

DAVID Y. IGE  
GOVERNOR  
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LT. GOVERNOR

**STATE OF HAWAII**  
**OFFICE OF THE DIRECTOR**  
**DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**  
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CATHERINE P. AWAKUNI COLÓN  
DIRECTOR  
JO ANN M. UCHIDA TAKEUCHI  
DEPUTY DIRECTOR

**TO THE HOUSE COMMITTEE ON FINANCE  
THE TWENTY-EIGHTH LEGISLATURE  
REGULAR SESSION OF 2015**

Date: Thursday, March 05, 2015  
Time: 10:30 a.m.  
Conference Room: 308

**TESTIMONY ON HOUSE BILL NO. 1482 H.D.2  
RELATING TO CROWDFUNDING**

TO THE HONORABLE SYLVIA LUKE, CHAIR, AND MEMBERS OF THE COMMITTEE:

Thank you for the opportunity to testify. My name is Tung Chan, Commissioner of Securities and head of the Business Registration Division (Division) of the Department of Commerce and Consumer Affairs (Department).

This bill creates an intrastate crowdfunding exemption from state securities registration. The Department recognizes the increasing need to address investment crowdfunding at the state level. The majority of our technical and substantive concerns were addressed in the previous committee. We do, however, have a few remaining technical changes to suggest that would impact implementation and we would like to respectfully request these changes be included in a new H.D. 3. We have been working with interested parties in drafting a proposed H.D. 3 and are happy to continue working with them and with this Committee to offer our regulatory and subject matter expertise

to address the limited number of outstanding concerns identified, if the Committee so wishes.

Thank you for the opportunity to testify. I would be happy to answer any questions the Committee may have.



# Chamber of Commerce HAWAII

*The Voice of Business*

**Testimony to the House Committee on Finance  
Thursday, March 5, 2015 at 10:30 A.M.  
Conference Room 308, State Capitol**

**RE: HOUSE BILL 1482 HD2 RELATING TO CROWDFUNDING**

Chair Luke, Vice Chair Nishimoto, and Members of the Committee:

The Chamber of Commerce of Hawaii ("The Chamber") **supports the intent of HB 1482 HD2**, which establishes a crowdfunding exemption for limited intrastate investments between Hawaii residents and Hawaii businesses, limited to no more than \$1,000,000 raised over a twelve month period, and no more than \$5,000 per investor. Also includes disclaimer requirements.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

The Chamber supports opportunities for local investors to invest in local small businesses. HB 1482 HD2 would allow local investors, with no requirements of income, to make an equity investment in a local startup. This bill would fundamentally develop the startup and innovation sector in Hawaii, and provide a helpful boost to the economy.

Thank you for the opportunity to testify.



## Hawaii Tech Exchange

808.495.0797   don@hitx.co   259 Haili Street, Hilo HI 96720

March 3, 2015

RE: Testimony in Support of HB 1482 HD2 Relating to Crowdfunding

To Chair Luke, Vice Chair Nishimoto and Members of the Committee:

I am Donald M. Kosak, founder of the Hawaii Tech Exchange. The Hawaii Tech Exchange is a community organization that fosters high impact new businesses in STEM fields on the Big Island.

I respectfully submit this testimony in strong support of HB 1482 Relating to Crowdfunding.

Funding is a major hurdle for many of the small tech companies I work with on a daily basis. The ability to go beyond "friends and family" and tap into the support of the local community would be invaluable to these innovative businesses.

Our local "Angel" community (accredited investors) is active, but fairly small and can only support a limited number of new businesses. This legislation would provide additional business growth and further our community's economic self sufficiency.

Thank you for the opportunity to submit testimony on this bill.

Sincerely yours,

A handwritten signature in blue ink, reading 'Donald M. Kosak'.

Donald M. Kosak  
Founder, Hawaii Tech Exchange  
<http://hitx.co/>

TESTIMONY BY DR DAVID HOWLE  
TO THE HOUSE COMMITTEE  
ON FINANCE  
ON  
HOUSE BILL NO. 1482

March 3, 2015

Good Morning Chair Luke and Members of the Committee:

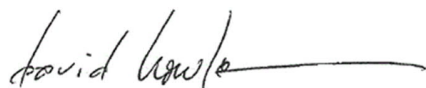
My name is Dr. David Howle; I am the Executive Director and Campus Dean for Wayland Baptist University's Hawai'i campus. I am writing to express the support of my faculty and staff for H.B.1482 – Relating to Crowdfunding. We are excited to see this bill making progress as it will have a direct effect on the innovative and progressive nature of business ventures in Hawai'i.

As you may know, the only Hawaii residents allowed to become shareholders in start-up businesses with more than 25 investors are those who have been qualified as "accredited investors." In order to qualify as an accredited investor, an individual must have an income which exceeds \$200,000 (or \$300,000 joint income with spouse) for the past two years with the reasonable expectation to maintain that income level in the current year; or have a net worth of over \$1 million dollars. This high threshold both makes it difficult for the majority of people within our state to invest in start-up businesses and increases the difficulty for businesses to raise money via online fundraising platforms.

H.B.1482 seeks to afford all Hawaii residents the opportunity to support local businesses by becoming shareholders in these startups. This bill has been carefully crafted to provide expanded investment possibilities while limiting potentially devastating consequences of failure.

Unlike "rewards-based" crowdfunding, equity crowdfunding is a long-term business investment that allows potential investors to gain a stake in the business and receive shares in exchange for their contribution. Currently, 16 states have implemented rules or legislation to allow equity crowdfunding and 11 other states have introduced crowdfunding initiatives in 2014.

Equity crowdfunding provides Hawaii residents with the resources necessary to help foster small business creation and the entrepreneurial spirit. For these reasons, I respectfully ask the House Committee on Economic Development and Business to pass H.B.1482.

A handwritten signature in black ink, reading "David Howle", followed by a long horizontal line extending to the right.

