

LATT TESTIMONY

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January 30, 2008

Rep. Robert N. Herkes, Chair,
and members of the House Committee on Consumer Protection & Commerce
Hawaii State Capitol
Honolulu, Hawaii 96813

Re: House Bill 2408 (Mortgage Brokers)
Hearing Date/Time: Wednesday, January 30, 2008, 2:00 P.M.

I represent **Primerica Financial Services Home Mortgages, Inc.** ("Primerica"), a Hawaii licensed mortgage broker, and a subsidiary of Citigroup, Inc., a financial services holding company.

The purpose of this Bill is to revise the law regulating mortgage brokers.

Primerica supports this Bill and proposes an amendment.

This Bill provides a means to prevent a reoccurrence of situations where certain mortgage brokers and solicitors packaged inappropriate mortgage loans which were made to vulnerable borrowers. In Hawaii, delinquent mortgage loans have increased in recent years. While not all of the delinquencies are attributed to the origination of inappropriate loans (since job loss, divorces, and medical expenses also contribute to delinquencies), some of these delinquencies can be linked to inappropriate loans. As some of these adjustable rate mortgages reset to higher interest rates, the number of families who are unable to afford their payments and who are threatened with foreclosure has risen.

Overview of Bill

Presently, Hawaii mortgage brokers and mortgage solicitors are licensed by the Professional and Vocational Licensing Division of the Department of Commerce & Consumer Affairs. The current procedures for licensing applicants and regulating licensees are enhanced under this Bill.

Oversight of mortgage brokers and loan originators (the new term for mortgage solicitors) would be by the Commissioner of Financial Institutions. This Bill would require license applicants to disclose certain criminal convictions and be subject to criminal background checks. The Bill establishes the concept of a principal mortgage broker who would be responsible for the supervision and management of mortgage brokers and loan originators at the mortgage brokerage firm. The Commissioner of Financial Institutions would have various powers including the authority to examine mortgage brokers and loan originators for compliance with laws and rules. In the Bill, various prohibited acts or conduct of a licensee may result in the license being revoked, suspended, or terminated by the Commissioner. The Commissioner can also impose fines.

Primerica supports this approach.

Exemptions in the Bill

Under the current law, various entities and individuals are exempt from being licensed as mortgage brokers or solicitors. There are sound and valid reasons to exempt these entities which include certain financial institutions. This Bill continues these exemptions. And, this Bill appropriately adds another exemption from licensure. In Section 3 on page 13, line 3, HRS § 454-2(3) would exempt:

“(3) An individual who is an exclusive agent of a bank or savings association.”

This Bill correctly recognizes that exclusive agents of a bank or savings association perform the same functions as loan officers of banks and savings associations.

Primerica supports this exemption to the extent that it would exempt Primerica’s Exclusive Representatives.

Primerica is an affiliate of a bank and is wholly owned by the same bank holding company (Citigroup, Inc.) which also owns the bank¹. Primerica’s Exclusive Representatives are exclusive agents of Primerica for the purpose of brokering mortgage loans. Primerica, as an exclusive agent of its affiliate bank, can only broker those mortgage loans to the affiliated bank.

Primerica’s Exclusive Representatives

Under the Primerica model, Primerica’s Exclusive Representatives do not engage in many of the practices that precipitated the mortgage lending crisis and which call for stronger regulation. Primerica’s Exclusive Representatives originate only 15 and 30 year fixed mortgages - not the ARMs and exotic loan products that have been so controversial.

Primerica’s Exclusive Representatives have a limited role of counseling potential borrowers on different loan options and how these options may affect the borrowers, taking mortgage loan applications, providing state and federally mandated disclosures, and assisting potential borrowers in producing and collecting the materials required by the lender to begin underwriting the loan.

The Primerica Exclusive Representatives sell only affiliated bank products (Citigroup mortgage loan products) and are identified only with Citigroup. Importantly, these Exclusive Representatives are subject to required background screening and internal training programs with Primerica.

