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**PRESENTATION OF THE
PROFESSIONAL AND VOCATIONAL LICENSING DIVISION**

TO THE SENATE COMMITTEE ON WAYS AND MEANS

TWENTY-NINTH LEGISLATURE
Regular Session of 2017

Tuesday, March 28, 2017
9:30 a.m.

WRITTEN TESTIMONY

**TESTIMONY ON HOUSE BILL NO. 50, H.D. 3, S.D. 1, RELATING TO APPRAISAL
MANAGEMENT COMPANIES.**

TO THE HONORABLE JILL N. TOKUDA, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Celia Suzuki, Licensing Administrator of the Professional and Vocational Licensing Division (“PVL D”), Department of Commerce and Consumer Affairs (“Department”). The Department appreciates the opportunity to submit written testimony in support of House Bill No. 50, H.D. 3, S.D. 1, Relating to Appraisal Management Companies, with suggested amendments.

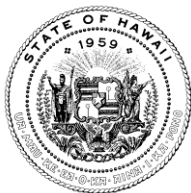
The purpose of House Bill No. 50, H.D. 3, S.D. 1 is to establish an appraisal management company (“AMC”) program within the Department to conform to minimum

Testimony on House Bill No. 50, H.D. 3, S.D. 1
Tuesday, March 28, 2017
Page 2

standards of the Appraisal Management Companies Final Rule and the Dodd-Frank Wall Street Reform and Consumer Protection Act. The bill establishes registration requirements, standards, and penalties for violations.

In order to implement the AMC program, as well as carry out the mandates of this measure, the Department respectfully requests the re-insertion of \$140,000 into SECTION 6 of the bill. We also request for an effective date of January 1, 2018; provided that SECTION 6 shall take effect on July 1, 2017.

Thank you for the opportunity to provide written testimony in support of House Bill No. 50, H.D. 3, S. D. 1, with proposed amendments.



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PRESENTATION OF
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
REGULATED INDUSTRIES COMPLAINTS OFFICE

TO THE SENATE COMMITTEE
ON
WAYS AND MEANS

TWENTY-NINTH STATE LEGISLATURE
REGULAR SESSION, 2017

TUESDAY, MARCH 28, 2017
9:30 A.M.

WRITTEN TESTIMONY ONLY
ON
HOUSE BILL NO. 50 H.D.3 S.D.1
RELATING TO APPRAISAL MANAGEMENT COMPANIES

TO THE HONORABLE JILL N. TOKUDA, CHAIR,
AND TO THE HONORABLE DONOVAN M. DELA CRUZ, VICE CHAIR,
AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs ("Department") appreciates the opportunity to submit written testimony on House Bill No. 50 H.D.3 S.D.1, Relating to Appraisal Management Companies. My name is Daria Loy-Goto and I am the Complaints and Enforcement Officer for the Department's Regulated Industries Complaints Office ("RICO"). RICO offers enforcement-related comments on this bill.

House Bill No. 50 H.D.3 S.D.1 establishes a new chapter for the registration of appraisal management companies within the Department.



RICO acknowledges the complexity in creating an appraisal management company program within the Department that conforms to federal law. This bill as currently drafted contains enforcement provisions that are consistent with other licensing chapters that RICO enforces and a surety bond requirement that will afford protection for licensed Hawaii real estate appraisers who work with appraisal management companies.


RICO notes that this Committee heard the companion measure, Senate Bill No. 390, and passed out a Senate Draft 2 incorporating the Department's requested amendments. Both this bill and Senate Bill No. 390 S.D.2 H.D.1 are now substantially similar. The bills differ, however, in their definition of "affiliate", which the Senate Committee on Commerce, Consumer Protection, and Health clarified in this bill and in their varying defective effective dates. RICO prefers this bill when compared with Senate Bill No. 390 S.D.2 H.D.1.

RICO also supports the amendments requested by the Department's Professional and Vocational Licensing Division in that Division's testimony.

Thank you for the opportunity to submit written testimony on House Bill No. 50 H.D.3 S.D.1.



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March 28, 2017

The Honorable Jill N. Tokuda, Chair
Senate Committee on Ways and Means
State Capitol, Room 211
Honolulu, Hawaii 96813

RE: H.B. 50, H.D.3, S.D.1, Relating to Appraisal Management Companies

HEARING: Tuesday, March 28, 2017, at 9:30 a.m.