TESTIMONY BY \_\_\_Dr. Michael Tod Outlaw\_\_\_\_\_

TO THE HOUSE COMMITTEE ON  
CONSUMER PROTECTION & COMMERCE  
ON  
HOUSE BILL NO. 1482

March 3, 2015

Good Morning Chair McKelvey and Members of the Committee:

My name is \_\_\_Tod Outlaw\_\_\_\_\_ with **Wayland Baptist University**, and I am writing to express my support for H.B.1482 – Relating to Crowdfunding.

Currently, only accredited investors are allowed to become shareholders in start-up businesses with more than 25 investors. In order to qualify as an accredited investor, an individual must have an income which exceeds \$200,000 (or \$300,000 joint income with spouse) for the past two years with the reasonable expectation to maintain that income level in the current year; or have a net worth of over \$1 million dollars.

This high threshold makes it difficult for the majority of people within our state to invest in start-up businesses. It also makes it difficult for businesses to raise money via online fundraising platforms, which is an increasing trend.

H.B.1482 seeks to afford all Hawaii residents with the opportunity to support local businesses by become shareholders in these startups. This bill would enable non-accredited investors to be given the chance to back businesses they believe in and provide businesses with access to sources of funding that were previously unavailable. Additionally, H.B.1482 provides certain measures to control for risk of investment. A business would not be able to raise more than \$1,000,000 in a twelve month period and a single investor's contribution would be capped at \$5,000.

Crowdfunding is not a new concept. Websites such as Kickstarter and IndieGoGo utilize a fundraising method typically classified as "rewards-based" crowdfunding. When you donate to a project on a site like this, you receive certain rewards (eg. A copy of the product they plan to manufacture) based on the amount of your contribution.

Equity crowdfunding, however, differs as it is a long-term business investment that allows potential investors to gain a stake in the business and receive shares in exchange for their contribution. Currently, 16 states have implemented rules or legislation to allow equity crowdfunding; and 11 other states have introduced crowdfunding initiatives in 2014.

Equity crowdfunding provides Hawaii residents with the resources necessary to help foster small business creation and the entrepreneurial spirit. For these reasons, I respectfully ask the House Committee on Economic Development and Business to pass H.B.1482.

From: mailinglist@capitol.hawaii.gov  
Sent: Tuesday, March 03, 2015 4:41 PM  
To: FINTestimony  
Cc: bchua@hibeam.org  
Subject: Submitted testimony for HB1482 on Mar 5, 2015 10:30AM

**HB1482**

Submitted on: 3/3/2015

Testimony for FIN on Mar 5, 2015 10:30AM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Bee Leng Chua, PhD	Individual	Support	No

Comments: TESTIMONY BY BEE LENG CHUA ON ECONOMIC DEVELOPMENT & BUSINESS ON HOUSE BILL NO. 1482 March 3, 2015 Good Morning: My name is Bee Leng Chua with HiBEAM, and I am writing to express my support for H.B.1482 – Relating to Crowdfunding. H.B. 1482 would create an avenue for any Hawaii resident to make small investments in local businesses. As of now only accredited investors, individuals who earn more than \$200,000 a year or are worth more than \$1 million, can make equity investments in start-up businesses. While there are some exceptions, it can be unclear and difficult to navigate. This measure would create a process by which any local investor, regardless of income, can make an equity investment in a local business. H.B.1482 provides all residents, regardless of income, the ability to foster the entrepreneurial spirit and support business growth in Hawaii. In particular, this bill provides a viable funding avenue for young business owners, who have the ideas but not the capital; and an unique opportunity for young investors, who would like to contribute to business but lack the significant funding needed to be considered an "accredited investor" and invest through the current system. Equity crowdfunding is the next wave for future business growth and opportunity, especially for our young entrepreneurs. It not only promotes economic growth but providing for a long-term equitable return, instead of a one-time reward. As such, I urge your support of H.B.1482 Hawaii needs to foster an environment that is conducive for entrepreneurs to survive and thrive. Every avenue to funding that is legal must be explored and made available to early stage companies. Every barrier must be questioned and removed if deemed to be unnecessary and unhelpful. Thank you for the opportunity to support this bill. Sincerely,

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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## FIN-Jo

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, March 04, 2015 1:18 PM  
**To:** FINTestimony  
**Cc:** sn35@hawaii.edu  
**Subject:** Submitted testimony for HB1482 on Mar 5, 2015 10:30AM

### **HB1482**

Submitted on: 3/4/2015

Testimony for FIN on Mar 5, 2015 10:30AM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Stephen Nishihara	Individual	Support	No

Comments: I support this bill because it encourages entrepreneurship in Hawaii. This type of funding emulates a practice that has been common for years. A friend of mine started his business from crowdfunding. If Hawaii doesn't have an economic environment that attracts and retains entrepreneurial minds, then we will continue to be dependent upon military and tourism.

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**LATE**



**Before the House Committee on Finance**

DATE: Thursday, March 5, 2015

TIME: 10:30 A.M.

PLACE: Conference Room 308

**Re: HB 1482 Relating to Crowdfunding**

Testimony of Melissa Pavlicek for NFIB Hawaii

We are testifying on behalf of the National Federation of Independent Business (NFIB) in support of HB 1482 Relating to Crowdfunding. NFIB Hawaii respectfully supports this measure.

HB 1482 would allow Hawaii residents to support local Hawaii businesses with direct investments of up to \$1,000,000 in a 12 month period and no more than \$5,000 per investor. It describes different transactions and allows for an exemption of this particular kind of funding, as long as it is undertaken in earnest and focused at the local level. NFIB supports innovative funding mechanisms, as well as any measure which promotes positive interaction between Hawaii's small businesses and the local consumers from the communities in which they are rooted.

The National Federation of Independent Business is the largest advocacy organization representing small and independent businesses in Washington, D.C., and all 50 state capitals. In Hawaii, NFIB represents more than 1,000 members. NFIB's purpose is to impact public policy at the state and federal level and be a key business resource for small and independent business in America. NFIB also provides timely information designed to help small businesses succeed.

