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To: House Committee on Consumer Protection & Commerce

From: Cheryl Kakazu Park, Director

Date: February 11, 2021, 2:00 p.m.
Via Videoconference

Re: Testimony on H.B. No. 1192, proposed H.D. 1
Relating to Consumer Protection

Thank you for the opportunity to submit testimony on this bill, which would set out a regulatory scheme for payday lenders. The Office of Information Practices (OIP) takes no position on this bill. OIP commented on the confidentiality provision in versions of this bill heard in prior years, but OIP has no concerns with the provision in the proposed H.D. 1 version of this bill.

DAVID Y. IGE
GOVERNOR

JOSH GREEN
LT. GOVERNOR

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

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Testimony of the Department of Commerce and Consumer Affairs

Before the
House Committee on Consumer Protection & Commerce
Thursday, February 11, 2021
2:00 p.m.
Via Videoconference

On the following measure:
H.B. 1192, PROPOSED H.D. 1, RELATING TO CONSUMER PROTECTION

Chair Johanson and Members of the Committee:

My name is Iris Ikeda, and I am the Commissioner of the Department of Commerce and Consumer Affairs' (DCCA or Department) Division of Financial Institutions (DFI). The Department appreciates the intent of this bill and offers comments.

The purpose of proposed H.D. 1, part II, is to regulate installment-based small dollar loan transactions by: (1) specifying various consumer protection requirements for small dollar loans; (2) beginning 1/1/23, requiring licensure for small dollar lenders that offer small dollar loans to consumers, and specifying licensing requirements for small dollar lenders; and (3) authorizing the DFI to appoint two full-time exempt examiner positions, funded via the compliance resolution fund to carry out the purposes of the small dollar installment loan program. Part III of proposed H.D. 1: (1) requires check cashers to be registered with the DCCA and to offer a voluntary payment plan to customers under certain circumstances; (2) establishes the terms of voluntary payment plans; (3) clarifies that a customer may have only one outstanding deferred deposit transaction from any source; (4) amends notices to customers required of check cashers; (5) removes the exemption for persons engaged in the bona fide retail sale of goods or services; and (6) requires the DFI to conduct an analysis of the regulation of payday lenders and deferred deposit agreements in the State.

The Department appreciates the intent of proposed H.D. 1 to address the unsustainable cycle of debt consumers face when they engage in deferred deposits activity. However, the Department has concerns that both H.B. 1192, as introduced, and proposed H.D. 1 engender confusion and unnecessary cost and complexity by establishing both a license and registration requirement for the same activity. Moreover, if the intent of the bill is to allow the lender to elect the form of regulation by choosing to become either a licensed small dollar lender or registered check casher, it is unlikely that the lender would choose the more comprehensive form of regulation.

The Department supports stronger regulation in the area of small dollar lending and urges the Committee to consider the more comprehensive regulations set forth in part II of proposed H.D. 1, without adopting the additional layer of regulation in part III.

The Department also notes that proposed H.D. 1 requires the DFI to conduct an analysis of the regulation of payday lenders and deferred deposit agreements and its impact on consumer protection in the State. The Department believes this study is unnecessary because if this law goes into effect, the DFI would be implementing this law beginning July 1, 2022, before the analysis would be due to the Legislature in December 2022. In addition, a number of states[1] have already moved, or are moving toward, replacing payday lending laws with small dollar lending laws.

Thank you for the opportunity to testify on this bill.

[1] As of July 2020, 32 states have enacted small dollar lending laws.

Maui Loan Inc

February 9th, 2021

Representative Aaron Ling Johanson, Chair
Representative Lisa Kitagawa, Vice-Chair
And Members of House Committee on
Consumer Protection & Commerce
Hawaii State Legislature
Honolulu, HI 96813

SUBJECT: **HB 1192 - RELATING TO CONSUMER PROTECTION.**

FROM: Kamaaina Loan

Dear Chair Johanson, Vice Chair Kitagawa and members of the House Committee on Consumer Protection & Commerce

Aloha,

I oppose HB 1192 - RELATING TO CONSUMER PROTECTION.

We are a family-owned, community-based local business and over the past four decades

Versions of HB 1192 have been brought to the Hawaii Legislature for the past 10 years, and each year these have failed to find support. There are several reasons for this, but from my point of view the most important is that Hawaii already has the best deferred deposit regulations in the country. I can back this up by pointing out that very few consumer complaints are brought against operations running under Hawaii law.

I am painfully aware that there are complaints, but these are overwhelmingly against Internet and foreign and totally unregulated lenders. If the Legislature wishes to do something useful in this area, it should go where the problems are.

In Hawaii, borrowers are limited to one payday loan at a time. This helps keep them from becoming overextended, and it also helps protect lenders. We do not want to be lending to customers who have already taken on one or more deferred deposit loans. For one thing, customers who do that must have falsely completed their application.

