



LATE

January 28, 2014

TO: SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
Senator Rosalyn H. Baker, Chair
Senator Brian Taniguchi, Vice Chair

FROM: Tiare Fullerton, President
Hawaii Association of Mortgage Brokers

RE: SB 2817, Relating to Secure and Fair Enforcement for Mortgage Licensing Act
Position: Comments

Dear Chair Baker, Vice Chair Taniguchi and members of the Committee:

I am Tiare Fullerton, President of the Hawaii Association of Mortgage Professionals (HAMB), a nonprofit organization dedicated to promoting high standards of professionalism in the mortgage industry through education and advocacy. We are a state affiliate of NAMB "The Association of Mortgage Brokers." HAMB's comments on the bill are limited to the proposed definition of sole proprietor and the hours of operation requirement. We have been in dialogue with the Commissioner of Financial Institutions, Iris Catalani, regarding our concerns

As we understood the intention of the legislature, the fee exemption for sole proprietors was intended to allow Mortgage Loan Origination Companies (MLOC) controlled by a single Mortgage Loan Originator (MLO) to pay only the MLOC fee. However, the definition of sole proprietor limits the fee reduction to only those MLOCs organized for liability purposes as a sole proprietor. There are MLOCs owned and operated by single MLOs who have chosen to organize as Limited Liability Companies or S Corporations in an effort to protect the MLOs personal assets. This is the approach we prefer as it allows the single-MLO MLOCs to not have to pay registration fees twice. At this point, we are looking for clarification of the legislature's intent in the creation of the exemption for sole proprietors.

The other concern we have with the bill is the requirement that MLOCs maintain "regular business hours" that are defined in the bill as being from 8:00 am to 4:30 Monday through Friday. In an industry where clients are often met outside of the office and the principals must attend mortgage signings off-site, it is not practical to provide an office that remains open throughout the week. We were pleased that in our recent communication with Commissioner Catalani she was willing to work with us on a compromise that involves the posting of hours when an MLOC is open. At this time, we have not yet developed compromise language, but will continue to work with Commissioner Catalani to develop that language.

Thank you for this opportunity to testify. We look forward to working with the Committee to improve this bill as it moves through the process.

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January 29, 2014

Senator Rosalyn H. Baker, Chair
Senator Brian T. Taniguchi, Vice Chair
and members of the Senate Committee on Commerce and Consumer Protection
Hawaii State Capitol
Honolulu, Hawaii 96813

Re: **Senate Bill 2817 (Secure and Fair Enforcement for Mortgage Licensing Act)**
Hearing Date/Time: Wednesday, January 29, 2014, 9:00 A.M.

I am Marvin Dang, the attorney for the Hawaii Financial Services Association ("HFSA"). The HFSA is a trade association for Hawaii's consumer credit industry. Its members include Hawaii financial services loan companies (which make mortgage loans and other loans, and which are regulated by the Hawaii Commissioner of Financial Institutions), mortgage lenders, and financial institutions.

The HFSA opposes this Bill as drafted, and we are proposing an amendment.

The purposes of this Bill are to: (1) Add definitions for clarity; (2) Require a mortgage loan originator company to be open during specified regular business hours to the public and for examination or investigation by the commissioner; (3) Delete exemptions for individuals facilitating mortgage loans for their family members and family property; (4) Clarify that a branch manager may not oversee more than one branch office or principal place of business; and (5) Exclude certain information included in NMLS from confidentiality provisions of the law.

We were just made aware of a problem with a proposed new definition called "offers or negotiates terms of a residential mortgage loan" (see page 1, line 7). According to the Administration's "Justification Sheet" attached to the Bill, the new definition is to "add clarity". However, paragraph (3) of the definition is substantively broader than the purpose and intent for which this definition is being proposed.

Pennsylvania enacted a law in 2013 which has an exemption that is similar to one that we are proposing for this Bill. Hawaii Revised Statutes Sec. 454F-2 (Exemptions) should be amended in this Bill to add a new paragraph (10) on page 6 after line 11 to read as follows:

"(10) An individual who is all of the following:

(A) An employee of a broker-dealer registered under section 485A-401 of the Hawaii Uniform Securities Act;

(B) Registered as an agent under section 485A-402 of the Hawaii Uniform Securities Act;

(C) Engaged in recommending, referring or steering a borrower or prospective borrower in the manner provided under paragraph (3) of the definition of "offer or negotiates terms of a residential mortgage loan" to an insured depository institution in a manner incidental to and in the normal course of the individual's securities brokerage activities;

(D) Not otherwise acting as a mortgage loan originator as defined in section 454F-1; and

(E) Not in receipt of any compensation or gain for such activities from the person making ~~or brokering~~ the loan, or a borrower or prospective borrower."

Thank you for considering our proposed amendment.

Marvin S. C. Dang

MARVIN S.C. DANG

Attorney for Hawaii Financial Services Association

from the person offering, negotiating, or taking an application for the loan,

(MSCD/hfsa)