



March 15, 2016

To: Committee on Consumer Protection & Commerce
Hearing: Wednesday, March 16, 2016
Place: Conference Room 325, at 2:05 p.m.

Subject: SB2850, SD2

*Building houses,
Building hope*

TESTIMONY IN SUPPORT

BC License #32403

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Sherri K. Dodson

970 Lower Main Street
Wailuku, HI 96793
(808) 242-1140
FAX (808) 242-1141

Representative Angus McKelvy, Chair, Representative Justin Woodson, Vice Chair and members of the Committee on Consumer Protection & Commerce.

I am the Executive Director for Habitat for Humanity Maui. We are a nonprofit affordable housing developer building for families under 80% of median. These families would never qualify for a conventional loan and we offer a 0% interest mortgage. Our Habitat affiliate not only builds affordable homes for Maui residents we also originate and service the mortgages. This allows us to work with the family in order to assure a successful homeowner.

To date Habitat for Humanity Maui has built or renovated over 100 homes. Most recently we completed a 16 unit condominium project that brought one family directly out of homelessness into a permanent and safe home.

SB2850, SD2 is needed to clarify the inconsistencies between HRS-454F and 454M. Specifically, we are an exempt nonprofit in 454F but not in 454M.

Please vote to move SB2850, SD2 to the House Finance Committee.

Sincerely,

A handwritten signature in black ink that reads "Sherri K. Dodson".

Sherri K. Dodson
Executive Director



Building Housing, Building Hope

To: Committee on Consumer Protection & Commerce
Date: Wednesday, March 16, 2016
Time: 2:05 p.m.
Place: Conference Room 325

Subject: SB2580, SD2 – Relating to Mortgage Industry Regulation.

Testimony in Support

Chair McKelvey, Vice Chair Woodson, and members of the Committee on Consumer Protection & Commerce. I testify on behalf of all seven Habitat for Humanity affiliates in Hawaii, to offer this testimony in support of SB2859, SD2 which makes various amendments to the mortgage loan originators law. Habitat is both a mortgage loan originator and servicer.

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, no 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, as well as financial literacy programs.

SB2850, SD2 is needed to clarify the inconsistencies between HRS-454F and 454M. Specifically, we are an exempt nonprofit as a licensed loan originator in 454F, but not as a loan servicer in 454M. Removing the definition of "mortgage service company", while at the same time retaining our nonprofit exemption status should 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 M. We would ask that the committee pass this measure.

Respectfully,

A handwritten signature in black ink, appearing to read "Jean E. Lilley".

Jean E. Lilley

Executive Director

2051 Young Street, #82, Honolulu, HI 96826 - 808.897.7676 - www.hawaiihabitat.org



To: Committee on Consumer Protection & Commerce
Date: Wednesday, March 16, 2016
Time: 2:05 p.m.
Place: Conference Room 325

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

Testimony in Support

Chair McKelvey, Vice Chair Woodson, and members of the Committee on Consumer Protection & Commerce. I am here today to testify on behalf of all 7 Habitat for Humanity affiliates in Hawaii, to offer this testimony in support of SB2859, SD2 which makes various amendments to the mortgage loan originators law. We are also a mortgage loan originator and servicer.

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 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", while at the same time retaining our nonprofit exemption status should 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-453F and M. We would ask that the committee pass this measure.

Respectfully,

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

George S. Massengale
Community Outreach Manager



LATE

DAVID Y. IGE
GOVERNOR
SHAN S. TSUTSUI
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
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CATHERINE P. AWAKUNI COLÓN
DIRECTOR
JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

TO THE
HOUSE COMMITTEE ON
CONSUMER PROTECTION AND COMMERCE

THE TWENTY-EIGHTH LEGISLATURE
REGULAR SESSION OF 2016

WEDNESDAY, MARCH 16, 2016
2:05 p.m.

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

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 in strong support of this Administration bill, S.B. No. 2850, S.D. 2, with two amendments explained at the end of this testimony.

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.

