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Testimony of the Department of Commerce and Consumer Affairs

**Before the
Senate Committee on Commerce and Consumer Protection
Tuesday, February 21, 2023
10:00 a.m.
Conference Room 229**

**On the following measure:
S.B. 764, RELATING TO AFFORDABLE HOUSING**

Chair Keohokalole and Members of the Committee:

My name is Iris Ikeda and I am the Commissioner of Financial Institutions, Department of Commerce and Consumer Affairs (“Department”). The Department offers comments on this bill.

The purpose of this bill is to allow a bank to invest, in aggregate, up to two per cent of the bank's total assets in limited partnerships, limited liability partnerships, limited liability companies, and corporations formed to invest in affordable housing residential properties with approval from the commissioner of financial institutions to exceed this amount.

The Department fully supports the intent of the bill to encourage financing of affordable residential housing projects. The Department submits comments for the purpose of highlighting potential unintended consequences of raising the investment limit from 2% of a bank's capital and surplus to 2% of its total assets. An investment of up to 2% of total assets could implicate a banks safety and soundness position if loans

are not repaid, tax credits are not received in a timely manner, or significant financial emergencies arise. These potential circumstances could, in turn, impact the franchise tax revenues that the Division of Financial Institutions (DFI), a self-funded agency, receives.

Approximately half of DFI's revenues comes from the franchise tax which comports to about 48% of DFI's time spent on supervision and examination of our banks. Section 241-7, Hawaii Revised Statutes, provide that DFI receives \$2 million from the franchise tax paid by the banks. The DFI would not be able to collect the \$2 million from the state-chartered banks annually if the banks did not pay franchise tax due to the deferred tax situation created by the proposal. Without the revenues derived from the franchise tax, the DFI would need to have the ability to make up this revenue shortfall elsewhere.

Thank you for the opportunity to provide comments on this bill.

Ahe Group
157 Makawao Street
Honolulu, Hawaii 96734

Testimony in Support of SB764, Related to Affordable Housing

Senate Committee on Commerce and Consumer Protection
Hawaii State Capitol, Conference Room 229
February 21, 2023

SB764 allows banks to invest, in aggregate, up to two per cent of the bank's total assets in limited partnerships, limited liability partnerships, limited liability companies, and corporations formed to invest in affordable housing residential properties through the low income housing tax credit program and requires approval from the commissioner of financial institutions to exceed this amount. We are in strong support of this measure.

Since its founding in 2014 the Ahe Group has been engaged in the development of new affordable housing projects and the preservation and enhancement of existing affordable housing throughout Hawaii. The low income housing tax credit program has been an indispensable tool to finance our affordable housing projects, and local financial institutions vital partners in providing interim and permanent financing.

SB764 will provide local banks with greater capacity to invest in projects assisted through the low income housing tax credit program which will help local developers like the Ahe Group meet our community's need for more affordable housing. We therefore encourage your favorable consideration of SB764.



Makani Maeva
Managing Director

Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair
Senate Committee on Commerce and Consumer Protection

RE: SB 764 - Relating to Affordable Housing – In Support
February 21, 2023; 10:00 AM; Conference Room 229, State Capitol

Aloha Chair Keohokalole, Vice Chair Fukunaga and Members of the Committee:

Central Pacific Bank (“CPB”) is submitting testimony in Support of SB 764, which allows a bank to invest, in aggregate, up to two per cent (2%) of the bank’s total assets in limited partnerships, limited liability partnerships, limited liability companies, and corporations formed to invest in affordable housing residential properties and requires approval from the commissioner of financial institutions to exceed this amount.

CPB requested the introduction of SB 764 to enable CPB to do more to support affordable housing in Hawaii. Due to CPB’s size in relation to its current funding of low-income housing tax credit (“LIHTC”) project investments and desire to fund future LIHTC projects, CPB is admittedly in a unique position of needing passage of this bill versus other banks. And, accordingly, CPB wants to be very clear that CPB is not in submitting this testimony, speaking for or on behalf of any other Hawaii banks who either do not invest in LIHTCs or due to their larger size have a larger LIHTC investment limit.

CPB fully appreciates the Hawaii Division of Financial Institution’s (“DFI”) need for funding and would not want the passage of this bill to adversely impact the DFI’s current funding. CPB would also not want the passage of this bill to adversely impact the other banks. CPB believes (but cannot confirm) that the collective franchise taxes paid by it and the other banks well exceeds the \$2 million the DFI receives in annual funding.

Safety and soundness is not compromised for the reasons below.

This bill amends State banking law to be consistent with Federal banking law. State law currently requires DFI approval before a bank can invest in a single LIHTC project in an amount exceeding 2% of a bank’s capital and surplus. Hawaii law also requires DFI approval before a bank’s aggregate investments in LIHTCs can exceed 5% of a bank’s capital and surplus. And Hawaii law prohibits a bank from aggregate investments in LIHTCs exceeding 10% of a bank’s capital and surplus. By comparison, the Federal Deposit Insurance Corporation (“FDIC”) which is CPB’s federal bank regulator, allows banks to invest an aggregate amount in LIHTCs up to 2% of a bank’s total assets without any FDIC approval needed.

