

DAVID Y. IGE  
GOVERNOR

JOSH GREEN  
LT. GOVERNOR

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

335 MERCHANT STREET, ROOM 310  
P.O. BOX 541  
HONOLULU, HAWAII 96809  
Phone Number: 586-2850  
Fax Number: 586-2856  
cca.hawaii.gov

CATHERINE P. AWAKUNI COLÓN  
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI  
DEPUTY DIRECTOR

**Testimony of the Department of Commerce and Consumer Affairs**

**Before the  
Senate Committee on Commerce, Consumer Protection, and Health  
Thursday, February 6, 2020  
9:30 a.m.  
State Capitol, Conference Room 229**

**On the following measure:  
S.B. 2587, RELATING TO CONSUMER PROTECTION**

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 appreciates the intent of and offers comments on this bill.

The purposes of this bill are to: (1) transition from lump sum deferred deposit transactions to installment-based small dollar loan transactions with specific consumer protection requirements for small dollar loans; (2) beginning 1/1/2022, require licensure for small dollar lenders that offer small dollar loans to consumers and specify licensing requirements for small dollar lenders; (3) authorize the DFI to appoint 2.0 full-time equivalent examiner positions, funded via the Compliance Resolution Fund, to carry out the purposes of the small dollar installment loan program; (4) require check cashers to be registered with the Department and offer a voluntary payment plan to customers under certain circumstances; (5) establish the terms of voluntary payment plans and clarify that a customer may only have one outstanding deferred deposit transaction from

any source; (6) amend notices to customers required of check cashers; (7) remove the exemption for persons engaged in the bona fide retail sale of goods or services; and (8) require the DFI to conduct an analysis of the regulation of payday lenders and deferred deposit agreements in the State.

For the Committee's information, according to the June 30, 2019, annual report filed by banks on their financial condition, five Hawaii chartered nondepository financial service loan companies currently offer small dollar consumer loans totaling \$119,362,396.

While the Department appreciates the bill's intent to regulate small dollar loan transactions, it notes that a consumer loan statutory scheme already exists in Hawaii Revised Statutes chapter 412, article IX. Article IX offers, among other things: (1) precomputed consumer loans; (2) provisions on how to calculate the interest (not to exceed 24% a year); (3) types of fees that can be charged to consumers; (4) the circumstances under which a prepayment penalty can be charged; and (5) provisions on how refunds are calculated. Because this statutory scheme is part of the DFI's banking statutes, the DFI reviews nondepository financial service loan companies in the same manner as banks. The nondepository companies would be required to provide consumer disclosures, as required by federal law. If the Committee would like to consider this statutory scheme, the Department would work with interested parties to determine if changes are needed to article IX.

Thank you for the opportunity to testify on this bill.

To: Senator Rosalyn Baker, Chair,  
Senator Stanley Chang, Vice Chair

From: Karen Moriwaki, Manager  
Hawaii Check Cashing  
Honolulu, Hawaii 96817

February 4, 2020

Requesting an Amendment to SB 2587 Sec.15  
Not in Opposition or Support of SB2587

I am Karen Moriwaki, Manager of Hawaii Check Cashing. I have been employed with Hawaii Check Cashing for over 32 years.

I am wholeheartedly requesting the committee to Amend Sec. 15 of this bill.  
Requesting that the Analysis be conducted by The Hawaii State Auditor instead of the Department of Commerce and Consumer Affairs, Division of Financial Institutions.

The Sunrise Analysis Report No. 05-11 was done way back in December 2005. I ask for this study to please be updated.  
I feel current data would greatly influence the industry in a positive way that would work for the consumer and the lender.

Thank you.

