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**STATE OF HAWAII
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DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

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Testimony of the Department of Commerce and Consumer Affairs

**Before the
Senate Committee on Commerce and Consumer Protection
Friday, February 4, 2022
9:30 a.m.
Via Videoconference**

**On the following measure:
S.B. 3075, RELATING TO FRANCHISE TAX**

Chair Baker and Members of the Committee:

My name is Iris Ikeda, and I am the Commissioner of the Department of Commerce and Consumer Affairs' (Department) Division of Financial Institutions (DFI). The Department supports this administration bill.

The purpose of this bill is to clarify that, pursuant to Hawaii Revised Statutes (HRS), section 241-7, each fiscal year \$2,000,000 shall be deposited to the credit of the Department's compliance resolution fund, and if the revenues collected by chapter 241 HRS are less than \$2,000,000, the difference would be derived from revenues collected under chapter 235 HRS. By way of background, the Department has been receiving the \$2,000,000 required by 241-7 HRS annually for many years and has dedicated those funds for the use of the DFI. With the recent establishment of several chapter 241 tax

credits, the revenues collected by chapter 241 varies significantly, sometimes resulting in a negative balance. This bill would ensure that the \$2,000,000 payment provided for in 241-7 HRS is credited in full to the compliance resolution fund for use by the DFI.

The DFI has relied on the dedicated portion of the franchise tax revenues established by Act 028 (SLH 2001) provided under section 241-7, HRS to help maintain its financial self-sufficiency and to support its purpose to effectively license, supervise and regulate the constantly changing and complex financial institutions within its jurisdiction.

Over the years, taxes collected under chapter 241, HRS, have been provided in the form of tax credits to various eligible industries and consumers. Recently, the balance of the franchise tax account was insufficient to provide the Department its revenue in accordance with section 241-7, HRS, due to a prioritized allocation of tax credits. As a result, the Department was not initially provided its share of the franchise tax as established by law.

Certainty and timeliness of funding will allow the DFI to continue to carry out its purpose and functions of licensure, on-going supervision, and examination, in order to provide consumer protection.

Thank you for the opportunity to testify, and we respectfully ask the Committee to pass this administration bill.

DAVID Y. IGE
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To: The Honorable Rosalyn H. Baker, Chair;
The Honorable Stanley Chang, Vice Chair;
and Members of the Senate Committee on Commerce and Consumer Protection

From: Isaac W. Choy, Director
Department of Taxation

Date: Friday, February 4, 2022
Time: 9:30 A.M.
Place: Via Video Conference, State Capitol

Re: S.B. 3075, Relating to Franchise Tax

The Department of Taxation (Department) strongly supports S.B. 3075, an Administration measure, and offers the following comments for your consideration.

S.B. 3075 ensures the Compliance Resolution Fund receives \$2 million per year, whether from franchise tax collections or income tax collections. Currently, the Compliance Resolution Fund is funded exclusively through franchise tax collections up to a total of \$2 million per fiscal year. S.B. 3075 provides that income tax collections will be used to ensure \$2 million is deposited into the fund if franchise tax collections are insufficient. The bill is effective upon its approval.

The Department is able to administer this bill as currently drafted. Thank you for the opportunity to provide testimony in support of this measure.

HAWAII FINANCIAL SERVICES ASSOCIATION

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February 4, 2022

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

Re: **S.B. 3075 (Franchise Tax)**
Hearing Date/Time: Friday, February 4, 2022, 9:30 a.m.

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.

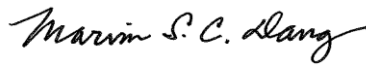
The HFSA **supports** this Bill.

This Bill (a) clarifies that the Compliance Resolution Fund is to receive \$2,000,000 of the revenues collected under chapter 241, Hawaii Revised Statutes, provided that, if the revenues collected are under \$2,000,000, the difference shall be from revenues collected under chapter 235, Hawaii Revised Statutes, not to exceed \$2,000,000; and (b) the excess revenues collected under chapter 241 shall be deposited into the general fund.

