of public assistance.

Any and all loans should have a requirement on the lender to offer loss mitigation options, similar to those the State Legislature and the Federal government requires mortgage institutions provide borrowers in financial hardship. Such loss mitigation options include forbearance, interest rate reduction, waivers of penalties and fees, extending the loan term, and principal loan reduction. Without these standard consumer protections in place, we risk placing our low-income workers and families into greater financial hardship and, worst, driving them closer to becoming victims of homelessness.

3. Short-Term Lenders Would Not Consider Both Income AND Debt When Determining Loan Affordability

It is an industry standard for banks, credit unions, and community development financial institutions in Hawaii and across the nation, to consider a borrower's income AND debt when determining whether or not a loan would be affordable for the borrower. Debt includes monthly housing payments. In Hawaii, we have the highest housing cost burden on renters of any state in the nation and the lowest annual average pay rates of workers. Not considering a borrower's income AND debt when determining the affordability of a short-term loan disregard the fact that we have some of the highest housing costs in the nation and are in homeless and affordable housing crises.

Only requiring short-term lenders to consider a borrower's income when determining whether or not the loan is affordable for the borrower is insufficient, against lending industry standards, and could exacerbate our homeless and affordable housing crises by taking more of a borrower's income for loan payments than what they can afford.

Short-term lenders should be required to uphold lending industry standards and have to verify and calculate loan affordability based on a borrower's income AND debt, including monthly housing payments. If not, the State Legislature would be creating a loophole in our State law to benefit a specific industry at the expense of our banks, credit unions, community development financial institutions, and taxpayers.

4. Insufficient Restriction Against Multiple Short-Term Loans at Once

HB2609's restriction against multiple short-term loans is insufficient and would not be able to be regulated. In speaking with payday lenders, they are not even able to determine whether or not a borrower has more than one payday loan.

At the same time, this requirement would not be necessary if short-term lenders were required to (1) report to the national credit bureaus and (2) calculate an affordable loan payment based on a borrower's monthly income AND debt. It is an industry standard for banks, credit unions, and community development financial institutions to pull credit reports as part of their due diligence when ensuring a loan is affordable for a borrower. This is regardless of whether a borrower has 1 loan or 10 loans.

Conclusion

At a time when Hawaii reports the highest homeless rate per capita of any state in the nation and 57.6% of our renters pay more than 30% of their monthly income toward housing, passage of HB2609 could strap our workers and families with short-term loans with unaffordable payments that would impact their ability to pay other household expenses, including rent and mortgages. Our affordable housing crisis is too dire to allow any more money to go from the pockets of our workers and families to 459% APR payday loans or unaffordable short-term installment loans.

At the same time, we cannot allow HB2609 to knowingly violate the Federal Truth-in-Lending Law by not requiring short-term lenders to disclose the APR to borrowers and create a loophole for businesses to make loans that do not adhere to lending industry standards for calculating affordable loan payments.

For these reasons, we believe it is critical for this committee to defer or **OPPOSE HB2609**.

Mahalo for your time, leadership and consideration. Please contact me directly at 808.587.7653 or jeff@hawaiiancommunity.net should you have any questions or need additional information.

Sincerely,

A handwritten signature in black ink that reads "Jeff Gilbreath". The signature is written in a cursive style with a large, stylized "J" and "G".

Jeff Gilbreath
Executive Director

Helping Hawai'i Live Well

To: Representative Takashi Ohno, Chair, Representative Issac Choy, Vice Chair, Members, House Committee on Intrastate Commerce

From: Trisha Kajimura, Executive Director

Re: **TESTIMONY IN OPPOSITION TO HB 2609 RELATING TO SHORT-TERM LOANS**

Hearing: February 6, 2018, 10:30 AM, CR 429

Thank you for hearing our testimony **in opposition to House Bill 2609**, which would violate the Federal Truth-in-Lending law, disregard lending industry standards for determining loan affordability for a borrower, and create a loophole for for-profit businesses to expand the reach of payday loan-type instruments that are unaffordable for your constituents and would reduce the amount of money available for our workers and families to make rent and mortgage payments as well as our State economy in the midst of our homeless and affordable housing crises.

