

Honolulu, Hawaii

March 17, 2006

RE: S.B. No. 770
S.D. 2
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Third State Legislature
Regular Session of 2006
State of Hawaii

Sir:

Your Committee on Consumer Protection & Commerce, to which was referred S.B. No. 770, S.D. 2, entitled:

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

begs leave to report as follows:

The purpose of this bill, as received, is to improve regulation of mortgage brokers by transferring responsibility for the licensing and regulation of mortgage brokers from the Professional and Vocational Licensing Division of the Department of Commerce and Consumer Affairs (DCCA), to the Division of Financial Institutions (DFI) of DCCA.

The Hawaii Bankers Association, Hawaii Financial Services Association and Primerica supported the intent of this bill. The DCCA Commissioner of Financial Institutions supported the intent of the bill and recommended amendments. The Office of Information Practices offered comments. The Mortgage Bankers Association of Hawaii, Hawaii Association of Mortgage Brokers, and a concerned individual opposed the bill.

Your Committee finds that the DFI is responsible for overall supervision of the financial services industry and has the expertise to oversee the financial services provided by mortgage brokers.



Upon further consideration, your Committee has amended this bill by replacing its substance with that of H.B. No. 2316, a bill that your Committee and the Committee on Judiciary heard jointly earlier this session. As amended, the bill repeals the existing mortgage broker law and establishes a new chapter that increases consumer protections against predatory lending practices, including:


- (1) Providing for regulation of mortgage brokers by the Commissioner of Financial Institutions;
- (2) Restricting state regulation to mortgage brokers who deal in residential mortgage loan transactions;
- (3) Eliminating regulation of mortgage solicitors, persons who perform mortgage broker functions and are employed or controlled by a mortgage broker;
- (4) Allowing a mortgage broker's license to be revoked based on the actions of any officers, directors, employees, partners, and members of the licensee;
- (5) Requiring prelicensing testing and criminal background checks;
- (6) Establishing continuing education and periodic testing requirements; and
- (7) Increasing the required bond from \$15,000 to \$50,000.

This bill also differs from the S.D. 2 in that it becomes effective on July 1, 2050.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 770, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 770, S.D. 2, H.D. 1, and be referred to the Committee on Judiciary.



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



ROBERT N. HERKES, Chair



