

Honolulu, Hawaii

APR 03 2008

RE: H.B. No. 2254  
H.D. 2  
S.D. 1

Honorable Colleen Hanabusa  
President of the Senate  
Twenty-Fourth State Legislature  
Regular Session of 2008  
State of Hawaii

Madam:

Your Committee on Judiciary and Labor, to which was referred  
H.B. No. 2254, H.D. 2, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO BANKS AND FINANCIAL  
INSTITUTIONS,"

begs leave to report as follows:

The purpose of this measure is to prohibit the use of the name or trademark of a financial institution or its affiliates or subsidiaries when marketing or soliciting existing or prospective customers if such marketing materials are used without written permission and in a manner that would lead a reasonable person to believe that the material or solicitation originated from a financial institution or its affiliates or subsidiaries.

A civil penalty of up to \$10,000 is authorized for each violation.

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

This measure addresses the common practice of out-of-state lenders who send direct mail solicitations for refinance opportunities that prominently list the existing lender in a manner that the recipients are led to erroneously believe that their lenders are sending important notices. The solicitations contain phrases, such as "Time Sensitive Material" and "Payment



Reduction Notice," that make the recipient more apt to read the material. Only after carefully reading the literature or calling the listed phone number is it apparent that this is a refinance solicitation from a different lender.

According to testimony of the Hawaii Financial Services Association, this measure is necessary to prevent the all too common situation in which mortgage loan customers of Hawaii financial services loan companies are deceived by mail solicitations from mainland lenders regarding refinancing that make reference to the name of the Hawaii financial services loan company, originating the mortgage loan, to wrongly suggest that the Hawaii financial services loan company is the solicitor when in fact it is not. The name of the mainland lender does not appear in the solicitations or is in obscure fine print.

The intent of this measure is to protect the general public from deceptive marketing practices by banks and financial institutions.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2254, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Respectfully submitted on  
behalf of the members of the  
Committee on Judiciary and  
Labor,

  
BRIAN T. TANIGUCHI, Chair



