

STATE OF HAWAI'I DEPARTMENT OF HAWAIIAN HOME LANDS

Hawaiian Homes Commission

March 20-21, 2023

B. REGULAR AGENDA Office of the Chairman

C-2

RECOMMENDED ACTION

Affirm the Hawaiian Homes Commission's 2012 delegation of authority to Nā Po'e Kōkua to hold Bank of America legally accountable for its \$150 million mortgage commitment.

DISCUSSION

Despite being urged by the Hawaiian Homes Commission, Hawaii's Governor, the Hawaii state senate and all four county councils to negotiate with " Nā Po'e Kōkua in order to reach a fair and final settlement of Bank of America's outstanding \$150 million commitment to the Hawaiian people on their homelands," Bank of America has thus far refused to do so.

On May 3, 2012, then Hawaiian Homes Commission Albert "Alapaki" Nahale-a, wrote to Nā Po'e Kōkua president and Hawaii Fair Lending Coalition member Kehaulani Filimoe'atu that "Last month [April 2012], in a unanimous vote, the Hawaiian Homes Commission agreed to support the Hawaii Fair Lending Coalition in its efforts to negotiate with Bank of America on behalf of our beneficiaries in order to achieve a formal settlement so that BofA's \$150 million commitment can finally be fulfilled."

On April 18, 2018, Governor Ige wrote to Catherine P. Bessant, Chief Operations and Technology Officer of Bank of America, to invite her to Hawai'i "to meet with Kehaulani Filimoe'atu of Nā Po'e Kōkua in order to reach a fair and final settlement of Bank of America's outstanding \$150 million commitment to the Hawaiian people on their homelands." Governor Ige offered to serve as host for these negotiations. The Governor attached Chairman Nahale-a's 2012 letter and strongly urged:

Bank of America finalize its \$150 million Hawaiian commitment before August 10, 2018, the 20th anniversary of meetings on O'ahu and Maui between a delegation of executives from NationsBank and Bank of America with Hawaiian kupuna (elders), state leaders and Nā Po'e Kōkua, which is the fiscal sponsor and institutional home of the Hawai'i Fair Lending Coalition (hereafter referred to collectively as NPK/HFLC).

Gov. Ige also noted that:

- Those meetings were the result of an agreement that NationsBank reached with NPK/HFLC on June 28, 1998 in response to Bank of America's failure to meet its Hawaiian commitment by the mid-1998 deadline.
- In its August 17, 1998 order approving NationsBank's merger with Bank of America, the Federal Reserve Board specifically referenced a NationsBank statement that the new post-merger Bank of America would honor its \$150 million Hawaiian commitment.¹
- This commitment was first made in connection with Bank of America's 1993 application to acquire Liberty Bank in Honolulu, which was challenged by NPK/HFLC.
- The Federal Reserve Board's May 31, 1994 order approving Bank of America's acquisition of Liberty Bank was "specifically conditioned upon compliance with all of the commitments made by BankAmerica in connection with this application,"² which included Bank of America's "commitment of \$150 million to the FHA 247 loan program."³
- Unfortunately, June 2018 marks the 20th year that Bank of America continues to be delinquent on its "four-year commitment to provide \$150 million in residential mortgage loans for native Hawaiians seeking housing on Department of Hawaiian Home Lands."⁴

On March 20, 2019, the Hawaii State Legislature's Native Hawaiian Caucus and the Committee Chairs on Native Hawaiian Affairs wrote to Bank of America "Summoning Ms. Bessant to come before the Legislative Hawaiian Caucus to address the request by Governor David Ige that she meet with Nā Po'e Kōkua and the Hawaii Fair Lending Coalition to reach a fair and final settlement of the outstanding \$150 million Hawaiian Homes FHA-247 Commitment."

The summons noted that:

According to information provided by the US Dept of Housing and Urban Development (HUD), Bank of American achieved only a tiny fraction of the \$150 million in FHA-247 loans that it committed to the Office of Thrift Supervision and the Federal Reserve Board that it would make by 1998: \$13,092.314 between 1994 and 2018.

Bank of America and Ms. Bessant ignored the summons from Hawaii's legislature.

On September 4, 2019, City Council of Honolulu adopted Resolution 19-196, FD1, supporting the Governor's efforts to intervene between Nā Po'e Kōkua, the Hawaii Fair Lending Coalition, and the Bank of America to reach a settlement agreement relating to a \$150 million loan commitment for native Hawaiians on Hawaiian Home Lands, now twenty years overdue; and

¹ Board of Governors of the Federal Reserve System. Order Approving the Merger of Bank Holding Companies: NationsBank Corporation Charlotte, North Carolina • August 17, 1998, p. 62

² Ibid, 630

³ Letter from Patrick S. Antrim, Senior Counsel, Bank of America to Surjeet Sidhu, Senior Financial Analyst, Board of Governors of the Federal Reserve System, 16 May 1994.

⁴ Board of Governors of the Federal Reserve System. Order Approving Acquisition of a Bank: BankAmerica Corporation San Francisco, California. Federal Reserve Bulletin • July 1994, p. 628

BE IT FURTHER RESOLVED that it urges Catherine P. Bessant to return to Hawaii to meet with NPK/HFLC to reach a fair and final settlement, as invited by Governor David Ige; and

BE IT FURTHER RESOLVED that in addition to providing the mortgages on Hawaiian Home Lands as ordered by the Federal Reserve Board, BofA must address the estimated \$360.6 million in lost opportunity costs for native Hawaiians on Hawaiian Home Lands and a \$4.5 million late fee for failing to fulfill its required commitment.

The resolution further stated:

WHEREAS, in 1993, Nā Po'e Kōkua (NPK), an organization established to assist native Hawaiians with housing and related matters, formed the Hawaii Fair Lending Coalition (HFLC) and began researching how banks in Hawaii were treating native Hawaiians; and

WHEREAS, among its findings, HFLC discovered that Bank of America (BofA) was conducting discriminatory lending practices in the form of redlining, the practice of denying services to residents of certain areas based on the racial or ethnic composition of those areas, by not providing mortgages on Hawaiian Home Lands; and

WHEREAS, in May 1994, as a result of HFLC's efforts and as a condition of BofA's acquisition of Liberty Bank, the Federal Reserve Board and the Office of Thrift Supervision ordered BofA to make \$150 million in FHA-247 mortgages available on Hawaiian Home Lands by 1998; and

WHEREAS, by the 1998 deadline, BofA had provided only \$3,109,502 of the \$150 million in FHA-247 mortgages ordered by the Federal Reserve Board and the Office of Thrift Supervision; and

WHEREAS, in 1998, BofA recommitted to meet the \$150 million loan commitment to native Hawaiians and to pay a \$4.5 million late fee based on the lost opportunity cost of its failure to fulfill its required commitment; and

