
A BILL FOR AN ACT

RELATING TO CONSUMER PROTECTION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 PART I

2 SECTION 1. The legislature finds that members of the
3 military and their dependents are increasingly vulnerable to
4 unscrupulous and predatory lending practices. These practices
5 create a cycle of debt, which detracts from military members'
6 financial well-being and military readiness. The John Warner
7 National Defense Authorization Act for Fiscal Year 2007 (Public
8 Law No. 109-364) contains provisions that place limits on the
9 terms of credit that may be extended to military members and
10 their dependents. This federal act and the regulations that
11 implement it are designed to protect military members and their
12 families from unfair lending practices that are commonly used by
13 issuers of payday loans, vehicle title loans, and tax refund
14 anticipation loans.

15 While federal regulations do not designate an enforcement
16 agency within the federal government, they do not limit states
17 from enforcing the federal law. Therefore, the legislature also
18 finds that assistance from state regulators is essential to



1 enforce the law and protect military service members and
2 dependents from fraud, deception, and abusive practices. The
3 legislature further finds that, in order to enforce the law,
4 state authorities should be authorized to access the Federal
5 Trade Commission's Consumer Sentinel/Military database, part of
6 the Consumer Sentinel Network, which provides a secure database
7 of allegations of fraud, deception, and abusive practices
8 reported by military service members.

9 The purpose of part I is to authorize the director of
10 commerce and consumer affairs to enforce certain federal laws
11 that protect military members and their families from abusive
12 lending practices.

13 SECTION 2. Chapter 481B, Hawaii Revised Statutes, is
14 amended by adding a new section to be appropriately designated
15 and to read as follows:

16 **"§481B- Protection of military; lending practices. (a)**
17 **The director of commerce and consumer affairs may enforce Title**
18 **10 United States Code section 987, section 670 of the John**
19 **Warner National Defense Authorization Act for Fiscal Year 2007,**
20 **Public Law No. 109-364, and federal regulations promulgated**
21 **thereunder, including but not limited to Title 32 Code of**
22 **Federal Regulations Part 232.**



1 In addition, there is growing evidence that many of these
2 pending foreclosures involve abuses and fraud committed by
3 mortgage lenders. On February 15, 2012, *The New York Times*
4 reported that an audit of four hundred recent foreclosures
5 completed by San Francisco County's recording office showed that
6 eighty-four per cent of the files contained what appeared to be
7 clear violations of the law. Two-thirds of these had at least
8 four violations or irregularities. In fact, it was clear that
9 many of the mortgage lenders proceeding with foreclosure actions
10 might not be able to adequately demonstrate their right to
11 collect on the borrower's indebtedness or prove that the
12 mortgagee has legal authority to foreclose on a property.

13 The legislature further notes that while a recent multi-
14 state settlement agreement with the five largest national loan
15 services was intended to address foreclosure misconduct and
16 direct hard dollars to states, including Hawaii, for consumer
17 counseling, public education, mediation services, and the
18 enforcement of laws protecting mortgage consumers, questions
19 have been raised as to whether the settlement provides adequate
20 protections for and relief to Hawaii's consumers. Moreover,
21 this settlement does not cover even half of the mortgage loans
22 in the State.



1 Accordingly, part II creates a mortgage loan purchase
2 program intended to assist consumers who are able to pay a
3 mortgage but are facing imminent foreclosure. The Hawaii
4 housing finance and development corporation (corporation) would
5 purchase the existing loan between a mortgage lender and the
6 occupant of a property, thus enabling the corporation to stand
7 in the shoes of the occupant for purposes of negotiations and
8 other dealings with the mortgage lender. The corporation would
9 enter into a loan agreement with the property occupant.

10 The mortgage lender would be required to respond to
11 requests for proof of legal authority to foreclose on the
12 property, which would be recorded. This procedure would enable
13 the corporation to assess the value of defective loans, enhance
14 transparency regarding the mortgage lending process, and allow
15 for better resolution of previous bad actions by mortgage
16 lenders through the courts.

17 The corporation would extend the full faith and credit of
18 the State to guarantee payment on the existing loan to the
19 mortgage lender. However, because this guarantee will
20 undoubtedly raise the value of the indebtedness of the existing
21 loan, the corporation would be able to further negotiate a lower
22 purchase price with the mortgage lender on the existing loan.