We look forward to engaging in continued conversation and mahalo to the legislature for its consideration.



**LATE**

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This bill creates an intrastate crowdfunding exemption from state securities registration. The Department recognizes the increasing need to address investment crowdfunding at the state level. The majority of our technical and substantive concerns were addressed in the previous committee. We do, however, have a few remaining technical changes to suggest that would impact implementation and we would like to respectfully request these changes be included in a new H.D. 3. We have been working with interested parties in drafting a proposed H.D. 3 and are happy to continue working with them and with this Committee to offer our regulatory and subject matter expertise

to address the limited number of outstanding concerns identified, if the Committee so wishes.

Thank you for the opportunity to testify. I would be happy to answer any questions the Committee may have.

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## A BILL FOR AN ACT

RELATING TO CROWDFUNDING.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1       SECTION 1. The purpose of this Act is to establish a  
2       limited intrastate crowdfunding exemption for businesses based  
3       in Hawaii to connect with investors located in Hawaii, through  
4       equity crowdfunding using the internet. This Act shall be  
5       referred to as the "Hawaii Invests Local Act," to exempt certain  
6       intrastate securities issuances from security registrations in  
7       the State.

8       SECTION 2. Section 485A-202, Hawaii Revised Statutes, is  
9       amended by amending subsections (a) and (b) to read as follows:

10       "(a) The following transactions are exempt from the  
11       requirements of sections 485A-301 to 485A-305 and 485A-504:

12       (1) An isolated nonissuer transaction, whether or not  
13       effected by or through a broker-dealer;

14       (2) A nonissuer transaction by or through a broker-dealer  
15       registered or exempt from registration under this  
16       chapter, and a resale transaction by a sponsor of a  
17       unit investment trust registered under the Investment



1 Company Act of 1940, in a security of a class that has  
2 been outstanding in the hands of the public for at  
3 least ninety days, if, at the date of the transaction:

4 (A) The issuer of the security is engaged in  
5 business, the issuer is not in the organizational  
6 stage or in bankruptcy or receivership, and the  
7 issuer is not a blank check, blind pool, or shell  
8 company that has no specific business plan or  
9 purpose or has indicated that its primary  
10 business plan is to engage in a merger or  
11 combination of the business with, or an  
12 acquisition of, an unidentified person;

13 (B) The security is sold at a price reasonably  
14 related to its current market price;

15 (C) The security does not constitute the whole or  
16 part of an unsold allotment to, or a subscription  
17 or participation by, the broker-dealer as an  
18 underwriter of the security or a redistribution;

19 (D) A nationally recognized securities manual or its  
20 electronic equivalent designated by rule adopted  
21 or order issued under this chapter or a record



1 filed with the Securities and Exchange Commission  
2 that is publicly available and contains:

3 (i) A description of the business and operations  
4 of the issuer;

5 (ii) The names of the issuer's executive officers  
6 and the names of the issuer's directors, if  
7 any;

8 (iii) An audited balance sheet of the issuer as of  
9 a date within eighteen months before the  
10 date of the transaction or, in the case of a  
11 reorganization or merger when the parties to  
12 the reorganization or merger each had an  
13 audited balance sheet, a pro forma balance  
14 sheet for the combined organization; and

15 (iv) An audited income statement for each of the  
16 issuer's two immediate previous fiscal years  
17 or for the period of existence of the  
18 issuer, whichever is shorter, or, in the  
19 case of a reorganization or merger when each  
20 party to the reorganization or merger had



1           audited income statements, a pro forma

2           income statement; and

3       (E) Any one of the following requirements is met:

4           (i) The issuer of the security has a class of  
5           equity securities listed on a national  
6           securities exchange registered under section  
7           6 of the Securities Exchange Act of 1934 or  
8           designated for trading on the National  
9           Association of Securities Dealers' Automated  
10          Quotation System;

11          (ii) The issuer of the security is a unit  
12          investment trust registered under the  
13          Investment Company Act of 1940;

14          (iii) The issuer of the security, including its  
15          predecessors, has been engaged in continuous  
16          business for at least three years; or

17          (iv) The issuer of the security has total assets  
18          of at least \$2,000,000 based on an audited  
19          balance sheet as of a date within eighteen  
20          months before the date of the transaction  
21          or, in the case of a reorganization or

1 merger when the parties to the  
2 reorganization or merger each had such an  
3 audited balance sheet, a pro forma balance  
4 sheet for the combined organization;

5 (3) A nonissuer transaction by or through a broker-dealer  
6 registered or exempt from registration under this  
7 chapter in a security of a foreign issuer that is a  
8 margin security defined in regulations or rules  
9 adopted by the Board of Governors of the Federal  
10 Reserve System;

11 (4) A nonissuer transaction by or through a broker-dealer  
12 registered or exempt from registration under this  
13 chapter in an outstanding security if the guarantor of  
14 the security files reports with the Securities and  
15 Exchange Commission under the reporting requirements  
16 of section 13 or 15(d) of the Securities Exchange Act  
17 of 1934 (15 U.S.C. 78m or 78o(d));

18 (5) A nonissuer transaction by or through a broker-dealer  
19 registered or exempt from registration under this  
20 chapter in a security that:





- 1 (A) Is rated at the time of the transaction by a  
2 nationally recognized statistical rating  
3 organization in one of its four highest rating  
4 categories; or
- 5 (B) Has a fixed maturity or a fixed interest or  
6 dividend, if:
- 7 (i) A default has not occurred during the  
8 current fiscal year or within the three  
9 previous fiscal years or during the  
10 existence of the issuer and any predecessor  
11 if less than three fiscal years, in the  
12 payment of principal, interest, or dividends  
13 on the security; and
- 14 (ii) The issuer is engaged in business, is not in  
15 the organizational stage or in bankruptcy or  
16 receivership, and is not and has not been  
17 within the previous twelve months a blank  
18 check, blind pool, or shell company that has  
19 no specific business plan or purpose or has  
20 indicated that its primary business plan is  
21 to engage in a merger or combination of the

