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**PRESENTATION OF THE
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

TO THE HOUSE COMMITTEE ON FINANCE

THE TWENTY-EIGHTH LEGISLATURE
REGULAR SESSION OF 2016

FRIDAY, APRIL 1, 2016
1:00 p.m.

**TESTIMONY ON S.B. NO. 2850, S.D.2, H.D.1
RELATING TO MORTGAGE INDUSTRY REGULATION**

THE HONORABLE SYLVIA LUKE, 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") in strong support of this Administration bill, S.B. No. 2850, SD2, HD1,
with amendments requested below.

There is a degree of overlap between the mortgage loan origination industry
governed by Chapter 454F, Hawaii Revised Statutes ("HRS"), the Safe and Fair
Enforcement for Mortgage Licensing Act, and the mortgage servicer industry governed
by Chapter 454M, HRS. Some companies conduct business under both chapters.

In order to provide clarity in both laws, the Division of Financial Institutions (“DFI”) of the Department supports this measure that will abolish the Mortgage Loan Servicer Loan Modification (“MLSLM”) license, which will reduce DFI’s licensing revenue under Chapter 454F, HRS. However, any reductions in fee revenue to DFI from this deletion should be offset by the measure’s increase in the mortgage servicer license renewal fee under Chapter 454M, HRS. Chapter 454M, HRS, license renewal fees will increase by about \$21,000 because the license renewal fee is changing from \$425 to \$600. At the same time, Chapter 454F, HRS, license renewal fees will be reduced by about \$20,400, because the bill abolishes the MLSLM license. The bill would allow a mortgage servicer licensed under Chapter 454M, HRS, to make loan modifications without also needing a Chapter 454F, HRS license.

The measure adds a small fee for a mortgage servicer’s name or address changes, to cover DFI staff time for processing the change. This is not expected to be a significant expense for mortgage servicers as they do not frequently change their names or addresses.

The mortgage servicer bond requirement is simplified by changing the wording of the required coverage from “the applicant or licensee’s principal office and any branch office from which the applicant or licensee acts as a mortgage servicer”, to “the applicant or licensee”.

Finally, the Department appreciates the amendments made by the House Committee on Consumer Protection & Commerce to improve this bill, however, we request the following amendments to the current H.D. 1:

1. Page 2, line 11: Change “mortgage industry oversight” to “mortgage servicer industry oversight”.

Reason: This will make it clear that information sharing allowed by this confidentiality provision applies to mortgage servicer industry regulators.

2. Page 4, lines 4-5: Delete “mortgage loan originators, mortgage loan originator companies, and”.

Reason: This section pertains to mortgage servicers. Provisions concerning mortgage loan originators and mortgage loan originator companies are addressed in a different chapter, Chapter 454F, HRS, which has its own confidentiality section.

3. Page 8, lines 8-9: Replace “mortgage loan originator company” with “licensee or applicant.”

Reason: This replacement language is needed to apply the presumption of control provision to applicants as well as licensees. It was in the original version of this measure.

4. Page 40, lines 12-16: Delete exemption (6).

Reason: This exemption is for extensions of credit relating to timeshare plans. The Department is aware that federal Regulation Z exempts certain timeshare plans from the periodic statement requirement, pursuant to 12 CFR 1026.41(e). However, timeshare plans are not among the transactions that are exempted from Regulation Z pursuant to 12 CFR 1026.3. The Department respectfully submits that exempting timeshare plan extensions of credit from the State mortgage servicer law, Chapter 454M, HRS, is not warranted and is contrary to consumer protection interests.

5. Page 47, line 14: Change the defective effective date to "July 1, 2016".

DFI strongly supports S.B. No. 2850, SD2, HD1, and respectfully requests it be passed with the amendments above.