1 In addition, the corporation would be authorized to
2 aggregate the purchase of multiple existing loans with a single
3 mortgage lender, allowing for even lower purchase prices to be
4 negotiated because of economies of scale.

5 The savings on the corporation's purchase price of the loan
6 could then be extended to the property occupant, because the
7 total indebtedness on the loan between the corporation and the
8 property occupant would be less than the existing loan between
9 the mortgage lender and the property occupant.

10 Part II serves multiple purposes. Because the mortgage
11 lender would deal directly with the corporation, a quasi-
12 governmental agency, rather than the average consumer, the
13 corporation would provide greater scrutiny of lender practices
14 in implementing the purchase of the existing loan, thus
15 protecting the interests of the general public.

16 As a requirement under part II, the property occupant must
17 agree to assign a limited power of attorney to the corporation
18 on matters pertaining to the existing loan between the property
19 occupant and the mortgage lender. This assignment will allow
20 the corporation to represent the property occupant during all
21 transactions involving the property while the agreement between
22 the property occupant and the corporation is in effect.



1 Most importantly, the property occupant benefits by being
2 able to continue to occupy the property as long as the property
3 occupant can satisfy a reasonable loan with the corporation.

4 The mortgage lender would also benefit because the past
5 indebtedness or an agreed-upon portion thereof would be
6 guaranteed by the full faith and credit of the State, even in
7 cases in which it is unclear whether the mortgage lender would
8 be able to show clear title and legal standing to collect on the
9 mortgage loan.

10 If the property occupant subsequently defaults, the
11 corporation would take possession of the property. The property
12 can then be land-banked, revitalized, rented, or resold by the
13 corporation, thus eliminating urban blight and deteriorating
14 property values experienced in many communities throughout the
15 United States due to the mortgage lending crisis.

16 Part II would also require program participants to consult
17 with an approved housing counselor or approved budget and credit
18 counselor.

19 The purpose of part II is to create a distressed
20 residential properties program to address the mortgage loan
21 crisis in Hawaii.



1 The legislature finds and declares:

2 (1) Because the mortgage crisis has skewed the land market
3 and placed into question the title to residential real
4 property in the State, the health, welfare, and safety
5 of Hawaii's citizens are jeopardized;

6 (2) Part II of this Act is intended to protect the health,
7 welfare, and safety of Hawaii's citizens by ensuring
8 clear title to residential property, reducing the
9 hardships on families and communities resulting from
10 wrongful or avoidable foreclosures, safeguarding the
11 courts and recording systems from illegal, improper,
12 or fraudulent filings, stabilizing the housing market,
13 and preserving the existing stock of residential
14 housing;

15 (3) The purpose of the exercise of the power of eminent
16 domain under part II of this Act is a public use in
17 accordance with the Fifth Amendment of the United
18 States Constitution, and Article I, section 20 of the
19 Constitution of the State of Hawaii;

20 (4) The exercise of the power of eminent domain under part
21 II of this Act is in accord with the State's authority
22 to take private property for a public use, as asserted



1 in *Hawaii Housing Authority v. Midkiff*, 467 U.S. 229
2 (1984), and reaffirmed in *Kelo v. City of New London*,
3 *Connecticut*, 545 U.S. 469 (2005);

4 (5) Section 101-71, Hawaii Revised Statutes, allows the
5 State to take for public use private personal property
6 used in connection with real property taken so long as
7 just compensation is paid; and

8 (6) A mortgage debt, as evidenced by a promissory note,
9 amendment, rider or any other documentation thereto
10 evidencing the mortgage debt and the mortgagee's legal
11 right to enforce the note under section 490:3-203(b),
12 Hawaii Revised Statutes, and articles 3 and 9 of the
13 Uniform Commercial Code, shall constitute private
14 personal property used in connection with real
15 property.

16 SECTION 4. Chapter 201H, Hawaii Revised Statutes, is
17 amended by adding a new subpart K to read as follows:

18 **"K. DISTRESSED RESIDENTIAL PROPERTIES PROGRAM**

19 **§201H-A Distressed residential properties program special**
20 **fund; revenue bonds.** (a) There is established the distressed
21 residential properties program special fund within the treasury



1 of the State to be administered by the corporation. The
2 following may be deposited into the fund:

- 3 (1) Appropriations made by the legislature;
- 4 (2) Private contributions;
- 5 (3) Repayment of loans;
- 6 (4) Interest;
- 7 (5) Other returns; and
- 8 (6) Money from other sources.