Aloha Chair Tokuda, Vice Chair Dela Cruz, and Members of the Committee.

I am Myoung Oh, Director of Government Affairs, submitting written testimony on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its 9,000 members. HAR **strongly supports** H.B. 50, H.D.3, S.D.1 which establishes an Appraisal Management Company (AMC) registration program within the Department of Commerce and Consumer Affairs to conform to minimum standards established under federal law and regulations.

An AMC is an entity that administers networks of independent appraisers to fulfill real estate appraisal assignments for lenders. AMCs serve as an intermediary to ensure independence between the appraisal and loan originator. Additionally, AMCs perform essential functions in many residential transactions, including coordinating appraisal completion, maintaining a roster (panel) of qualified appraisers, maintaining appraiser independence by serving as a liaison between the appraiser and lender, and performing quality control reviews of the appraisal before sending it to the lender.


The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank) directed that six federal financial regulatory agencies¹ promulgate rules on the minimum requirements for states to register AMCs. The final rules were published in the Federal Register on June 9, 2015, and became effective August 10, 2015. While the final rule does not force a State to enact these minimum requirements, it specifies that if a State fails to do so by August 10, 2018, non-federally regulated AMCs will be barred from providing appraisal management services for federally-related transactions in that State.


¹ The six agencies include the Board of Governors of the Federal Reserve System, Comptroller of Currency, Federal Deposit Insurance Corporation, National Credit Union Administration Board, Federal Housing Finance Agency and Bureau of Consumer Financial Protection.





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In response to Dodd Frank and the federal rules, 40 states have enacted legislation to regulate AMCs. The impact of not adopting these rules could have a significant disruption on the mortgage market in Hawaii. It is estimated that a variety of lenders currently utilize between 85-125 AMCs in Hawaii and we expect very similar registration results. Without regulation, these lenders would have to create new ways to process appraisals, or might choose not to provide mortgages in the State. Ultimately, this may increase consumer costs, and limit the availability of mortgage products in Hawaii.

H.B. 50, H.D.3, S.D.1 enacts a regulatory structure to meet the minimum federal requirements, and to allow AMCs to continue to operate in Hawai'i. These regulations will ultimately help protect consumers by providing full oversight over all aspects of the appraisal process in real estate transactions.

HAR respectfully requests passage of this measure as we are in continued discussions with DCCA on the fee structure.

Mahalo for the opportunity to submit written testimony in strong support.

March 28, 2017

The Honorable Jill N. Tokuda, Chair
The Honorable Donovan M. Dela Cruz, Vice Chair
Senate Committee on Ways & Means
Hawaii State Capitol, Room 211
Honolulu, Hawaii 96813



RE: H.B. 50, SD 1 – Appraisal Management Company (AMC) Regulation

Aloha Chair Tokuda, Vice Chair Dela Cruz and Members of the Committee:

On behalf of the Appraisal Management Companies (AMCs) represented by the Real Estate Valuation Advocacy Association (REVA), we strongly support passage of H.B. 50, SD 1. We believe this legislation will enact fair and balanced regulation of AMCs in Hawaii.

REVA is an industry trade association whose membership includes 23 AMCs that collectively provide more than 80 percent of the residential appraisal transaction volume nationwide on behalf of mortgage lenders, many of whom serve Hawaii mortgage consumers. In addition, many REVA members also provide other important lender valuation services such as Broker Price Opinions (BPO) and Alternative Valuation Methods (AVM).

AMC's are in a precarious situation whereby they need to advocate for their own regulation by all 50 states and the five U.S. territories to avoid a massive disruption in the residential mortgage servicing for consumers and lenders in Federally Related Transactions. Therefore, while generally we believe in less state government regulation, REVA members do support minimal state regulation that complies with the federal mandate under the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.

