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TO THE
HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

THE TWENTY-EIGHTH LEGISLATURE
REGULAR SESSION OF 2016

MONDAY, JANUARY 25, 2016
2:00 p.m.

TESTIMONY ON H.B. NO. 1096
RELATING TO THE SECURE AND FAIR ENFORCEMENT
FOR MORTGAGE LICENSING ACT

TO THE HONORABLE ANGUS L.K. MCKELVEY, CHAIR,
AND MEMBERS OF THE COMMITTEE

My name is Iris Ikeda, Commissioner of Financial Institutions ("Commissioner"), testifying on behalf of the Department of Commerce and Consumer Affairs ("Department"). The Department has concerns about H.B. No. 1096, which would amend requirements of availability of a mortgage loan originator company ("MLOC") to the public.

In 2011, the Legislature determined that it was important to require an MLOC to have a branch office in the State so that it could serve the people of Hawaii. To change the public policy to allow less access to consumers should be given serious consideration.

In 2014, the Secure and Fair Enforcement for Mortgage Licensing Act ("SAFE Act"), Chapter 454F, Hawaii Revised Statutes ("HRS"), was amended to respond to consumer

complaints that their mortgage loan originator ("MLO") would not return calls and could not be found at the MLOC's office address. Stressed consumers had contractual obligations and substantial deposits at risk that turned on closing a mortgage loan on time. In 2014, Section 454F-10.5, HRS, was amended to specifically require that the principal place of business and each branch office of an MLOC "be open for business to the public during posted business hours which shall be during regular business hours." The amendment defined "regular business hours" as Monday through Friday between 8 a.m. and 4:30 p.m., excluding state holidays. Section 454F-1, HRS.

The SAFE Act has a very minimal requirement of an MLOC's availability to the public. The MLOC chooses some time during regular business hours that it will be open to the public, posts those hours, and is open to the public as it states.

House Bill No. 1096 would modify the requirement by adding that the MLOC "may also post language at each location that specifies that members of the public are seen by appointment during posted business hours." That language suggests that the MLOC is open to the public during posted business hours provided that one has an appointment. This would benefit the MLOC by reducing the amount of time it needs to be open to the public.

In contrast, further restricting the MLOC's availability to the public is a step backward for consumers. Consumers may have pressing, last minute questions about or new information affecting their mortgage loan application, which in Hawaii typically involves 30-year contractual obligations of hundreds of thousands of dollars, and thousands of dollars of closing costs and fees. MLOC transactions are so important that the SAFE Act requires that a "qualified individual" manage and supervise its MLOs and the MLO activities of the MLOC's principal office. Additionally, the SAFE Act requires that a branch manager, who is physically present at

an MLOC branch office, be responsible for managing and supervising the branch office and the MLOs working out of the location. Reducing consumer access to the MLOC belies the significance of the transaction that the MLOC is handling for the consumer. Consumers are better served without the amendment proposed by H.B. No. 1096.

Finally, the Department believes that the policy determination of whether Hawaii consumers are best served by Hawaii based MLOs or by out-of-state MLOs, which this measure appears to raise as a practical matter, is an important discussion. The Department envisions consumers would be relegated to interacting with the MLO only through telephone calls and emails. For some consumers who initially contact an MLO who takes the application, then has the application processed out-of-state, the mortgage loan application process may become more frustrating. Consumers may not be able to locate the MLO if the only way to see the MLO is at the office by appointment and the processor (due to time zone differences) is not available.

Thank you for this opportunity to testify. I would be pleased to answer any questions you may have.



January 25, 2016

TO: COMMITTEE ON CONSUMER PROTECTION & COMMERCE
Angus L. K. McKelvey, Chair
Justin H. Woodson, Vice Chair

FR: Cathy Lee, President
Hawaii Association of Mortgage Brokers

RE: H.B. 1096 Relating to the Secure and Fair Enforcement for Mortgage Licensing Act.
Position: Support, with proposed amendment

Dear Chair Angus McKelvey, Vice Chair Justin Woodson and Members,

The Hawaii Association of Mortgage Brokers (HAMB) supports House Bill 1096.

Thank you for scheduling this hearing and providing another opportunity for discussion about this particular provision in section of 454F-10.5. The bill would authorize mortgage loan originator companies to post, at the company's principal place of business and each branch office, language specifying that members of the public are seen by appointment during posted business hours. The requirements of posted hours during regular business hours arose out of 2014's Act 198. HAMB understands that Department of Commerce and Consumer Affairs, Division of Financial Institutions (DFI) primary concern regarding posted hours is the need to ensure the mortgage loan originator company (MLOC) is open and available for and during DFI's examination of the MLOC.

With this in mind, HAMB proposes an amendment to HB 1096 at line 12, immediate after business hours; insert "so long as during an examination by the Division of Financial Institutions, a mortgage loan originator company shall be open and available Monday through Friday, between 8:00 a.m. and 4:30 p.m. with the exception of state holidays, to facilitate the required examination."

Although there has been a brief discussion with the DFI Commissioner, HAMB would like to continue further discussions and as such, we ask that the Committee move this measure out of committee. Thank you for the opportunity to testify.