9 The fund shall be used for the necessary expenses in
10 administering programs authorized by this subpart.

11 (b) Notwithstanding any law to the contrary, the fund may
12 be used to purchase, in whole or in part, existing loans of
13 distressed residential properties in accordance with this
14 subpart. The corporation may contract with a mortgage lender to
15 administer the purchase of existing loans. The contract may
16 contain provisions as determined by the corporation to be
17 necessary or appropriate to provide security for its bonds.

18 (c) Notwithstanding any law to the contrary, the
19 corporation may issue revenue bonds in amounts not to exceed
20 \$10,000,000 for the purposes of this part. The revenue bonds
21 shall not constitute indebtedness within the meaning of any
22 constitutional or statutory provision limiting the incurring of



1 indebtedness. Revenue bonds issued under this section and the
2 income derived therefrom shall be exempt from all state and
3 county taxation. Proceeds received from the issuance of any
4 revenue bonds shall be deposited into the distressed residential
5 properties program special fund.

6 (d) At least twenty days prior to the convening of each
7 regular session, the corporation shall report to the legislature
8 on the number of loans purchased and the disposition of the
9 loans by the corporation.

10 **§201H-B Program eligibility.** (a) A mortgagor who has
11 been using the subject property as a primary residence for a
12 continuous period of not less than two hundred days immediately
13 prior to the date when the mortgagor received a letter of
14 default on the mortgage or notice that the mortgagor's
15 application for a mortgage modification under a federally
16 sponsored program has been denied shall be entitled to apply for
17 consideration in the distressed residential properties program.
18 The application shall conform to rules adopted by the
19 corporation and shall include copies of:

20 (1) The three most recent billing statements for the
21 mortgage loan;

22 (2) The mortgage document;



- 1 (3) The letter of default or notice that the mortgagor's
2 application for a mortgage modification under a
3 federally sponsored program has been denied;
- 4 (4) Documentation, pursuant to rules adopted by the
5 corporation in accordance with chapter 91, by the
6 corporation that detail the mortgagor's financial
7 condition, including any copies of pay stubs, W-2
8 forms, social security or disability income,
9 retirement income, child support income, or any other
10 income that the corporation deems relevant to the
11 mortgagor's ability to fulfill the terms of this
12 subpart; and
- 13 (5) Authorization for the corporation to pull credit
14 records and to share, release, discuss, and otherwise
15 provide to and with authorized third parties or their
16 agents, public and non-public personal information
17 contained in or related to the mortgage loan account
18 of the applicant.
- 19 (b) Within sixty days of receiving an application pursuant
20 to subsection (a), the corporation shall review the application
21 and determine whether the property shall be accepted for further
22 evaluation.



1 If the corporation accepts the property for further
2 evaluation within the sixty day review period, the corporation
3 shall conduct an appraisal of the property in accordance with
4 rules adopted pursuant to chapter 91 and notify the mortgagee
5 and its agents on record at the bureau of conveyances, including
6 all affiliates that may be reported pursuant to any affiliate
7 statement recorded pursuant to sections 454M-5(a)(4) and 667-
8 58(a), and any entities purporting to represent the mortgagee,
9 as reflected in the mortgage statements provided in the
10 application. The notice shall describe the program and include
11 details about the program's requirements, as set forth by rules
12 adopted by the corporation in accordance with chapter 91. The
13 corporation shall either file a copy of the notice in the office
14 of the assistant registrar of the land court under chapter 501,
15 or record it in the bureau of conveyances under chapter 502, or
16 both, as appropriate.

17 If the corporation declines to accept the property for
18 further evaluation, the corporation shall provide written
19 notification to the applicant stating the reasons for that
20 determination within the sixty day review period.

