



NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
335 MERCHANT STREET, ROOM 310
P.O. Box 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
www.hawaii.gov/dcca

KEALI'I S. LOPEZ
DIRECTOR

TO THE
HOUSE COMMITTEE ON
CONSUMER PROTECTION AND COMMERCE

THE TWENTY-SIXTH STATE LEGISLATURE
REGULAR SESSION OF 2012

Monday, March 12, 2012
2:10 p.m.

TESTIMONY ON S.B. NO. 2763, S.D. 2
RELATING TO MORTGAGE LOAN ORIGINATION

THE HONORABLE ROBERT HERKES, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Iris Ikeda Catalani, Commissioner of Financial Institutions
("Commissioner"), testifying on behalf of the Department of Commerce and Consumer
Affairs ("DCCA") in strong support of administrative bill, Senate Bill No. 2763, S.D. 2.

Overview of Division of Financial Institutions Budget

The Division of Financial Institutions ("DFI") bases its budget requests on the amount
of revenue generated from programs plus the \$2.0 million from the franchise tax. For

each year, we calculate the amount of revenues less the expenditures to determine the initial amount of the funds available. Starting in FY2012, DFI will be running a deficit as DFI is not bringing in adequate revenue to cover all expenses and adjustments.

We are asking for the increase in fees for this and other programs as we need to show a stable source of income for the upcoming accreditation review of DFI by CSBS (Conference of State Bank Supervisors). As our current source of funding has been in jeopardy in the last few years, there are indications that if we do not have a stable source of funding, this will weigh heavily against being accredited for another five years.

In order to be self-sustaining, DFI must seek additional fees (1) to keep pace with costs to DFI, as the time spent on this licensee increased due to the increased regulatory oversight required by recent federal regulations and (2) to attempt to replace and expand the funding source should DFI not receive its share of the franchise tax. You will note from Exhibit A, the franchise tax revenue is the bulk of the revenues. The remainder of the revenues is generated from the fees charged by DFI.

Mortgage Loan Originator Program Costs

The Mortgage Loan Originator ("MLO") program began in 2010 with the first licenses issued in December 2010, and the rest of the licenses issued in 2011. The

end of calendar year 2011 marks the first full year of the MLO program for DFI. In anticipation of budgeting for the program in fiscal year 2010, DFI knew that there were approximately 6,500 mortgage brokers and solicitors registered with DCCA's Professional and Vocational Licensing branch. DFI estimated that with the new requirements of licensure, it would license approximately 3,000 MLOs and Mortgage Loan Originator Companies ("MLOC") combined. At the end of 2011, DFI had approximately 840 MLOs and approximately 240 MLOCs. Because the initial projections for the budget were based on 3,000 licensees and we have less than half of the number of expected licensees, the fees collected have not comported to the expenses of the MLO program. In addition, when the MLO program began, DFI had about 600 inquiries a month from people who wanted to understand how to get a license, and what the requirements were for licensure, even though DFI posted FAQs on our webpage. Currently, the MLO program receives about 200 inquiries a month, and receives numerous anonymous complaints about companies or individuals who may be engaging in unlicensed activity. We have commenced investigations on many of these complaints and have begun enforcement proceedings.

Currently the MLO program has 842 active individual licensees and if we add the 842 and the 240 projected licenses (20 new licensees a month) we will have 1,082 licensees. We also anticipate that 40 people will apply between 11/1 - 12/31/2012, and these 40 people will ask to be licensed during the renewal period so

that they will not have to pay the renewal fees on top of the initial application fees, it would bring the total to 1,042. In 2011, 252 or 24% of licensees either withdrew, were abandoned, or terminated as they failed to renew. We anticipate losing about 20% of the 1,042 licensees, leaving approximately 840 that will apply for renewal in 2012.

Fee structure

After discussions with interested parties affected by this chapter, we have agreed to a compromise on the fee structure as follows:

1. Page 14, line 1: the initial application fee is \$600 (not \$550)
2. Page 14, line 2: the renewal application fee is \$350 (not \$400).
3. all other fees remain the same.

The additional anticipated revenues will be approximately \$66,000 will be used to pay for the expenses of investigations (including subpoenas, and interisland travel, sheriff costs, locksmith costs), and we anticipate the need for an additional person in fiscal year 2013-14 to permanently conduct investigations.

The DFI has found that because the MLOCs are required to have a branch office physically located in Hawaii, and that they must have a branch manager located at the branch office, the MLOs who are branch managers are relocating frequently. MLOCs have been recruiting MLO branch managers from other MLOCs and have caused an increased number of filings by MLOCs and MLOs.

