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February 22, 2008

Senator Rosalyn H. Baker, Chair,
and members of the Senate Committee on Ways & Means
Hawaii State Capitol
Honolulu, Hawaii 96813

Re: Senate Bill 3010, Senate Draft 1 (Residential Mortgage Practices)
Hearing Date/Time: Friday, February 22, 2008, 11:00 A.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 repeal the law on mortgage brokers and solicitors under chapter 454, Hawaii Revised Statutes, and replace it with a statute that provides for regulation of mortgage brokers and loan originators by the division of financial institutions.

Primerica supports the intent of this Bill and proposes two amendments.

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

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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 includes the following exemption from licensure. In Section 1 on page 6, line 1, the new Chapter 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

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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Representatives are subject to required background screening and internal training programs with Primerica.

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.

Primerica's First Proposed Amendment

While the exemption of "*An individual who is an exclusive agent of a bank of savings association*" could be interpreted to cover the Primerica model, Primerica suggests an additional exemption to "§ -2 Exemptions" in Section 1 of the Bill:

"(10) Employees and agents of a licensee if the licensee is an affiliate of a bank and is wholly owned by the holding company that owns the bank."

With this 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 to 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.

Primerica's Second Proposed Amendment

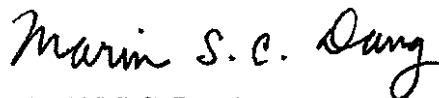
This Bill would authorize the Commissioner to revoke or suspend a license or fine a licensee for any of the acts or conduct of a licensee enumerated under "§ -11 Suspension and revocation" of Section 1 of this Bill. Primerica proposes that of the enumerated acts/conduct, subparagraph (7) should be amended by deleting the tail-end language: "*initiated by and at the invitation of the borrower*", to therefore read as follows:

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“(7) Brokering or making any mortgage loan as a direct result of offering, soliciting, or selling such mortgage loan at the dwelling of a borrower without a prearranged appointment;”

Primerica believes that the deleted language is unnecessary. The consumer is still protected with the remaining language because the appointment can only be set with the *consent* of the consumer.

Thank you for considering this testimony.



MARVIN S.C. DANG
Attorney for
Primerica Financial Services Home Mortgages, Inc.



HAWAII BANKERS ASSOCIATION

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Presentation to the Senate Committee on Ways and Means
Friday, February 22, 2008
11:00a.m.
Conference Room 211

February 22, 2008

Testimony in support of SB 3010, SD1

TO: The Honorable Senator Rosalyn H. Baker, Chair
The Honorable Senator Shan S. Tsutsui, Vice Chair
Members of the Senate Committee on Ways and Means

My name is Neal Okabayashi of First Hawaiian Bank, and I testify for the Hawaii Bankers Association in support of SB 3010, SD 1. We oppose any further amendments other than the technical amendments attached to my testimony to correct inadvertent omissions and the like.

The purpose of this bill is to regulate a large component of residential mortgage lending – the mortgage brokers and loan originators (formerly called mortgage solicitors) - which were previously unregulated. This year, two bills were introduced on this subject. The administration bill which is SB 3010 and the industry bill which is SB 2306. This bill is a melding of the industry bill and the administration bill with most of the language in SB 3010, SD 1 being inserted from SB 2306.

As the primary author of the industry bill, I can say that this bill is the culmination of several years of analysis and drafting, and I thank the many that have contributed to this effort.

There is no need to amplify on the multitude of studies and analysis which have demonstrated that one failing of our regulatory system on residential mortgage lending is that mortgage brokers and loan originators are unregulated on both the federal or state level. This measure should be viewed as a step towards filling that void so that we have effective state supervision and regulation of mortgage brokers and loan originators, especially in light of the pending federal legislation which relies on the states to regulate and license mortgage brokers and loan originators while federal banking examiners regulate bank residential mortgage lenders.

The pending federal legislation on the division of responsibility of supervision and regulation of residential mortgage lending is consistent with the present registration framework of the existing statute on mortgage brokers, chapter 454.

