



## Washington State Department of Financial Institutions

P.O. Box 41200 Olympia, WA 98504-1200

1.877.RING.DFI • [www.dfi.wa.gov](http://www.dfi.wa.gov)

Wednesday, April 13, 2011

Dear Editor,

Your April 1, 2011 article “Do we still need the state banking regulator?” contained several significant factual errors and omissions and left readers with an incomplete and inaccurate picture of the important historic and continuing contribution of state banking to our economy under our nation’s “dual charter” banking system. Currently, state financial regulators around the nation supervise, in cooperation with the Federal Deposit Insurance Corporation and Federal Reserve, more than 5,600 state chartered insured depositories. Our Washington State chartered community banks hold approximately \$47 Billion in assets. The Washington State Department of Financial Institutions (DFI), in addition to regulating state chartered banks and credit unions, also regulates a variety of non-bank financial services providers, including mortgage lenders and payday lenders, as well as our state’s securities industry.

The article begins by referring to “numerous empty desks,” suggesting no one is around to do the work. We have few empty work stations at the main office location and the first and third floors have absolutely no empty space. Besides, the examination staff of the Division of Banks (DOB) is housed in a Seattle location, not in Tumwater. I might add that desks in a regulatory agency are regularly empty on any given day when examiners are conducting on-site financial examinations. It is true DFI is recruiting in a difficult, competitive compensation environment for a new Director for our DOB and for a program manager in our Consumer Services Division who left for a position with the new federal Consumer Financial Protection Bureau. However, the agency currently has a position vacancy rate of only 5%. The DOB, in particular, remains well staffed with highly educated, very talented and motivated examiners to handle its examination responsibilities. We do not understand the basis for the statement that “regulation has been weakened.” If anything, the experience gained by our examiners during these difficult times has strengthened the agency’s ability to address challenges.

The article also states that the Legislature is sweeping some 16% of the DFI’s budget to help close the state budget deficit. That is simply not true. The \$7 Million the article refers to is primarily comprised of monies collected by our Securities and Consumer Services Divisions as one-time fines from settlement of the national auction rate securities cases and other abusive financial and predatory lending cases. As a non-general fund agency supported by fees and assessments upon the industries DFI regulates, our core budget as submitted by the Governor remains intact.

Managing the lending and investment related complaint and examination workloads, along with the additional responsibilities given DFI by recent financial reform legislation (Dodd-Frank) for lending operating subsidiaries of national banks and for securities investment advisors between \$25 million and \$100 million with no significant staffing increases, does present challenges. To address our increased responsibility, we have and are putting systems in place allowing us to focus existing resources on the areas of

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greatest risk. And, while federal agencies like the Securities and Exchange Commission may have the necessary jurisdiction, they lack the resources to take on additional responsibilities. This regulatory weakness prompted Dodd-Frank to give increased responsibilities to the states, who are often first to receive investor complaints, allowing state investigators to identify and stop emerging frauds, prevent harm to other investors, recover stolen funds, and penalize the scam artists.

The suggestion that there was a lack of communication between DFI and the State Treasurer's Office (TRE) prior to the sudden closure of the Bank of Clark County (BOCC), in which some \$15 million in uninsured public deposits were nonetheless recovered by assessments on other participating banks in the Public Deposit Protection Program, ignores the facts. First, it is worth noting that the BOCC closure differs significantly from other, subsequent bank closures. It has been well documented that bank employees fraudulently represented the bank's financial condition. A source within the bank alerted DFI to the fraudulent activity and regulatory enforcement measures were implemented. The attention brought to the bank hastened a run on the bank and our state's one and only liquidity failure soon followed. The individual primarily responsible for the fraudulent activity pled guilty to a felony and was sentenced to prison.