Sincerely,  
Karen Moriwaki



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

February 5, 2020

Honorable Rosalyn H. Baker, Chair  
Honorable Stanley Chang, Vice Chair  
Senate Committee on Commerce, Consumer Protection, and Health  
Hawaii State Senate  
415 S. Beretania Street  
Honolulu, Hawaii 96813

Re: SENATE BILL NO. 2587, RELATING TO CONSUMER PROTECTION

Dear Chair Baker, Vice Chair Chang and Committee Members:

On behalf of Dollar Financial Group (“DFG”), we respectfully submit the following testimony relating to Senate Bill No. 2587 (SB 2587), which will be heard by your Committee on February 6, 2020. DFG **SUPPORTS** SB 2587, with the recommendations that will be 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. By building additional measures into Deferred Deposit Transactions and creating a solid statutory and economic framework for Small Dollar Installment Loans, SB 2587 provides consumers with a greater number of credit options that will be 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 recent experience providing both Deferred Deposit Transactions and small dollar installment loans throughout the United States and Canada, DFG strongly believes that the optimal regulatory framework is one that enables and encourages the delivery of appropriately priced products best suited to the needs of consumers, while at the same time creating an economically sustainable lending market. 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.

Accordingly, DFG recommends a number of changes to SB 2587 to ensure that lenders will be incentivized to make such an investment in Hawaii and become licensed small dollar installment providers. It is essential that the regulatory terms 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. Our other recommendations seek to better align certain Deferred Deposit Transaction provisions with best practices we have recently seen implemented with success throughout North America. The most important of these limited changes are:

I. Small Dollar Installment Loans

1. Minimum and Maximum Loan Amounts: create a \$600 minimum loan amount and increase the maximum from \$1,000 to \$1,500
2. Monthly Fee Caps: change as follows
  - Loans between \$600 and \$699.99: \$40
  - Loans between \$700 and \$799.99: \$50
  - Loans of \$800 or more: \$60

II. Deferred Deposit Transactions

1. Voluntary Payment Plans

- a Number of Payments: decrease the amount of payments from 6 to 4
- b Maximum Allowable Payments: remove the 5% of a consumer's gross monthly income limit, and replace it with a 25% cap at the point of origination

Maximum and Minimum Loan Amount. DFG believes that shifting the allowable loan amount from \$1–\$1,000 to \$600–\$1,500 will allow for consumers to obtain the right amount of financing for their needs. Again, we applaud the legislature for recognizing the need for both small dollar installment loans and deferred deposit transactions to foster an environment of economic growth, and believe that differentiating the two products would help serve that goal better. Eliminating any potential overlap between the two credit products is advisable to help ensure that the consumer receives the financing option that is best for them and enhance the likelihood of a successful transition to a new installment lending product.

In maintaining the deferred deposit transaction limit at \$600, while creating a new financial product for loans of \$600–\$1,500, SB 2587 would allow for both immediate short-term, smaller dollar financing (for short-term liquidity needs of the customer) and larger dollar, longer-term financing (for more capital intensive demands of the customer). DFG firmly believes that non-prime customers are capable of making rational and informed loan product choices that suit their particular requirements. By properly differentiating the Deferred Deposit

Transaction and small dollar installment loan products lenders will be able to better provide the appropriate credit options based on the needs of the customers.

Our recommended changes to SB 2587 include a number of items, the reasons for which we hope are self-evident; for example, we created a new definition for the term “Loan Charges” to help clarify which fees and charges are permissible by the chapter and those that are not. We have chosen not to explain each such recommended change in our testimony but will provide justifications if needed by you.

