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

TO THE HOUSE COMMITTEE ON
CONSUMER PROTECTION AND COMMERCE

THE TWENTY-NINTH LEGISLATURE
REGULAR SESSION OF 2017

TUESDAY, FEBRUARY 7, 2017
2:00 p.m.

**TESTIMONY ON H.B. NO. 1241
RELATING TO MORTGAGE SERVICERS**

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

My name is Iris Ikeda, Commissioner of Financial Institutions ("Commissioner") of the Division of Financial Institutions ("DFI"), testifying on behalf of the Department of Commerce and Consumer Affairs ("Department"), on H.B. No. 1241, Relating to Mortgage Servicers. The Department has concerns that the bill as drafted will create a regulatory gap at the state level that would be detrimental to Hawaii's mortgage consumers, and as such opposes the bill.

This bill would make Chapter 454M, Hawaii Revised Statutes (“HRS”), inapplicable to: (1) nonprofit servicers that are registered with NMLS¹ pursuant to Section 454F-25, HRS; and (2) their employees who are exempt from registration and licensure as mortgage loan originators (“MLOs”) under the same section. DFI regulates and supervises the MLO industry, and enforces Chapter 454F, HRS, Hawaii’s Secure and Fair Enforcement for Mortgage Licensing Act. DFI regulates the mortgage servicer industry pursuant to the Mortgage Servicers law, Chapter 454M, HRS.

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. Currently, the viability of the CFPB and its rules are in question due to ongoing changes at the federal level, the launch of a sweeping review of DFA rules by the current administration. This signals a desire to potentially scale back significantly the regulatory system, and possibly weaken or dismantle the agency.

As such, DFI is concerned about any negative repercussions that could follow the exemption of nonprofit servicers from Chapter 454M, HRS, and the mortgage servicing standards and duties legislated in the chapter. If an issue developed between the borrower and an exempt nonprofit servicer, the borrower could not request DFI’s assistance even if payments were misapplied or lost, if requests for loss mitigation were unheeded, or if an unlawful foreclosure were in process. Such impacts would most

¹ "NMLS" means a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the state licensing and registration of state-licensed loan originators and other financial services providers, or any system provided by the Consumer Financial Protection Bureau. Section 454M-1, HRS.

clearly include the loss of borrowers' ability to request DFI in critical situations (i.e., misapplication or loss of payments), and DFI is concerned for these kinds of impacts given the severity of mortgage defaults (e.g., potential loss of one's home, the ruining of one's credit, and other negative effects on one's family and long-term financial goals).

While the Department opposes the current exemption language in this measure, we suggest the following alternative solutions that may help nonprofit servicers operate. First, the cost of the nonprofit company license can be changed. As different company business models are contemplated, DFI is open to adjusting the application fee and renewal license fee for nonprofits to be more affordable. DFI notes that the nonprofit MLOC pays a different application and renewal licensee fee than for-profit companies. Second, the cost of an examination can be changed. In the normal course of planning an examination, the Commissioner scales examinations of mortgage servicers under Chapter 454M, HRS, according to the volume of loans it services, and other risk factors.

The Department opposes H.B. No. 1241 as it is currently written because exempting nonprofit mortgage servicers from regulation would leave a group of borrowers without consumer protection assistance. Affected borrowers would effectively have nowhere to file complaints if something goes awry with their servicing during the decades that they are contractually obligated to pay on their mortgage loan. Borrowers who work with a nonprofit MLO organization to obtain a mortgage loan are often first time homebuyers who could benefit most directly from the mortgage-related protections and assistance that DFI is currently authorized to provide.

The Department respectfully requests that this measure and the exemption it proposes be held. In the alternative, DFI would appreciate the Committee consider instead the possible alternative approaches to fees for nonprofit servicers discussed above.

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



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February 5, 2017

From: George S. Massengale
To: House Committee on Consumer Protection & Commerce
Date: Hearing February 7, 2017 at 2:00 P.M.
Subj: HB1241, Relating to Mortgage Servicers

Testimony in Strong Support

Chair, McKelvey, Vice Chair, Inchiyama, 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 testimony in support of HB1241.

I would like to start by talking about Habitat's business model. All Habitat's in and across the United States utilize volunteer labor and donations of material, and money, to build simple, decent, and affordable homes. Habitat is an organization that strives to keep cost low. The average Habitat construction cost for a 3 bedroom 2 bath home is slightly over \$150,000. I would point out that our Habitat affiliates originate loans because we finance our own mortgages at 0% interest. The average 30-year mortgage for a Habitat family is approximately \$500.00 per month. The revenues from the mortgage payments are then rolled over and used to finance other Habitat homes.