This measure makes the two chapters more usable in several ways. First, it enhances clarity and consistency in the chapters. It adds new definitions, and

uniformity to terms used in both chapters. It updates references to federal regulations. It amends the definition of "residential mortgage loan" to more closely track a federal regulatory definition of the term. The bill rewords requirements to make provisions easier to understand. Clearer requirements will support licensee compliance.

Second, the measure migrates the mortgage servicer provisions that appear in the mortgage loan originator law (Chapter 454F, HRS) into the mortgage servicer law (Chapter 454M, HRS). Currently, a mortgage servicer wishing to offer loan modifications must be licensed as a mortgage servicer under Chapter 454M, HRS, and additionally hold a special mortgage loan servicer loan modification ("MLSML") license under Chapter 454F, HRS. This has proven confusing to mortgage servicers. This measure allows a mortgage servicer licensed under Chapter 454M, HRS, to make loan modifications without also needing a Chapter 454F, HRS license. The measure abolishes the MLSML license, as the need has been obviated by amendments to the mortgage servicer law in 2015. It also clarifies when employees of mortgage servicers need a mortgage loan originator license.

Abolishing the MLSML license will reduce DFI's licensing revenue under Chapter 454F, HRS. However, 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. For mortgage servicers, the net change in fees should be minimal, with the higher mortgage servicer license renewal fee offset by the abolished MLSML license and associated fees.

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”.

The measure amends the penalty provision of the mortgage servicer law, Section 454M-10, HRS, to make it practical for DFI to impose fines of less than \$1,000 on licensees, when appropriate. Currently, Section 454M-10, HRS, requires that “\$1,000 of the aggregate fine amount” for a violation of Chapter 454M must be deposited to the Mortgage Foreclosure Dispute Resolution Fund (“MFDRF”). In practice, if the aggregate fine is less than \$1,000, DFI must take funds from the Compliance Resolution Fund to make up the difference owed by statute to the MFDRF. DFI effectively loses the ability to compel compliance by its licensees by fine of less than \$1,000; yet many violations do not warrant a fine of that size.

Amendments

DFI respectfully requests that S.B. 2850, SD2, be amended to include provisions that are necessary to safe guard documents for consumers. These sections are found in all of the industry laws that DFI supervises. These provisions are a confidentiality provision, and clarification on how long records must be retained.

The confidentiality provision would address information or material provided to NMLS, and any privilege arising under federal or state law, and reports of examination.

The requested new section would read as follows:

§454M-__ Confidentiality. (a) Except as otherwise provided in Public Law 110-289, section 1512, the requirements under any federal or state law regarding the privacy or confidentiality of any information or material provided to NMLS, and any privilege arising under federal or state law, including the rules of any federal or state court, with respect to the information or material shall continue to apply to the information or material after the information or material has been disclosed to NMLS. The information and material may be shared with all state and federal regulatory officials with mortgage industry or mortgage servicer industry oversight authority without the loss of privilege or the loss of confidentiality protections provided by federal or state law.

(b) For these purposes, the commissioner is authorized to enter into agreements or sharing arrangements with other governmental agencies, the Conference of State Bank Supervisors, the American Association of Residential Mortgage Regulators, or other associations representing governmental agencies as established by rule or order of the commissioner.

(c) Information or material that is subject to a privilege or confidentiality under subsection (a) shall not be subject to:

- (1) Disclosure under any federal or state law governing the disclosure to the public of information held by an officer or an agency of the federal government or a state; or
- (2) Subpoena or discovery, or admission into evidence, in any private civil action or administrative process, unless with respect to any privilege held by NMLS applicable to the information or material; provided that the person to whom the information or material pertains waives, in whole or in part, in the discretion of such person, that privilege.

(d) Notwithstanding chapter 92F, the examination process and related information and documents, including the reports of examination, are confidential and are not subject to discovery or disclosure in civil or criminal lawsuits.

(e) Notwithstanding any law to the contrary, the disclosure of confidential supervisory information or any information or material described in subsection (a) that is inconsistent with subsection (a) shall be superseded by the requirements of this section.