Mental Health America of Hawaii is a 501(c)3 organization founded in Hawai'i 76 years ago, that serves the community by promoting mental health through advocacy, education and service. Unfair and predatory lending practices harm economically vulnerable workers in our state and trap them in cycles of unaffordable debt that cause enormous stress on individuals and families. Stress at these toxic levels can harm or worsen mental health. We already have better options for small personal loans in our community. there is no reason to allow the predatory lending industry to continue or worsen.

At a time when Hawaii reports the highest homeless rate per capita of any state in the nation and 57.6% of our renters pay more than 30% of their monthly income toward housing, passage of HB2609 could strap our workers and families with short-term loans with unaffordable payments that would impact their ability to pay other households expenses, including rent and mortgages.

Our high cost of living and affordable housing crisis is too dire to allow any more money to go from the pockets of our workers and families to 459% APR payday loans or unaffordable short-term installment loans. At the same time, we cannot allow HB2609 to knowingly violate the Federal Truth-in-Lending Law by not requiring short-term lenders to disclose the APR to borrowers and create a loophole for businesses to make loans that do not adhere to lending industry standards for calculating affordable loan payments.

Please defer **HB2609**.

Thank you for considering my **testimony in support of HB SB 2988**. Please contact me at trisha.kajimura@mentalhealthhawaii.org or (808)521-1846 if you have any questions.



Aloha Chair Ohno, Vice Chair Choy, and members of the House Committee on Intrastate Commerce,

On behalf of the nearly 600 registered members of the Young Progressives Demanding Action – Hawai‘i, I would like to express **strong opposition** to HB2609, which we find to be a highly problematic bill.

In reading this bill, we believe HB2609 violates the the Federal Truth in Lending Act (TILA) of 1968, which was designed to promote the informed use of consumer credit by requiring disclosures about its terms and cost to standardize the manner in which costs associated with borrowing are calculated and disclosed. Additionally, this bill disregards lending industry standards for determining loan affordability for a borrower and creates a loophole for businesses to expand the reach of payday loan instruments that are unaffordable for your constituents and our members. This bill would reduce the amount of money available for our workers and families to make rent and mortgage payments, as well hurt the state's economy in the midst of a houselessness epidemic and affordable housing crises.

In its current form, HB2609 would allow short-term lenders to charge: a 36 percent interest rate; up to \$30 in a monthly maintenance fee; a \$25 annual check collection fee; and the cost of drawing payments directly from the borrower’s bank account, which is not defined in the bill. This does not allow for the calculation of an Annual Percentage Rate (APR), which would clearly be in violation of TILA.

HB2609 would expand the reach of unaffordable payday loans under a new title: short-term loans. More specifically, according to the bill, a borrower who is unable to pay within 10 days of the due date would have the total amount of the loan, accrued interest, and an unknown amount of fees, taken out of their bank account. This feature, where a balloon payment is due for the total amount of the loan, plus interest and fees, is the same feature in payday loans that makes them unaffordable in the first place.

Furthermore, if the borrower does not have funds in their account to pay for this balloon payment, the consequences could include: a closed bank account, making the borrower unable to go to any credit union or bank to access lower-cost credit and capital; fees and penalties levied by the credit union or bank on the borrower for an overdrawn bank account; and damages and fees collected by the short-term lender equal to the total amount of the original loan in addition to the balloon payment consisting of past due fees, penalties, interest and total loan amount.

Short-term lenders will not consider both income and debt when determining loan affordability. It is an industry standard for banks, credit unions and community development financial institutions in Hawai‘i and across the nation to consider a borrower’s income, as well as debt, when determining whether or not a loan would be affordable for the borrower. Debt includes monthly housing payments. In Hawai‘i, we have the highest housing cost burden on renters of any state in the nation and the lowest annual average pay rates of workers. Not considering a borrower’s income as well as debt when determining the affordability of a short-term loan disregards the fact that we have some of the highest housing costs in the nation and are attempting to deal with a homeless epidemic and affordable housing crises.

Only requiring short-term lenders to consider a borrower’s income when determining whether or not the loan is affordable for the borrower is insufficient, against lending industry standards, and could exacerbate our homeless and affordable housing crises by taking more of a borrower’s income for loan payments than what they can afford.