21 (c) Within thirty days of receiving notice under
22 subsection (b) accepting the property for further evaluation,



1 the mortgagee shall submit a written response to the
2 corporation. The response shall include:

3 (1) A copy of the promissory note, signed by the
4 mortgagor, including any endorsements, allonges,
5 amendments, or riders to the note evidencing the
6 mortgage debt and the mortgagee's legal right to
7 enforce the note under section 490:3-203(b) and
8 articles 3 and 9 of the Uniform Commercial Code
9 generally;

10 (2) A copy of the mortgage document and any amendments,
11 riders, or other documentation evidencing the
12 mortgagee's right to foreclose and interest in the
13 property, including any interest as a successor,
14 transferee, or assignee; and

15 (3) A certification under penalty of perjury describing
16 the nature of the mortgagee's legal ownership of the
17 mortgage loan that includes:

18 (A) Information about the chain of possession and the
19 transfer between all holders in due course of the
20 mortgage note from the origination of the
21 mortgage loan to the present mortgagee; provided
22 that descriptions of each transaction that



1 effectuated a transfer of the mortgage note shall
2 include:

3 (i) The names of the individuals involved;

4 (ii) The principal employers and the employers'
5 state of incorporation for the individuals
6 involved;

7 (iii) The authority conferred to the individuals;

8 (iv) The dates on which the mortgage note was
9 negotiated; and

10 (v) The manner in which the note was endorsed;

11 (B) Information about the assignment or transfer of
12 each mortgage agreement, including:

13 (i) The entities assigned the rights to enforce
14 the mortgage agreement;

15 (ii) The individuals who signed documentation to
16 effectuate the transfer and their titles,
17 principal employers, and principal
18 employers' state of incorporation;

19 (iii) A description of the authority conferred to
20 the individuals;

21 (iv) The dates on which the mortgage agreements
22 were assigned or transferred;



- 1 (v) The manner of the assignment or transfer;
2 and
3 (vi) A description of the extent to which the
4 mortgage agreement transfers or assignments
5 coincided with the negotiations or transfers
6 of the mortgage note; and
7 (C) The bureau of conveyances document number for
8 every assignment or transfer of the mortgage note
9 or mortgage agreement recorded and a copy of each
10 filing.

11 The mortgagee's response shall provide an explanation for
12 any failure to provide any of the items enumerated in this
13 subsection. A copy of all documents received from the mortgage
14 lender, including any response by the mortgage lender for
15 failure to transmit required documentation, shall be filed or
16 recorded by the corporation in the office of the assistant
17 registrar of the land court under chapter 501, or the bureau of
18 conveyances under chapter 502, or both, as appropriate.

19 (d) At any time, the corporation may contract with the
20 mortgage lender to purchase, in whole or in part, the existing
21 loan. The mortgagee's response under subsection (c) shall be
22 used to evaluate the value of the existing loan. The sale of



1 the existing loan shall be executed by way of mortgage,
2 agreement of sale, or other instrument to secure the
3 indebtedness with the mortgage lender.

4 If the mortgage lender declines to contract for purchase of
5 the existing loan, the corporation may acquire the existing loan
6 by condemnation in accordance with part IV of chapter 101 and
7 the title to the property in accordance with chapter 101. For
8 purposes of this subsection, the requirements of section 201H-
9 13, shall not apply.

10 (e) The purchase of the existing loan from the mortgage
11 lender shall be construed as a loan with the property occupant,
12 which shall be executed by way of mortgage, agreement of sale,
13 or other instrument to secure the indebtedness with the
14 corporation. The agreement of sale, mortgage, or other
15 instrument executed between the property occupant and the
16 corporation shall contain:

17 (1) A provision transferring title to the property to the
18 corporation; provided that upon satisfactory
19 completion of all terms and conditions of the
20 agreement, the corporation shall transfer title back
21 to the property occupant; and



1 (2) A provision assigning power of attorney to the
2 corporation on matters pertaining to the existing loan
3 between the property occupant and the mortgage lender;
4 provided that the assignment of power of attorney
5 shall be extinguished upon satisfactory completion of
6 all terms and conditions of the agreement, or default
7 on the agreement by the property occupant.

8 (f) If the property occupant defaults on the payment of
9 any loan, the corporation shall take all necessary action to
10 collect the delinquent principal and interest on the loan and
11 may take all action allowed to holders of obligations, including
12 the power to repossess, lease, rent, repair, renovate,
13 modernize, and sell the property. Notwithstanding any other
14 provision of law, sales of property pursuant to this section
15 shall not require legislative approval.

16 (g) The mortgages, agreements of sale, and other
17 instruments of indebtedness, at the direction of the
18 corporation, may be assigned to and serviced by commercial banks
19 and other lending institutions doing business in the State at a
20 fee of not more than one per cent of the amount loaned to the
21 purchaser.