These forms clearly state to customers that they cannot have more than one deferred deposit loan at a time.

I also oppose forcing borrowers to take on larger loans than they want. This should be self-evident; it will be more efficient to keep debt as low as possible. If the minimum loan is made larger, then my business cannot give customers a break over bank late fees.

Let me give an example. If a customer needs $150 (typical for my Maui customers) and is, for whatever reason, in danger of paying a bill late and incurring a $30 or $35 late fee, he can come to me and get $150 for a total fee of about $20.

I do have one suggestion for improving the current regulation. I have proposed this year after year: Require a 3-day "cooling off" period between payday loans.

Since a payday loan must be paid off in cash before being renewed, a gap between ending one loan and obtaining another will encourage borrowers to manage their debt more carefully.

A final point. My business has had almost no complaints but if anyone does want to make one, they know where to find me. I have been on North Market Street for 40 years. If a customer of one of those unregulated Internet lenders has a problem, lots of luck to him even finding a place to start.

If I can be of assistance in crafting more equitable, accountable and safe legislation as it relates to the matter of small short-term loans and/or payday lending, please contact me at Tel: (808) 244-6666.

Sincerely,

Maui loan Inc

Richard Dan President

DFC GLOBAL CORP

74 Swedesford Road
Suite 150
Malvern, PA 19355
(610) 296-3400 Phone

February 11, 2021

TO: Representative Aaron Ling Johanson, Chair
Representative Lisa Kitagawa, Vice Chair
Members of the Consumer Protection & Commerce Committee

FR: James Odell, General Counsel and Executive Vice President

RE: **SUPPORT** HB1192 Relating to Consumer Protection

On behalf of Dollar Financial Group ("DFG"), we respectfully submit the following testimony relating to HB1192, which will be heard by your Committee on February 11, 2021. DFG **STRONGLY SUPPORTS** HB1192, for the reasons described below.

We would like to begin by applauding both the Legislature and this Committee for considering the industry and consumer advocacy groups' feedback related to prior proposed legislation on alternative financial service products for non-prime consumer borrowers in Hawaii, and drafting a bill that can place Hawaii at the forefront of alternative finance regulation, while at the same time addressing a growing social problem in the state. By building additional measures into Deferred Deposit Transactions and creating a solid statutory and economic framework for Installment Loans, HB1192 provides consumers with a greater number of credit options better suited to their situation and credit profiles, while at the same time helping them improve their credit history (which a viable installment lending product will enable them to do). Based on its extensive experience, DFG strongly believes that the optimal regulatory framework is one that both enables and encourages the delivery of appropriately priced products best suited to the needs of consumers and creates an economically sustainable lending market.

DFG currently is the largest non-prime, small-dollar lender in the State of Hawaii, with 8 places of business, with over 21,000 customers within the state. DFG is a leader in the United States and Canada in the provisioning of deferred deposit transactions, installment loans, money transfer services, and check-cashing services to the unbanked and underbanked consumers. DFG has recent experience in other U.S. jurisdictions, including California and Florida, and in nearly every province in Canada, with the introduction of new, small dollar installment loans similar to what is proposed in HB1192. As a result, we believe that DFG is uniquely capable to begin offering new Installment Loan product as quickly as possible should HB1192 become law.

In this regard, it is important to realize that a new installment lending product will require a substantial capital investment prior to any lender being able offer such an installment loan in

Hawaii. In testimony provided in connection with prior bills, local banks have validated this position and indicated that they were not inclined to make such an investment and enter this type of loan market.

DFG recognizes how essential it is for the regulatory terms to enable a viable and sustainable non-prime, installment lending market to take hold in Hawaii for consumers to be able to move up the credit product ladder, with installment loans acting as a new and essential rung on that ladder. We also feel it is of paramount importance that Deferred Deposit Transactions are not eliminated wholesale, but instead are enhanced to better align certain provisions with best practices we have recently seen implemented with success in several jurisdictions in North America where we operate.

In summary, we believe that if HB1192 were to be passed, it would result in an enhanced short-term single payment loan product and a new larger, longer-term, installment loan product to be offered in Hawaii. Together, these would serve as superior credit options for Hawaii's non-prime consumers than what is presently provided for under current regulations. The introduction of a new installment loan product, in particular, will be beneficial in enabling non-prime consumers to improve their credit histories and hopefully gain access to traditional banking products. HB1192 can create stronger protections for the consumer and provide the efficiencies and economics necessary for a viable non-prime installment lending market to take hold in Hawaii. A more effective non-prime lending market can help these borrowers by providing better tailored credit products, enabling them to repair or improve their credit histories, lowering their cost of credit and, most importantly, providing them with continued access to much needed credit to deal with the demands of their daily lives.

Thank you for your consideration of our testimony.

DFC GLOBAL CORP

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February 11, 2021

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Thank you for your consideration of our testimony.