¹ Primerica is a wholly owned second tier subsidiary of Citigroup Inc. (“Citigroup”), a publicly traded bank holding company. Citigroup is the ultimate parent of Primerica and various other entities including Citicorp Trust Bank, FSB (“CTB”), a federal savings bank, and CitiMortgage, Inc. (“CMI”), an operating subsidiary of Citibank, NA., a national bank. Primerica is an affiliate and an exclusive agent of both CTB and CMI. Primerica brokers debt consolidation home loans and refinancing of home loans exclusively for CTB. It brokers conventional purchase money mortgage loans exclusively for CMI.

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The Primerica Exclusive Representatives do not hire appraisers, do not obtain credit reports, do not verify employment and/or income of applicants, do not shop loans to banks outside of Citigroup, and do not underwrite loans. The bank that is affiliated with Primerica performs these functions.

Additionally, the Exclusive Representatives do not collect fees from borrowers or handle the borrowers' funds. Primerica pays the Exclusive Representatives only after the loans close.

In Hawaii, there are about 500 Primerica Exclusive Representatives who are licensed as mortgage solicitors by the Hawaii Department of Commerce & Consumer Affairs. Since the total number of licensed mortgage solicitors in Hawaii is about 6,000, Primerica's Exclusive Representatives comprise roughly 1 out of every 12 licensed mortgage solicitors. Primerica is unaware of any regulatory complaints against it or its Exclusive Representatives in Hawaii over the past 8 years.

Suggested Exemption Wording

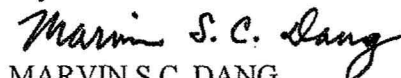
While the newly added exemption in the Bill could be interpreted to cover the Primerica model, Primerica suggests the following rewording of HRS § 454-2(3) in Section 3 of the Bill:

“(3) An individual who is an exclusive agent of a bank, a savings association, or a licensee under this chapter if the licensee is an affiliate of a bank or savings association and if the licensee is wholly owned by the holding company that owns the bank or the savings association.”

With the proposed exemption wording, Primerica will still need to be licensed as a mortgage broker. As a licensed mortgage broker, Primerica would be subject to regulation and oversight by the Commissioner of Financial Institutions ... the same Commissioner who also regulates and oversees Hawaii's state banks. As a mortgage broker licensee, Primerica would be responsible for the regulated activities of its Exclusive Representatives, who would be exempt from licensing ... just as a bank is responsible for the activities of its bank employees and bank loan officers who are exempt from licensing. Under this Bill, the Commissioner of Financial Institutions would be able examine and investigate Primerica. And for violations, the Commissioner could revoke, suspend or terminate Primerica's license, and impose fines.

During the past 2 years, other states have enacted laws with concepts and wording similar to that which Primerica is proposing. These states include Georgia (in 2006), New York (in 2006), Washington (in 2006), and Texas (in 2007). These statutory changes have taken place well after the Gramm-Leach-Bliley Financial Services Modernization Act of 1999. Other states which have recognized this approach including Idaho. We can provide the Committee with copies of these statutes.

Thank you for considering this testimony.



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Primerica Financial Services Home Mortgages, Inc.

LATE TESTIMONY
HAWAII FINANCIAL SERVICES ASSOCIATION

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Hearing Date/Time: Wednesday, January 30, 2008, 2:00 P.M.

We are the attorneys for the Hawaii Financial Services Association ("HFSA"). The HFSA is the trade association for Hawaii's financial services loan companies.

The HFSA **supports the intent** of this Bill.

The purpose of this Bill is to revise the law regulating mortgage brokers.

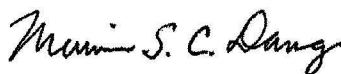
Financial services loan companies (and other financial institutions such as banks, savings banks, credit unions, and others) are not considered a "mortgage broker" under existing law (Chapter 454 of the Hawaii Revised Statutes) and under this Bill. And, this should not change.

However, the HFSA and other trade associations for mortgage lenders have an interest in how lending issues are addressed by this Bill so that legitimate mortgage lending is not adversely impacted by overly broad legislation or by unforeseen consequences.

The HFSA was a member of the Mortgage Broker Task Force of the Commissioner of Financial Institutions in 2006 and has an interest in this and other mortgage broker legislation.

We understand that certain details in this Bill may need to be refined. We are willing to work with interested parties and your Committee to craft an acceptable bill.

Thank you for your consideration.



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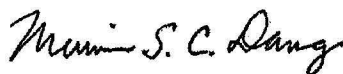
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