Dodd-Frank added section 1124, Appraisal Management Company Minimum Requirements, to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 19893 (Title XI). Section 1124 required the Office of the Comptroller of the Currency (OCC); Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); National Credit Union Administration (NCUA); Bureau of Consumer Financial Protection (Bureau); and Federal Housing Finance Agency (FHFA) (collectively, the agencies) to establish, by rule, minimum requirements for State registration and supervision of AMCs. In accordance with the statute, the agencies recently issued a final rule (referred to as the AMC Rule) which was published on June 9, 2015, with an effective date of August 10, 2015. States have 36 months to comply – August 10, 2018.

AMCs Play a Vital Role in Protecting Consumers

- Safeguard Appraiser Independence and Protect Against Fraud – AMCs help ensure that appraisals are completed in compliance with federal and state law and that the opinion of value was achieved by the appraiser independently, without undue influence. Prevention of coercion is critical to avoiding collusion within the valuation process and therefore potential fraud.
 - » A lack of appraiser independence has led to previous housing bubbles and predatory lending. Long before the HVCC and Dodd-Frank the nation had been adversely affected by prior valuation crises in the 1930s and 1980s. FIRREA was part of an effort to rein in abuse but was inadequate. The same independence protects consumers and lenders by providing assurance that real estate assets are correctly valued as there are reams of federal/state reports estimating the losses to the economy from valuation fraud.
 - » Most AMCs have systems and processes in place to:
 - Investigate appraiser concerns regarding attempts to influence valuation
 - Investigate consumer complaints regarding unprofessional conduct
 - Communications with consumers to help educate them regarding misunderstandings of appraisal practices and/or principles

- Help Lower Costs Associated with Borrowing – While compliance with state and federal laws and rules is a big reason for lenders use of AMCs, another one is that lenders have high overhead and must compete in a competitive marketplace and the use of AMCs helps them provide the service efficiently and cost effectively to benefit the consumer while ensuring payment of Customary and Reasonable Fees to appraisers.
- Provide Quality Controls - AMCs employ quality control measures to ensure the integrity of a supportable, dependable and credible appraisal, which can identify mistakes and fraud in appraisal reports that protect consumers from faulty opinions of value.
- Reduce Turnaround Times - AMCs employ valuation experts to screen appraisal reports to identify issues early, and have a much larger success rate in resolving valuation issues without causing unnecessary delays and mitigation consumer dissatisfaction.
- Assure that a Competent Appraiser is Selected - Ensure only the most qualified and geographically competent appraisers are sent to a consumer's home.
- Protect Public Safety – Consumers are provided an extra layer of safety and protection as AMCs complete background checks of appraisers before they can be employed or empaneled. Further, AMCs continue to monitor their appraisers while they are employed or empaneled to ensure that unqualified appraisers or those that may pose a threat to public trust or safety are removed.
- Assist Appraisers with Consumer Questions - AMCs work with appraisers to resolve borrower questions and provide the borrower/lender an ability to submit value appeals while complying with appraiser independence.
- Provide Customer Service Issue Resolutions - AMCs resolve customer service escalations that are not directly related to the appraisal process through their access to lenders that the consumer may not otherwise have.
- Support Hawaii Appraiser Regulatory Function - In fulfilling their responsibilities, AMCs will help support the obligations that Hawaii has in regulating appraisers (i.e., by reporting on appraiser violations of the USPAP and other relevant professional licensing standards).

AMCs are Integrated into America's Mortgage Lending and Secondary Markets

It is estimated that nearly 70% of lenders now use AMCs exclusively for their facilitation of residential appraisals. The remaining one-third of lenders (primarily smaller lenders) manage their own in-house appraiser panels, many of which use their own panels which often include the use of AMCs.

- Act as a Compliance Partner for AMC Regulations - Serve as invaluable partners for ensuring efficiency and compliance with state and federal AMC regulations.
- Ensure Lender Compliance with Banking and Mortgage Regulations - Support lender compliance with federal banking regulations (e.g., Fed, FDIC, OCC, CFPB) governing mortgage lending (i.e., appraisal review).
- Help Reduce Costs & Ensure Appraiser Independence - Large and medium sized lending institutions have indicated that they need independent AMCs, because of the cost for them to establish and maintain the necessary internal firewalls for effective appraiser independence compliance.
- Protects Against Marketplace Disruption - Ensures that lenders who use AMCs get their valuation work completed. If AMCs were not to be regulated in Hawaii, lenders would be forced to create elaborate internal controls and firewalls that they would not have to create in other states to obtain their appraisal procurement functions on FRTs, with the least disruption to mortgage lending in the state.