When DFI did unannounced site visits in December 2011, it caused MLOCs to file relocation requests through DFI. About 75% of the relocation applications are done after the fact, and the DFI has been following up with each MLOC to determine why it did not seek prior approval for the relocation. The location of the branch is important to track as consumers are using the Nationwide Mortgage Licensing System ("NMLS") consumer access to determine whether the MLO is licensed and where the branch office is located. Since many of the branches are in private homes, consumers have been requesting verification that the MLO is licensed in our state. After the relocation is approved by the Commissioner, NMLS and the consumer access page is updated.

Sole Proprietors

DFI licensed 28 sole proprietors during 2011. Every state in the country uses the NMLS to allow applicants to apply online for both initial applications and renewal applications. NMLS collects all fees for each state based on set parameters of MLOs, MLOCs, branches, and exempt MLOCs. NMLS cannot easily program special fees for states to charge for specialized licensees. The only way to adjust the fees for sole proprietors is for them to pay all fees through NMLS and request that the State reimburse the fees we may choose to waive. The reimbursement process may take up to 120 days during the renewal period, and we would complete the renewals before starting the reimbursements as all staff persons work on the renewal applications. The

reimbursement process is a manual one for DFI, DCCA fiscal office and DAGS fiscal office.

To avoid the extra costs both to the sole proprietors and to DCCA, we request an amendment to the bill to exempt sole proprietors from the initial application and annual license renewal fees. We suggest the following language be added to section 1 of the bill as a third new section:

§454F- Sole proprietorships; exemption. Every mortgage loan originator company that consists of a single individual not exempt under section 454F-2 who engages in the business of a mortgage loan originator as a sole proprietorship shall be exempt from state mortgage loan originator initial application and annual license renewal fees."

Based on the number of licenses issued to sole proprietors (MLOC and MLO), we project 15 new applicants for 2012. Using the proposed fees and if we waive the MLO fees, the projected loss of revenue would be \$12,000, which includes the recovery fund fee. At renewal, using the proposed fees and estimating that there will be 40 sole proprietors applying for renewal, waiving the same fee (MLO), the projected loss of revenue would be \$18,000 which also includes the recovery fund fee.

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Projected total loss of revenue, if waiving the MLO fees would be \$23,000.

| | SOLE PROPS MLOC/MLO | MLOC Current Fees | MLOC Recovery Fund Fee | Proposed MLO Fees | MLO Recovery Fund Fee |
|-----------------------------|------------------------------------|----------------------------------|---------------------------------------|------------------------------|--------------------------------------|
| 2012 | | (x) \$900 | (x) \$300 | (x) \$600 | (x) \$200 |
| New Applications | 15 | \$13,500.00 | \$4,500.00 | \$9,000.00 | \$3,000.00 |
| | | | | | |
| | | (x) \$600 | (x) \$200 | (x) \$350 | (x) \$100 |
| Renewals | 40 | \$24,000.00 | \$8,000.00 | \$14,000.00 | \$4,000.00 |

Taking into account all the adjustments, including the waiving of the MLO fees for sole proprietors, the net amount projected to be collected with the new fee structure is **\$43,000** (\$66,000 – \$23,000).

For these reasons, DFI strongly supports this administration bill, Senate Bill No. 2763, S.D. 2, and respectfully asks that the measure be passed with the proposed amendments.

Thank you for the opportunity to testify. I would be pleased to respond to any questions you may have.

Exhibit A

FINANCIAL
 PLAN - DFI

| | FY02 | FY03 | FY04 | FY05 | FY06 | FY07 | FY08 | FY09 | FY10 | FY11 | FY12 | FY13 | FY14 |
|--------------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| | act | act | act | act | act | act | act | act | act | act | est | est | est |
| Revenues: | 2,745,917 | 1,888,789 | 2,239,073 | 2,175,645 | 2,180,745 | 2,798,163 | 2,620,852 | 2,599,918 | 2,822,798 | 3,429,771 | 3,146,015 | 3,108,440 | 3,101,965 |
| Expenditure | (1,439,447) | (1,533,551) | (1,739,489) | (1,928,179) | (1,944,171) | (1,881,023) | (2,104,693) | (2,421,699) | (2,185,440) | (2,456,854) | (2,631,432) | (3,384,920) | (3,384,920) |
| Rev Over/Under | 1,306,470 | 355,238 | 499,584 | 247,466 | 236,574 | 917,140 | 516,159 | 178,219 | 637,358 | 972,918 | 514,583 | (276,480) | (282,955) |
| Exp | (475,416) | (2,569,185) | (300,314) | (311,093) | (266,812) | (497,749) | (509,619) | (520,108) | (398,804) | (586,818) | (528,368) | (528,368) | (528,368) |
| Adjustments | | | | | | | | | | | | | |
| Net | | | | | | | | | | | | | |
| (Rev+Exp+ Adj) | 831,054 | (2,213,947) | 199,270 | (63,628) | (30,238) | 419,391 | 6,540 | (341,889) | 238,554 | 386,100 | (13,785) | (804,948) | (811,323) |
| Carryover | | | | | | | | | | | | | |
| Begin Bal | 5,121,434 | 5,952,488 | 3,738,540 | 3,937,811 | 3,874,183 | 3,843,945 | 4,263,336 | 4,269,876 | 3,927,987 | 4,166,540 | 4,552,640 | 4,538,855 | 3,734,007 |
| Ending Bal | 5,952,488 | 3,738,540 | 3,937,811 | 3,874,183 | 3,843,945 | 4,263,336 | 4,269,876 | 3,927,987 | 4,166,540 | 4,552,640 | 4,538,855 | 3,734,007 | 2,922,684 |
| Ending Bal(mo.) | 25.2 | 16.9 | 18.4 | 17.2 | 16.8 | 16.6 | 15.8 | 13.0 | 15.2 | 13.2 | 14.2 | 11.7 | 9.2 |



HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE
HOUSE COMMITTEE ON JUDICIARY
**TESTIMONY IN OPPOSITION OF
SB 2763, SD 2 RELATING TO MORTGAGE LOAN ORIENTATION**

Testimony of
Jodie Tanga, President
Hawaii Association of Mortgage Brokers
Monday, March 12, 2012, 2:10 p.m.
Conference Room 325

Chairs Herkes and Keith-Agaran, and members of the Committee:

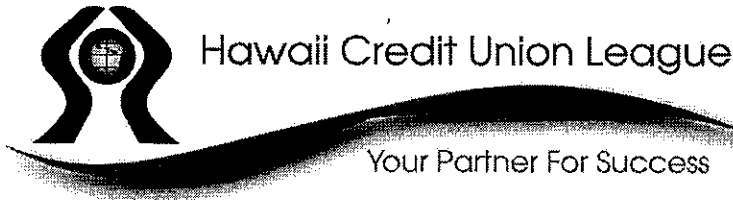
The Hawaii Association of Mortgage Brokers' ("HAMB") are limited to the proposed increases in fees. HAMB opposes SB 2763, SD 2 in its current form which seeks additional increase to fees for mortgage loan originators and their companies. Having already faced major fee increases just last year, this fee increase is premature since the program has been in place only a little over a year. It is extremely discouraging for mortgage loan originators and their companies, many of whom are sole proprietors, to be faced with the possibility that their fees will be increased yet again. It is a struggle for many originators and companies to pay the current fees proposed in this bill.

HAMB, however, has been speaking with the Commissioner of Financial Institutions of the Department of Commerce and Consumer Affairs ("the Commissioner") about this matter and has reached an agreement. HAMB will support the Commissioner's proposed amended fee increases as follows which has been incorporated into HB 2501, HD1:

1. Initial application - additional \$100 for a fee of \$600
2. Annual renewals – additional \$50 for a fee of \$350; and
3. Sole proprietors – a one time application fee.

HAMB is encouraged by its discussion with the Commissioner and supports this amended fee schedule increase. HAMB will continue to work with the Commissioner and has requested additional information regarding how program funds are being utilized and expended. We are anxious to explore alternate cost-cutting avenues to any future fee increases.

Thank you for the opportunity to submit this testimony.



1654 South King Street
Honolulu, Hawaii 96826-2097
Telephone: (808) 941.0556
Fax: (808) 945.0019
Web site: www.hcul.org
Email: info@hcul.org



Testimony to the House Committee on Consumer Protection and Commerce and
House Committee on Judiciary
Monday, March 12, 2012

Testimony in Opposition to SB 2763 SD2, Relating to Mortgage Loan Origination

To: The Honorable Robert Herkes, Chair
The Honorable Ryan Yamane, Vice-Chair
The Honorable Gil Keith-Agaran, Chair
The Honorable Karl Rhoads, Vice-Chair
Members of the Committees

My name is Stefanie Sakamoto, and I am testifying on behalf of the Hawaii Credit Union League, the local trade association for 81 Hawaii credit unions, representing approximately 811,000 credit union members across the state. We are in opposition to SB 2763 SD2, Relating to Mortgage Loan Origination.

While we fully understand the current situation regarding mainland mortgage loan servicers, and the many abuses that have occurred, credit unions have not been guilty of these offenses. Hawaii's credit unions have a long history of serving their members to the best of their ability, always keeping in mind the credit union philosophy of "people helping people". While we have no objection to the provisions of this bill that would reflect current federal standards, we do object to the removal of the exemption for credit union service organizations. On page 10, lines 15-17 of the bill, "a subsidiary of an insured depository institution regulated by a federal banking agency" is stricken. While we understand that this change is probably made to require bank-subsidized servicers to register, we feel that credit unions service organizations should remain exempt.

Thank you for the opportunity to testify in opposition.