WHEREAS, the BofA executive responsible for this recommitment was Catherine P. Bessant, then in charge of Community Development, who traveled to Hawaii with other senior bank executives in August 1998 to meet with then-Governor Benjamin Cayetano, Hawaiian kupuna, and other community leaders from NPK/HFLC at Iolani Palace; and

WHEREAS, in January 2010, Catherine P. Bessant became chief operations and technology officer at BofA, just as the Federal Bureau of Investigation and federal regulators were investigating BofA and other big banks for the infamous "robo-signing scandal" involving the use of millions of false documents to mislead courts across the nation, resulting in a \$25 billion national mortgage settlement; and

WHEREAS, in April 2012, the State of Hawaii Attorney General, along with 48 other state attorneys general, forced BofA into the \$25 billion national mortgage settlement to

resolve the robo-signing scandal involving false evidence of legal standing to foreclose that was filed in foreclosures throughout the State of Hawaii and other judicial foreclosure states, including the State of Florida; and

WHEREAS, pursuant to the terms of the \$25 billion national mortgage settlement, the State of Hawaii received \$7,911,883; and

WHEREAS, in 2012, the Hawaiian Homes Commission unanimously confirmed that the BofA commitment remained unfulfilled, and expressed support for HFLC's consistent and ongoing efforts to hold BofA accountable; and

WHEREAS, from 1994 to 2012, BofA originated only \$13,092,314 in FHA-247 loans on Hawaiian Home Lands, and has made no FHA-247 loans since, according to information provided by the United States Department of Housing and Urban Development (HUD) on August 20, 2018, in response to a Freedom of Information Act ("FOIA") request; and

WHEREAS, based on HUD data and the assumption that BofA is given credit for FHA-247 loans originated by Hawaiian Community Assets, preliminary estimates of BofA's late fees to date are approximately \$391 million for lost opportunities for building equity, reaping the benefits of a booming housing market, and paying affordable mortgages rather than skyrocketing rents over the last twenty years for 890 native Hawaiian families who should have received Bank of America mortgages by 1998, but did not, and the families who did receive loans up to thirteen years after the deadline; and

WHEREAS, on April 18, 2018, Governor David Ige invited Catherine P. Bessant to return to Hawaii for a meeting with NPKIHFLC "to reach a fair and final settlement of BofA's outstanding \$150 million commitment to the Hawaiian people on their homelands"; and

WHEREAS, on July 16, 2018, Governor David Ige filed an FOIA request with the Board of Governors of the Federal Reserve System, seeking access to all records relating to BofA's commitment to provide \$30 million in below market financing to low income families residing in the County of Kauai by 1996 and BofA's commitment to provide \$150 million in FHA-247 mortgage loans by 1998; and

WHEREAS, on January 22, 2019, after months of delays, the Board of Governors of the Federal Reserve System granted Governor David Ige's FOIA request in part by providing 690 pages of documents, and denied the request in part by withholding numerous records, including records regarding BofA's acquisition of LaSalle Bank, which relate to BofA's \$150 million FHA-247 commitment to native Hawaiians; and

WHEREAS, on April 22, 2019, Governor David Ige appealed the Federal Reserve Board's denial and requested the release of the withheld records; and

WHEREAS, on November 2, 2018, the Council of the County of Maui adopted Resolution 18-178, entitled “SUPPORTING THE GOVERNOR’S EFFORTS TO INTERVENE BETWEEN NA POE KOKUA, THE HAWAII FAIR LENDING COALITION, AND THE BANK OF AMERICA TO REACH A SETTLEMENT AGREEMENT RELATING TO A \$150 MILLION LOAN COMMITMENT FOR NATIVE HAWAIIANS ON HAWAIIAN HOME LANDS”; and

WHEREAS, on April 4, 2019, the Hawaii State Senate adopted Senate Concurrent Resolution 45, Senate Draft 1, entitled “SUPPORTING THE GOVERNOR’S EFFORTS IN INVESTIGATING AND URGING THE BANK OF AMERICA TO RETURN TO HAWAII TO MEET WITH NA POE KOKUA AND THE HAWAII FAIR LENDING COALITION REGARDING A \$150,000,000 LOAN COMMITMENT FOR NATIVE HAWAIIANS ON HAWAIIAN HOMELANDS”; and

WHEREAS, on April 10, 2019, the Council of the County of Kauai adopted Resolution 2019-31 entitled “SUPPORTING THE GOVERNOR’S EFFORTS IN URGING THE BANK OF AMERICA TO RETURN TO HAWAII TO MEET WITH NA POE KOKUA AND THE HAWAII FAIR LENDING COALITION TO REACH A SETTLEMENT AGREEMENT RELATING TO \$150,000,000 LOAN COMMITMENT FOR NATIVE HAWAIIANS ON HAWAIIAN HOME LANDS”; and

WHEREAS, on July 9, 2019, the Council of the County of Hawaii adopted Resolution 209-19, entitled “A RESOLUTION SUPPORTING THE EFFORTS OF GOVERNOR DAVID Y. IGE TO URGE THE BANK OF AMERICA TO RETURN TO HAWAII TO MEET WITH NA POE KOKUA AND THE HAWAII FAIR LENDING COALITION REGARDING A \$150,000,000 LOAN COMMITMENT FOR NATIVE HAWAIIANS ON HAWAIIAN HOMELANDS”;



EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

April 18, 2018

Catherine P. Bessant
Chief Operations and Technology Officer
Bank of America
100 North Tryon Street
Charlotte, NC 28255

Dear Ms. Bessant:

I am writing to invite you to Hawai'i this summer to meet with Kehau Filimoe'atu of Nā Po'e Kōkua in order to reach a fair and final settlement of Bank of America's outstanding \$150 million commitment to the Hawaiian people on their homelands. I am offering to serve as host for these talks.

As the governor of Hawai'i, I am strongly urging that the Bank of America finalize its \$150 million Hawaiian commitment before August 10, 2018, the 20th anniversary of meetings on O'ahu and Maui between a delegation of executives from NationsBank and Bank of America with Hawaiian kūpuna (elders), state leaders and Nā Po'e Kōkua, which is the fiscal sponsor and institutional home of the Hawai'i Fair Lending Coalition (hereafter referred to collectively as NPK/HFLC).