The DFI and FDIC exercise strong oversight of banks. The DFI and FDIC examine CPB annually to ensure CPB operates in a safe and sound manner, which examinations include a review of CPB’s LIHTC investments. If the DFI or FDIC were to have any concern over CPB’s LIHTC investments or respecting any of CPB’s other activities, the DFI and FDIC have within their supervisory authority and under State and Federal laws and regulations, the authority to limit, restrict or prohibit CPB’s LIHTC investments. The DFI or FDIC has over CPB’s existence, examined and not had any concern over CPB’s LIHTC investments, all of which LIHTC investments have performed, and none of which CPB has taken any loss.

CPB exercises strong investment protocols. CPB maintains strong investment protocols, to include rigorous due diligence and reviews of proposed LIHTC investments by internal committees, pursuant to established policies and procedures. For CPB invested LIHTCs, CPB conducts regular monitoring. CPB has not in its long history of investing in LIHTCs taken any loss and all its LIHTC investments have performed.

CPB requests an increase in the statutory LIHTC limit due to CPB’s unique situation. This bill raises the individual and aggregate limits by which CPB could invest in LIHTCs, by allowing CPB to invest in LIHTCs up to 2% of

CPB's total assets, which is a greater amount than allowed under the current statute. Thus, if this bill passes, CPB would be able to increase its investments in LIHTCs and support more LIHTC projects in Hawaii.

CPB and other banks are allowed under current DFI laws/regulations and FDIC laws/regulations to make larger and more complex individual and aggregate loans and investments without the same level of regulatory restrictions and limits as are imposed on LIHTCs. For example, CPB and other banks are allowed to make and participate with other banks in large multi-million dollar residential and commercial construction loan projects and in large multi-million dollar investments without DFI or FDIC approval. Banks are specially staffed and experienced in making large and complex loans and investments.

CPB has total loans of \$5.5 billion, total investment securities of \$1.3 billion, and total assets of \$7.4 billion. Accordingly, with the bill's passage and increase in LIHTC investment limit, CPB's increase in LIHTC limit would not present any additional significant risk to the Bank.

CPB must and does per DFI law/regulations and FDIC laws/regulations maintain safe and sound loan and investment criteria, policies, procedures, practices, which include internal executive and committee level reviews and monitoring, all of which is audited by independent auditors both internal and external, which is overseen by an independent Board of Directors, and which are annually examined by the DFI and FDIC.

CPB wants to support more low income and affordable housing. CPB wants to continue to contribute to low income and affordable housing in Hawaii through investments in LIHTCs and the passage of this bill will provide CPB and other banks with the same flexibility and increased LIHTC investment limit that the FDIC already allows.

Please Support SB 764. CPB requests your favorable consideration in passing this measure. As a bank founded by those intent on serving the underserved, CPB would like to be able to do more to support low income and affordable housing development and units for Hawaii's citizens and residents.

Thank you for your time and attention.

Arnold Martines
President & Chief Executive Officer
Central Pacific Bank

*Expanding the range of opportunities for all by
developing, managing and promoting quality
affordable housing and diverse communities.*



Testimony of EAH Housing | Hawaii Region
RELATING TO SB764

February 21, 2023 at 10:00 AM
Written Testimony Only

Committee on Commerce and Consumer Protection
Chair Jarrett Keohokalole, Vice Chair Carol Fukunaga,
Members Angus L.K. McKelvey, Herbert "Tim" Richards, and Brenton Awa

Strong Support

The change to HRS §412:5-305 (h) specified in SB764 allows a bank to invest, in aggregate, up to two per cent of the bank's total assets in limited partnerships, limited liability partnerships, limited liability companies, and corporations formed to invest in affordable housing residential properties and requires approval from the commissioner of financial institutions to exceed this amount.

This measure increases the low income housing tax credit (LIHTC) investment limit for local banks to a level already permitted by the federal government. Without the continued lending support of local banks, LIHTC development in Hawaii will be unnecessarily constrained in addressing the soaring demand for affordable rental housing.

Thank you for the opportunity to provide input and we ask for your favorable consideration in passing SB764.

A handwritten signature in black ink that reads "Karen Seddon".

Karen Seddon
Regional Vice President
EAH Housing

EAH Housing is a non-profit corporation founded with the belief that attractive affordable rental housing is the cornerstone to sustainable, healthy, and livable communities.

1001 Bishop Street, Suite 2880
Honolulu, Hawaii 96813
(808) 466-7774

February 18, 2023

Dear Chair Keohokalole, Vice Chair Fukunaga and friends on the Committee on Commerce and Consumer Protection,

I write in support of SB764, allowing banks to invest up to two per cent of total assets in limited partnerships, limited liability partnerships, limited liability companies, and corporations formed to invest in affordable housing residential properties.