Mahalo for considering our comments. Please do not hesitate to contact me with questions.

Respectfully,



Mark Schiffman
Executive Director

HAWAII FINANCIAL SERVICES ASSOCIATION

c/o Marvin S.C. Dang, Attorney-at-Law

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March 28, 2017

Senator Jill N. Tokuda, Chair
Senator Donovan M. Dela Cruz, Vice Chair
and members of the Senate Committee on Ways & Means
Hawaii State Capitol
Honolulu, Hawaii 96813

Re: **H.B. 50, S.D. 1 (Appraisal Management Companies)**
Decision-Making Date/Time: Tuesday, March 28, 2017, 9:30 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 **supports** this Bill.

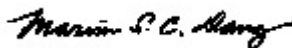
This Bill: (a) establishes an Appraisal Management Company registration program within the Department of Commerce and Consumer Affairs to conform to minimum standards of the Appraisal Management Companies Final Rule and federal Dodd-Frank Wall Street Reform and Consumer Protection Act; (b) establishes registration requirements, standards, and penalties for violations; and (c) appropriates funds from the compliance resolution fund.

Because of a federal law requiring that the real estate appraisal function of a financial institution be separate and independent from the financial institution’s loan origination function, over 60% of lenders nationally use “appraisal management companies” (“AMC”) for residential appraisals. AMCs ensure appraisal independence by being the liaisons between lenders and appraisers. AMCs maintain lists of qualified appraisers, arrange for appraisals to be done, and provide quality control reviews of the appraisals before the AMCs send the appraisals to the lenders.

A federal interagency group issued a Final Rule in 2015 regarding AMCs. Beginning on August 10, 2018, lenders will be barred from using AMCs for “federally regulated transactions” in a state which doesn’t have an AMC registration and supervision program in place that meets the Rule’s minimum requirements. A “federally regulated transaction” is generally a real estate-related financial transaction that involves an insured depository financial institution and that requires the services of an appraiser. An example is a mortgage loan by a bank to a consumer to purchase a home or to refinance a home loan. The appraisals are for loans that are on origination or for the secondary market (e.g. VA, Fannie Mae, etc.).

Hawaii is one of only 10 states that doesn’t yet have an AMC registration and supervision program. If Hawaii doesn’t implement an AMC program, the residential mortgage market will be negatively impacted. While most local financial institutions don’t currently use AMCs, many mainland financial institutions which make mortgage loans in Hawaii do use AMCs. Because mainland lenders provide a large portion of mortgage loans in Hawaii, unless there is an AMC program in place in Hawaii, those lenders will not be able to use AMCs for federally regulated transactions. A consequence will be a disruption for consumers, lenders, and real estate professionals for mortgage loans for home purchases and refinancings. Reduced lending options and availability will not be in the best interest of consumers.

Accordingly, we ask that your Committee pass this Bill. Thank you.



MARVIN S.C. DANG

Attorney for Hawaii Financial Services Association



Testimony to the Senate Committee on Ways & Means
March 28, 2017

Testimony in Support of Intent of HB 50 HD3 SD1, Relating to Appraisal Management
Companies

To: The Honorable Jill Tokuda, Chair
The Honorable Donovan Dela Cruz, Vice-Chair
Members of the Committee

My name is Stefanie Sakamoto, and I am testifying on behalf of the Hawaii Credit Union League, the local trade association for 61 Hawaii credit unions, representing over 800,000 credit union members across the state. We are in support of the intent of HB 50 HD3 SD1.

The majority of Hawaii credit unions offer mortgage loans to their members. All mortgage loans require independent appraisals of the property involved. The registration program of appraisal management companies would ensure federal compliance of these agencies, and ensure that financial institutions that utilize them are still able to do so.

Thank you for the opportunity to testify.



