



DAVID Y. IGE
GOVERNOR

JOSH GREEN
LT. GOVERNOR

**STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

335 MERCHANT STREET, ROOM 310
P.O. BOX 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
cca.hawaii.gov

CATHERINE P. AWAKUNI COLÓN
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

Testimony of the Department of Commerce and Consumer Affairs

**Before the
House Committee on Intrastate Commerce
Tuesday, February 4, 2020
9:30 a.m.
State Capitol, Conference Room 430**

**On the following measure:
H.B. 2323, RELATING TO THE MORTGAGE LOAN RECOVERY FUND**

Chair Ohno and Members of the Committee:

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

The purpose of this bill is to expand the pool of persons eligible to receive funds in the form of restitution from the Mortgage Loan Recovery Fund.

This bill amends Hawaii Revised Statutes section 454F-41(a) to: (1) provide that a person aggrieved by licensee conduct involving fraud, misrepresentation, or deceit in violation of chapter 454F may recover from the fund through either an order or a final judgment of the court of the county where the violation occurred; and (2) include persons the Commissioner of Financial Institutions determines is eligible to receive restitution based on the Division of Financial Institutions' examination or investigation of the licensee.

Currently, aggrieved persons must obtain a judgment against the licensee and then obtain an order from the court for payment from the fund. This bill gives the Commissioner discretion to provide payment based upon the entry of the judgment, without a post-judgment order. The Department believes that simplification of the compensation process will save the aggrieved consumer time and money and result in a faster restitution.

In addition, at the present time, the Commissioner orders a licensee to make restitution payments to consumers when it finds a regulatory calculation error. The licensee then pays restitution to the consumer directly. This bill would authorize the Division to pay restitution of up to \$25,000 to the affected consumer from the fund, rather than require the consumer to receive payment from the licensee. The Commissioner notes that consumers are not cashing their restitution checks primarily for two reasons: (1) receipt of the check is unexpected, and the consumer likely has not heard from the licensee for a number of years; or (2) the consumer believes the check is fraudulent or part of a scam.

Consumers are entitled to this restitution and will be more likely to deposit their restitution checks if the checks originate from the State and are accompanied by an explanation letter.

Thank you for the opportunity to testify, and we respectfully ask the Committee to pass this administration bill.

LATE



HAMB
PO Box 1074
Honolulu, HI 96808
February 2, 2020

To: The Honorable Takashi Ohno, Chair
The Honorable, Dale T. Kobayashi, Vice Chair
Members of the Committee on Interstate Commerce

**Hearing Tuesday February 4, 2020 9:30 am
Room 430**

Testimony In Support of HB2323

I am Bobby Chow, the President of the Hawaii Association of Mortgage Professionals (HAMB). We are a trade association representing the residential mortgage industry and are regulated by the Department of Financial Institutions (DFI) under the DCCA in Hawaii.

We support HB2323. It expands the pool of persons who are eligible for potential restitution from the funds placed in the Mortgage Loan Recovery Fund (MLRF). We believe it represents reasonable use of the MLRF.

Currently a restitution payment to an aggrieved person from the MLRF is restricted to court orders or final judgements in situations where a violation has occurred. Recognizing that there are other persons with potentially valid financial loss due to violations, this bill would cover them. Any payouts from the expanded coverage would require the DFI to find that a violation and personal financial loss has occurred and the Commissioner's decision to order the restitution.

Cordially,

Bobby Chow
President