(f) This section shall not apply to information or material relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, mortgage servicers that are included in NMLS for access by the public.

The language above is patterned after Section 454F-14 of Chapter 454F, HRS, Hawaii's mortgage loan originator ("MLO") law. Many mortgage servicers also hold MLO licenses, so DFI has been able to rely on the MLO law confidentiality provision for treatment of information related to mortgage servicers. Because this measure consolidates mortgage servicer provisions into Chapter 454M, that chapter now needs its own confidentiality provision.

DFI also requests that the record retention provision of Chapter 454M clarify that records must be maintained for seven years. A duration is currently not specified. To avoid confusion, DFI request the following amendment to Section 454M-5(j), HRS:

(j) Each mortgage servicer licensee shall maintain adequate records of each residential mortgage loan transaction at the office named in the mortgage servicer license for seven years.

(Proposed new language is underscored.)

DFI strongly supports S.B. No. 2850, S.D. 2, 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.

McCORRISTON MILLER MUKAI MACKINNON LLP

ATTORNEYS AT LAW

CHARLES E. PEAR, JR.
ATTORNEY AT LAW

DIRECT #S:
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FAX - (808) 535-8029
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March 15, 2016

LATE

Rep. Angus L. K. McKelvey, Chair
Rep. Justin H. Woodson, Vice Chair
Members of the House Committee on
Consumer Protection & Commerce
Twenty-Eighth Legislature
Regular Session, 2016

Re: S.B. 2850, S. D. 2
Hearing on March 16, 2016, 2:05 p.m.
Conference Room 325

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 with technical revisions.

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);

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.

Chapter 454F and 454M were adopted in 2009. Prior to that time, Chapter 454 governed Mortgage Brokers and Chapter 454D governed Real Estate Collection Servicing Agents.

Chapter 454D was repealed in 1999 by Act 43, 1999 S.L.H.

In 2005, Chapter 454 was amended to include an exemption for real estate agents involved in the extension of credit for time sharing sales provided that the seller was licensed as a mortgage broker.

In 2009, Chapters 454F and 454M were adopted. Chapter 454F provides an express exemption for persons involved in the extension of credit for time share loans. Chapter 454M, however, did not include a parallel provision.

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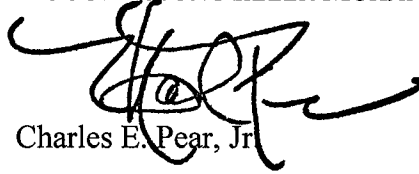
Chair, Vice Chair and Members,
House Committee on Consumer
Protection & Commerce
March 15, 2016
Page 2

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. To a certain extent, this is a housekeeping amendment, intended to tidy up a potential loose end that exists in the current law.

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

A handwritten signature in black ink, appearing to read 'Charles E. Pear, Jr.', written over the typed name below.

Charles E. Pear, Jr.

CEP:kn



LATE

2016 BOARD

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To: Committee on Consumer Protection & Commerce
Hearing: Wednesday, March 16, 2016
Place: Conference Room 325, at 2:05 p.m.
Subject: SB2850, SD2

TESTIMONY IN SUPPORT

Representative Angus McKelvy, Chair, Representative Justin Woodson, Vice Chair and members of the Committee on Consumer Protection & Commerce.

My name is Dennis Oshiro and I am the Executive Director of HHOC Mortgage. HHOC Mortgage is a non-profit mortgage lender organized in 2009 and approved as a Community Development Financial Institution (CDFI Loan Fund) under the U.S. Department of Treasury in 2011. Our mission is to provide low to moderate income, first-time home buyers with access to affordable and flexible mortgage financing. We have since provided over 80 home buyers with over \$3,300,000 in down payment loans.

As a non-profit lender myself, I feel that SB2850, SD2 is needed to clarify the inconsistencies between HRS-454F and 454M regarding non-profit mortgage services. Specifically, non-profit servicers are an exempt nonprofit in 454F but not in 454M.

Thank you for the opportunity to testify via email. We ask that the committee pass this measure.

