

STAND. COM. REP. NO.

3468

Honolulu, Hawaii

MAY 13 2020

RE: H.B. No. 2323
H.D. 2
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirtieth State Legislature
Regular Session of 2020
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Health,
to which was referred H.B. No. 2323, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO THE MORTGAGE LOAN RECOVERY
FUND,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Expand the pool of persons eligible to receive
restitution from the Mortgage Loan Recovery Fund; and
- (2) Authorize the Director of Commerce and Consumer Affairs
to issue orders of restitution.

Your Committee received testimony in support of this measure
from the Department of Commerce and Consumer Affairs.

Your Committee finds that under existing law, a person
aggrieved by a licensee's fraud, misrepresentation, or deceit must
obtain a judgment against the licensee in circuit or district
court and then obtain an order from the court for payment from the
Mortgage Loan Recovery Fund (Fund). This measure simplifies the
process by allowing payments based on the entry of the order,
without a separate post-judgment order.

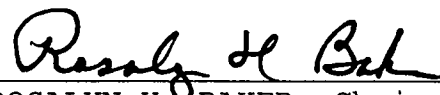


Your Committee notes the concerns raised in the testimony of the Department of Commerce and Consumer Affairs that this measure, as written, creates confusion for consumers seeking recovery from the Fund because it appears to provide that aggrieved consumers can either go to court and get a judgment or make a claim with the Director of the Department of Commerce and Consumer Affairs. Further, this measure does not expand the pool of individuals eligible for payment from the Fund, as intended, because it does not include consumers who are entitled to restitution based on a finding of a regulatory calculation error made by the licensee, which does not require a finding a fraud, misrepresentation, or deceit. Your Committee further notes that the companion to this measure, S.B. No. 2879, S.D. 1, addresses the concerns raised in testimony and that its language is preferable.

Accordingly, your Committee has amended this measure by clarifying that any person aggrieved by a licensee's act, representation, transaction, or conduct in violation of chapter 454F, Hawaii Revised Statutes, and not involving an act of fraud, misrepresentation, or deceit, may receive restitution by order of the Commissioner of Financial Institutions.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2323, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2323, H.D. 2, S.D. 1, and be referred to your Committees on Judiciary and Ways and Means.

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



ROSALYN H. BAKER, Chair



The Senate
Thirtieth Legislature
State of Hawai'i

Record of Votes
Committee on Commerce, Consumer Protection, and Health
CPH

Bill / Resolution No.:* HB 2823 HD2	Committee Referral: CPH, JDC/WAM	Date: 3/11/20		
<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)	✓			
CHANG, Stanley (VC)	✓			
NISHIHARA, Clarence K.	✓			
RUDERMAN, Russell E.	✓			
THIELEN, Laura H.	✓			
WAKAI, Glenn	✓			
FEVELLA, Kurt	✓			
TOTAL	7			
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