It is my understanding that the Hawai'i meetings were the result of an agreement that NationsBank reached with NPK/HFLC on June 28, 1998 in response to Bank of America's failure to meet its Hawaiian commitment by the mid-1998 deadline. In its August 17, 1998 order approving NationsBank's merger with Bank of America, the Federal Reserve Board specifically referenced a NationsBank statement that the new post-merger Bank of America would honor its \$150 million Hawaiian commitment.¹

This commitment was first made in connection with Bank of America's 1993 application to acquire Liberty Bank in Honolulu, which was challenged by NPK/HFLC. The Federal Reserve Board's May 31, 1994 order approving Bank of America's acquisition of Liberty Bank was "specifically conditioned upon compliance with all of the commitments made by BankAmerica in connection with this application,"² which included Bank of America's "commitment of \$150 million to the FHA 247 loan program."³

¹ Board of Governors of the Federal Reserve System. *Order Approving the Merger of Bank Holding Companies: NationsBank Corporation Charlotte, North Carolina* • August 17, 1998, p. 62

² *Ibid.*, 630

³ Letter from Patrick S. Antrim, Senior Counsel, Bank of America to Surjeet Sidhu, Senior Financial Analyst, Board of Governors of the Federal Reserve System, 16 May 1994.

Catherine P. Bessant
April 18, 2018
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Unfortunately, June 2018 marks the 20th year that Bank of America continues to be delinquent on its "four-year commitment to provide \$150 million in residential mortgage loans for native Hawaiians seeking housing on Department of Hawaiian Home Lands."⁴

I am attaching a letter that Ms. Filimoe'atu sent to you on August 24, 2014 that includes a May 3, 2012 letter to her from then Chairman of the Hawaiian Homes Commission, Albert "Alapaki" Nahale-a. I believe that together these two letters provide a fair outline of the history of Bank of America's Hawaiian commitment.

Since becoming the governor of Hawai'i, my cabinet members and I have been working hard to address Hawai'i's intractable affordable housing crisis, including the challenges of homelessness. Tragically, native Hawaiians represent a significant proportion of our state's houseless and under-housed population. One important part of the solution for native Hawaiian families is a home on Hawaiian home lands. However, because of the unique characteristics of these trust lands, access to capital for these families is a real and ongoing challenge. Fulfilling Bank of America's commitment could be an important part of addressing this challenge.

I look forward to hosting you so that you and Nā Po'e Kōkua can do the work necessary to fulfill Bank of America's commitment in Hawai'i. If you are open to accepting this invitation, please RSVP to William (Billy) Oku, Jr. of my office by April 25 with dates in June or July when you can come to Hawai'i. Mr. Oku may be reached at (808) 586-0034 or via email at William.F.Oku@hawaii.gov

I look forward to working with you to reach a long-overdue resolution to this pressing issue.

With warmest regards,

A handwritten signature in black ink, reading "David Y. Ige". The signature is fluid and cursive, with the first name "David" being the most prominent.

David Y. Ige
Governor, State of Hawai'i

Attachment

⁴ Board of Governors of the Federal Reserve System. *Order Approving Acquisition of a Bank: BankAmerica Corporation* San Francisco, California. *Federal Reserve Bulletin* • July 1994, p. 628

c: Kehaulani Filimoe'atu
Nā Po'e Kōkua/Hawai'i Fair Lending Coalition

The Honorable Brian E. Schatz
United States Senate

The Honorable Mazie Hirono
United States Senate

Brian T. Moynihan
Chief Executive Officer, Bank of America

Anne M. Finucane
Vice Chair & Chair ESG Committee, Bank of America



August 24, 2014

Aloha Cathy,

I hope that this letter finds you and your family well. It is amazing to think that it was 16 years ago this month when you traveled to Hawaii to meet with our kupuna at the Iolani Palace in Honolulu and with Na Po'e Kokua and the Hawaii Fair Lending Coalition on Maui. I am attaching a picture of one of our Maui meetings — clearly we were all much younger then.

Time has passed and our children have grown (if my memory and math are correct, your daughter must be preparing for college by now — my congratulations to both of you). Many changes have taken place since you visited with us in Hawaii. Our respective responsibilities and authority have grown as I believe we have both worked hard to bring our vocation and avocation together — our *Kuleana*.

The Hawaiian word kuleana expresses the meaning and values I wish to convey and which I believe we hold in common. As with many Hawaiian words, Kuleana is not easily translated into English. Kuleana is often simply defined as responsibility, but it also embodies deeper values found in the words concern, community, accountability, authority and obligation.

It has been a pleasure following your career over the past 16 years. Clearly your kuleana has broadened not only at Bank of America but also within your local community and our wider world. Given the forthrightness that you communicated with our kupuna 16 years ago in reaffirming Bank of America's \$150 million commitment to our Hawaiian people as well as the establishment of a native Hawaiian owned bank, it is our belief that Bank of America's commitment to Hawaiians continues within your kuleana. And in this we have kuleana in common.

My kuleana in this respect was broadened two years ago when I received the attached letter from the chairman of the Hawaiian Homes Commission notifying us that the Commission had voted unanimously *"to support the Hawaii Fair Lending Coalition in its efforts to negotiate with Bank of America on behalf of our beneficiaries in order to achieve a formal settlement so that BofA's \$150 million commitment can finally be fulfilled."* As Na Po'e Kokua has served as the fiscal sponsor and institutional home of the Hawaii Fair Lending Coalition for more than two decades, I am reaching out to you as the chair of NPK's board on behalf of the Coalition.

Shortly after receiving the Commission's letter, we communicated with Bank of America and its regulators to ensure that they had knowledge of the Commission's action and support of our efforts. Since then we have taken the time to seek counsel from our kupuna and other leaders within our community to ensure that we would come to you with a fair and equitable resolution that will allow us to create mutual value and fulfill our common kuleana.

It is in this spirit that I am reaching out to you now so that we may address the following three conclusions of the Hawaiian Homes Commission regarding Bank of America's \$150 million commitment:

- a. That the Deputy to the Chair "signed off" on the commitment without approval of the Hawaiian Homes Commission;*
- b. That the expansion of the scope of the commitment which allowed BankAmerica to claim a credit of \$3 and \$4 for every dollar they invested in infrastructure - thereby reducing their balance at a faster rate - was not brought before the Commission; and*
- c. That no "late fee" - such as was agreed to in 1998 - was charged to BankAmerica for being nine years late in fulfilling its \$150 million commitment.*

As my purpose for writing to you is to establish where we have Kuleana in common, I will not address the Commission's conclusions in detail at this time. Also, we are not raising questions at this point about the validity of the numbers offered by Bank of America in 2007 regarding performance on its Hawaiian commitment.

Instead I would like to offer a good faith starting point by providing a framework for addressing the issue of the late fee and the establishment of a native Hawaiian controlled bank. I asked Ian Chan Hodges to plug in the numbers provided by Doug Woodruff and submitted to the Federal Reserve during FleetBoston merger into the late fee formula outlined in the May 21, 1998 memo to Bank of America. This was the framework that we used for discussions with you, Doug, James and Jim which led to Bank of America's \$3.5 million commitment in 1998 to capitalize the Hawaiian bank.

This formula doesn't take into account appreciation in home value, mortgage interest deductions or other benefits of home ownership. It simply calculates the amount of principal that would have been paid down over a specific period if the mortgages the bank committed to finance were originated on time. This is the basic — not comprehensive — opportunity cost that has been shouldered by the Hawaiian people over the past 20 years.