1 business with, or an acquisition of, an  
2 unidentified person;

3 (6) A nonissuer transaction by or through a broker-dealer  
4 registered or exempt from registration under this  
5 chapter effecting an unsolicited order or offer to  
6 purchase;

7 (7) A nonissuer transaction executed by a bona fide  
8 pledgee without the purpose of evading this chapter;

9 (8) A nonissuer transaction by a federal covered  
10 investment adviser with investments under management  
11 in excess of \$100,000,000, acting in the exercise of  
12 discretionary authority in a signed record for the  
13 account of others;

14 (9) A transaction between the issuer or other person on  
15 whose behalf the offering is made and an underwriter,  
16 or among underwriters;

17 (10) A transaction in a note, bond, debenture, or other  
18 evidence of indebtedness secured by a mortgage or  
19 other security agreement if:



- 1 (A) The note, bond, debenture, or other evidence of  
2 indebtedness is offered and sold with the  
3 mortgage or other security agreement as a unit;
- 4 (B) A general solicitation or general advertisement  
5 of the transaction is not made; and
- 6 (C) A commission or other remuneration is not paid or  
7 given, directly or indirectly, to a person not  
8 registered under this chapter as a broker-dealer  
9 or as an agent;
- 10 (11) A transaction by an executor, administrator of an  
11 estate, personal representative, sheriff, marshal,  
12 receiver, trustee in bankruptcy, guardian, or  
13 conservator;
- 14 (12) A sale or offer to sell to:
- 15 (A) An institutional investor;
- 16 (B) A federal covered investment adviser; or
- 17 (C) Any other person exempted by rule adopted or  
18 order issued under this chapter;
- 19 (13) Any transaction pursuant to a sale or an offer to sell  
20 securities of an issuer, if the transaction is part of  
21 an issue in which:



- 1 (A) There are no more than twenty-five purchasers  
2 (other than those designated in paragraph (12)),  
3 wherever located, during any twelve consecutive  
4 months;
- 5 (B) The issuer reasonably believes that all  
6 purchasers (other than those designated in  
7 paragraph (12)), wherever located, are purchasing  
8 for investment purposes and not with the view to,  
9 or for sales in connection with, a distribution  
10 of the security. The purchase shall be presumed  
11 to be made with a view to distribute and not to  
12 invest if any resale of a security sold in  
13 reliance on this exemption is within twelve  
14 months of sale, except a resale pursuant to a  
15 registration statement effective under section  
16 485A-301, or to an accredited investor pursuant  
17 to an exemption available under this chapter;
- 18 (C) No commission, discount, or other remuneration is  
19 paid or given, directly or indirectly, to a  
20 person, other than a broker-dealer or agent



1 registered under this chapter, for soliciting a  
2 prospective purchaser in this State; and

3 (D) The securities of the issuer are not offered or  
4 sold by general solicitation or any general  
5 advertisement or other advertising medium;

6 (14) A transaction under an offer to existing security  
7 holders of the issuer, including persons who at the  
8 date of the transaction are holders of convertible  
9 securities, options, or warrants, if a commission or  
10 other remuneration, other than a standby commission,  
11 is not paid or given, directly or indirectly, for  
12 soliciting a security holder in this State;

13 (15) (A) A transaction involving the offer or sale of a  
14 security by an issuer to an accredited investor  
15 that meets the following requirements:

16 (i) The issuer reasonably believes that the sale  
17 is to persons who are accredited investors;

18 (ii) The issuer is not in the development stage,  
19 without specific business plan or purpose;

20 (iii) The issuer has not indicated that the  
21 issuer's business plan is to engage in a



1 merger or acquisition with an unidentified  
2 company or companies, or other entity or  
3 person; and

4 (iv) The issuer reasonably believes that all  
5 purchasers are purchasing for investment  
6 purposes and not with the view to, or for  
7 sales in connection with, a distribution of  
8 the security. The purchase shall be  
9 presumed to be made with a view to  
10 distribute and not to invest if any resale  
11 of a security sold in reliance on this  
12 exemption is within twelve months of sale,  
13 except a resale pursuant to a registration  
14 statement effective under section 485A-301,  
15 or to an accredited investor pursuant to an  
16 exemption available under this chapter;

17 (B) The exemption under this paragraph shall not  
18 apply to an issuer if the issuer; any affiliated  
19 issuer; any beneficial owner of ten per cent or  
20 more of any class of the issuer's equity  
21 securities; any issuer's predecessor, director,



1 officer, general partner, or promoter presently  
2 connected in any capacity with the issuer; and  
3 any underwriter or partner, director, or officer  
4 of the underwriter of the securities to be  
5 offered:

6 (i) Within the last five years has filed a  
7 registration statement that is the subject  
8 of a currently effective registration stop  
9 order entered by any state securities  
10 administrator or the Securities and Exchange  
11 Commission;

12 (ii) Within the last five years has been  
13 convicted of any criminal offense in  
14 connection with the offer, purchase, or sale  
15 of any security, or involving fraud or  
16 deceit;

17 (iii) Is currently subject to any state or federal  
18 administrative enforcement order or judgment  
19 entered within the last five years, finding  
20 fraud or deceit in connection with the  
21 purchase or sale of any security; or



1 (iv) Is currently subject to any order, judgment,  
2 or decree of any court of competent  
3 jurisdiction, entered within the last five  
4 years, temporarily, preliminarily, or  
5 permanently restraining or enjoining such  
6 party from engaging in or continuing to  
7 engage in any conduct or practice involving  
8 fraud or deceit in connection with the  
9 purchase or sale of any security;

10 (C) Subparagraph (B) shall not apply if:

11 (i) The party subject to the disqualification is  
12 licensed or registered to conduct  
13 securities-related business in the state in  
14 which the order, judgment, or decree  
15 creating the disqualification was entered  
16 against such party;

17 (ii) Before the first offer under this exemption,  
18 the commissioner, or the court or regulatory  
19 authority that entered the order, judgment,  
20 or decree waives the disqualifications; or





1 (iii) The issuer establishes that the issuer did  
2 not know and in the exercise of reasonable  
3 care, based on a factual inquiry, could not  
4 have known that a disqualification existed  
5 under this paragraph; and

6 (D) An issuer claiming the exemption under this  
7 paragraph, no later than fifteen days after the  
8 first sale in this State, shall file with the  
9 commissioner a notice of transaction, a consent  
10 to service of process, a copy of the offering  
11 circular or similar document provided to the  
12 accredited investor and a \$200 filing fee.