1 **§201H-C Terms and conditions of qualified mortgages.** The
2 terms and conditions for property occupants and qualified
3 mortgagees participating in the distressed residential
4 properties program shall be set forth by rules adopted by the
5 corporation in accordance with chapter 91; provided that:

6 (1) The amount of the purchase price of the mortgage loan
7 shall be paid to the qualified mortgagee and shall be
8 deemed to fully satisfy the subject mortgage debt and
9 release the lien held by the mortgagee at the time the
10 mortgage, agreement of sale, or other instrument to
11 secure the indebtedness between the corporation and
12 the mortgagee is executed;

13 (2) The property occupant shall be permitted to occupy the
14 property for the duration of the loan period as long
15 as the property occupant meets all requirements of the
16 loan;

17 (3) The property occupant shall be required to consult
18 with an approved housing counselor or an approved
19 budget and credit counselor as defined in section 667-
20 21;



1 (4) The property occupant shall be prohibited from selling
2 the property for a period of sixty months after the
3 terms of the loan agreement have been satisfied; and
4 (5) Upon any resale of the property to a subsequent
5 purchaser, the property occupant shall pay the
6 corporation a share of the appreciation represented by
7 the amount of the existing loan purchased by the
8 corporation divided by the total amount of the
9 mortgage loan agreed upon between the mortgage lender
10 and the property occupant, rounded up to the nearest
11 one-hundredth of one percentage point, multiplied by
12 the difference between the resale price of the
13 property minus the value of the property at the time
14 the mortgage loan was executed between the mortgage
15 lender and the property occupant; provided that the
16 property is sold for fair market value at a price
17 approved by the corporation."

18 SECTION 5. Section 28-8.3, Hawaii Revised Statutes, is
19 amended by amending subsection (a) to read as follows:

20 "(a) No department of the State other than the attorney
21 general may employ or retain any attorney, by contract or
22 otherwise, for the purpose of representing the State or the



1 department in any litigation, rendering legal counsel to the
2 department, or drafting legal documents for the department;
3 provided that the foregoing provision shall not apply to the
4 employment or retention of attorneys:

5 (1) By the public utilities commission, the labor and
6 industrial relations appeals board, and the Hawaii
7 labor relations board;

8 (2) By any court or judicial or legislative office of the
9 State; provided that if the attorney general is
10 requested to provide representation to a court or
11 judicial office by the chief justice or the chief
12 justice's designee, or to a legislative office by the
13 speaker of the house of representatives and the
14 president of the senate jointly, and the attorney
15 general declines to provide [~~such~~] representation on
16 the grounds of conflict of interest, the attorney
17 general shall retain an attorney for the court,
18 judicial, or legislative office, subject to approval
19 by the court, judicial, or legislative office;

20 (3) By the legislative reference bureau;

21 (4) By any compilation commission that may be constituted
22 from time to time;



- 1 (5) By the real estate commission for any action involving
- 2 the real estate recovery fund;
- 3 (6) By the contractors license board for any action
- 4 involving the contractors recovery fund;
- 5 (7) By the office of Hawaiian affairs;
- 6 (8) By the department of commerce and consumer affairs for
- 7 the enforcement of violations of chapters 480 and
- 8 485A;
- 9 (9) As grand jury counsel;
- 10 (10) By the Hawaiian home lands trust individual claims
- 11 review panel;
- 12 (11) By the Hawaii health systems corporation, or its
- 13 regional system boards, or any of their facilities;
- 14 (12) By the auditor;
- 15 (13) By the office of ombudsman;
- 16 (14) By the insurance division;
- 17 (15) By the University of Hawaii;
- 18 (16) By the Kahoolawe island reserve commission;
- 19 (17) By the division of consumer advocacy;
- 20 (18) By the office of elections;
- 21 (19) By the campaign spending commission;



- 1 (20) By the Hawaii tourism authority, as provided in
- 2 section 201B-2.5;
- 3 (21) By the division of financial institutions for any
- 4 action involving the mortgage loan recovery fund; [~~æ~~]
- 5 (22) By the Hawaii housing finance and development
- 6 corporation for purposes of part III of chapter 201H;
- 7 or
- 8 (23) By a department, in the event the attorney general,
- 9 for reasons deemed by the attorney general to be good
- 10 and sufficient, declines to employ or retain an
- 11 attorney for a department; provided that the governor
- 12 waives the provision of this section."