The resulting number for the basic late fee is \$16.2 million. This amount is based on the \$80.6 million that Doug Woodruff agreed was outstanding as of December of 2003 and the performance numbers offered by Bank of America in 2007 regarding its Hawaiian commitment. However, if the performance numbers were limited to mortgages originated on Hawaiian Home Lands and grants to support the creation of a native Hawaiian bank, then \$40.4 million of the commitment remains outstanding today and Bank of America's late fee is currently \$31.5 million.

Cathy, I know that putting specific dollar amounts (in the millions no less) in my letter would likely cause the average bank executive to cynically conclude that this is just "about the money." However, I have faith that you remember that day 16 years ago when you joined us on the palace grounds with hundreds of our kupuna who were given hope by your presence and words. Money is certainly an issue here, but fulfilling our kuleana is ultimately what matters.

Mahalo,



Kehaulani Filimoe'atu

(NPK/HFLC)





STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

P. O. BOX 1579
HONOLULU, HAWAII 96805

ALBERT "ALAPAKI" NAIHALE-A
CHAIRMAN
HAWAIIAN HOMES COMMISSION

MICHELLE K. KAUHANE
DEPUTY TO THE CHAIRMAN

M. WAIALEALE SARSONA
EXECUTIVE ASSISTANT

May 3, 2012

Kehaulani Filimoe'atu
Hawaii Fair Lending Coalition
P.O. Box 3006
Waikuku, HI 96793

Aloha Ms. Filimoe'atu:

In my time serving as Chair of the Hawaiian Homes Commission, I have been inspired by the grassroots work of our beneficiaries as they pursue opportunities for a better life for the Hawaiian people with creativity and tenacity. The work of the Hawaii Fair Lending Coalition is exemplary in this regard.

In challenging Bank of America's acquisition of Liberty Bank in 1993, the Hawaii Fair Lending Coalition identified loan "redlining" and other disparities in bank lending practices in Hawaiian communities, including Hawaiian Home Lands. As a result, Bank of America's acquisition of Liberty Bank was delayed for months. Finally, in its efforts to obtain regulatory approval to acquire Liberty Bank, Bank of America:

Announced a comprehensive program to enhance service to the native Hawaiian and Filipino communities. The program includes a four-year commitment to provide \$150 million in residential mortgage loans for native Hawaiians seeking housing on Department of Hawaiian Home Lands.

– Orders-FRB Bulletin Volume 80, Number 7, July 1994 p. 628

The Board of Governors' order approving acquisition of Liberty Bank concluded by stating that:

The Board's approval is specifically conditioned upon compliance with all of the commitments made by Bank of America in connection with this application and with the conditions referred to in this order... For purposes of this action, the commitments and conditions relied on in reaching this decision shall be deemed to be conditions imposed in writing by the Board and, as such, may be enforced in proceedings under applicable law.

– Orders-FRB Bulletin Volume 80, Number 7, July 1994 p. 630

It is clear that the Federal Reserve Board specifically conditioned its approval of the Liberty Bank acquisition on Bank of America's compliance with its \$150 million Hawaiian Home Lands commitment, which was to be completed within four years – between July of 1994 and June of 1998.

Nearly four years later – on April 13, 1998 – Bank of America reached an agreement to merge with NationsBank in a deal that would create the largest bank in the United States. At this point – two months before the deadline to complete its \$150 million commitment to Hawaiian Home Lands – Bank of America had originated only \$3 million in qualifying loans.

On May 21, 1998, Bank of America received a memo from Ian Chan Hodges warning that the bank was in imminent danger of defaulting on its four-year \$150 million commitment to the beneficiaries of Hawaiian Home Lands. In order to avoid default, the memo demonstrated that Bank of America was obligated to pay a late fee of \$4.5 million -- a sum equal to the opportunity cost of its failure to fulfill its commitment.

The memo stated that by investing \$4.5 million in a Native Hawaiian Community Development Financial Institution (CDFI), BankAmerica should be able to avoid immediate default on its \$150 million commitment to the Federal Reserve Board.

On June 28, 1998, the Hawaii Fair Lending Coalition reached an agreement with NationsBank regarding support for the creation of a Native Hawaiian CDFI. NationsBank (and its successors) agreed to provide:

- A minimum of \$1 million invested in the Native Hawaiian CDFI and up to \$3.5 million with match.
- \$125,000 in organizing grants.
- In-kind professional assistance as requested.
- NationsBank / Bank of America executives travel to Hawaii for meeting with CDFI organizers, DHHL Chair and Governor.

On August 10, 1998, Cathy Bessant, President of NationsBank Community Development group and two other NationsBank executives arrived in Hawaii for meetings regarding Bank of America's commitments to the Hawaiian people. The bank executives first met with a large group of Hawaiian Kupuna at the Iolani Palace and then met with Gov. Ben Cayetano and representatives from the Hawaii Fair Lending Coalition. The bankers and coalition representatives also met with then DDHL Chair Kali Watson before traveling to Maui to tour Hawaiian Home Lands sites.

On August 17, 1998, the Federal Reserve Board announced its approval of the proposal of NationsBank to merge with Bank of America. The Board's approval was again specifically conditioned on compliance with all the commitments made in connection with the application, including Bank of America's \$150 million commitment to native Hawaiians - the only specific "CRA-related" commitment mentioned in the entire Federal Reserve order approving the merger.

Finally, on October 3, 2007 - more than nine years after the deadline by which Bank of America was required to fulfill its commitment - Ben Henderson, Deputy to DHHL Chair Micah Kane, wrote a letter to Bank of America claiming that "the \$150,000,000 commitment has been met by Bank of America."

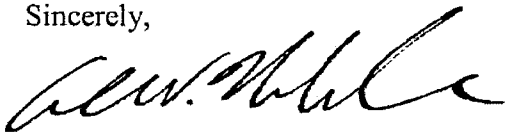
After reviewing this letter and related documents, the Hawaiian Homes Commission reached the following conclusions:

- a. That the Deputy to the Chair "signed off" on the commitment without approval of the Hawaiian Homes Commission;
- b. That the expansion of the scope of the commitment which allowed BankAmerica to claim a credit of \$3 and \$4 for every dollar they invested in infrastructure - thereby reducing their balance at a faster rate - was not brought before the Commission; and
- c. That no "late fee" - such as was agreed to in 1998 - was charged to BankAmerica for being nine years late in fulfilling its \$150 million commitment

Last month, in a unanimous vote, the Hawaiian Homes Commission agreed to support the Hawaii Fair Lending Coalition in its efforts to negotiate with Bank of America on behalf of our beneficiaries in order to achieve a formal settlement so that BofA's \$150 million commitment can finally be fulfilled.

