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**TO THE
HOUSE COMMITTEE ON
CONSUMER PROTECTION AND COMMERCE
THE TWENTY-EIGHTH STATE LEGISLATURE
REGULAR SESSION OF 2015**

Monday, March 16, 2015
2:00 p.m.

TESTIMONY ON S.B. NO. 1262, S.D. 1

**RELATING TO THE SECURE AND FAIR ENFORCEMENT
FOR MORTGAGE LICENSING ACT**

**THE HONORABLE ANGUS L.K. MCKELVEY, CHAIR,
AND MEMBERS OF THE COMMITTEE:**

My name is Iris Ikeda, Commissioner of Financial Institutions (“Commissioner”), testifying on behalf of the Department of Commerce and Consumer Affairs (“Department”) on Senate Bill No. 1262, S.D. 1. The Department offers this testimony in support of S.B. 1262, S.D. 1.

S.B. 1262, S.D. 1 would allow the Commissioner to make a finding to adjust the assessed Mortgage Loan Recovery Fund (“MLRF”) fee for license renewals, once the MLRF attains a funding level of \$750,000, without requiring the finding to be made

pursuant to an administrative rule. The Commissioner oversees the MLRF pursuant to Section 454F-41, HRS.

The MLRF balance currently exceeds the \$750,000 threshold. However, the Commissioner is unable to make the finding to adjust the MLRF fee, because the rule required to do so is still in the administrative rulemaking process of Chapter 91, HRS.

It is possible that amending the law to delete the rule requirement, as S.B. 1262, S.D. 1 proposes, will enable the Commissioner to adjust the MLRF fee more quickly than through the administrative rulemaking process. The amendment will not impact the Commissioner's ability to adopt rules for the MLRF, as Section 454F-18, HRS, gives the Commissioner general rulemaking authority for the administration of the SAFE Act, Chapter 454F, HRS. Draft rules for the MLRF are currently proceeding through the administrative rulemaking process of Chapter 91, HRS.

The draft MLRF administrative rules set out factors for the Commissioner to consider in making a finding to adjust or suspend the MLRF fee for license renewals. These factors would still be used by the Commissioner to evaluate the propriety of an adjustment to the MLRF fee, even if the rulemaking requirement is no longer in place.

The Department supports S.B. 1262, S.D. 1, and asks that it be passed out of committee without amendments.

Thank you for the opportunity to testify. I would be pleased to respond to any questions you may have.



March 16, 2015

TO: COMMITTEE ON CONSUMER PROTECTION AND COMMERCE
Representative Angus L.K. McKelvey, Chair
Representative Justin H. Woodson, Vice Chair

FR: Cathy Lee, President
Hawaii Association of Mortgage Brokers

RE: S.B. 1262 SD1 Relating to the Secure and Fair Enforcement for Mortgage Licensing Act.
Position: Support

Dear Chair McKelvey, Vice Chair Woodson and members,

The Hawaii Association of Mortgage Brokers (HAMB) supports SB1262 SD1. When the mortgage loan recovery fund was established in 2010, HAMB supported the collection and accumulation of fees to build a fund that would help compensate individuals harmed by unscrupulous mortgage loan originators. But, when this fund was established, it was expressly provided that the fund would build up a pool of \$750,000 to pay claims, and thereafter the Division of Financial Institutions (DFI) Commissioner would have the authority to cease or adjust further fees. DCCA's most recent report to the legislature shows the fund at more than \$1,100,000, far above the original target.

Based on recent discussions with the DFI Commissioner, we understand proposed rules are drafted and going through the required review process before it can go out to public hearing. Thus, we commend the Commissioner for initiating the process. Nonetheless, because the timing and date by which adoption and relief this would occur is uncertain due to the prolonged process that rule making can take under Ch. 91, HRS.

Therefore, as an alternative to the introduced language of the bill that changed the ceiling and amounts in the fund, HAMB supports the Senate Draft 1 which allows the Commissioner to adjust renewal fees without having to wait for the rules to be adopted.

Thank you for the opportunity to testify.