13 SECTION 6. Section 76-16, Hawaii Revised Statutes, is
 14 amended by amending subsection (b) to read as follows:

15 "(b) The civil service to which this chapter applies shall
 16 comprise all positions in the State now existing or hereafter
 17 established and embrace all personal services performed for the
 18 State, except the following:

- 19 (1) Commissioned and enlisted personnel of the Hawaii
- 20 national guard as such, and positions in the Hawaii
- 21 national guard that are required by state or federal
- 22 laws or regulations or orders of the national guard to



- 1 be filled from those commissioned or enlisted
2 personnel;
- 3 (2) Positions filled by persons employed by contract where
4 the director of human resources development has
5 certified that the service is special or unique or is
6 essential to the public interest and that, because of
7 circumstances surrounding its fulfillment, personnel
8 to perform the service cannot be obtained through
9 normal civil service recruitment procedures. Any such
10 contract may be for any period not exceeding one year;
- 11 (3) Positions that must be filled without delay to comply
12 with a court order or decree if the director
13 determines that recruitment through normal recruitment
14 civil service procedures would result in delay or
15 noncompliance, such as the Felix-Cayetano consent
16 decree;
- 17 (4) Positions filled by the legislature or by either house
18 or any committee thereof;
- 19 (5) Employees in the office of the governor and office of
20 the lieutenant governor, and household employees at
21 Washington Place;
- 22 (6) Positions filled by popular vote;



- 1 (7) Department heads, officers, and members of any board,
2 commission, or other state agency whose appointments
3 are made by the governor or are required by law to be
4 confirmed by the senate;
- 5 (8) Judges, referees, receivers, masters, jurors, notaries
6 public, land court examiners, court commissioners, and
7 attorneys appointed by a state court for a special
8 temporary service;
- 9 (9) One bailiff for the chief justice of the supreme court
10 who shall have the powers and duties of a court
11 officer and bailiff under section 606-14; one
12 secretary or clerk for each justice of the supreme
13 court, each judge of the intermediate appellate court,
14 and each judge of the circuit court; one secretary for
15 the judicial council; one deputy administrative
16 director of the courts; three law clerks for the chief
17 justice of the supreme court, two law clerks for each
18 associate justice of the supreme court and each judge
19 of the intermediate appellate court, one law clerk for
20 each judge of the circuit court, two additional law
21 clerks for the civil administrative judge of the
22 circuit court of the first circuit, two additional law



1 clerks for the criminal administrative judge of the
2 circuit court of the first circuit, one additional law
3 clerk for the senior judge of the family court of the
4 first circuit, two additional law clerks for the civil
5 motions judge of the circuit court of the first
6 circuit, two additional law clerks for the criminal
7 motions judge of the circuit court of the first
8 circuit, and two law clerks for the administrative
9 judge of the district court of the first circuit; and
10 one private secretary for the administrative director
11 of the courts, the deputy administrative director of
12 the courts, each department head, each deputy or first
13 assistant, and each additional deputy, or assistant
14 deputy, or assistant defined in paragraph (16);

15 (10) First deputy and deputy attorneys general, the
16 administrative services manager of the department of
17 the attorney general, one secretary for the
18 administrative services manager, an administrator and
19 any support staff for the criminal and juvenile
20 justice resources coordination functions, and law
21 clerks;



- 1 (11) (A) Teachers, principals, vice-principals, complex
- 2 area superintendents, deputy and assistant
- 3 superintendents, other certificated personnel,
- 4 not more than twenty noncertificated
- 5 administrative, professional, and technical
- 6 personnel not engaged in instructional work;
- 7 (B) Effective July 1, 2003, teaching assistants,
- 8 educational assistants, bilingual/bicultural
- 9 school-home assistants, school psychologists,
- 10 psychological examiners, speech pathologists,
- 11 athletic health care trainers, alternative school
- 12 work study assistants, alternative school
- 13 educational/supportive services specialists,
- 14 alternative school project coordinators, and
- 15 communications aides in the department of
- 16 education;
- 17 (C) The special assistant to the state librarian and
- 18 one secretary for the special assistant to the
- 19 state librarian; and
- 20 (D) Members of the faculty of the University of
- 21 Hawaii, including research workers, extension
- 22 agents, personnel engaged in instructional work,