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



April 1, 2016

TO: COMMITTEE ON FINANCE
Representative Sylvia Luke, Chair
Representative Scott Nishimoto, Vice Chair

FR: Henry Perez, President – via Blake Oshiro, Executive Director
American Resort Development Association

RE: S.B. 2850, SD2, HD1 Relating to Mortgage Industry Regulation
Position: Support

Dear Chair Luke, Vice Chair Nishimoto and members,

The American Resort Development Association (ARDA) Hawaii, the local chapter of the national timeshare trade association, supports Senate Bill (SB) 2850, Senate Draft (SD) 2, House Draft (HD) 1, which proposes to amend the regulatory statutes for mortgage loan originators and mortgage loan servicers by clarifying the applicable scope of each chapter, making terminology more consistent across both chapters, and updating references to and provisions implementing controlling federal law.

ARDA Hawaii *supports the bill in the current form after the additional amendment made by the House Consumer Protection Committee in the House Draft 1 which included a specific exemption for time share developers.* At page 40, lines 13- 16, the HD1 provides a new exemption under Hawaii Revised Statutes (HRS) 454M-3 to read:

(6) A person or entity solely involved in extensions of credit relating to timeshare plans, as the term is defined in title 11 United States Code section 101 (53D).

This language mirrors the current language under HRS 454F-2 which currently contains an exemption for timesharing, as follows:

(4) A person or entity solely involved in extensions of credit relating to timeshare plans, as the term is defined in title 11 United States Code section 101 (53D)[.]

Since the purported justification of the bill is to provide consistency between HRS Chapter 454F and 454M, ARDA believes that Chapter 454M should contain a similar provision for mortgage servicers dealing with loan payments secured by a mortgage on a time share interest.

Time share developers most often service their own portfolio of mortgage loans and the servicing operations for the entire country are conducted from a central office located on the mainland. As a result, Chapter 454M may not apply to the servicing arm of a time share developer. ARDA Hawaii, however, feels that it would be appropriate to provide an express exemption in order to avoid any ambiguity.

Thank you for the opportunity to submit testimony in support of SB 2850, SD2, HD1.

McCORRISTON MILLER MUKAI MACKINNON LLP

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March 31, 2016

Rep. Sylvia Luke, Chair
Rep. Scott Y. Nishimoto, Vice Chair
Members of the House Committee on
Finance
Twenty-Eighth Legislature
Regular Session, 2016

Re: S.B. 2850, S.D. 2, H.D. 1
Hearing on April 1, 2016, 1:00 p.m.
Conference Room 308

Dear Chair, Vice Chair and Members of the Committee:

My name is Charles Pear. I am appearing as legislative counsel for ARDA Hawaii.

ARDA Hawaii supports the bill.

Chapter 454F-2(4) currently contains an exemption for timesharing, as follows:

(4) A person or entity solely involved in extensions of credit relating to timeshare plans, as the term is defined in title 11 United States Code section 101(53D);

S.B. 2850, S.D. 2, H.D. 1 contains a similar provision for mortgage servicers dealing with loan payments secured by a mortgage on a time share interest.

Time share developers normally service their own portfolio of mortgage loans. Typically, the servicing operations for the entire country are conducted from a central office located on the mainland. As a result, Chapter 454M may not apply to the servicing arm of a time share developer. ARDA Hawaii, however, feels that it would be appropriate to provide an express exemption in order to avoid any ambiguity. S.B. 2850, S.D. 2, H.D. 1 provides such an exemption.

Thank you for your kind consideration of this legislation. I would be happy to take any questions if you think that I may be of some small assistance.

Very truly yours,

McCORRISTON MILLER MUKAI MACKINNON LLP



Charles E. Pear, Jr.

CEP:kn

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LATE

To: Committee on Finance
Date: Friday, April 1, 2016
Time: 1:00 p.m.
Place: Conference Room 308

Subject: SB2850, SD2, HD1 – Relating to Mortgage Industry Regulation.

Testimony in Support

Chair Luke, Vice Chair Nishimoto, and members of the Committee on Finance. I am here today to testify on behalf of all 7 Habitat for Humanity affiliates in Hawaii, to offer this testimony in support of SB2850, SD2, HD1 which makes various amendments to the mortgage loan originators law. All our Habitat affiliates in Hawaii are mortgage loan originators and servicers.