Short-term lenders should be required to uphold lending industry standards and have to verify and calculate loan affordability based on a borrower’s income as well as debt, including monthly housing payments. If not, the State Legislature would be creating a loophole in our state law to benefit a specific industry at the expense of our banks, credit unions, community development financial institutions and taxpayers.

Additionally, HB2609’s restriction against multiple short-term loans is insufficient and would not be able to be regulated. At the same time, this requirement would not be necessary if short-term lenders were required to report to the national credit bureaus and calculate an affordable loan payment based on a borrower’s monthly income as well as debt. It is an industry standard for banks, credit unions, and community development financial institutions to pull credit reports as part of their due diligence when ensuring a loan is affordable for a borrower. This practice is implemented regardless of whether a borrower has one loan or 10 loans.

Even if those problems are addressed, HB2609 would still expand the reach of unaffordable payday loans, allowing for the predatory practices of this industry to continue taking advantage of the people of Hawai‘i. In 1999, the Hawai‘i Legislature voted to create a loophole in the state’s usury laws under Hawai‘i Revised Statutes section 480–F to allow for payday loans.

Currently, payday loans charge borrowers a 459 percent APR. This means that \$105 of every \$600 borrowed goes toward interest and fees—money that often leaves our state economy as profits for off-shore payday lenders. Less money in our economy leaves less funds for our homeless services, affordable housing and critical public programs that have been instrumental in keeping our workers and families in permanent housing. It is time to close the loophole on payday loans and save our economy and our people money for affordable housing: public programs forming a safety net to prevent homelessness, a statewide Coordinated Homeless Entry System providing emergency grants, a robust credit union network offering low-interest loans, and nonprofit loan funds combining financial education with small dollar loans.

Access to the mainstream financial system and affordable credit and capital is a vehicle to affordable housing and economic self-sufficiency. Closing this option off for your constituents would mean less money for workers and families to make rent and mortgage payments and less money for the state through interest payments leaving the state and an increased reliance on public assistance.

Any and all loans should have a requirement on the lender to offer loss-mitigation options, similar to those the State Legislature and the Federal government requires mortgage institutions provide borrowers in financial hardship. Such loss mitigation options should include forbearance, interest rate reduction, waivers of penalties and fees, extension of the loan term, and principal loan reduction. Without these standard consumer protections in place, we risk placing our low-income workers and families into greater financial hardship and, worse, driving them closer to becoming victims of homelessness.

At a time when Hawai'i reports the highest homeless rate per capita of any state in the nation and 57.6 percent of our renters pay more than 30 percent of their monthly income toward housing, passage of HB2609 could strap our workers and families with short-term loans with unaffordable payments that would impact their ability to pay other household expenses, including rent and mortgages. Our affordable housing crisis is too dire to allow any more money to go from the pockets of our workers and families to 459 percent APR payday loans or unaffordable short-term installment loans.

At the same time, we cannot pass a law that violates TILA, by not requiring short-term lenders to disclose the APR to borrowers, and creates a loophole for businesses to make loans that do not adhere to lending industry standards for calculating affordable loan payments. For these reasons, we believe it is critical for this committee to kill HB2609.

Mahalo,

Will Caron
Social Justice Action Committee Chair
Young Progressives Demanding Action – Hawai'i



February 4, 2018

Board of Directors:

House Committee on Intrastate Commerce
Tuesday, February 6, 2018, 10:30am
Conference Room 429

Gary L. Hooser
President

HB2609 – Relating to Short-Term Loans

Andrea N. Brower
Ikaika M. Hussey
Co-Vice Presidents

Aloha Chair Ohno, Vice-Chair Choy, and Committee Members:

I am submitting testimony on behalf of the Hawaii Alliance for Progressive Action (HAPA), to OPPOSE HB2609.

Kim Coco Iwamoto
Treasurer

HAPA is a statewide environmental, social and economic justice organization. HAPA engages over 10,000 local residents annually through our work. HAPA hosts annual town hall events across the state to gather the concerns of our supporters. Issues of economic hardship due to the high cost of living and low wages continue to be a primary concern.