Next month we will mark 14 years since the deadline passed for Bank of America to complete its \$150 million commitment to the beneficiaries of Hawaiian Home Lands as ordered by the Federal Reserve Board. The time for resolution of this matter is now. The Department of Hawaiian Home Lands stands ready to assist the Hawaii Fair Lending Coalition as it works with Bank of America to achieve a formal and final resolution.

Sincerely,

A handwritten signature in black ink, appearing to read 'Albert Nahale-a', written in a cursive style.

Albert "Alapaki" Nahale-a, Chairman
Hawaiian Homes Commission



RESOLUTION

SUPPORTING THE GOVERNOR'S EFFORTS TO INTERVENE BETWEEN NA POE KOKUA, THE HAWAII FAIR LENDING COALITION, AND THE BANK OF AMERICA TO REACH A SETTLEMENT AGREEMENT RELATING TO A \$150 MILLION LOAN COMMITMENT FOR NATIVE HAWAIIANS ON HAWAIIAN HOME LANDS.

WHEREAS, in 1993, Na Poe Kokua (NPK), an organization established to assist native Hawaiians with housing and related matters, formed the Hawaii Fair Lending Coalition (HFLC) and began researching how banks in Hawaii were treating native Hawaiians; and

WHEREAS, among its findings, HFLC discovered that Bank of America (BoFA) was conducting discriminatory lending practices in the form of redlining, the practice of denying services to residents of certain areas based on the racial or ethnic composition of those areas, by not providing mortgages on Hawaiian Home Lands; and

WHEREAS, in May 1994, as a result of HFLC's efforts and as a condition of BoFA's acquisition of Liberty Bank, the Federal Reserve Board and the Office of Thrift Supervision ordered BoFA to make \$150 million in FHA-247 mortgages available on Hawaiian Home Lands by 1998; and

WHEREAS, by the 1998 deadline, BoFA had provided only \$3,109,502 of the \$150 million in FHA-247 mortgages ordered by the Federal Reserve Board and the Office of Thrift Supervision; and

WHEREAS, in 1998, BoFA recommitted to meet the \$150 million loan commitment to native Hawaiians and to pay a \$4.5 million late fee based on the lost opportunity cost of its failure to fulfill its required commitment; and

WHEREAS, the BoFA executive responsible for this recommitment was Catherine P. Bessant, then in charge of Community Development, who traveled to Hawaii with other senior bank executives in August 1998 to meet with then-Governor Benjamin Cayetano, Hawaiian kupuna, and other community leaders from NPK/HFLC at Iolani Palace; and

WHEREAS, in January 2010, Catherine P. Bessant became chief operations and technology officer at BoFA, just as the Federal Bureau of Investigation and federal regulators were investigating BoFA and other big banks for the infamous "robo-signing scandal" involving the use of millions of false documents to mislead courts across the nation, resulting in a \$25 billion national mortgage settlement; and



RESOLUTION

WHEREAS, in April 2012, the State of Hawaii Attorney General, along with 48 other state attorneys general forced BofA into the \$25 billion national mortgage settlement to resolve the robo-signing scandal involving false evidence of legal standing to foreclose that was filed in foreclosures throughout the State of Hawaii and other judicial foreclosure states, including the State of Florida; and

WHEREAS, pursuant to the terms of the \$25 billion national mortgage settlement, the State of Hawaii received \$7,911,883; and

WHEREAS, in 2012, the Hawaiian Homes Commission unanimously confirmed that the BofA commitment remained unfulfilled, and expressed support for HFLC's consistent and ongoing efforts to hold BofA accountable; and

WHEREAS, from 1994 to 2012, BofA originated only \$13,092,314 in FHA-247 loans on Hawaiian Home Lands, and has made no FHA-247 loans since, according to information provided by the United States Department of Housing and Urban Development (HUD) on August 20, 2018, in response to a Freedom of Information Act ("FOIA") request; and

WHEREAS, based on HUD data and the assumption that BofA is given credit for FHA-247 loans originated by Hawaiian Community Assets, preliminary estimates of BofA's late fees to date are approximately \$391 million for lost opportunities for building equity, reaping the benefits of a booming housing market, and paying affordable mortgages rather than skyrocketing rents over the last twenty years for 890 native Hawaiian families who should have received Bank of America mortgages by 1998, but did not, and the families who did receive loans up to thirteen years after the deadline; and

WHEREAS, on April 18, 2018, Governor David Ige invited Catherine P. Bessant to return to Hawaii for a meeting with NPK/HFLC "to reach a fair and final settlement of BofA's outstanding \$150 million commitment to the Hawaiian people on their homelands"; and

WHEREAS, on July 16, 2018, Governor David Ige filed an FOIA request with the Board of Governors of the Federal Reserve System, seeking access to all records relating to BofA's commitment to provide \$30 million in below market financing to low-income families residing in the County of Kauai by 1996 and BofA's commitment to provide \$150 million in FHA-247 mortgage loans by 1998; and



RESOLUTION

WHEREAS, on January 22, 2019, after months of delays, the Board of Governors of the Federal Reserve System granted Governor David Ige's FOIA request in part by providing 690 pages of documents, and denied the request in part by withholding numerous records, including records regarding BofA's acquisition of LaSalle Bank, which relate to BofA's \$150 million FHA-247 commitment to native Hawaiians; and

WHEREAS, on April 22, 2019, Governor David Ige appealed the Federal Reserve Board's denial and requested the release of the withheld records; and

WHEREAS, on November 2, 2018, the Council of the County of Maui adopted Resolution 18-178, entitled "SUPPORTING THE GOVERNOR'S EFFORTS TO INTERVENE BETWEEN NA POE KOKUA, THE HAWAII FAIR LENDING COALITION, AND THE BANK OF AMERICA TO REACH A SETTLEMENT AGREEMENT RELATING TO A \$150 MILLION LOAN COMMITMENT FOR NATIVE HAWAIIANS ON HAWAIIAN HOME LANDS"; and

WHEREAS, on April 4, 2019, the Hawaii State Senate adopted Senate Concurrent Resolution 45, Senate Draft 1, entitled "SUPPORTING THE GOVERNOR'S EFFORTS IN INVESTIGATING AND URGING THE BANK OF AMERICA TO RETURN TO HAWAII TO MEET WITH NA POE KOKUA AND THE HAWAII FAIR LENDING COALITION REGARDING A \$150,000,000 LOAN COMMITMENT FOR NATIVE HAWAIIANS ON HAWAIIAN HOMELANDS"; and

WHEREAS, on April 10, 2019, the Council of the County of Kauai adopted Resolution 2019-31, entitled "SUPPORTING THE GOVERNOR'S EFFORTS IN URGING THE BANK OF AMERICA TO RETURN TO HAWAII TO MEET WITH NA POE KOKUA AND THE HAWAII FAIR LENDING COALITION TO REACH A SETTLEMENT AGREEMENT RELATING TO A \$150,000,000 LOAN COMMITMENT FOR NATIVE HAWAIIANS ON HAWAIIAN HOME LANDS"; and

