

STAND. COM. REP. NO.

465

Honolulu, Hawaii

MAR 03 2011

RE: S.B. No. 1178
S.D. 1

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2011
State of Hawaii

Sir:

Your Committee on Commerce and Consumer Protection, to which was referred S.B. No. 1178 entitled:

"A BILL FOR AN ACT RELATING TO MORTGAGE LENDERS,"

begs leave to report as follows:

The purpose and intent of this measure is to require financial institutions otherwise exempt from regulation as mortgage servicers or from licensing by the Commissioner of Financial Institutions to register with and be subject to the regulatory authority of the Commissioner of Financial Institutions.

Your Committee received testimony in support of the intent of this measure from the Hawaii Bankers Association. Your Committee received testimony in opposition to this measure from the Commissioner of Financial Institutions of the Department of Commerce and Consumer Affairs, Hawaii Financial Services Association, and the Hawaii Credit Union League.

Your Committee finds that the Legislature enacted the Secure and Fair Enforcement for Mortgage Licensing Act, codified as chapter 454F, Hawaii Revised Statutes, and licensure requirements for mortgage servicers, codified as chapter 454M, Hawaii Revised Statutes, in 2009 in response to abusive business practices occurring nationwide within the mortgage loan industry. Your Committee further finds that, despite the best efforts of the Legislature, because of the complex nature of the mortgage lending industry the regulatory measures adopted in 2009 were insufficient



to cover all actors and all abuses within the industry. Therefore, additional legislation is necessary to ensure that the existing regulatory structure is comprehensive.

Your Committee also finds that this measure, as introduced, was an attempt to include currently unregulated entities that perform functions similar to regulated entities within the regulatory jurisdiction of the Commissioner of Financial Institutions. However, your Committee recognizes that the original version of this measure was overly broad and created potential conflicts with federal law.

Accordingly, your Committee has amended this measure by deleting its contents and replacing them with provisions to:

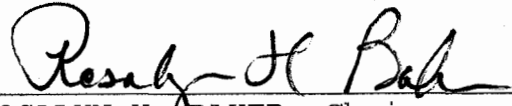
- (1) Clarify that mortgage loan originators licensed pursuant to chapter 454F, Hawaii Revised Statutes, are not required to also hold a license under chapter 454M, Hawaii Revised Statutes, to engage in mortgage loan activities;
- (2) Create new requirements for the voluntary surrender of a license as a mortgage servicer including requirements for advance notice to the Commissioner of Financial Institutions, surrender of the license issued pursuant to chapter 454M, Hawaii Revised Statutes, and reporting of all outstanding obligations;
- (3) Correct erroneous language in one section of chapter 454M, Hawaii Revised Statutes; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

Your Committee finds that this amended measure, while narrower in scope than the original measure, does effectively prohibit at least one especially abusive practice within the mortgage industry, specifically the dissolution of mortgage servicers in a manner that leaves outstanding obligations unfulfilled and that avoids accountability to the regulatory entity. Finally, your Committee notes that this amended measure, recommended by the Commissioner of Financial Institutions, is responsive to the concerns raised by the opponents of its original version.



As affirmed by the record of votes of the members of your Committee on Commerce and Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1178, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1178, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committee on Commerce and
Consumer Protection,




ROSALYN H. BAKER, Chair



The Senate
 Twenty-Sixth Legislature
 State of Hawai'i

Record of Votes
Committee on Commerce and Consumer Protection
CPN

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 1178	CPN	2-23-11		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312				
<input checked="" type="checkbox"/> Pass, with amendments 2311				
<input type="checkbox"/> Hold 2310				
<input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	✓			
TANIGUCHI, Brian T. (VC)	✓			
GALUTERIA, Brickwood	✓			
GREEN, M.D., Josh	✓			
NISHIHARA, Clarence K.	✓			
SOLOMON, Malama	✓			
SLOM, Sam				✓
TOTAL	6	0	0	1
Recommendation:				
<input checked="" type="checkbox"/> Adopted				
<input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
Distribution:				
Original	Yellow	Pink	Goldenrod	
File with Committee Report	Clerk's Office	Drafting Agency	Committee File Copy	

*Only one measure per Record of Votes