13 For the purposes of this paragraph, "accredited  
14 investor" shall have the same meaning as provided in  
15 rule 501(a) adopted under the Securities Act of 1933  
16 (17 C.F.R. 230.501(a));

17 (16) An offer to sell, but not a sale, of a security not  
18 exempt from registration under the Securities Act of  
19 1933 if:

20 (A) A registration or offering statement or similar  
21 record as required under the Securities Act of



1 1933 has been filed, but is not effective, or the  
2 offer is made in compliance with Rule 165 adopted  
3 under the Securities Act of 1933 (17 C.F.R.  
4 230.165); and

5 (B) A stop order of which the offeror is aware has  
6 not been issued against the offeror by the  
7 commissioner or the Securities and Exchange  
8 Commission, and an audit, inspection, or  
9 proceeding that is public and that may culminate  
10 in a stop order is not known by the offeror to be  
11 pending;

12 (17) An offer to sell, but not a sale, of a security exempt  
13 from registration under the Securities Act of 1933 if:

14 (A) A registration statement has been filed under  
15 this chapter, but is not effective;

16 (B) A solicitation of interest is provided in a  
17 record to offerees in compliance with a rule  
18 adopted by the commissioner under this chapter;  
19 and

20 (C) A stop order of which the offeror is aware has  
21 not been issued by the commissioner under this



1 chapter and an audit, inspection, or proceeding  
2 that may culminate in a stop order is not known  
3 by the offeror to be pending;

4 (18) A transaction involving the distribution of the  
5 securities of an issuer to the security holders of  
6 another person in connection with a merger,  
7 consolidation, exchange of securities, sale of assets,  
8 or other reorganization to which the issuer, or its  
9 parent or subsidiary and the other person, or its  
10 parent or subsidiary, are parties;

11 (19) A rescission offer, sale, or purchase under section  
12 485A-510;

13 (20) An offer or sale of a security to a person not a  
14 resident of this State and not present in this State  
15 if the offer or sale does not constitute a violation  
16 of the laws of the state or foreign jurisdiction in  
17 which the offeree or purchaser is present and is not  
18 part of an unlawful plan or scheme to evade this  
19 chapter;

20 (21) Employees' stock purchase, savings, option, profit-  
21 sharing, pension, or similar employees' benefit plan,



1 including any securities, plan interests, and  
2 guarantees issued under a compensatory benefit plan or  
3 compensation contract, contained in a record,  
4 established by the issuer, its parents, its majority-  
5 owned subsidiaries, or the majority-owned subsidiaries  
6 of the issuer's parent for the participation of their  
7 employees, including offers or sales of such  
8 securities to:

9 (A) Directors; general partners; trustees, if the  
10 issuer is a business trust; officers;

11 consultants; and advisors;

12 (B) Family members who acquire the securities from  
13 those persons through gifts or domestic relations  
14 orders;

15 (C) Former employees, directors, general partners,  
16 trustees, officers, consultants, and advisors if  
17 those individuals were employed by or providing  
18 services to the issuer when the securities were  
19 offered; and

20 (D) Insurance agents who are exclusive insurance  
21 agents of the issuer, or the issuer's

1 subsidiaries or parents, or who derive more than  
2 fifty per cent of their annual income from those  
3 organizations;

4 (22) A transaction involving:

5 (A) A stock dividend or equivalent equity  
6 distribution, whether or not the corporation or  
7 other business organization distributing the  
8 dividend or equivalent equity distribution is the  
9 issuer, if nothing of value is given by  
10 stockholders or other equity holders for the  
11 dividend or equivalent equity distribution other  
12 than the surrender of a right to a cash or  
13 property dividend if each stockholder or other  
14 equity holder may elect to take the dividend or  
15 equivalent equity distribution in cash, property,  
16 or stock;

17 (B) An act incident to a judicially approved  
18 reorganization in which a security is issued in  
19 exchange for one or more outstanding securities,  
20 claims, or property interests, or partly in such  
21 exchange and partly for cash; or



1 (C) The solicitation of tenders of securities by an  
2 offeror in a tender offer in compliance with Rule  
3 162 adopted under the Securities Act of 1933 (17  
4 C.F.R. 230.162);

5 (23) A nonissuer transaction in an outstanding security by  
6 or through a broker-dealer registered or exempt from  
7 registration under this chapter, if the issuer is a  
8 reporting issuer in a foreign jurisdiction designated  
9 by this paragraph or by rule adopted or order issued  
10 under this chapter; has been subject to continuous  
11 reporting requirements in the foreign jurisdiction for  
12 not less than one hundred eighty days before the  
13 transaction; and the security is listed on the foreign  
14 jurisdiction's securities exchange that has been  
15 designated by this paragraph or by rule adopted or  
16 order issued under this chapter, or is a security of  
17 the same issuer that is of senior or substantially  
18 equal rank to the listed security or is a warrant or  
19 right to purchase or subscribe to any of the  
20 foregoing. For purposes of this paragraph, Canada,  
21 together with its provinces and territories, is a