Bart E. Dame
Secretary

HB2609 would violate the Federal Truth-in-Law, disregard lending industry standards for determining loan affordability for a borrower, and create a loophole for for-profit businesses to expand the reach of payday loan type instruments that are unaffordable for your constituents and would reduce the amount of money available for our workers and families to make rent and mortgage payments as well as our State economy in the midst of our homeless and affordable housing crises.

Paul Achitoff

Malia K. Chun

Laura Harrelson

Katie McMillan

Walter Ritte Jr.

Karen Shishido

Leslie Malu Shizue Miki

Our key concerns with the legislation are as follows:
1. Unknown Costs Would Violate Federal Truth-in-Lending Law
In its current form, HB2609 would allow short-term lenders to charge:

- A 36% interest rate
- Up to \$30 in a monthly maintenance fee
- A \$25 annual check collection fee, and
- The cost of drawing payments directly from the borrower's bank account which is not defined.

Kekaulike Prosper Tomich

Sincerely,

Cade Watanabe

Anne Frederick
Executive Director

The Hawai'i Alliance for Progressive Action (HAPA) is a public non-profit organization under Section 501(c)(3) of the Internal Revenue Code. HAPA's mission is to catalyze community empowerment and systemic change towards valuing 'aina (environment) and people ahead of corporate profit.

Maui Loan Inc.

February 4, 2018

Representative Takashi Ohno, Chair
Representative Isaac W. Choy, Vice Chair
And Members of the House Committee on Intrastate Commerce
Hawaii State Legislature
Honolulu, HI 96813

FROM: Richard Dan, Operations Manager, Maui Loan Inc.

Dear Chair Ohno, Vice Chair Choy and Members of the
House Committee on Intrastate Commerce

SUBJECT: **HB 2609 – RELATING TO SHORT-TERM LOANS**

(Hearing Date: Tuesday, February 6, 2018; Room 429)

My name is Richard Dan and for many years I have provided loans to Hawaii's working families. Folks come to us because they need small loans for a short time. Banks don't care to make small loans; and credit cards – when customers can qualify for one – are extremely risky for borrowers because fees, high interest rates, and late charges can be piled onto the principal.

This bill, as currently written provides a new lending alternative for borrowers, and particularly allows for an affordable lending option to an underserved market of borrowers with limited access to credit.

I **support the intent of HB 2609** and offer the following amendments in order to provide equitable coverage to short-term lenders for risks associated with underwriting and lending on such loans:

Representative Takashi Ohno, Chair
Representative Isaac W. Choy, Vice Chair
House Committee on Intrastate Commerce

HB 2609 – RELATING TO SHORT-TERM LOANS

February 4, 2018

Page 2

§ - 2 Short-term loans. (b) Support increasing the maximum principal amount from [\$2,000] to \$10,000.

§ - 2 Short-term loans. (d) Support increasing the borrower's verified gross monthly income to monthly loan payment ratio from [8%] to 12-15%.

Thank you for your consideration of these two requested amendments to HB 2609. If I can be of assistance regarding this matter, please contact me at Tel: (808) 242-5555.

Sincerely,

Richard Dan

Richard Dan

Maui Loan Inc.



P.O. Box 37158, Honolulu, Hawai`i 96837-0158
Phone: 927-0709 henry.lifeoftheland@gmail.com

COMMITTEE ON INTRASTATE COMMERCE

Rep. Takashi Ohno, Chair

Rep. Isaac W. Choy, Vice Chair

Tuesday, February 6, 2018

10:30AM

Conference Room 429

Re: HB 2609 EXORBITANT SHORT-TERM LOANS STRONG OPPOSITION

Aloha Chair Ohno, Vice Chair Choy, and Members of the Committee,

Life of the Land is Hawai`i's own energy, environmental and community action group advocating for the people and `aina for 47 years. Our mission is to preserve and protect the life of the land through sound energy and land use policies and to promote open government through research, education, advocacy and, when necessary, litigation.

"The purpose of this Act is to authorize ... sufficient yield for lenders to compensate for the risks associated with making credit available to this currently underserved portion of the credit spectrum."

Borrow \$100 for one year. Pay 36% interest (\$36), pay a one-time check collection charge (\$25), plus interest on the check collection charge (\$9), plus \$6 a month for the maintenance fee (\$72). Thus, at the end of the year, you pay back your loan of \$100 and your fees of \$36 + \$25 + \$9 + \$72 for a grand total of \$242.00.