- 1 and administrative, professional, and technical
2 personnel of the university;
- 3 (12) Employees engaged in special, research, or
4 demonstration projects approved by the governor;
- 5 (13) Positions filled by inmates, kokuas, patients of state
6 institutions, persons with severe physical or mental
7 handicaps participating in the work experience
8 training programs, and students and positions filled
9 through federally funded programs that provide
10 temporary public service employment such as the
11 federal Comprehensive Employment and Training Act of
12 1973;
- 13 (14) A custodian or guide at Iolani Palace, the Royal
14 Mausoleum, and Hulihee Palace;
- 15 (15) Positions filled by persons employed on a fee,
16 contract, or piecework basis, who may lawfully perform
17 their duties concurrently with their private business
18 or profession or other private employment and whose
19 duties require only a portion of their time, if it is
20 impracticable to ascertain or anticipate the portion
21 of time to be devoted to the service of the State;



1 (16) Positions of first deputies or first assistants of
2 each department head appointed under or in the manner
3 provided in section 6, article V, of the [~~Hawaii~~]
4 state constitution; three additional deputies or
5 assistants either in charge of the highways, harbors,
6 and airports divisions or other functions within the
7 department of transportation as may be assigned by the
8 director of transportation, with the approval of the
9 governor; four additional deputies in the department
10 of health, each in charge of one of the following:
11 behavioral health, environmental health, hospitals,
12 and health resources administration, including other
13 functions within the department as may be assigned by
14 the director of health, with the approval of the
15 governor; an administrative assistant to the state
16 librarian; and an administrative assistant to the
17 superintendent of education;
18 (17) Positions specifically exempted from this part by any
19 other law; provided that all of the positions defined
20 by paragraph (9) shall be included in the position
21 classification plan;



- 1 (18) Positions in the state foster grandparent program and
2 positions for temporary employment of senior citizens
3 in occupations in which there is a severe personnel
4 shortage or in special projects;
- 5 (19) Household employees at the official residence of the
6 president of the University of Hawaii;
- 7 (20) Employees in the department of education engaged in
8 the supervision of students during meal periods in the
9 distribution, collection, and counting of meal
10 tickets, and in the cleaning of classrooms after
11 school hours on a less than half-time basis;
- 12 (21) Employees hired under the tenant hire program of the
13 Hawaii public housing authority; provided that not
14 more than twenty-six per cent of the authority's work
15 force in any housing project maintained or operated by
16 the authority shall be hired under the tenant hire
17 program;
- 18 (22) Positions of the federally funded expanded food and
19 nutrition program of the University of Hawaii that
20 require the hiring of nutrition program assistants who
21 live in the areas they serve;



1 (23) Positions filled by severely handicapped persons who
2 are certified by the state vocational rehabilitation
3 office that they are able to perform safely the duties
4 of the positions;

5 (24) The sheriff;

6 (25) A gender and other fairness coordinator hired by the
7 judiciary; [~~and~~]

8 (26) Positions in the Hawaii housing finance and
9 development corporation filled by persons hired or
10 retained to effectuate part III, subpart K, of chapter
11 201H; and

12 (27) Positions in the Hawaii national guard youth and adult
13 education programs.

14 The director shall determine the applicability of this
15 section to specific positions.

16 Nothing in this section shall be deemed to affect the civil
17 service status of any incumbent as it existed on July 1, 1955."

18 SECTION 7. Section 201H-4, Hawaii Revised Statutes, is
19 amended by amending subsection (a) to read as follows:

20 "(a) The corporation may:

21 (1) Sue and be sued;

22 (2) Have a seal and alter the [~~same~~] seal at pleasure;



1 (3) Make and execute contracts and other instruments
2 necessary or convenient to the exercise of its powers;

3 (4) Employ or retain without regard to chapters 76 and 89,
4 by contract or otherwise, attorneys, investigators,
5 investigator assistants, auditors, accountants,
6 paralegals, consultants, experts, and other
7 professional, technical, and support staff as
8 necessary to promote the effective and efficient
9 implementation of part III, subpart K;

10 (5) Adopt bylaws and rules in accordance with chapter 91
11 for its organization, internal management, and to
12 carry into effect its purposes, powers, and programs;
13 and

14 [~~5~~] (6) Notwithstanding any law to the contrary,
15 establish and collect fees for administrative expenses
16 incurred by the corporation to process applications
17 for loans, grants, services, and real estate documents
18 related to the corporation's functions under this
19 chapter."