WHEREAS, on July 9, 2019, the Council of the County of Hawaii adopted Resolution 209-19, entitled "A RESOLUTION SUPPORTING THE EFFORTS OF GOVERNOR DAVID Y. IGE TO URGE THE BANK OF AMERICA TO RETURN TO HAWAII TO MEET WITH NA POE KOKUA AND THE HAWAII FAIR LENDING COALITION REGARDING A \$150,000,000 LOAN COMMITMENT FOR NATIVE HAWAIIANS ON HAWAIIAN HOMELANDS"; now, therefore,



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

No. 19-196, FD1

RESOLUTION

BE IT RESOLVED by the Council of the City and County of Honolulu that it does hereby support the Governor's efforts to intervene between Na Poe Kokua, the Hawaii Fair Lending Coalition, and the Bank of America to reach a settlement agreement relating to a \$150 million loan commitment for native Hawaiians on Hawaiian Home Lands, now twenty years overdue; and

BE IT FURTHER RESOLVED that it urges Catherine P. Bessant to return to Hawaii to meet with NPK/HFLC to reach a fair and final settlement, as invited by Governor David Ige; and

BE IT FURTHER RESOLVED that in addition to providing the mortgages on Hawaiian Home Lands as ordered by the Federal Reserve Board, BofA must address the estimated \$360.6 million in lost opportunity costs for native Hawaiians on Hawaiian Home Lands and a \$4.5 million late fee for failing to fulfill its required commitment; and



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

No. 19-196, FD1

RESOLUTION

BE IT FINALLY RESOLVED that copies of this resolution be transmitted to Brian T. Moynihan, Chief Executive Officer, Bank of America; Anne M. Finucane, Vice Chairman, Bank of America; Catherine P. Bessant, Chief Operations and Technology Officer, Bank of America; Jerome H. Powell, Chairman, Board of Governors, Federal Reserve Board; Michelle W. Bowman, Chair of the Committee on Consumer and Community Affairs, Board of Governors, Federal Reserve Board; the Honorable David Ige, Governor of the State of Hawaii; the Honorable Brian Schatz, United States Senator; the Honorable Mazie Hirono, United States Senator; the Honorable Kirk Caldwell, Mayor, City and County of Honolulu; the Honorable Kelly T. King, Chair, Maui County Council; the Honorable Arryl Kaneshiro, Chair, Kauai County Council; the Honorable Aaron Chung, Chair, Hawaii County Council; and Kehaulani Filimoeatu, Na Poe Kokua/Hawaii Fair Lending Coalition.

INTRODUCED BY:

Ikaika Anderson

DATE OF INTRODUCTION:

August 14, 2019
Honolulu, Hawaii

Councilmembers

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
C E R T I F I C A T E

RESOLUTION 19-196, FD1

Introduced: 08/14/19 By: IKAIKA ANDERSON

Committee: EXECUTIVE MATTERS
AND LEGAL AFFAIRS

Title: RESOLUTION SUPPORTING THE GOVERNOR'S EFFORTS TO INTERVENE BETWEEN NA POE KOKUA, THE HAWAII FAIR LENDING COALITION, AND THE BANK OF AMERICA TO REACH A SETTLEMENT AGREEMENT RELATING TO A \$150 MILLION LOAN COMMITMENT FOR NATIVE HAWAIIANS ON HAWAIIAN HOME LANDS.

Voting Legend: * = Aye w/Reservations

08/20/19	EXECUTIVE MATTERS AND LEGAL AFFAIRS	CR-258 – RESOLUTION REPORTED OUT OF COMMITTEE FOR ADOPTION. 8 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MENOR, TSUNEYOSHI, WATERS. 1 EXCUSED: PINE.
09/04/19	COUNCIL	RESOLUTION AMENDED TO FD1. 9 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MENOR, PINE, TSUNEYOSHI, WATERS. CR-258 AND RESOLUTION 19-196, FD1 WERE ADOPTED. 9 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MENOR, PINE, TSUNEYOSHI, WATERS.

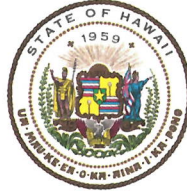
I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this RESOLUTION.



GLEN I. TANAHASHI, CITY CLERK



IKAIKA ANDERSON, CHAIR AND PRESIDING OFFICER



The Senate

STATE CAPITOL
HONOLULU, HAWAII 96813

March 20, 2019

TO: Cathy Bessant, Chief Operations and Technology Officer
Bank of America,
100 North Tryon Street
Charlotte, NC 28255

FROM: Hawaii State Legislature's Native Hawaiian Caucus
Hawaii State Legislature's Committee Chairs on Hawaiian Affairs

CC: The Honorable Governor David Ige, State of Hawai'i

RE: *Summoning Ms. Bessant to come before the Legislative Hawaiian Caucus to address the request by Governor David Ige that she meet with Nā Po'e Kōkua and the Hawaii Fair Lending Coalition to reach a fair and final settlement of the outstanding \$150 million Hawaiian Homes FHA-247 commitment*

Aloha Ms. Bessant:

The Hawai'i State Legislature's Native Hawaiian Caucus and chairs of the Hawaiian Affairs committees are requesting your presence at the March 28, 2019 hearing before the Senate Hawaiian Affairs Committee for a hearing on SCR 45 (see attachment) to address multiple requests from leaders in Hawaii, including Governor David Ige, that you meet with Nā Po'e Kōkua (NPK) and the Hawaii Fair Lending Coalition (HFLC) to reach a fair and final settlement of the outstanding \$150 million Hawaiian Homes FHA-247 commitment.

We understand that you have not responded directly to Governor Ige's 2018 invitation to return to Hawaii to meet with Nā Po'e Kōkua and the Hawaii Fair Lending Coalition in order to reach a fair and final settlement of Bank of America's unfulfilled \$150 million Hawaiian Homes FHA-247 commitment. As of this date, the only response to the Governor's invitation that we are aware of is perfunctory communication from Bank of America's senior state government lobbyist for the Western states.

We further understand that in addition to Governor David Ige, members of the Hawaii State Legislature, including Senators and Representatives, members of the current and previous Maui County Council, a trustee of the Office of Hawaiian Affairs, Maui Mayor Michael P. Victorino, teachers, pastors, other community members, and nonprofit organizations have written letters to you and Bank of America CEO, Brian Moynihan, supporting the Governor's request, and urging Bank of America to fulfill this \$150 million commitment as ordered by the Federal Reserve, as well as pay for lost opportunity costs incurred by local Hawaiian families.