However, "if the borrower is a person on active duty in the armed forces of the United States or a dependent of that person" then the \$72 fee is waived, and the payment becomes just \$170.

For civilians, the effective interest rate is 142%. For the military the effective interest rate is 70%.

Mahalo,

Henry Curtis, Executive Director



74 Swedesford Road
Suite 150
Malvern, PA 19355
610-889-1817 Phone

February 5, 2018

Chairman Takashi Ohno
Intrastate Commerce Committee
Hawaii State Capitol, Room 332,
Honolulu, Hawaii 96813

RE: Written Testimony on House Bill 2609

Thank you, Chairman Ohno, for the opportunity to submit testimony regarding House Bill 2609. I represent Dollar Financial Group, Inc. Our company operates eight (8) Money Mart locations in Hawaii and is the largest payday lender in terms of number of loans and dollar volume in Hawaii. We operate in strict compliance with federal and Hawaii law and regulation. We offer a range of accessible, alternative financial services products to over 10 million unbanked and underbanked customers with approximately 1,300 locations and 5,000 employees throughout the world. We are proud to provide customers in our locations with convenient access to liquidity and other financial services in a respectful, compliant, and customer-focused way.

We support the enactment of House Bill 2609 because it would allow us to expand our loan product offerings to Hawaii consumers in a prudent and responsible manner, and one that is more affordable and less expensive to all Hawaiians that will qualify. We believe we will be able to operate profitably under the model proposed by Representative Woodson and others in House Bill 2609.

Our company has modeled loan and portfolio performance utilizing House Bill 2609 and we have determined that if enacted, it is our belief that loans originated pursuant to House Bill 2609 will be commercially viable from both a credit risk and consumer affordability standpoint. That said, given that this model is yet untested in the marketplace, we believe it prudent to leave the existing payday legislation in place for a period of time, and allow the DFI to collect and analyze the data of performance under both the new House Bill 2609 loan model and the current payday legislation. This will ensure that loans originated under House Bill 2609 will actually perform as anticipated and are suitable to all consumer needs. We believe that we should seek to do no harm to the provision of liquidity currently afforded to consumers, and should wait until actual loan performance data will support a determination of the viability of the new product to be offered pursuant a House Bill 2609.

Finally, we strongly support the approach taken by House Bill 2609. Rather than piling on to unreasonable underwriting requirements, like the ones that have been finalized for short-term payday loans by the Consumer Financial Protection Bureau, we strongly believe that House Bill 2609 keeps loan origination easy for consumers to understand and reasonable for companies. Just like today, lenders will require proof of income and a checking account. The only differences in loan origination under a House Bill 2609 are, 1. a required credit check from a credit reporting agency, which has the significant added benefit of helping to build consumers' credit profiles, and 2. the simple requirement that the lender calculate the payment size based on the borrower's actual paycheck amount or actual bank account deposits. This will allow for their payments to be set at affordable defined maximum single digit maximum's of consumers' gross monthly income. Our systems and employees can easily perform both of these additional tasks.

We welcome the opportunity to expand our product set in Hawaii to make credit available on terms that are transparent and competitive, with a clear and rational law in place. House Bill 2609 will induce a more transparent, competitive and efficient market, enabling your constituents to access credit when they need it and keep more of their money.

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,

Lester Wm. Firstenberger
Senior Vice President,
Regulatory and Compliance



Building strength and stability through shelter

February 5, 2018

House Committee on Intrastate Commerce
Tuesday, February 6, 2018, 10:30am
Conference Room 429

HB2609 – Relating to Short-Term Loans

Dear Chair Ohno, Vice-Chair Choy, and Committee Members:

I am submitting testimony on behalf of Hawaii Habitat for Humanity and six locally-based Habitat organizations across the state. Habitat for Humanity is only one of very few nonprofit organizations that offer homeownership opportunities to low-income residents in Hawaii. Hawaii Habitat for Humanity is a Department of Treasury certified nonprofit Community Development Financial Institution (CDFI). I write to strongly **OPPOSE HB2609**.