Through volunteer labor and donations of money and materials, our Habitat affiliates build simple, decent, affordable homes in partnership with Habitat homeowner (partner) families and volunteers. Habitat homes are then sold to partner families at no profit, financed with affordable, 0% interest loans. The homeowner is responsible for the monthly mortgage payment. The revenue received from the mortgage payments is used to support Habitat's programs. Also, Habitat is not a giveaway program. In addition to a down payment and the monthly mortgage payments, homeowners are required to invest hundreds of hours of their own labor – "sweat equity" – into building their Habitat home and the homes of others.

SB2850, SD2, HD1 is needed to clarify the inconsistencies between HRS-454F and 454M. Specifically, we are an exempt nonprofit as a loan originator in 454F, but not as a loan servicer in 454M. Removing the definition of "mortgage service company", will remove this particular conflict in the statute.

Thank you for the opportunity to testify here today. We believe that the introduction on SB2850 was most timely and does address the inconsistencies in HRS-454F and 454M. We would ask that the committee pass this measure.

Respectfully,

A handwritten signature in black ink, appearing to read "George S. Massengale".

George S. Massengale
Community Outreach Manager



9002 San Marco Court
Orlando, Florida 32819
(407) 418-7271

LATE

April 1, 2016

To: Honorable Sylvia Luke, Chair
Honorable Scott Nishimoto, Vice Chair
House Committee on Finance

RE: **SB 2850 SD2 HD1 – Relating to Mortgage Industry Regulation – In Support**
Conference Room 308; 1:00 PM; **Agenda #2**

Chair Luke, Vice Chair Nishimoto and members of the committee:

Starwood Vacation Ownership (“Starwood”) appreciates the opportunity to offer testimony in support of SB 2850 SD2 HD1 as written, which amends regulatory statutes for mortgage loan originators and mortgage loan servicers by clarifying the applicable scope of each chapter, making terminology more consistent across both chapters, and updating references to and provisions implementing controlling federal law.

Starwood supports the provision in the HD1 which includes a specific exemption for timeshare developers. The exemption language mirrors the current language under HRS 454F-2 which contains an exemption for timeshare. For consistency, Chapter 454M should contain a similar provision as 454F; mortgage servicers dealing with loan payments secured by a mortgage on a timeshare interest.

We ask for your favorable consideration of this measure.

Robin Suarez
Vice President/General Counsel
Starwood Vacation Ownership

LATE

**Testimony of
Gary M. Slovin / Mihoko E. Ito
on behalf of
Wyndham Vacation Ownership**

DATE: April 1, 2016

TO: Representative Sylvia Luke
Chair, Committee on Finance
Submitted Via FINTestimony@capitol.hawaii.gov

RE: **S.B. 2850 – Relating to Mortgage Industry Regulation**
Hearing Date: Friday, April 1, 2016 at 1:00 p.m.
Conference Room: 308

Dear Chair Luke and Members of the Committee on Finance:

We submit this testimony on behalf of Wyndham Vacation Ownership. Wyndham offers individual consumers and business-to-business customers a broad suite of hospitality products and services through its portfolio of world-renowned brands. Wyndham Vacation Ownership has a substantial presence in Hawaii through its Wyndham Vacation Resorts and WorldMark by Wyndham and Shell Vacations brands.

Wyndham **supports** S.B. 2850 S.D.2, H.D.1 as drafted. The bill proposes to amend the statutes regulating mortgage loan originators and mortgage loan servicers by clarifying the scope of Chapter 454F and 454M, amends statutory definitions to create consistency across both chapters, and updates provisions related to controlling federal laws.

Wyndham supports the amendment by the House Committee on Consumer Protection and Commerce in the H.D.1 to clarify that time share developers are exempt from the mortgage loan servicer requirements of Chapter 454M. An exemption for time share developers is currently in statute and provided for under HRS 454F-2(4). Since the purported goal of this measure is to create consistency between the two chapters, and because time share developers typically service their own portfolio of mortgage loans from a central office located on the mainland, Wyndham believes including this language in 454M would avoid ambiguity and make clear that time share developers are exempted

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as currently provided for under HRS 454F. Accordingly, we respectfully request that this committee pass the measure with the exemption language intact. Thank you for the opportunity to submit testimony on this measure.