As far as we are aware, none of these local leaders received any response from you or Brian Moynihan. However, three of these leaders received a written response from Andrew Plepler — Global Head of ESG at Bank of America.

Mr. Plepler claimed in his response that Bank of America had “recently spent considerable time reviewing once again the history and records related to our community development lending and investments. As part of this recent review, we have examined reports and spreadsheets documenting our progress. We have also reviewed records and correspondence dating back to 1998, including correspondence with the Hawaiian Homes Commission and the Department of Hawaiian Home Lands.”

Mr. Plepler also offered “further detail on the findings from the review we conducted or on our activities.” However, when he was asked to provide copies of the reports and spreadsheets that he referred to in his letter, Mr. Plepler ceased communication.

**According to the HUD data,
Bank of America originated
the following FHA-247 mortgages
from 1999 through June 30, 2018:**

Year	No. of FHA-247	Total Amount
1999	38	\$3,927,634
2000	16	\$1,825,509
2001	2	\$244,758
2002	0	0
2003	0	0
2004	0	0
2005	0	0
2006	0	0
2007	0	0
2008	0	0
2009	3	\$369,678
2010	10	\$1,471,423
2011	11	\$2,143,810
2012	0	0
2013	0	0
2014	0	0
2015	0	0
2016	0	0
2017	0	0
2018	0	0

We believe that the determination that Bank of America has failed to fulfill its Hawaiian commitment is straightforward. SCR 45 and SR 32 state that as a condition of Bank of America's acquisition of Liberty Bank, the Federal Reserve System and Office of Thrift Supervision ordered Bank of America to make \$150,000,000 in Federal Housing Administration section 247 (FHA-247) mortgages available on Hawaiian homelands by 1998.

According to data provided by the U.S. Department of Housing and Urban Development (HUD) in response to a FOIA (#18-FI-HQ-01920), Bank of America achieved only a tiny fraction of the \$150 million in FHA 247 residential loans that it committed to the OTS and the FRB that it would make by 1998. In fact, in the first two years of the commitment (1994 & 1995), Bank of America did not originate a single FHA-247 mortgage, and by the 1998 deadline, it had only achieved two percent of its FHA-247 commitment with 26 mortgages for a total amount of \$3,109,502.

From the data provided by HUD, we are able to conclude that Bank of America originated 106 FHA-247 residential mortgage loans since 1994 for a total amount of \$13,092,314. This is less than nine percent of what was required by the OTS and FRB and, importantly, only 26 of these loans were made within the required four-year timeframe.

Per SCR 45 and SR 32, we urge you to return to Hawaii to appear before the Senate Committee on Hawaiian Affairs on March 28, 2019 at 1:15pm and request that you use your time in Hawaii following the hearing to meet with NPK/HFLC to reach a fair and final settlement, as invited by Governor Ige.

Please note that pursuant to Senate Rule 25, whenever any matter shall be referred to a committee it shall be the duty of the committee to make diligent inquiry into all of the facts and circumstances connected with the matter. If necessary, witnesses shall be summoned or subpoenaed, and everything shall be done to bring all facts pertaining to the matter before the Senate in accordance with the provisions of Chapter 21 of the Hawai'i Revised Statutes.

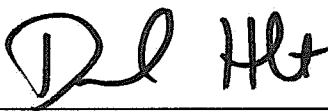
We look forward to your prompt response. Given the extraordinary lack of affordability of the housing and rental markets in Hawaii, the cost of Bank of America's unfulfilled commitment to Hawaiian families has been extremely high and continues to grow.



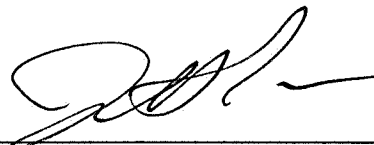
Representative Ryan I. Yamane
Chair, House Committee on
Water, Land, and Hawaiian Affairs



Senator Maile S.L. Shimabukuro
Chair, Senate Committee on Hawaiian Affairs



Representative Daniel Holt
Co-Chair, Hawai'i State Legislature's
Legislative Native Hawaiian Caucus



Senator Jarrett Keohokalole
Co-Chair, Hawai'i State Legislature's
Legislative Native Hawaiian Caucus

ATTACHMENTS

(a) Senate Committee on Hawaiian Affairs
Hearing Notice for 3/28/2019

(b) SCR 45

Requesting Bank of America
to Re-Enter into Discussions
With Hawaiian Stakeholders

Ka ‘Aha Kenekoa
THE SENATE

Ka ‘Aha Kenekoa
THE THIRTIETH LEGISLATURE

‘Aha Kau Kānāwai 2019
REGULAR SESSION OF 2019

Ke Kōmike Kuleana Hawai‘i
COMMITTEE ON HAWAIIAN AFFAIRS
Kenekoa/Senator Maile S.L. Shimabukuro, Luna Ho‘omaluku/Chair
Kenekoa/Senator Kaiali‘i Kahele, Hope Luna Ho‘omaluku/Vice Chair

‘Ōlelo Ho‘olaha No Ka ‘Aha Ho‘olaha
NOTICE OF HEARING

Lā / DATE:	Pō‘ahā, Malaki 28, 2019 /Thursday, March 28, 2019
Hola / TIME:	1:15PM
Wahi / PLACE:	Lumi ‘Aha Kūkā 016 / Conference Room 016 Ke Kapikala Moku‘āina / State Capitol 415 South Beretania Street

A G E N D A

SCR 45 / SR 32

Status &
Testimony / Status &
Testimony

SUPPORTING THE GOVERNOR'S EFFORTS IN URGING
THE BANK OF AMERICA TO RETURN TO HAWAII TO MEET
WITH NA PO'E KOKUA AND THE HAWAII FAIR LENDING
COALITION TO REACH A SETTLEMENT AGREEMENT
RELATING TO A \$150,000,000 LOAN COMMITMENT FOR
NATIVE HAWAIIANS ON HAWAIIAN HOME LANDS.

HWN

**Inā lawa ka manawa, e ho‘oholo mana‘o ma hope pono.
Decision Making to follow, if time permits.**

E waiho mai i kōu ‘ōlelo hō‘ike no ke Kōmike Kuleana Hawai‘i ma o ke kaomi ‘ana ma ‘ane‘i.
Click [here](#) to submit testimony to the Senate Committee on Hawaiian Affairs.

Hiki ke waiho mai i ka ‘ōlelo hō‘ike a hiki i 24 hola ma mua o ka ho‘omaka ‘ana o ka ‘aha ho‘olaha.
Testimony may be submitted up to 24 hours prior to the start of the hearing.