Every person who interacts with a consumer on a mortgage loan is required to register under chapter 454 except for those who are already regulated and supervised on the federal level for consumer credit compliance. Exempting only those subject to federal banking regulatory supervision and oversight is consistent with the concept that you should be subject to either federal or state banking regulatory supervision and oversight but not free from both federal and state supervision and oversight.

Given the foregoing, we would oppose any amendment to the provisions for exemption from the requirements of this new chapter. The exemptions are the same as in the existing law except to the extent necessary to recognize federal preemption rights, which causes no concerns because the federal preemption rights also means that such person is subject to the scrutiny of a federal banking regulator.

However, we strongly believe that if you are presently subject to the registration requirements of chapter 454, you should not be exempted from the licensing and testing requirements of this new chapter. Simply because the regulatory oversight is heightened is not cause to be exempted; in fact, any effort by a presently registered mortgage broker or mortgage solicitor to escape the more rigorous provisions of the new chapter should be viewed with suspicion.

Thus, we are strongly opposed to any exemption for bank affiliates because bank affiliates are not banks, savings associations or credit unions subject to regular consumer credit and compliance examinations and thus leaves bank affiliates free from both federal and state regulation. Such an exemption would defeat the purpose of this legislation and the pending federal legislation and is an unacceptable risk of uncontrolled lending, especially after the subprime mortgage turmoil which has contributed to tipping the scale towards a recessionary environment.

We recognize that this bill is still a work in progress and some fine tuning will need to be done but we respectfully request that SB 3010, SD 1 be essentially passed "as is" with the exception of the technical amendments attached hereto.

Thank you for this opportunity to testify and I will be happy to answer any questions you may have.

Technical Amendments to SB 3010 SD1

The technical amendments recommended herein are necessary to make usage of certain defined words consistent and also to clarify certain provisions.

One of the purposes of this bill is to provide that the mortgage broker chapter applies only to mortgage brokers and loan originators who are involved in residential mortgage loans. Therefore, rather than using the previous terminology of “mortgage loan”, this new chapter would use the terminology of “residential mortgage loan”. There are several instances where the old term “mortgage loan” is still used and thus the technical need to amend the bill in several instances to provide for the consistent use of the term “residential mortgage loan”.

On page 3, line 19, “residential” should be inserted before “mortgage loan”. This same change should be made on: (1) page 4, line 12; (2) page 8, line 12; (3) page 21, line 21; and (4) page 29, lines 6,14 and 16.

In addition and in a similar vein, on page 19, line 20, “residential” should be inserted before “mortgage” and “loan” should be inserted after “mortgage”.

On page 6, line 8, “residential mortgage” should be inserted before “loans” and “secured by real property” should be deleted. A similar change should be made on page 6, lines 13 and 14.

On page 6, line 21, “mortgages” should be deleted and “residential mortgage loans” should be substituted.

On page 8, line 5, “residential mortgage” should be inserted before “loans”.

On page 16, line 10, “residential” should be inserted before “mortgage” and “loan” should be inserted after “mortgage”.

Other technical changes which should be made due to inadvertent omissions or inadvertent failure to delete language are as follows:

Page 5, line 6, the reference to mortgage lenders should be deleted as that term is not used in SB 3010, SD1. A similar change should be made on page 32, line 22.

On page 14, line 21, the term “solicitors” should be deleted and the term “loan originator” should be inserted in lieu thereof. The reason is that under SB 3010, SD1, the old terminology of solicitors is replaced by the new terminology of loan originators to be consistent with the pending federal law.

On page 17, line 12, the first comma and following “or” should be deleted and in lieu thereof, the word “of” should be inserted. Thus lines 11 and 12 would read: “the applicant has been charged or indicted for a crime of dishonesty, which resulted in a

conviction”. On page 24, line 12, before the term “loan originator”, the term “mortgage broker or” should be inserted as it was inadvertently omitted.