20 SECTION 8. Section 201H-12, Hawaii Revised Statutes, is
21 amended by amending subsection (e) to read as follows:



1 "(e) The corporation may contract or sponsor with any
2 county, housing authority, or person, or establish pursuant to
3 this chapter, subject to the availability of funds, an
4 experimental or demonstration housing project designed to meet
5 the needs of elders; the disabled; displaced or homeless
6 persons; low- and moderate-income persons; the owners of
7 distressed residential properties in accordance with part III;
8 teachers or other government employees; or university and
9 college students and faculty."

10 SECTION 9. The attorney general shall authorize, for
11 mortgage loan purchases from lenders subject to a federal
12 consent judgment in the matter of *United States of America et al*
13 *v. Bank of America Corp., J.P. Morgan Chase & Co., Wells Fargo &*
14 *Company, Citigroup Inc. and Ally Financial Inc., 1:10-cv-01469-*
15 *JDB (D.D.C. 2012)*, the monetization of credits for which the
16 lender is eligible under the terms of the consent judgment for
17 consumer relief activities. With respect to mortgage loans
18 purchased by the Hawaii housing finance and development
19 corporation pursuant to section 201H-B(d), Hawaii Revised
20 Statutes, under section 4 of this Act, the value of each loan
21 shall be reduced by an amount equal to the dollar value of the
22 credits for which the lender may recover for consumer relief



1 activities undertaken with respect to the subject loan so that
2 the purchase price of each loan shall reflect the following:

- 3 (1) The actual value of the mortgaged property;
- 4 (2) A discount of an amount equal to the dollar value of
5 the credits claimed pursuant to the consent judgment
6 for consumer relief activities; and
- 7 (3) Any other discount that the attorney general
8 determines is reasonable, considering the lending
9 practices in which the lender engaged in the
10 marketing, extending, making, originating, servicing,
11 or otherwise managing of the mortgage loan.

12 SECTION 10. Notwithstanding any law to the contrary, the
13 director of finance shall deposit into the distressed
14 residential properties program special fund all federal moneys
15 received by the State from the American Recovery and
16 Reinvestment Act of 2009 that were not appropriated, expended,
17 allotted, or encumbered by July 2, 2012; provided that if the
18 federal funds to be deposited include the statutory authority to
19 issue bonds, the director of finance shall sell the bonds at the
20 director's earliest convenience and shall deposit the proceeds
21 into the distressed residential properties program special fund;
22 provided further that if the deposit of any funds may jeopardize



1 the receipt of any other federal funds, those fund shall be
2 exempted from this section.

3 SECTION 11. There is appropriated out of the general
4 revenues of the State of Hawaii the sum of \$ or so much
5 thereof as may be necessary for fiscal year 2012-2013 for the
6 purposes of this Act.

7 The sum appropriated shall be expended by the Hawaii
8 housing finance and development corporation for the purposes of
9 this Act.

10 SECTION 12. The director of finance is authorized to issue
11 general obligation bonds in the sum of \$ or so much
12 thereof as may be necessary and the same sum or so much thereof
13 as may be necessary is appropriated for fiscal year 2012-2013
14 for the purpose of this Act.

15 The sum appropriated shall be expended by the Hawaii
16 housing finance and development corporation for the purposes of
17 this Act.

18 SECTION 13. The appropriation authorized by section 12 of
19 this Act shall not lapse at the end of the fiscal biennium for
20 which the appropriation is made; provided that all moneys from
21 the appropriation unencumbered as of June 30, 2014, shall lapse
22 as of that date.



1 PART III

2 SECTION 14. Statutory material to be repealed is bracketed
3 and stricken. New statutory material is underscored.

4 SECTION 15. This Act shall take effect on July 1, 2030;
5 provided that part II of this Act shall take effect on July 1,
6 2012.



Report Title:

Consumer Protection; Lending Practices; Military Members;
Distressed Residential Properties Program

Description:

Authorizes the Director of Commerce and Consumer Affairs to enforce certain federal laws to protect military members and their families from abusive lending practices. Establishes a distressed residential properties program. Appropriates funds. Authorizes the issuance of GO bonds. Effective July 1, 2030. (SB2394 HD3)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