Monthly Fee Caps. It is undebatable that there is greater risk associated with lending in the non-prime credit market segment than in the prime or near-prime /market, and that longer-term credit products, like the installment loan proposed by SB 2587, will introduce even greater degrees of credit risk. Additionally, while both the existing Deferred Deposit Transactions and small dollar installment loans require operational infrastructure, the small dollar installment loan product requires substantial and extensive changes to those operational, compliance, IT, and customer service requirements to appropriately provide and continually service small dollar installment loans. We strongly recommend that the fee structure be altered to render the provision of an installment loan product viable for a responsible lender at the authorized interest rate of 36%. Based on DFG’s modeling and its loan loss experience with the non-prime market in Hawaii, the interest and fee revenue permitted under the current terms of SB 2587 would barely cover the loan loss reserve that would be necessary for this customer credit class in Hawaii. After accounting for the lender’s own cost of funds, its other operating costs and expenses and an expected level of early prepayments, with the proposed monthly maintenance fee limits, the current SB 2587 installment loan product becomes an unattractive product to any lender (whether a bank or a non-bank lender) in Hawaii, likely leaving the Hawaiian small dollar installment loan industry as a licensable activity with no installment lending volumes and probably no licensees.


Voluntary Payment Plan Number of Payments. DFG recognizes the strong protections that the legislature has created for consumers in Hawaii, and agrees that a voluntary payment plan would be an extremely beneficial addition to Section 480F. DFG currently offers voluntary payment plans to its customers throughout North America, including in Hawaii. Our current voluntary payment plan in Hawaii is modeled off of similar plan offerings we have successfully implemented throughout North America (including several Canadian provinces and U.S. states). Based on our experience, 4 equal monthly payments enables consumers to more readily extinguish their debt than does 6 monthly payments. At the same time, doing so creates greater efficiencies for a lender, making the provision of the voluntary payment plan more attractive and consistent with best practices being implemented in other jurisdictions. This consistency will significantly reduce operational costs and inefficiencies of dealing with different regulatory requirements and loan terms that do not enhance consumer protection while adding to the cost of doing business.

Voluntary Payment Plan Maximum Allowable Payments. As discussed above, DFG has extensive experience implementing voluntary payment plans throughout the United States and Canada. Forcing a voluntary repayment plan to extend beyond four months is not in the best interest of the consumer and limiting the allowable payment amount could cause a voluntary repayment plan to extend far beyond four months. This keeps the consumer in debt longer, and creates economic inefficiencies for lenders, making the prospect difficult for both parties.

As an alternative, DFG recommends eliminating the 5% of the consumer's gross monthly income cap on the voluntary payment plans, and instead institute a stronger and more robust protection for consumers by capping their initial allowable deferred deposit transaction at 25% of their gross monthly income. We are using this 25% income limit with good results for our consumers in several jurisdictions, including Hawaii. This will help ensure that fewer consumers ever need to enter into voluntary repayment plans and has the effect of capping voluntary repayment plan payments, since the consumer's initial deferred deposit transaction could never be "too high."

In summary, we believe that with the regulatory modifications we have suggested, both short-term single payment loans and larger, longer-term, installment loans can be established in Hawaii and 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 a wider range of loan products. With our recommended alterations, SB 2587 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.

Very truly yours,  
DOLLAR FINANCIAL GROUP  
  
James Odell  
General Counsel and Executive Vice President

# Maui Loan Inc.

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February 4<sup>th</sup>, 2020

Senator Rosalyn H. Baker, Chair  
Senator Stanley Chang, Vice Chair  
And Members of the Committee On Commerce, Consumer Protection, And Health  
Hawaii State Legislature  
Honolulu, HI 96813

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

Dear Chair,

**SUBJECT: SB 2587 – RELATING TO CONSUMER PROTECTION**

(Hearing Date:) 02-06-20 9:30AM in conference room 229.

Thank you for letting me testify again on the small loan business in Hawaii. I have been a small loan lender statewide in Hawaii for three decades and for forty-two years in Maui County. My business is a small mom and pop operation, employing from ten to over a dozen employees at any given time. I **oppose** SB 2587– Relating to Payday Lending.

Here we are once again, session after session trying to fix something that isn't broken, because so far no one has shown that there is a problem with the small loan business in Hawaii that needs fixing.

The introducers of these various bills have relied heavily on reports from a pressure group, the Pew Charitable Trusts, which looked at payday lending across the nation. I am the first to admit that in other states there are serious problems with some of these loans, and there is a superstrate problem with unregulated Internet lenders. Other states have different laws, for example allowing loans on auto titles.