On page 26, line 19, clearing whether “internet” should be capitalized. Internet is not capitalized when used on page 27, line 1.

On page 30, line 18, after the term “mortgage broker”, the words “loan originator” should be inserted. The term “loan originator” was inadvertently omitted.

On page 48, line 16, after the words “mortgage broker”, the word “license” should be inserted as that word was inadvertently omitted.

With the foregoing technical amendments the Hawaii Bankers Association recommends and requests that SB3010, SD1 be adopted as SD2.



Mortgage Bankers Association of Hawaii
P.O. Box 4129, Honolulu, Hawaii 96812

February 22, 2008

The Honorable Rosalyn Baker, Chair and
Members of the Senate Committee on
Ways and Means
State Capitol, Room 211
Honolulu, Hawaii 96813

Re: Senate Bill 3010, SD 1 Relating to Residential Mortgage Practices

Dear Chair Baker and members of the Senate Committee on Ways and Means:

I am Rick Tsujimura, representing the Mortgage Bankers Association of Hawaii ("MBAH"). The MBAH is a voluntary organization of real estate lenders in Hawaii. Our membership consists of employees of banks, savings institutions, mortgage bankers, mortgage brokers, and other financial institutions. The members of the MBAH originate the vast majority of residential and commercial real estate mortgage loans in Hawaii. When, and if, the MBAH testifies on legislation, it is related only to mortgage lending.

The MBAH supports SB 3010, SD 1 Relating to Residential Mortgage Practices. This measure as drafted will strengthen the oversight of mortgage brokers. We believe this will benefit the community now.

Thank you for the opportunity to present this testimony.

**SENATE COMMITTEE ON
WAYS AND MEANS**

February 22, 2008

Senate Bill 3010, SD 1 Relating to Residential Mortgage Practices

Chair Baker and members of the Senate Committee on Ways and Means, I am Rick Tsujimura, representing State Farm Insurance Companies, a mutual company owned by its policyholders.

State Farm supports Senate Bill 3010, SD 1 Relating to Residential Mortgage Practices as drafted and urges its passage.

Thank you for the opportunity to present this testimony.



February 21, 2008

To: **The Honorable Senator Rosalyn H. Baker, Chair**

**The Honorable Senator Shan S. Tsutsui, Vice Chair
Members of the Senate Committee on Ways and Means**

Re: **S. B. No. 3010. SD 1 – Relating To Residential Mortgage
Practices**

I am Donald Lau, President of the Hawaii Association of Mortgage Brokers. The Hawaii Association of Mortgage Brokers (HAMB), a 450+ member organization, supports the concepts of SB No. 3010, SD 1 and recognizes that this bill is a work in progress for the financial industry, the state administration and other interest groups. This bill and the HB 2408, HD 1 is very similar in concept and any differences will be worked out.

Sincerely,


Donald Lau



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February 21, 2008

The Honorable Rosalyn H. Baker, Chair
Senate Committee on Ways and Means
State Capitol, Room 211
Honolulu, HI 96813

Chair Baker and members of the Committee:

S.B. No. 3010, S.D. 1, *Relating to Residential Mortgage Practices*

My name is Mike Leach, Legislative & Regulatory Manager for the Hawaii Credit Union League (HCUL). I am testifying on behalf of HCUL as the local trade association for Hawaii's 93 federally and state-chartered credit unions to support S.B. No. 3010, S.D. 1.

HCUL has worked with the Commissioner of Financial Institutions and Hawaii's financial services community, particularly Neal Okabayashi of First Hawaiian Bank, for several years to consider alternative approaches to improve the state oversight of mortgage brokers. Based on discussions with Mr. Okabayashi, HCUL concurs with what we believe will be his comments. Many parties have subordinated at least some important interests in forging the commendable compromise set forth in the current version of this bill.

Thank you for the opportunity to ask for your favorable consideration of S.B. No. 3010, S.D. 1.

Sincerely,

Michael Leach
Legislative & Regulatory Manager

cc: Dennis K. Tanimoto, President