My contact information should you have need of additional information is:

Phone: 523-9500

Email: dennis@hihomeownership.org

Respectfully,

Dennis Oshiro
Executive Director



*He hana me ka lei aloha o ke Akua mau loa
Building with God's everlasting lei of love*

LATE

March 15, 2016

To: Committee on Consumer Protection & Commerce
Hearing: Wednesday, March 16, 2016
Place: Conference Room 325, at 2:05 p.m.

Subject: SB2850, SD2

TESTIMONY IN SUPPORT

Representative Angus McKelvy, Chair, Representative Justin Woodson, Vice Chair and members of the Committee on Consumer Protection & Commerce.

I work as the Executive Director for Kauai Habitat for Humanity which is a Hawaii nonprofit Corporation that works with local families using the self- help model to build homes. We build affordable housing for families with income under 80% of the median. These families would never qualify for a conventional loan and we offer a 0% interest mortgage. In addition to building affordable homes we also originate and service the mortgages for many of these homes. This allows us to work with very low income families and help to assure a successful homeowner.

Kauai Habitat for Humanity has built over 117 homes and completed repairs to 30 homes for low income families. We are currently working in a 108 lots all affordable home subdivision and have over 257 families that have applied for the first 30 homes.

SB2850, SD2 is needed to clarify the inconsistencies between HRS-454F and 454M. Specifically, we are an exempt nonprofit in 454F but not in 454M.

Please vote to move SB2850, SD2 to the House Finance Committee.

Sincerely

Stephen L Spears
Executive Director



MEMORANDUM

LATE

To: Committee on Consumer Protection & Commerce
From: Jo Bautista *Jo Bautista*
Hearing: Wednesday, March 16, 2016
Place: Conference Room 325 at 2:05 pm
Subject: SB2850, SD2
Testimony in Support

Representative Angus McKelvy, Chair, Representative Justin Woodson, Vice Chair and members of the Committee on Consumer Protection & Commerce.

My name is Jo Bautista and the Executive Director of Habitat for Humanity Leeward O'ahu. Our Habitat affiliate not only builds affordable homes for residents residing on the Leeward coast, we also originate and service mortgages.

We have built many homes for low income families, including house rehabilitation projects for families in desperate need of safe housing.

SB2850, SD2 is needed to clarify the inconsistencies between HRS-454F and 454M. Specifically, we are an exempt 501c3 in 454F and not 454M.

I humbly request your vote to move SB2850,SD2 to the House Finance Committee.

Thank you for your support!



Habitat
for Humanity®
West Hawaii

LATE

*Building houses,
building hope*

March 15, 2016

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Dee James

Craig "Bo" Kahui

Shane Kitchens, AIA

Alan Tuhy, Esq.

Patrick F. Hurney
Executive Director

Habitat for Humanity
West Hawaii, Inc.
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www.habitatwesthawaii.org



Community Partner

To: Committee on Consumer Protection & Commerce
Hearing: Wednesday, March 16, 2016
Place: Conference Room 325, at 2:05 p.m.
Subject: SB2850, SD2

TESTIMONY IN SUPPORT

Representative Angus McKelvy, Chair, Representative Justin Woodson, Vice Chair and members of the Committee on Consumer Protection & Commerce. My name is Patrick Hurney and I am the Executive Director of the Habitat for Humanity West Hawaii, Inc. Our Habitat affiliate not only builds affordable homes for Hawaii County residents we also originate and service mortgages.

Habitat for Humanity West Hawaii is a locally run affiliate of Habitat for Humanity International, a nonprofit, faith based, housing organization. Our mission is to empower families and build community and hope through home ownership opportunities for low-income families.

SB2850, SD2 is needed to clarify the inconsistencies between HRS-454F and 454M. Specifically, we are an exempt nonprofit in 454F but not in 454M.

Please vote to move SB2850, SD2 to the House Finance Committee.

If you need any additional information, please do not hesitate to contact me.

Sincerely,

Patrick F. Hurney
Executive Director