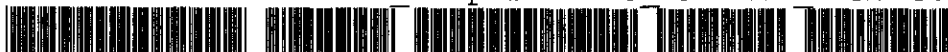


1 designated foreign jurisdiction and the Toronto Stock  
2 Exchange, Inc., is a designated securities exchange.  
3 After an administrative hearing in accordance with  
4 chapter 91, the commissioner, by rule adopted or order  
5 issued under this chapter, may revoke the designation  
6 of a securities exchange under this paragraph, if the  
7 commissioner finds that revocation is necessary or  
8 appropriate in the public interest and for the  
9 protection of investors;

10 (24) Any offer or sale by or through a real estate broker  
11 or real estate salesperson licensed under the laws of  
12 this State, of a security issued on or after July 1,  
13 1961, by a corporation organized under the laws of  
14 this State, the holder of which is entitled solely by  
15 reason of the holder's ownership thereof, to occupy  
16 for dwelling purposes a house, or an apartment in a  
17 building, owned or leased by such corporation;  
18 provided that the issuer of the security shall apply  
19 for the exemption to the commissioner on such form and  
20 containing such information as the commissioner may  
21 prescribe. If the commissioner finds that the



1 business applicant's proposed plan and the proposed  
2 issuance of securities are fair, just, and equitable,  
3 that the applicant intends to transact its business  
4 fairly and honestly, and that the securities that the  
5 applicant proposes to issue and the method to be used  
6 by the applicant in issuing or disposing of the  
7 securities will not, in the opinion of the  
8 commissioner, work a fraud upon the purchaser thereof,  
9 the commissioner shall issue to the applicant a permit  
10 authorizing the applicant to issue and dispose of the  
11 securities in this State in the manner provided herein  
12 and in such amounts and for such consideration as the  
13 commissioner may provide in the permit. Otherwise,  
14 the commissioner shall deny the application and refuse  
15 the permit and notify the applicant of the decision in  
16 writing, subject to appeal as provided in section  
17 485A-609. In any permit issued under this paragraph,  
18 the commissioner may require the deposit in escrow or  
19 impoundment of any or all securities, the proceeds  
20 from the sale thereof, approval of advertising  
21 material, and any of the conditions as set forth in





1 section 485A-304(f). The commissioner may act as  
2 escrow holder for securities required to be deposited  
3 in escrow by the commissioner's order or as a  
4 necessary signatory on any account in which impounded  
5 proceeds from the sale of escrowed securities are  
6 deposited;

7 (25) Any offer or sale by or through a real estate broker  
8 or real estate salesperson licensed under the laws of  
9 this State of an apartment or unit in a condominium  
10 project, and a rental management contract relating to  
11 the apartment or unit, including an interest in a  
12 partnership formed for the purpose of managing the  
13 rental of apartments or units if the rental management  
14 contract or the interest in the partnership is offered  
15 at the same time as the apartment or unit is offered.

16 For the purposes of this paragraph, the terms  
17 "apartment", "unit", "condominium", and "project"  
18 shall have the meanings prescribed in section 514A-3  
19 or 514B-3; [and]

20 (26) Any transaction not involving a public offering within  
21 the meaning of section 4(2) of the Securities Act of



1 1933 (15 U.S.C. 77d), but not including any  
2 transaction specified in the rules and regulations  
3 thereunder[-]; and

4 (27) An offer or sale of a security by an issuer, if the  
5 offer or sale meets all of the following requirements:

6 (A) The issuer of the security is an entity that is  
7 incorporated or organized under the laws of this  
8 State and is authorized to do business in this  
9 State;

10 (B) The transaction meets the requirements for the  
11 federal exemption for intrastate offerings under  
12 section 3(a)(11) of the Securities Act of 1933  
13 (15 U.S.C. 77c(a)(11)), and pursuant to Rule 147  
14 adopted under the Securities Act of 1933 (17  
15 C.F.R. 230.147), including, but not limited to,  
16 the requirements for determining whether an  
17 offeree or purchaser is a resident of this State;

18 (C) For a period of nine months from the date of the  
19 last sale by the issuer of securities offered in  
20 reliance on this exemption, all resales of any  
21 part of the issue, by any person, shall be made



1           only to persons residing within this State and  
2           shall be in compliance with Rule 147 adopted  
3           under the Securities Act of 1933 (17 C.F.R.  
4           230.147);

5       (D) The sum of all cash and other consideration to be  
6           received for all sales of the security in  
7           reliance on this exemption does not exceed  
8           \$1,000,000, less the aggregate amount received  
9           for all sales of securities by the issuer within  
10          the twelve months before the first offer or sale  
11          made in reliance on this exemption;

12       (E) The issuer has not accepted more than \$5,000 from  
13           any single purchaser unless the purchaser is an  
14           accredited investor as defined in rule 501(a)  
15           adopted under the Securities Act of 1933 (17  
16           C.F.R. 230.501(a)). The issuer may rely on  
17           confirmation that the purchaser is an accredited  
18           investor from a broker-dealer registered under  
19           this chapter or the Securities Exchange Act of  
20           1934 in making a determination that the purchaser  
21           is an accredited investor;



1        (F) At least ten days before an offer of securities  
2        is made in reliance on this exemption, the issuer  
3        files a notice with the commissioner, in writing  
4        or in electronic form as specified by the  
5        commissioner, that contains all of the following:  
6        (i) A notice of claim of exemption from  
7        registration, specifying that the issuer  
8        intends to conduct an offering in reliance  
9        on this exemption, accompanied by the filing  
10       fee specified in this section;  
11       (ii) A copy of the disclosure statement required  
12       to be provided to each prospective purchaser  
13       under subparagraph (a) (27) (G); and  
14       (iii) An escrow agreement with a bank or other  
15       depository institution located in this  
16       state, in which the purchaser funds will be  
17       deposited, that provides that all offering  
18       proceeds will be released to the issuer only  
19       when the aggregate capital raised from all  
20       purchasers is equal to or greater than the  
21       minimum target offering amount specified in



1           the disclosure statement as necessary to  
2           implement the business plan and that all  
3           purchasers will receive a return of their  
4           subscription funds if that target offering  
5           amount is not raised by the time stated in  
6           the disclosure statement. The bank or other  
7           depository institution may contract with the  
8           issuer to collect reasonable fees for its  
9           escrow services regardless of whether the  
10          target offering amount is reached;

11          (G) The issuer shall provide a copy of the disclosure  
12          statement provided to the commissioner under  
13          subparagraph (F)(ii) to each prospective  
14          purchaser at the time the offer of securities is  
15          made to the prospective purchaser in connection  
16          with the offering. The disclosure statements  
17          shall include the following information:

18          (i) A description of the issuer, including its  
19          type of entity, the address and telephone  
20          number of its principal office, its  
21          formation history, its business plan, and



1           the intended use of the offering proceeds,  
2           including any amounts to be paid, as  
3           compensation or otherwise, to any owner,  
4           executive officer, director, managing  
5           member, or other person occupying a similar  
6           status or performing similar functions on  
7           behalf of the issuer;

8           (ii) The identity of each person who owns more  
9           than ten per cent of the ownership interests  
10          of any class of securities of the issuer;

11          (iii) The identity of the executive officers,  
12          directors, and managing members of the  
13          issuer, and any other individuals who occupy  
14          similar status or perform similar functions  
15          in the name of and on behalf of the issuer,  
16          including their titles and their prior  
17          experience;

18          (iv) The terms and conditions of the securities  
19          being offered and of any outstanding  
20          securities of the issuer, the minimum and  
21          maximum amount of securities being offered,



1 if any, and either the percentage ownership  
2 of the issuer represented by the offered  
3 securities or the valuation of the issuer  
4 implied by the price of the offered  
5 securities;

6 (v) The identity of any person whom the issuer  
7 has retained or intends to retain to assist  
8 the issuer in conducting the offering and  
9 sale of the securities, including such  
10 person's Financial Industry Regulatory  
11 Authority, Inc., Central Registration  
12 Depository number, but excluding any person  
13 acting solely as an accountant or attorney  
14 and any employees whose primary job  
15 responsibilities involve operating the  
16 business of the issuer rather than assisting  
17 the issuer in raising capital, and for each  
18 person identified in response to this  
19 clause, a description of the consideration  
20 being paid to that person for that  
21 assistance;



1            (vi) A description of any litigation or legal  
2            proceedings involving the issuer or its  
3            management;

4            (vii) The uniform resource locator or URL of any  
5            website that the issuer will use to  
6            disseminate information in connection with  
7            the offering; and

8            (viii) Additional information material to the  
9            offering, including, where appropriate, a  
10           discussion of significant factors that make  
11           the offering speculative or risky. This  
12           discussion shall be concise and organized  
13           logically and should not present generic  
14           risks that could apply to any issuer or any  
15           offering;

16           (H) The issuer informs each prospective purchaser  
17           that the securities are not registered under  
18           federal or state securities laws and that the  
19           securities are subject to limitations on transfer  
20           or resale and displays the following legend





1 conspicuously on the cover page of the disclosure  
2 statement:

3 "IN MAKING AN INVESTMENT DECISION, PURCHASERS  
4 MUST RELY ON THEIR OWN EXAMINATION OF THE ISSUER  
5 AND THE TERMS OF THE OFFERING, INCLUDING THE  
6 MERITS AND RISKS INVOLVED. THESE SECURITIES HAVE  
7 NOT BEEN RECOMMENDED BY ANY FEDERAL OR STATE  
8 SECURITIES COMMISSION OR REGULATORY AUTHORITY.  
9 FURTHERMORE, THE FOREGOING AUTHORITIES HAVE NOT  
10 CONFIRMED THE ACCURACY OR DETERMINED THE ADEQUACY  
11 OF THIS DOCUMENT. ANY REPRESENTATION TO THE  
12 CONTRARY IS A CRIMINAL OFFENSE. THESE SECURITIES  
13 ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY  
14 AND RESALE AND MAY NOT BE TRANSFERRED OR RESOLD  
15 EXCEPT AS PERMITTED BY SUBSECTION (E) OF RULE 147  
16 (17 CFR 230.147(E)), AS PROMULGATED UNDER THE  
17 SECURITIES ACT OF 1933, AS AMENDED, AND THE  
18 APPLICABLE STATE SECURITIES LAWS, PURSUANT TO  
19 REGISTRATION OR EXEMPTION THEREFROM. PURCHASERS  
20 SHOULD BE AWARE THAT THEY WILL BE REQUIRED TO



1 BEAR THE FINANCIAL RISKS OF THIS INVESTMENT FOR  
2 AN INDEFINITE PERIOD OF TIME.";

3 (I) The issuer requires each purchaser to certify in  
4 writing, and to include as part of that  
5 certification the purchaser's signature, and the  
6 purchaser's initials next to each paragraph of  
7 the certification, as follows:  
8 "I understand and acknowledge that: Any  
9 investment in securities has risk and may result  
10 in financial loss. This offering has not been  
11 reviewed or approved by any state or federal  
12 securities commission or other regulatory  
13 authority and no regulatory authority has  
14 confirmed the accuracy or determined the adequacy  
15 of any disclosure made to me relating to this  
16 offering. I may be subject to tax on my share of  
17 the taxable income and losses of the issuer,  
18 whether or not I have sold or otherwise disposed  
19 of my investment or received any dividends or  
20 other distributions from the issuer.";



- 1           (J) Dissemination of information by issuers in  
2           connection with the offering through any website  
3           shall be in a manner that is compliant with  
4           section 3(a)(11) of the Securities Act of 1933  
5           (15 U.S.C. 77c(a)(11)) and Rule 147 adopted under  
6           the Securities Act of 1933 (17 C.F.R. 230.147);
- 7           (K) All payments for the purchase of securities are  
8           directed to and held by the bank or depository  
9           institution subject to the provisions of  
10           subparagraph (a)(27)(F)(iii);
- 11           (L) Offers or sales of a security are not made  
12           through an internet website unless the issuer has  
13           filed the written notice in the manner set forth  
14           in clause (G)(vii) as required under clauses  
15           (F)(ii) and (G)(vii);
- 16           (M) No commission, discount, or other remuneration is  
17           paid or given, directly or indirectly, to a  
18           person, other than a broker-dealer or agent  
19           registered under this chapter, for soliciting a  
20           prospective purchaser;