Nothing in changes that. In fact, and this stuns me takes away the single most important provision that protects borrowers, which is that they cannot have more than one small loan at a time. Not one small loan per lender, one small loan period.

The law as it stands now, safeguards the consumer from being trapped in a cycle of debt to a payday lender, because at the end of the loan the borrower can walk away. If the borrower has not paid their balance, they still will owe it, but that's true of any unpaid balance with credit cards or any other type of loan. Nothing the payday lender can do can trap the consumer in a cycle of debt.



Senator Rosalyn H. Baker, Chair  
Senator Stanley Chang, Vice Chair  
And Members of the Committee On Commerce, Consumer Protection, And Health  
Hawaii State Legislature  
Honolulu, HI 96813

**SB 2587 – RELATING TO CONSUMER PROTECTION**

February 4<sup>th</sup>, 2020

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This proposed legislation, as currently drafted, if passed is likely to cause confusion in the marketplace.

This proposed legislation does and cannot regulate the internet lenders or out of state lenders who lend in our state at their states interest rate. Only federal regulation can control that. Currently there is no control. No state bill can regulate the internet lenders or out of state lenders who lend in our state. By creating a 36% cap in our state just limits some of the brick and mortars in Hawaii. It has absolutely no effect on the primary offenders of the roll over payday loans whatsoever which are the out of state lenders and internet payday lenders.

That's it. None of the other burdensome provisions in this bill are required or warranted. These are just a few comments leading to my **opposition** of this one-hundred-one-page proposal. 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) 242-5555.

Sincerely,

*Richard Dan*

Richard Dan - Maui Loan Inc.

**LATE**

**TESTIMONY IN SUPPORT OF SB2587, RELATING TO CONSUMER PROTECTION**

**TO:** Senator Rosalyn Baker, Chair  
Senator Stanley Chang, Vice Chair  
Members of the Senate Committee on Commerce, Consumer Protection and Health (CPH)

**FR:** Mike Mohr, Ohana Holdings, LLC

**HEARING:** Thursday February 6, 2020; 9:30am; Room 229

Chair Baker, Vice Chair Chang & Members of the CPH Committee:

Thank you for the opportunity to testify in **strong support of SB2587**, Relating to Consumer Protection, which provides a solid framework of consumer protection requirements for small dollar loans. My name is Mike Mohr, and I am with Ohana Holdings, LLC.

SB2587 seeks to close a loophole in our laws that have allowed payday lenders to charge excessive interest rates as high as 459%, creating a vicious cycle of dependency and debt among Hawaii's most vulnerable individuals and families.

Recent findings released in the Hawaii Financial Health Pulse found that a large majority, **69% of Hawaii residents, are struggling financially**. 54% say their spending equals or exceeds their income, and more than a third do not have enough savings to cover three months of living expenses and have volatile incomes that vary from month to month. One in five have indicated they have trouble paying their mortgage and rent.

To cope with this income volatility and Hawaii's high cost of living, about one fifth (21%) use alternative financial services such as payday loans and check-cashing services, which is significantly higher than 15% at the national level.

With excessive fees and interest rates placed on these small dollar loans, studies have shown that four out of five borrowers end up defaulting on their loan or renewing them within the first two weeks. In many cases, borrowers find themselves paying more in fees than they received in credit. To protect active duty members of the military and their families from falling victim to these kinds of lending practices, the Military Lending Act (MLA) provides consumer protection regulations including capping the APR at 36%. SB2587 would apply a similar 36% cap on APR, providing these same protections to all Hawaii residents.

The Hawaii State Legislature is to be applauded for its focus this session on affordability and cost of living for all our residents and families. Ensuring that there are safe, non-predatory means by which individuals can bridge the financial gap that inevitably comes up in our daily lives compliments these efforts to improve the financial health and quality of life for all Hawaii residents.