This Bill is necessary for the operations of the Division of Financial Institutions of the Department of Commerce and Consumer Affairs. With the funding mechanism provided in this Bill, the Division will have a stable and reliable source of income from HRS Chapters 241 and 235 so that the Division can regulate, supervise, and examine financial institutions and other companies.

Accordingly, we respectfully ask that your Committee “pass” this Bill.

Thank you for considering our testimony.



MARVIN S.C. DANG

Attorney for Hawaii Financial Services Association

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Presentation to The
Committee on Commerce and Consumer Protection
Friday, February 4, 2022, 9:30 AM
State Capitol Conference Room 229 & Videoconference

Testimony on SB 3075 In Support With Amendment

TO: The Honorable Rosalyn H. Baker, Chair
The Honorable Stanley Chang, Vice Chair
Members of the Committee

My name is Catherine Ngo, President of the Hawaii Bankers Association (HBA). HBA represents seven Hawai'i banks and three banks from the continent with branches in Hawai'i.

The purpose of this bill is to resolve payment timing issues on the franchise tax to be paid to the Division of Financial Institutions. More than once, payment of the amount due was delayed from one fiscal year to the succeeding fiscal year.

This has the potential of delaying payments or entering into contracts, and create an aura of uncertainty in DFI. Passage of this bill does not impact the Department of Budget and Finance except the need to pay timely.

The HBA would respectfully request that there could be a more direct way for the Division of Financial Institutions to get its share from the franchise tax as suggested in Appendix A.

Thank you for the opportunity to submit testimony in support of SB 3075. Please let us know if we can provide further information.

Catherine Ngo
(808) 544-3771

Appendix A

"§241-7 Disposition of funds. From the revenues collected under this chapter each fiscal year, [~~All taxes collected under this chapter shall be state realizations; provided that, by June 30 of each fiscal year,~~] the sum of \$2,000,000 shall be deposited with the director of finance to the credit of the compliance resolution fund as established pursuant to section 26-9(o) [~~-~~] by June 30 of the same fiscal year. The excess revenues collected under this chapter shall be deposited into the general fund.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

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SUBJECT: FRANCHISE, INCOME, Earmark Tax Collections for Compliance Resolution Fund

BILL NUMBER: SB 3075, HB 2107

INTRODUCED BY: SB by KOUCHI by request, HB by SAIKI by request (Governor's Package)

EXECUTIVE SUMMARY: Clarifies that the Compliance Resolution Fund is to receive \$2,000,000 of the revenues collected under chapter 241, Hawaii Revised Statutes, provided that, if the revenues collected are under \$2,000,000, the difference shall be from revenues collected under chapter 235, Hawaii Revised Statutes, not to exceed \$2,000,000. The excess revenues collected under chapter 241 shall be deposited into the general fund.

SYNOPSIS: Amends section 235-119, HRS, in the Income Tax Law and section 241-7, HRS, in the Franchise Tax Law to so provide.

Makes other technical and conforming amendments.

EFFECTIVE DATE: Upon Approval

STAFF COMMENTS: This is an Administration bill sponsored by the Department of Commerce and Consumer Affairs and designated CCA-01 (22).

At present, section 241-7, HRS, provides for an earmark of \$2 million annually to the Compliance Resolution Fund to defray the costs of regulating financial institutions. In its justification sheet to accompany the bill, DCCA complains that recent tax credits added to the Franchise Tax Law have dampened Franchise Tax collections, resulting in DCCA not getting their \$2 million on occasion. Because DCCA has been relying on that annual \$2 million, it wants a fallback if collections are short, and the fallback would be tapping into the income tax collections.

The bill in its present form appears to violate the Hawaii Constitution's single subject requirement because it is entitled "Relating to Franchise Tax" but also affects the Hawaii Net Income Tax.

As a policy matter, the circumstances surrounding this bill show how government finance is like pressing a balloon. The legislature enacts tax credits in furtherance of social policy. Credits reduce tax collections. The departments or agencies that previously had received such tax collections now don't get them, and they complain. What to do next?

Digested: 2/2/2022