**Inā makemake e waiho i ‘ōlelo hō‘ike ha‘i waha, he ‘elua minuke wale nō ka lō‘ihi loa.
Those wishing to provide oral testimony will be limited to two minutes.**

No Nā Papa ‘Ōlelo Ho‘olaha I Ho‘ololi ‘Ia: Kahawaena ‘ia nā pila i kāpae ‘ia a kahalo ‘ia nā pila i pāku‘i ‘ia.
Kahawaena ‘ia me ke kahalo pū ‘ia nā pila i kāpae ‘ia mai ka papa kumumana‘o.

FOR AMENDED NOTICES: Measures that have been deleted are stricken through and measures that have been added are underscored. If a measure is both underscored and stricken through, that measure has been deleted from the agenda.

No nā mea pono kōkua unuhi, a i 'ole kekahi mau mea lawelawe 'ē a'e no ke komo 'ana i nā hanana ma ka 'aha ho'olohe, e kāhea aku i ke kākau 'ōlelo kōmike he 24 hola ma ka li'ili'i loa ma mua o ka 'aha ho'olohe i mea e hiki ai ke ho'omākaukau pono.

If you require auxiliary aids or services to participate in the public hearing process (i.e. ASL or foreign language interpreter, or wheelchair accessibility), please contact the committee clerk at least 24 hours prior to the hearing so that arrangements can be made.

No Ka 'Ike 'Ē A'e, E Kelepona Aku I Ke Kākau 'Ōlelo Kōmike Ma (808) 586-7793.

FOR FURTHER INFORMATION, PLEASE CALL THE COMMITTEE CLERK AT (808) 586-7793.

Senator Maile S.L. Shimabukuro
Chair

MAR 7 - 2019

SENATE CONCURRENT RESOLUTION

SUPPORTING THE GOVERNOR'S EFFORTS IN URGING THE BANK OF AMERICA
TO RETURN TO HAWAII TO MEET WITH NA PO'E KŌKUA AND THE
HAWAII FAIR LENDING COALITION TO REACH A SETTLEMENT
AGREEMENT RELATING TO A \$150,000,000 LOAN COMMITMENT FOR
NATIVE HAWAIIANS ON HAWAIIAN HOME LANDS.

1 WHEREAS, in 1993, Na Po'e Kōkua, an organization established
2 to assist native Hawaiians with housing and related matters,
3 formed the Hawaii Fair Lending Coalition (HFLC) and began
4 researching how banks in Hawaii were treating native Hawaiians;
5 and
6

7 WHEREAS, among its findings, HFLC discovered that Bank of
8 America was conducting discriminatory lending practices in the
9 form of redlining, the practice of denying services to residents
10 of certain areas based on the racial or ethnic composition of
11 those areas, by not providing mortgages on Hawaiian homelands;
12 and
13

14 WHEREAS, in May 1994, as a result of HFLC's efforts and as
15 a condition of Bank of America's acquisition of Liberty Bank,
16 the Federal Reserve System and Office of Thrift Supervision
17 ordered Bank of America to make \$150,000,000 in Federal Housing
18 Administration section 247 (FHA-247) mortgages available on
19 Hawaiian homelands by 1998; and
20

21 WHEREAS, by the 1998 deadline, Bank of America provided
22 only \$3,109,502 of the \$150,000,000 in FHA-247 mortgages ordered
23 by the Federal Reserve System; and
24

25 WHEREAS, in 1998, Bank of America recommitted to meet the
26 \$150,000,000 loan commitment to native Hawaiians and to pay a
27 \$4,500,000 late fee based on the opportunity cost of its failure
28 to fulfill its required commitment; and
29



1 WHEREAS, the Bank of America executive responsible for this
2 recommitment was Catherine P. Bessant, then in charge of
3 Community Development, who traveled to Hawaii with other senior
4 bank executives in August 1998 to meet with Governor Cayetano,
5 Hawaiian kupuna, and other community leaders from the HFLC at
6 Iolani Palace; and

7
8 WHEREAS, in 2012, the Hawaiian Homes Commission unanimously
9 confirmed that the Bank of America commitment remained
10 unfulfilled and expressed support for HFLC's consistent and
11 ongoing efforts to hold Bank of America accountable; and

12
13 WHEREAS, on April 18, 2018, Governor Ige invited Catherine
14 P. Bessant, now Chief Operations and Technology Officer of Bank
15 of America, to return to Hawaii to meet with Na Po'e Kōkua and
16 HFLC to reach a fair and final settlement of Bank of America's
17 outstanding \$150,000,000 loan commitment to the Hawaiian people
18 on their homelands; and

19
20 WHEREAS, Bank of America originated \$13,092,314 in loans on
21 Hawaiian homelands from 1994 to 2012, and has made no FHA-247
22 loans since then, according to account information provided by
23 the United States Department of Housing and Urban Development
24 (HUD) on August 20, 2018, in response to a Freedom of
25 Information Act request; and

26
27 WHEREAS, based upon HUD data, preliminary estimates for
28 Bank of America's late fees are approximately \$360,600,000 for
29 lost opportunities for building equity, reaping the benefits of
30 a booming housing market, and paying affordable mortgages rather
31 than skyrocketing rents over the last twenty years for 890
32 native Hawaiian families who should have received Bank of
33 America mortgages by 1998, but did not, and the families who did
34 receive loans up to thirteen years after the deadline; now,
35 therefore,

36
37 BE IT RESOLVED by the Senate of the Thirtieth Legislature
38 of the State of Hawaii, Regular Session of 2019, the House of
39 Representatives concurring, that this body supports the
40 Governor's efforts in urging Bank of America to return to Hawaii
41 to meet with Na Po'e Kōkua and the Hawaii Fair Lending Coalition
42 to reach a settlement agreement relating to Bank of America's



1 outstanding \$150,000,000 loan commitment to native Hawaiians on
 2 Hawaiian homelands, now twenty years overdue; and

3
 4 BE IT FURTHER RESOLVED that the Chief Operations and
 5 Technology Officer of Bank of America is urged to return to
 6 Hawaii to meet with HFLC to reach a fair and final settlement,
 7 as invited by Governor Ige; and

8
 9 BE IT FURTHER RESOLVED that in addition to providing the
 10 mortgages on Hawaiian homelands as ordered by the Federal
 11 Reserve System, Bank of America is requested to address the
 12 estimated \$360,600,000 in opportunity costs for native Hawaiians
 13 on Hawaiian homelands and a \$4,500,000 late fee for failing to
 14 fulfill its required commitment; and

15
 16 BE IT FURTHER RESOLVED that certified copies of this
 17 Concurrent Resolution be transmitted to the Chairman of the
 18 Board of Governors of the Federal Reserve System; Hawaii's
 19 Congressional delegation; Governor; Chairpersons of the County
 20 Councils of the County of Kauai, County of Hawaii, County of
 21 Maui, and City and County of Honolulu; President of Na Po'e
 22 Kōkua; Chief Executive Officer of Bank of America; and Chief
 23 Operations and Technology Officer of Bank of America.

24
 25
 26 OFFERED BY:

