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Testimony of the Department of Commerce and Consumer Affairs

**Before the
House Committee on Finance
Tuesday, February 25, 2020
12:30 p.m.
State Capitol, Conference Room 308**

**On the following measure:
H.B.1882, H.D. 1, RELATING TO NONDEPOSITORY TRUSTS**

Chair Luke and Members of the Committee:

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

The purpose of this bill is to establish provisions concerning nondepository trust companies, including: (1) powers and duties of nondepository trust companies; (2) annual assessments for nondepository trusts beginning July 1, 2021; and (3) paid-in-capital and surplus requirements for nondepository trust companies.

The Department supports the bill's establishment of standards for nondepository trust companies in Hawaii Revised Statutes chapter 412 (Code of Financial Institutions) to provide fiduciary oversight for consumers who do not have friends or family members to manage their assets or whose assets do not qualify for asset management by banks or large investment firms. Chartered nondepository trust companies will provide a safe

and sound alternative to kupuna and other individuals unserved or underserved in Hawaii's community.

In addition, this bill will establish an assessment structure more appropriate to properly supervise and examine nondepository trust companies. Similar to the DFI's banks, nondepository trust companies will not pay examination fees and will be able to budget for the assessment on an annual basis.

Further, the Department is not requesting start-up funding to regulate these companies and believes the DFI can charter these companies using existing resources, as the division does not know how many companies would seek this charter.

For clarity, the Department suggests deleting the definition "total assets under management" on page 13, lines 10 to 16, as this definition is used only once to determine annual assessment amounts in proposed section 412:2-105.2(b) on pages 5 to 7.

Thank you for the opportunity to testify on this bill.



CSI TRUST COMPANY

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To: Committee on Finance
Chair Representative Sylvia Luke
Vice Chair Ty J.K. Cullen

LATE

Hrg Date: Tuesday, February 25, 2020
Time: 12:30 PM
Place: Conference Room 308, State Capitol

Re: **SUPPORT for HB1882 HD1 RELATING TO NONDEPOSITORY TRUSTS**

My name is Shin Domen. I am the Executive Director of CSI Trust Company, and submit this testimony in **STRONG SUPPORT** of HB1882.

CSI TRUST COMPANY is a charitable, non-profit 501(c)(3) corporation. In 2019, it was chartered as the First Non-depository Trust Company by the Division of Financial Institutions (DFI) of the Hawaii Department of Commerce and Consumer Affairs. The Charter allows CSI to serve a group of consumers who would regularly not be serviced by banks or large investment firms.

CSI provides fiduciary services to a growing "gap group" of Hawaii's most vulnerable residents. This "gap group" consists of primarily elderly and disabled individuals who do not have family members or others to assist with their financial affairs, or who, although they are not impoverished, do not meet the asset threshold of banks and large investment firms regulated by the State Department of Commerce and Consumer Affairs. An estimated 80-90 percent of CSI's clients are not eligible for the subsidized services of the State's Office of Public Guardian (OPG). At the same time, these vulnerable clients are incapacitated in some way, whether by dementia, Parkinson's disease, Alzheimer's, or other mental or physical disability.

CSI was organized in 1988 to meet the needs of aging Hawaii residents who had increasing difficulty paying their bills on time. It wasn't that the elders could not afford to pay them. Instead, bill payment and other financial tasks, e.g. balancing checkbooks, were not being performed as a result of the aging process. These elders had no family or others who could assist with those administrative tasks, and did not meet the asset threshold for financial services offered by traditional bank-based trust companies or financial service firms. The consequences for failure to perform such basic financial tasks often resulted in utilities being shut off, eviction threats, late tax filings, and overwhelming stress for the aging Kupuna. CSI was originally established as a charity to provide

bill-paying services and other fiduciary financial oversight to keep this "gap group" of elderly and disabled self-sufficient, comfortable, and independent.

Over the years, CSI has found that the needs of this "gap group" have expanded to include more traditional fiduciary services, such as acting as trustee, personal representative, and conservator for the elderly and disabled. The need for fiduciary services for this vulnerable group is substantial and expected to rise dramatically as Hawaii's population continues to age. Hawaii's population over 65 years of age is projected to grow to more than 20 percent of the total population by 2030.

CSI's clients are typically 75 years or older, have spouses who passed away, and have no children. Their average annual income is about \$50,000, and their mental competency is often in question. About 35 per cent of CSI's clients are asset rich, i.e. own their home, but cash poor. They live alone, and may have been financially abused. For solo agers without family members present in Hawaii, the risks of financial exploitation are very real. About 25 percent of the cases investigated by Adult Protective Services (APS) involve financial exploitation of older adults who were dependent on others for their health, safety, or welfare.

This "gap group" of Hawaii's elders and disabled currently does not have access to the services of a bank trust company or other corporate fiduciary. The need for fiduciary services by this group is substantial and can be expected to grow as Hawaii's elderly population increases. HB1882 addresses this need by authorizing the DCCA to charter nondepository trust companies that would be subject to regulation and examination by the DFI. It is a consumer protection measure needed to protect our Kupuna.

CSI is in strong SUPPORT of this measure, and asks that HB1882 HD1 be PASSED WITH AMENDMENT to become **effective on July 1, 2020**.