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Presentation To
Senate Committee on Ways and Means
March 28, 2017 at 9:30 AM
State Capitol Conference Room 211

Testimony in Support of House Bill 50, HD3, SD1

TO: The Honorable Jill N. Tokuda, Chair
The Honorable Donovan M. Dela Cruz, Vice Chair
Members of the Committee

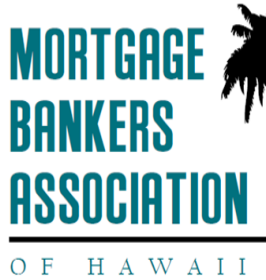
My name is Edward Pei and I am the Executive Director of the Hawaii Bankers Association (HBA). HBA is the trade association representing eleven FDIC insured depository institutions with branch offices in the State of Hawaii.

We support the intent of House Bill 50, HD 3, SD1, which would establish a registration program for Appraisal Management Companies (AMC) wishing to do business in Hawaii. Most other states in the country have already established a registration program for AMCs and we are concerned that the lack of AMC regulation in Hawaii would create unintended consequences for consumers, including lessening the availability of credit for mortgages and other real estate secured lending. We join with the Real Estate Valuation Advocacy Association (REVAA), the Mortgage Bankers Association (MBA), and the American Bankers Association (ABA) in supporting nationwide adoption of this registration program.

Thank you for the opportunity to submit this testimony and please let us know if we can provide further information.

A handwritten signature in black ink, appearing to read 'Edward Y. W. Pei', is centered on the page.

Edward Y. W. Pei
(808) 524-5161



Mortgage Bankers Association of Hawaii
P.O. Box 4129, Honolulu, Hawaii 96812

March 27, 2017

The Honorable Jill N. Tokuda, Chair,
The Honorable Donovan M. Dela Cruz, Vice Chair, and
Members of the Senate Committee on Ways and Means
Hawaii State Capitol
Honolulu, HI 96813

Hearing Date: March 28, 2017
Hearing Time: 9:30am
Hearing Place: State Capitol, Room 211

Re: House Bill 50, HD3, SD1 Relating to Appraisal Management Companies

Chair Tokuda, Vice Chair Dela Cruz and Members of the Committee:

I am Linda Nakamura, representing the Mortgage Bankers Association of Hawaii ("MBAH"). The MBAH is a voluntary organization of individuals involved in the real estate lending industry in Hawaii. Our membership consists of employees of banks, savings institutions, mortgage bankers, mortgage brokers, financial institutions, and companies whose business depends upon the ongoing health of the financial services industry of Hawaii. The members of the MBAH originate and service or support the origination and servicing of the vast majority of residential and commercial real estate mortgage loans in Hawaii. When, and if, the MBAH testifies on legislation, it is related only to mortgage lending and servicing.

The MBAH supports House Bill 50, HD3, SD1. According to the Mortgage Bankers Association of America, 60 percent of all appraisals ordered for residential mortgages originated in the United States were facilitated through Appraisal Management Companies (AMCs). Many lenders do not have in-house appraisal departments whose function is to coordinate the appraisal work, review and maintain a listing of qualified appraisers, serve as a liaison between the lender and the appraiser, and review the completed appraisal as part of their quality control process. These lenders may rely on non-federally regulated AMCs to do these functions.

The final rules of the Dodd-Frank Act require non-federally regulated AMCs to register and report to a state agency in every state where the AMC does business. However, it does not require each state to create a licensing agency. As a result, non-federally regulated AMCs will not be able to provide appraisal management services in

those states. This places the burden on the lender to find other ways of procuring appraisals which may lead to added costs to consumers. If the lender is not able to economically find ways to procure appraisals, the lender may decide to not originate loans in those states. This then leads to decreased access to credit for consumers.

Thank you for the opportunity to present this testimony.

LINDA NAKAMURA
Mortgage Bankers Association of Hawaii

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 27, 2017 4:40 AM
To: WAM Testimony
Cc: ted@acmmaui.com
Subject: Submitted testimony for HB50 on Mar 28, 2017 09:30AM

HB50

Submitted on: 3/27/2017

Testimony for WAM on Mar 28, 2017 09:30AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Ted Yamamura	Individual	Support	No

Comments: Honorable Committee Chair Jill N. Tokuda and committee members. As a real estate appraiser in the State of Hawaii for the past 38 years, I applaud and appreciate the legislature's efforts to enact AMC regulations. This legislation would enact a reasonable registration and regulatory structure for AMCs operating in Hawaii, and I speak in wholehearted support.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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