

STAND. COM. REP. NO.

695

Honolulu, Hawaii

MAR 03 2017

RE: S.B. No. 667  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Twenty-Ninth State Legislature  
Regular Session of 2017  
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Health,  
to which was referred S.B. No. 667 entitled:

"A BILL FOR AN ACT RELATING TO MORTGAGE SERVICERS,"

begs leave to report as follows:

The purpose and intent of this measure is to exempt nonprofit organizations and their employees from mortgage servicer licensing and regulations.

Your Committee received testimony in support of this measure from the Hawaii Habitat for Humanity Association; Hawai'i Home Ownership Center Mortgage; Habitat for Humanity West Hawaii, Inc.; and three individuals. Your Committee received testimony in opposition to this measure from the Department of Commerce and Consumer Affairs. Your Committee received comments on this measure from one individual.

Your Committee finds that this measure exempts nonprofit organizations from the State's mortgage servicer law. Your Committee has heard the concerns that this measure will create a regulatory gap at the state level that would be detrimental to Hawaii's mortgage consumers. Regulation of mortgage activity consists of a robust level of regulation at the federal level and equally robust and complementary regulation at the state level. Testimony received by your Committee noted that certain nonprofit organizations are considered small servicers by the Federal



Deposit Insurance Corporation and the Consumer Financial Protection Bureau and are thus exempt from certain rules that larger servicers must follow. However, the viability of the federal Consumer Financial Protection Bureau and its rules are currently in question, due to the ongoing changes at the federal level. The current administration has also launched a sweeping review of the federal Dodd-Frank Act rules, which potentially signals a desire to significantly scale back the federal regulatory system and weaken or dismantle the Consumer Financial Protection Bureau. With the uncertainty at the federal level, the Division of Financial Institutions of the Department of Commerce and Consumer Affairs indicated to your Committee its strong concerns regarding the potential removal of nonprofit organizations from state level regulation.

The Division of Financial Institutions also noted that exemption from the mortgage servicer law would mean that if an issue developed between a borrower and an exempt nonprofit mortgage servicer, the borrower could not request the Division's assistance even if payments were misapplied or lost, requests for loss mitigation went unheeded, or an unlawful foreclosure were in process. Although your Committee understands the nonprofit organization that testified before your Committee has not received any consumer complaints in Hawaii, your Committee is compelled to note that any proposed exemption from the mortgage servicer law would affect every nonprofit in the State.

Your Committee is sympathetic to the concerns raised in testimony by the nonprofit organizations and believes that certain amendments to the mortgage servicer law, which would not amount to full exemption, can be made. The Division of Financial Institutions indicated to your Committee that nonprofit mortgage loan origination companies pay a different application and renewal license fee than for-profit companies. The Division also indicated that it regulates companies under the mortgage loan origination law based on a company's particular business license. Thus, a nonprofit organization who is registered under the mortgage loan originator law is regulated under a so-called "light" regulation, which does not require compliance with everything required of a for-profit corporation, as these business models differ. Your Committee concludes that a similar "light" regulation under the mortgage servicers law can apply to nonprofit organizations, which will alleviate some of the compliance-related



concerns expressed by the nonprofit organizations, while also maintaining appropriate consumer protections for Hawaii's mortgage consumers.

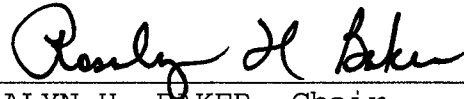
Accordingly, your Committee has amended this measure by:

- (1) Requiring mortgage servicer licensees to establish an education program that includes development of internal policies, procedures, and controls and an ongoing employee training program;
- (2) Inserting a definition of "nonprofit organization" under the State's mortgage servicer law;
- (3) Lowering the application fee and renewal license fee for nonprofit corporations under the State's mortgage servicer law;
- (4) Deleting language that would have exempted nonprofit organizations and their employees from the licensing and regulations of mortgage services;
- (5) Inserting an effective date of July 1, 2050, to encourage further discussion; 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, Consumer Protection, and Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 667, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 667, S.D. 1, and be placed on the calendar for Third Reading.



Respectfully submitted on  
behalf of the members of the  
Committee on Commerce, Consumer  
Protection, and Health,



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ROSALYN H. BAKER, Chair



