

STAND. COM. REP. NO.

638

Honolulu, Hawaii

MAR 05 2015

RE: S.B. No. 756
S.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Eighth State Legislature
Regular Session of 2015
State of Hawaii

Madam:

Your Committee on Commerce and Consumer Protection, to which was referred S.B. No. 756 entitled:

"A BILL FOR AN ACT RELATING TO THE SECURE AND FAIR ENFORCEMENT FOR MORTGAGE LICENSING ACT,"

begs leave to report as follows:

The purpose and intent of this measure is to establish a mortgage license exemption for sellers of real property who offer or negotiate terms of a mortgage loan secured by the seller's own real property; provided that the seller does not engage in more than three mortgage loans in one calendar year.

Your Committee received testimony in support of this measure from the Hawai'i Association of REALTORS, REALTORS Association of Maui, and one individual. Your Committee received comments on this measure from the Department of Commerce and Consumer Affairs.

Your Committee finds that Act 198, Session Laws of Hawaii 2014, made various amendments to chapter 454F, Hawaii Revised Statutes, the Secure and Fair Enforcement for Mortgage Licensing Act, including removing exemptions that allowed ordinary, non-licensed property owners to provide financing for their own properties. Your Committee further finds that owner financing is a useful tool in the credit market, as it expands the pool of potential buyers for owners and gives buyers an opportunity to make a purchase that may otherwise have been out of reach, particularly if the buyers are unable to qualify for a traditional mortgage loan.

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Your Committee has heard the testimony regarding whether the owner financing exemption should have been removed last year as part of the overall amendments to the Secure and Fair Enforcement for Mortgage Licensing Act. Your Committee notes that Hawaii has met the minimum model state legislation that is required to comply with the federal Secure and Fair Enforcement for Mortgage Licensing Act. Your Committee also notes that the Consumer Financial Protection Bureau's implementing regulations for the Secure and Fair Enforcement for Mortgage Licensing Act exclude some sellers who provide seller financing from the definition of loan originator.

Finally, your Committee notes that interested stakeholders have collaborated on consensus language to clarify the mortgage license exemption proposed by this measure and ensure that buyers in an owner-financed transaction understand the terms of the transaction. Amendments to this measure are therefore necessary to reflect this consensus language.

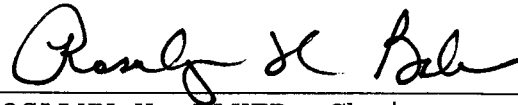
Accordingly, your Committee has amended this measure by:

- (1) Clarifying that the mortgage license exemption proposed by this measure is for a seller of real property who offers or negotiates terms of a residential mortgage loan secured by the seller's own real property and for which the seller is the mortgagee; provided that the seller is an individual who provides three or fewer residential mortgage loans per calendar year and the interest rate for the loan is not above the State's usury limit;
- (2) Requiring the seller in an owner-financed transaction to provide the buyer a disclosure with the terms of the transaction; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

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. 756, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 756, 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-Eighth Legislature
State of Hawai'i

Record of Votes
Committee on Commerce and Consumer Protection
CPN

Bill / Resolution No.:* SB 756	Committee Referral: CPN	Date: 2/25/15		
<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="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)				✓
KAHELE, Gilbert	✓			
KIDANI, Michelle N.	✓			
NISHIHARA, Clarence K.	✓			
WAKAI, Glenn	✓			
SLOM, Sam				✓
TOTAL	5	0	0	2
Recommendation: <input checked="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