

STAND. COM. REP. NO. 2086

Honolulu, Hawaii

FEB 06 2014

RE: S.B. No. 2817
S.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Seventh State Legislature
Regular Session of 2014
State of Hawaii

Madam:

Your Committee on Commerce and Consumer Protection, to which was referred S.B. No. 2817 entitled:

"A BILL FOR AN ACT RELATING TO SECURE AND FAIR ENFORCEMENT FOR MORTGAGE LICENSING ACT,"

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 by:

- (1) Adding or amending various definitions for clarity;
- (2) Deleting exemptions for individuals facilitating mortgage loans for family members and family property;
- (3) Clarifying requirements for branch managers;
- (4) Requiring mortgage loan originator companies to be open during regular business hours to the public and for examination or investigation by the Commissioner of Financial Institutions;
- (5) Excluding certain information included in NMLS from confidentiality provisions of the law; and
- (6) Making various housekeeping amendments for clarity.

Your Committee received testimony in support of this measure from the Department of Commerce and Consumer Affairs. Your



Committee received testimony in opposition to this measure from the Hawaii Financial Services Association. Your Committee received comments on this measure from the Hawaii Association of Mortgage Professionals.

Your Committee finds that in recent years, numerous changes have been made to chapter 454F, Hawaii Revised Statutes, the Secure and Fair Enforcement for Mortgage Licensing Act. This measure is primarily a housekeeping measure that brings consistency to the recent amendments made to that chapter.

Your Committee further finds that under chapter 454F, Hawaii Revised Statutes, there are separate licenses for mortgage loan originator companies and mortgage loan originators. Your Committee has heard the concerns about single business owners who are mortgage loan originators and mortgage loan originator companies but are being asked to pay the company license fee and the individual license fee. Your Committee therefore finds that amendments are necessary to address the duplication of fees paid by these single business owners and clearly reflect the Division of Financial Institutions' interpretation of who constitutes a sole proprietorship.

Your Committee additionally finds that this measure requires mortgage loan originator companies and mortgage servicer companies to be in good standing with the Business Registration Division of the Department of Commerce and Consumer Affairs. However, the Business Registration Division does not issue certificates of good standing for trade names used by sole proprietorships. Therefore, amendments to this requirement are necessary.

Your Committee has amended this measure by:

- (1) Clarifying the definition of "offers or negotiates terms of a residential mortgage loan";
- (2) Adding a definition of "sole proprietorship" to better reflect the situation where a mortgage loan origination company is owned and operated by a single business owner that is also a mortgage loan originator and deleting language that would have added a new definition of "sole proprietor";
- (3) Deleting language that stated a mortgage loan originator company or mortgage servicer company had to be in good

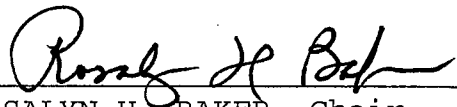


standing with the Business Registration Division of the Department of Commerce and Consumer Affairs;

- (4) Clarifying the requirements for mortgage loan originator companies to be open for business during posted business hours;
- (5) Clarifying the authority of the Commissioner of Financial Institutions or the Commissioner's authorized representatives to conduct an examination or investigation of a mortgage loan originator company during regular business hours; and
- (6) 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. 2817, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2817, 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