Thank you for considering my testimony in strong support of SB2587 and we stand ready and available to work with you on this important piece of legislation.

To: Senator Rosalyn H. Baker, Chair  
Senator Stanley Chang, Vice Chair  
Committee on Commerce, Consumer Protection, and Health

From: Pattieann Lacio, Senior Branch Manager, PayDayHawaii Stadium Mall

February 4, 2020

**Call for Amendment to SB 2587 Sec. 15**  
Not In Opposition or In Support of SB2587

My Name is Pattieann Lacio. I have 20 year's of experience with short-term credit under HRS 480F. I became the Manager of the Stadium Mall branch under Mr. Cash, Inc. brand in 2000 and Branch Manager under PayDayHawaii brand since 2007.

I urge the committee to Amend Section 15 of this bill.

That the Analysis be conducted by The Hawaii State Auditor instead of the Department of Commerce and Consumer Affairs, Division of Financial Institutions.

It has been over 15 years since the last study was completed by the Hawaii State Auditor, Sunrise Analysis Report No. 05-11 back in December 2005, I ask for this study to be updated. There is so much more up to date data for Hawaii as well as the impact created from the out of state internet lenders.

Sincerely,  
Pattieann Lacio

# HAWAII FINANCIAL SERVICES ASSOCIATION

c/o Marvin S.C. Dang, Attorney-at-Law

P.O. Box 4109

Honolulu, Hawaii 96812-4109

Telephone No.: (808) 521-8521

**LATE**

February 6, 2020

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

Re: **S.B. 2587 (Consumer Protection)**  
**Hearing Date/Time: Thursday, February 6, 2020, 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 **offers comments** on this Bill.

This Bill does the following: (a) Transitions the **payday lending industry** from lump sum deferred deposit transactions to installment-based small dollar loan transactions; (b) Specifies various consumer protection requirements for small dollar loans; (c) Beginning January 1, 2022, requires licensure for small dollar lenders that offer small dollar loans to consumers; (d) Specifies licensing requirements for small dollar lenders; (e) Authorizes the Division of Financial Institutions to appoint 2.0 FTE examiner positions, funded via the compliance resolution fund, to carry out the purposes of the small dollar installment loan program; (f) Requires check cashers to be registered with the Department of Commerce & Consumer Affairs (“DCCA”) and to offer a voluntary payment plan to customers under certain circumstances; (g) Establishes the terms of voluntary payment plans; (h) Clarifies that a customer may only have one outstanding deferred deposit transaction from any source; (i) Amends notices to customers required of check cashers; (j) Removes the exemption for persons engaged in the bona fide retail sale of goods or services; and (k) Requires the Division of Financial Institutions of the DCCA to conduct an analysis of the regulation of payday lenders and deferred deposit agreements in the State.

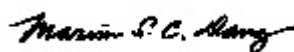
Because the **HFSA does not represent payday lenders or the payday lending industry**, we don’t have a direct interest in this Bill as currently drafted.

However, the testimony by the Commissioner of the Division of Financial Institutions of the DCCA notes that a consumer loan statutory scheme already exists in Article 9 of Hawaii Revised Statutes chapter 412 (Code of Financial Institutions). The Commissioner states that if your “Committee would like to consider this statutory scheme, the [DCCA] would work with interested parties to determine if changes are needed to article [9].”

Article 9 of the Code of Financial Institutions exclusively regulates non-depository financial services loan companies. Eighty percent (80%) of the non-depository financial services loan companies are members of the HFSA.

**To the extent that this Bill is to be amended with changes to Article 9 of the Code of Financial Institutions, the HFSA would have a direct interest in this Bill and in those proposed changes. Accordingly, as an interested party, the HFSA is willing to work with your Committee and with the Commissioner of the Division of Financial Institutions if there are to be any such proposed changes.**

Thank you for considering our testimony.



MARVIN S.C. DANG

Attorney for Hawaii Financial Services Association