One of the rate limiting factors for new construction and rehabilitation of affordable housing units is access to capital. SB764 increases the available supply of capital.

Banks are risk averse by definition. And they hedge their bets.

Housing is a collateralized investment: in the event of an emergency a bank could liquidate their housing holdings or (more likely) borrow against its value. But such an emergency is extraordinarily unlikely.

Please support SB764.

Thank you,



Sterling Higa
Executive Director
Housing Hawai'i's Future

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February 20, 2023

Committee: Senate Committee on Commerce and Consumer Protection
Bill Number: SB 764, Relating to Affordable Housing
Hearing Date and Time: February 21, 2023, 10:00a
Re: Testimony of HPM Building Supply in support

Dear Chair Keohokalole, Vice Chair Fukunaga, and members of the Committee,

I am writing to express my strong support for SB 764, which allows a bank to invest, in aggregate, up to two per cent of the bank's total assets in limited partnerships, limited liability partnerships, limited liability companies, and corporations formed to invest in affordable housing residential properties and requires approval from the commissioner of financial institutions to exceed this amount.

HPM Building Supply is a 100% employee-owned company serving Hawaii's home improvement market and building industry for over 100 years since 1921. With 17 locations across Hawaii and Washington State, HPM offers various services and products, including retail stores, building supply and lumber yards, home design centers, drafting and design services, and manufacturing facilities. HPM is dedicated to enhancing homes, improving lives, and transforming communities. The company is guided by its core values of Heart, Character, and Growth, striving to provide top-quality products and build exceptional customer loyalty. HPM has earned recognition as a leader in the industry for its products, services, and commitment to its community.

SB 764 represents a significant opportunity for financial institutions to play a role in addressing the shortage of affordable housing in Hawaii. The bill will allow these institutions to support construction of affordable housing, which will positively impact the lives of many families and individuals struggling to find affordable places to live.

The Low Income Housing Tax Credit (LIHTC) program, enables developers to provide affordable rental housing to local families and kupuna. LIHTC provides long-term, subsidized, rent-restricted housing for low-income households with incomes up to 80% of the area median income (AMI). The program provides a dollar-for-dollar reduction in federal income tax liability for developers, leveraging federal subsidies for Hawaii. The program also supports jobs in Hawaii, as LIHTC projects are built by local union laborers, including plumbers, steamfitters, and metal workers.

Currently, local banks are limited by Hawaii law in investing in LIHTCs. This bill increases the LIHTC investment limit for local banks to a level already permitted by the federal government, enabling more investment in LIHTC projects. LIHTC is the federal government's primary program for encouraging private investment in the development of affordable rental housing for low-income households and has successfully attracted private dollars to create affordable housing.

In the past couple of years, we have seen an increase in demand for subsidized rental housing, and the demand for investment in LIHTC projects has expanded. There have been LIHTC projects on all islands, including over 10 projects on the Island of Hawaii, 4 projects on Kauai, 12 projects on Maui, and 17 projects throughout Oahu.





BUILD BETTER. LIVE BETTER.

We respectfully request your favorable consideration of SB 764 and support for this critical measure. The bill will allow local banks to invest in LIHTC projects and support the creation of more affordable housing for our communities.

Sincerely,

Jason Fujimoto
President & CEO



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HPMHAWAII.COM



February 21, 2023

The Honorable Jarrett Keohokalole, Chair

Senate Committee on Commerce and Consumer Protection
State Capitol, Conference Room 229 & Videoconference

RE: Senate Bill 764, Relating to Affordable Housing

HEARING: Tuesday, February 21, 2023, at 10:00 a.m.

Aloha Chair Keohokalole, Vice Chair Fukunaga and Members of the Committee:

My name is Lyndsey Garcia, Director of Advocacy, testifying on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i and its over 11,000 members. HAR **supports** Senate Bill 764, which allows a bank to invest, in aggregate, up to two per cent of the bank's total assets in limited partnerships, limited liability partnerships, limited liability companies, and corporations formed to invest in affordable housing residential properties. Requires approval from the commissioner of financial institutions to exceed this amount.

According to the Department of Business Economic Development and Tourism's 2019 report on Housing Demand in Hawai'i, the state needs up to 45,497, housing units to meet demand in Hawai'i by 2030.¹ Ultimately, we have a housing supply problem, and we need creative solutions to build more housing at all price points, including affordable housing. This measure increases the Low-Income Housing Tax Credit ("LIHTC") investment limit for local banks to a level permitted by the federal government. The LIHTC is a valuable and important tool in the development of affordable housing. As such, this measure can help our state with much needed affordable housing projects.

For the foregoing reasons, Hawai'i Association of REALTORS® supports this measure. Mahalo for the opportunity to testify.

¹ Department of Business, Economic Development & Tourism. (2019). *Hawaii Housing Demand 2020-2030*. <https://files.hawaii.gov/dbedt/economic/reports/housing-demand-2019.pdf>