

STAND. COM. REP. NO.

1002

Honolulu, Hawaii

MAR 27 2009

RE: H.B. No. 1438
H.D. 1
S.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fifth State Legislature
Regular Session of 2009
State of Hawaii

Madam:

Your Committee on Commerce and Consumer Protection, to which was referred H.B. No. 1438, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO MORTGAGE LOAN ORIGINATORS,"

begs leave to report as follows:

The purpose of this measure is to bring Hawaii into compliance with federal law by implementing the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE Act).

Your Committee received testimony in support of this measure from the Office of Hawaiian Affairs, Hawaii Association of Mortgage Brokers, Mortgage Bankers Association of Hawaii, Hawaii Bankers Association, Hawaii Credit Union League, and Legal Aid Society of Hawaii. Testimony in opposition to this measure was received from the Department of Commerce and Consumer Affairs and Hawaii Financial Services Association. Written testimony presented to the Committee may be reviewed on the Legislature's website.

Your Committee finds that this measure complies with the requirements of the federal SAFE Act. Your Committee further finds that the purpose of the SAFE Act is "to increase uniformity, reduce regulatory burden, enhance consumer protection, and reduce fraud" by encouraging the states to regulate the mortgage industry. Your Committee notes that this measure is based on a model act prepared by the Conference of State Bank Supervisors and American Association of Residential Mortgage Regulators that the



federal Department of Housing and Urban Development has approved as compliant with the federal law.

Your Committee notes that, under the SAFE Act, failure of the State to implement conforming legislation would result in abdication of the State's right to regulate the mortgage industry and assignment of that right to the federal Department of Housing and Urban Development. Your Committee finds that this result would be unacceptable as it is critical that the State retain its right to respond to unique local circumstances in regulating the mortgage industry.

Your Committee has amended this measure by:

- (1) Adding provisions relating to mortgage call reports, unique identifiers for mortgage loan originators, and reports to the Nationwide Mortgage Licensing System in order to fully comply with the SAFE Act;
- (2) Amending the prohibited practices section to conform to existing law regarding unfair and deceptive trade practices;
- (3) Specifying the fees for application, licensure, and renewal of a license;
- (4) Providing that chapter 454, Hawaii Revised Statutes, shall be repealed effective December 31, 2010, and clarifying the process for transitioning industry regulation under chapter 454 to regulation under this measure;
- (5) Specifying the appropriation from the Compliance Resolution Fund for implementation of this measure; and
- (6) Making technical, nonsubstantive changes for the purpose of clarity and accuracy in the language of this measure.

As affirmed by the record of votes of the members of your Committee on Commerce and Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1438, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1438, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.



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



ROSALYN H. BAKER, Chair



