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**PRESENTATION OF THE
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

TO THE HOUSE COMMITTEE ON
FINANCE

THE TWENTY-NINTH LEGISLATURE
REGULAR SESSION OF 2017

FRIDAY, MARCH 31, 2017
2:00 p.m.

**TESTIMONY ON S.B. NO. 951, S.D. 2, H.D. 1
RELATING TO MORTGAGE LOAN ORIGINATION**

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

My name is Iris Ikeda, Commissioner of Financial Institutions ("Commissioner") of the Division of Financial Institutions ("DFI"), testifying on behalf of the Department of Commerce and Consumer Affairs, in strong support of this administration bill, S.B. No. 951, S.D. 2, H.D. 1, Relating to Mortgage Loan Origination. DFI respectfully requests the Committee to consider two technical amendments as mentioned at the end of this testimony.

This is predominantly a housekeeping measure to provide appropriate supervision of the mortgage loan origination ("MLO") industry required by federal law.

Chapter 454F, Hawaii Revised Statutes ("HRS"), governing mortgage loan origination, will be made clearer and more effective, improving compliance within the industry, regulatory oversight, and the Commissioner's ability to enforce the chapter. Consumer protection will be enhanced.

The bill clarifies and refines a number of provisions, including:

- Persons who are presumed to control a mortgage loan originator company ("MLOC") pursuant to Section 454F-1.6, HRS. Executive officers are added to those presumed to control an MLOC. A definition of "executive officer" is added to Section 454F-1, HRS.
- Procedures for change of control of a licensee, pursuant to Section 454F-10.7, HRS. Persons who obtain control of the licensee upon approval of the change of control application are required to be in compliance with Chapter 454F, HRS.
- Persons who must disclose their relevant criminal history and criminal history background checks, upon application for licensure and change of control of the licensee, pursuant to Section 454F-18, HRS.
- Criminal background check fees required of applicants, pursuant to Section 454F-22, HRS. Fees for criminal background checks are collected for the government agency that conducts the background check, and are not retained by DFI. The fee reference is changed from a fixed fee amount or one set by rule, to payment of the applicable fee charged by the entities conducting the criminal history background check. Please note the clarification was suggested to make it clear that while the fee is collected by DFI, it is paid to the entity that conducts the criminal history background check.
- Conditions under which an employee performing MLO activities for a nonprofit is exempt from registration and licensure as a mortgage loan originator pursuant to Section 454F-25, HRS.

The bill also adds measures to protect consumers in their MLO transactions with exempt sponsoring MLOCs, and nonprofit organizations performing MLO activity. It

amends Sections 454F-1.7 and 454F-10.5, HRS, to require an exempt sponsoring MLOC to have a principal place of business in the State, and a qualified individual to fulfill the duties and responsibilities set out in Chapter 454F, HRS, requirements that already must be followed by MLOCs. Finally, it requires a nonprofit organization to designate an employee to directly manage and supervise the nonprofit's MLO activity as specified in Section 454F-25, HRS.

This bill will make Chapter 454F, HRS, clearer and more effective, improve compliance within the industry, enhance DFI's regulatory oversight and enforcement of the chapter, and elevate consumer protection.

DFI strongly supports this administration bill, S.B. No. 951, S.D. 2, H.D. 1, and respectfully requests that it be passed with these two technical amendments:

1. Page 13, line 18, remove an extra space to change "454F-4(d) (1)" to "454F-4(d)(1)"; and
2. Page 27, line 18, change the effective date from "July 1, 2090" to "September 1, 2017".

Thank you for this opportunity to provide comments on S.B. No. 951, S.D. 2, H.D. 1. I would be pleased to respond to any questions that you may have.