HB2609 would violate the Federal Truth-in-Lending Law, disregard lending industry standards for determining loan affordability for a borrower, and create a loophole for for-profit businesses to expand the reach of payday loan type instruments that are unaffordable for your constituents and would reduce the amount of money available for our workers and families to make rent and mortgage payments as well as our State economy in the midst of our homeless and affordable housing crises.

Habitat organizations are 501 (c)(3) nonprofit charitable organizations that provide first-time homeownership opportunities to low income families who earn 30-to-80 percent of the area median income to ensure that they have the stability, strength and self-reliance to thrive. However, predatory lending has always undermined those efforts. Without strong lending standards, payday lending threatens the housing security of families by unfairly increasing their debt and placing them into a continuous cycle of financial distress. Habitat homebuyers and potential homebuyers are representative of the population that is inundated with payday lenders because they are low-income and have greater economic instability. Because outstanding payday loan debts are rarely reported and virtually invisible in credit reporting systems, some Habitat homeowners enter into their mortgages with outstanding payday loan debt. This debt undermines Habitat's family selection and underwriting process and threatens the homeowners' ability to repay their mortgages.

Short-term balloon payment loans, as suggested in HB2609 represent abusive and unfair lending practices, especially where the lender makes the loan without reasonably determining that the consumer can actually repay the loans. **Short-term lenders should be required to uphold lending industry standards and have to verify and calculate**

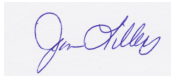
loan affordability based on a borrower's income AND debt, including monthly housing payments. If not, the State Legislature would be creating a loophole in our State law to benefit a specific industry at the expense of our banks, credit unions, community development financial institutions, and taxpayers.

HB2609 smacks of predatory lending to a population of people who already are limited in their options financially. Adding the pressure of loans that are NOT affordable for and with no mitigation process, other than increasing fees and interest, will affect the borrower's ability to afford decent housing, healthcare and education for their families. In a state where affordability is already a crisis, it would be irresponsible to support the practices this bill suggests, and a slap in the face to those of us who are working to help families become financially responsible and break the cycle of poverty that HB 2609 will perpetuate.

For these reasons, it is critical for this committee to defer or OPPOSE HB2609.

Mahalo for your time, leadership and consideration. Please contact me at 808-847-7676 or jean@hawaiihabitat.org should you have any questions or need additional information.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jean Lilley", is enclosed in a light gray rectangular box.

Jean Lilley
Executive Director

To: Representative Takashi Ohno, Chair
Representative Isaac W. Choy, Vice Chair
Committee on Intrastate Commerce

From: R. Craig Schafer, President,
Money Service Centers of Hawaii, Inc.

February 6, 2018

In support of HB2609

Money Service Centers of Hawaii, Inc. is a locally owned and operated money service business (MSB) headquartered in Kapaa, Kauai. We operate fee-based money service centers throughout the State under the trade name PayDayHawaii. Over the past 18 years we have provided check cashing services to over 44,000 Hawaii residents.

Every year, thousands of Hawaii consumers use deferred deposit transactions, commonly called “payday loans” to meet their financial needs. And many more rely on subprime credit cards, checking account overdrafts and other expensive forms of credit when they cannot qualify for traditional credit.

Money Service Centers of Hawaii offers our Micro-Credit Advance based on deferred deposit transactions authorized under HRS 480F. Most of our clients use this service responsibly and infrequently. However, a small minority rely on deferred deposit transactions to meet long-term credit needs, which is not the intended use of the product. And we have no other option to offer them.

Banks and Credit Unions, subject to new Federal rules and regulations, are no longer in the business of offering subprime credit. They cannot be relied on to deliver credit access and opportunity to Hawaii consumers little or no credit history. There is a market for consumer-focused high-quality financial services that meet the demand for short-term liquidity without the debit cycles and expensive fees associated with deferred deposit transactions.

We believe that access to affordable and fairly priced loans should not be limited to people with high incomes and FICO scores. All people deserve access to affordable loans based on more than their credit score and whether or not they have a banking relationship.

I offer one amendment: On page 13, I recommend replacing the Commissioner of Financial Institutions with the State Auditor.

Sincerely,

R. Craig Schafer, President. Money Service Centers of Hawaii, Inc.