

STAND. COM. REP. NO.

2174

Honolulu, Hawaii

FEB 15 2012

RE: S.B. No. 2763  
S.D. 1

Honorable Shan S. Tsutsui  
President of the Senate  
Twenty-Sixth State Legislature  
Regular Session of 2012  
State of Hawaii

Sir:

Your Committee on Commerce and Consumer Protection, to which was referred S.B. No. 2763 entitled:

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

begs leave to report as follows:

The purpose and intent of this measure is to amend the Secure and Fair Enforcement for Mortgage Licensing Act, chapter 454F, Hawaii Revised Statutes, to reflect recent changes in federal law and adjust fees in consideration of new regulatory requirements.

Your Committee received testimony in support of this measure from the Division of Financial Institutions of the Department of Commerce and Consumer Affairs. Your Committee received testimony in opposition to this measure from the Hawaii Association of Mortgage Brokers.

Your Committee finds that the United States Department of Housing and Urban Development announced the final rule setting standards for state compliance with the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008. Your Committee further finds that the final rule clarifies licensing requirements related to nonprofit organizations and certain mortgage servicer employees. The amendments proposed by this measure are designed to keep state law current with federal law and guidelines.

Your Committee also finds that this measure adds fees for newly established regulatory services and adjusts fees for initial application and annual license renewals for mortgage loan

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originators, mortgage loan originator companies, and exempt sponsoring mortgage loan originator companies. Your Committee notes that the mortgage loan originator program began in 2010. At the end of calendar year 2011, the Division of Financial Institutions regulated approximately 840 mortgage loan originators and approximately 240 mortgage loan originator companies. However, because the initial projections for the budget were based on 3,000 licensees, the current fee levels do not permit the program to be self-sustaining.

The Division of Financial Institutions has indicated that the increase in fees is based on the Division's need to show a stable source of income for the upcoming accreditation review by the Conference of State Bank Supervisors. The Division is seeking additional fees in an attempt to replace and expand its funding source should the Division not receive its share of the franchise tax. Although the franchise tax revenue for a fiscal year is credited to the Division's fund as of June 30, the revenue is not deposited into the fund until July of the following fiscal year. This requires the Division to have thirteen months of cash reserves in its fund to meet its total operations needs for the fiscal year.

The Division estimates additional revenues of \$96,000 for 2012, based on the provisions in this measure that increase the mortgage loan originator initial application and renewal fees.

Your Committee has heard the concerns that the fee increases proposed by this measure may pose hardships for sole proprietors who are licensed as a mortgage loan originator company and a mortgage loan originator. Based on testimony received by your Committee, small mortgage loan originating companies in the State may be comprised of sole owners who must pay renewal fees for themselves and their company.

According to the Division, the Nationwide Mortgage Licensing System collects fees for each state based on set parameters for mortgage loan originators, mortgage loan originator companies, branches, and exempt mortgage loan originating companies. The Division indicated that a combination rate for a sole proprietor may not be available, as the Nationwide Mortgage Licensing System is not able to program special fees for states to charge specialized licensees. However, the Division also indicated that a fee adjustment could be possible if sole proprietors paid all required fees through the Nationwide Mortgage Licensing System



then requested the State to reimburse any fees the Division chose to waive.

If the mortgage loan originator fees for sole proprietors are waived, the Division estimates a projected total loss of revenue of \$31,250. This figure includes initial and renewal sole proprietor applicants. The Division estimates \$64,750 of projected net additional revenue for sole proprietors.

Your Committee requests the Division of Financial Institutions to continue to explore ways to assist sole proprietors who must file and pay fees as both a mortgage loan originator company and as a mortgage loan originator.

Your Committee has amended this measure by making technical, nonsubstantive amendments for the purposes of clarity and consistency.

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 S.B. No. 2763, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2763, 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



The Senate  
 Twenty-Sixth Legislature  
 State of Hawai'i

**Record of Votes**  
**Committee on Commerce and Consumer Protection**  
**CPN**

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 2763	CPN, WAM	2-1-12		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	✓			
TANIGUCHI, Brian T. (VC)	✓			
GALUTERIA, Brickwood	✓			
GREEN, M.D., Josh	✓			
NISHIHARA, Clarence K.	✓			
SOLOMON, Malama	✓			
SLOM, Sam			✓	
<b>TOTAL</b>	6	0	1	0
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
<b>Distribution:</b> Original             Yellow             Pink             Goldenrod File with Committee Report             Clerk's Office             Drafting Agency             Committee File Copy				

\*Only one measure per Record of Votes