The BOCC was closed on January 15, 2009. Months before the bank's closure I requested a meeting in 2008 with then State Treasurer Murphy and his staff to establish regular communication between our staff and the staff at TRE responsible for overseeing the state's Public Deposit Protection Commission (PDPC) and tracking public deposits (your article suggests DFI tracks those deposits, which is not the case). Prior to the 2009 legislative session, the PDPC statute did not provide for maintaining the confidentiality of bank examination financial data. Thus, we were by federal law and state law prevented from fully sharing critical financial examination information with TRE until the confidentiality issue could be addressed by the 2009 Legislature. There was also great need to expand the authority and flexibility of the State Treasurer, as Chair of the PDPC, to address emerging crises. Absent that expanded authority and flexibility, management of public deposit collateralization remained a challenge in several federal and state-chartered institutions that had not yet fully collateralized their public deposits.

Contrary to your article, Treasurer McIntire was sworn into office three days before the BOCC failure, not after it. The very afternoon of his swearing in as our State Treasurer, we were in his office informing him (as best we were then permitted) of what was expected to happen at week's end. We also immediately began a joint effort to modernize the PDPC statute to allow for the timely sharing of critical information. That legislation was quickly passed by the Legislature and became Chapter 9, Laws of 2009.

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As soon as the Governor signed the measure (which took effect immediately) we entered into a formal working agreement with the TRE and established a schedule that calls for regular joint TRE-DFI meetings. Not a dime of public deposit money has been uninsured in any subsequent bank closure.

I must also comment on the suggestion that many state banks will convert to national bank charters and that cost of regulation might be a contributing factor. The Division has raised fees once (5.53% - in 2008 – though not to “keep the lights on” but to reflect impacts from inflation) in the last eight years. This compares very favorably to annual assessment increases by the Office of the Comptroller of the Currency (OCC) and Office of Thrift Supervision (OTS) during that time period. The increase is also far less than the rate of inflation experienced over the last eight years, suggesting the Division operates in a fiscally responsible manner. The Division does not contemplate raising fees in Fiscal Year 2012.

Washington State bank regulatory costs are significantly lower than those charged by our federal counterparts. The Division’s revenues (hourly examination fees and asset assessments) in Fiscal Year 2010 from state chartered banks were \$4.6 million. If all of our state chartered banks were OCC chartered institutions, for example, their asset assessments would have been \$10.3 million in calendar year 2010. That OCC amount is significantly understated because it assumes all of the banks are satisfactory rated. Unlike DFI, both the OCC and OTS charge banks surcharges 50% and 100% higher than normal assessments if the bank’s examination rating falls to less than satisfactory. The OCC and OTS also have miscellaneous filing fees and charges for services rendered that exceed comparable charges of the DOB.

These past several years have seen the failure of several hundred banks around the nation. For some historical perspective, about 9,000 banks failed during the Great Depression and almost 3,000 during the S&L crisis. Since the inception of the present crisis in the fall of 2007, approximately 300 federal and state chartered banks have failed. The assets of those failed banks ended up in healthy acquiring institutions. On a number of occasions the assets of failed Washington State banks have ended up with state chartered banks from other states or with nationally chartered banks. Similarly, Washington State banks have acquired the assets of failed Washington State and out-of-state chartered banks and those assets remain under DFI’s purview.

Bank charter shifts are not an indicator of weakness, but rather a reflection of the strength and flexibility of a dual chartering system. And, contrary to the suggestion in the story, banks don’t often change charters. Historically the state charter has been the charter of choice for banks headquartered in the State of Washington. There are numerous reasons why a state charter is attractive to our local banks and we expect it will continue to be the charter of choice for Washington State community banks in the future.

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In that regard I strongly urge you to speak with Washington State chartered banks familiar with our performance, rather than an Oregon institution new to our state which does not interact with us. I might add that, contrary to your story, Sterling did not switch from a national charter to a state charter in 2005. Rather, Sterling switched from a Washington State chartered savings and loan to a Washington State chartered commercial bank.

Finally, while bank charter changes may or may not occur, we are confident there will be no "exodus" from the Washington State bank charter and that quite a few of the 670 federal thrifts presently chartered by the soon-to-disappear OTS will find new homes under a state charter. As the economy improves we can expect to see entrepreneurs looking to the state bank charter as the vehicle to create and grow new local community banks.

Sincerely,

Scott Jarvis, Director  
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