1        (N) The term of the offering does not exceed twelve  
2        months after the date of the first offer;

3        (O) The issuer is not, either before or as a result  
4        of the offering, an investment company, as  
5        defined in section 3 of the Investment Company  
6        Act of 1940 (15 U.S.C 80a-3), or an entity that  
7        would be an investment company but for the  
8        exclusions provided in subsection (c) of that  
9        section, or subject to the reporting requirements  
10       of section 13 or 15(d) of the Securities Exchange  
11       Act of 1934 (15 U.S.C 78m and 78o(d));

12       (P) The issuer shall provide a quarterly report to  
13       the issuer's purchasers until none of the  
14       securities issued under this paragraph are  
15       outstanding. All of the following apply to the  
16       quarterly report described in this subparagraph:

17       (i) The issuer shall provide the report free of  
18       charge to the purchasers;

19       (ii) An issuer may satisfy the report requirement  
20       under this paragraph by making the  
21       information available on an internet website



1 if the information is made available within  
2 forty-five days after the end of each fiscal  
3 quarter and remains available until the next  
4 quarterly report is issued;

5 (iii) The issuer shall file each report with the  
6 commissioner and shall provide a written  
7 copy of the report to any purchaser on  
8 request; and

9 (iv) The report shall include the compensation  
10 received by each director and executive  
11 officer of the issuer, including cash  
12 compensation earned since the previous  
13 report and on an annual basis and any  
14 bonuses, stock options, other rights to  
15 receive securities of the issuer or any  
16 affiliate of the issuer, or other  
17 compensation received, as well as an  
18 analysis by management of the issuer of the  
19 business operations and financial condition  
20 of the issuer;



1       (Q) The exemption provided in this paragraph shall  
2       not be used in conjunction with any other  
3       exemption under this section, except offers and  
4       sales to officers, directors, partners, trustees,  
5       or other individuals who have similar status or  
6       perform similar functions, of or for the issuer  
7       or to persons who own ten per cent or more of the  
8       outstanding shares of any class or classes of  
9       securities of the issuer shall not count toward  
10      the limitation in subparagraph (a) (27) (E);

11      (R) The exemption described in this section does not  
12      apply if any disqualifying event described in  
13      subsection (b) would apply;

14      (S) The commissioner shall charge a nonrefundable  
15      filing fee of \$100 for filing an exemption notice  
16      required under paragraph (F) (i). The fees paid  
17      to the commissioner under this paragraph shall be  
18      used to pay the costs incurred in administering  
19      and enforcing this act;

20      (T) A violation of this paragraph, shall be a  
21      violation of subsection 485A-501(a) (3); and



1           (U) Any other requirement established by rule adopted  
2           or order issued under this chapter to carry out  
3           this section.

4           (b) With respect to the ~~[exemption]~~ exemptions under  
5 ~~[paragraph (a)(13)]~~ subsection (a)(13) and (27):

6           (1) ~~[The]~~ Neither exemption shall ~~[not]~~ apply to an issuer  
7           if the issuer; any affiliated issuer; any beneficial  
8           owner of ten per cent or more of any class of the  
9           issuer's equity securities; any issuer's predecessor,  
10          director, officer, general partner, or promoter  
11          presently connected in any capacity with the issuer;  
12          and any underwriter or partner, director, or officer  
13          of the underwriter of the securities to be offered:

14          (A) Within the last five years has filed a  
15          registration statement that is the subject of a  
16          currently effective registration stop order  
17          entered by any state securities administrator or  
18          the United States Securities and Exchange  
19          Commission;

20          (B) Within the last five years has been convicted of  
21          any criminal offense in connection with the



1 offer, purchase, or sale of any security, or  
2 involving fraud or deceit;

3 (C) Is currently subject to any state or federal  
4 administrative enforcement order or judgment  
5 entered within the last five years, finding fraud  
6 or deceit in connection with the purchase or sale  
7 of any security; or

8 (D) Is currently subject to any order, judgment, or  
9 decree of any court of competent jurisdiction,  
10 entered within the last five years, temporarily,  
11 preliminarily, or permanently restraining or  
12 enjoining such party from engaging in or  
13 continuing to engage in any conduct or practice  
14 involving fraud or deceit in connection with the  
15 purchase or sale of any security; and

16 (2) Paragraph (1) shall not apply if:

17 (A) The party subject to the disqualification is  
18 licensed or registered to conduct securities-  
19 related business in the state in which the order,  
20 judgment, or decree creating the disqualification  
21 was entered against such party;



1 (B) Before the first offer under this exemption, the  
2 commissioner, or the court or regulatory  
3 authority that entered the order, judgment, or  
4 decree waives the disqualifications; or

5 (C) The issuer establishes that the issuer did not  
6 know and in the exercise of reasonable care,  
7 based on a factual inquiry, could not have known  
8 that a disqualification existed under this  
9 paragraph."

10 SECTION 3. Statutory material to be replaced is bracketed  
11 and stricken. New statutory material is underscored.

12 SECTION 4. This Act shall not be applied so as to impair  
13 any contract existing as of the effective date of this Act in a  
14 manner violative of either the Hawaii State Constitution or  
15 Article I, section 10, of the United States Constitution.

16 SECTION 5. This Act shall take effect on July 1, 2016.



**Report Title:**

Crowdfunding; Hawaii Invests Local Act

**Description:**

Establishes a crowdfunding exemption for limited intrastate investments between Hawaii residents and Hawaii businesses, limited to no more than \$1,000,000 raised over a twelve month period, and no more than \$5,000 per investor. Includes disclaimer requirements. (HB1482 HD3)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