HB1241, would if passed clarify the inconsistencies between HRS-454F and 454M. Specifically, we are an exempt nonprofit loan originator in HRS-454F. However, we were not included as, exempt loan servicers, in 454M. It is our understanding that this was an oversight. The Division of Financial Institution is aware of the situation and has not elected to pursue enforcement.

We would note for the Committee that the Consumer Financial Protection Bureau (CFPB), considers Habitat for Humanity and its affiliates as small servicers which are exempt from certain rules that larger servicers must follow. The CFPB specifically mentions Habitat for Humanity in several of their exemption guidance's. The FDIC also considers Habitat to be a small servicer. We would also point out that a number states provide for a nonprofit mortgage servicers exemptions.

Needless to say, we are anxious to correct the exemption inconsistency between 454F and 454M.

Respectfully,

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

George S. Massengale
Director, Community Engagement



Habitat
for Humanity®
West Hawaii

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*Building houses,
building hope*

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Fr. Richard Tardiff

Alan Tuhy, Esq.

Patrick F. Hurney
Executive Director

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Community Partner

To: Committee on Consumer Protection & Commerce
Hearing: Tuesday February 7, 2017
Place: Conference Room 329 at 2:00pm
Subject: HB1241

TESTIMONY IN SUPPORT

Representative Angus McKelvy, Chair, Representative Linda Ichiyama, Vice Chair, and members of The Committee on Consumer Protection & Commerce. My name is Patrick Hurney and I am the Executive Director of Habitat for Humanity West Hawaii, Inc. Habitat for Humanity West Hawaii builds homes for Hawaii County families under 80% median income. Our Habitat affiliate not only builds affordable homes for Hawaii County residents, we also originate and service 0% interest mortgages. Our mission is to empower families and build community and hope through home ownership opportunities for low income families.

HB1241 is necessary to continue to exempt qualifying nonprofit organizations, which are already exempt from licensure and registration as mortgage loan originators, from regulation as mortgage loan servicers.

We ask that the committee pass this measure. Thank you for your consideration of this legislation, I would be happy to field any questions if I can be of assistance.

Sincerely,

Patrick F. Hurney
Executive Director



HONOLULU
Habitat
for Humanity®

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February 6, 2017

Executive Committee:

Nik Daubert, President
Hawaii National Bank

Regina Ostergaard-Klem,
Vice-President
Hawaii Pacific University

Bernie Reeves, Secretary
St. Ann's Church

Directors:

David Asakura
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Kamuela Cobb-Adams
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Better Homes and Gardens Real Estate

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Healthcare Association of Hawaii

Debi Halero
Valenti Print Group

Kristin Holland
Alston, Hunt, Floyd and Ing

Maryellen Markley
First Impressions

Leslie Miasnik
Building Solutions Together

Scott Nojiri
Central Pacific Bank

John Ogoshi
Maryl Group Construction

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www.honoluluhabitat.org

To: Committee on Consumer Protection & Commerce Hearing: Tuesday, February 7, 2017

Place: Conference Room 325, at 2:05 p.m.

TESTIMONY IN SUPPORT

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

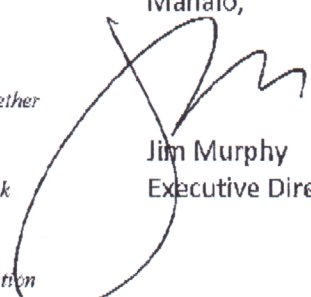
I am the Executive Director for Honolulu Habitat for Humanity. We are a nonprofit affordable housing developer building for families under 80% of the area median income level. These families would never qualify for a conventional loan and we offer a 0% interest mortgage. Our Habitat affiliate not only builds affordable homes for Oahu residents we also originate and service the mortgages. The partnership that we develop with the family goes beyond construction. Our goal is build a safe, secure home and assist the family to build financial stability.

To date Habitat for Humanity Maui has built or renovated over 70 homes. In addition, we have over 20 families approved or in the application process.

HB1241, is needed to exempt nonprofits such as Honolulu Habitat from licensure and registration as a mortgage loan originators. This will allow us the ability to originate and service mortgages for our partner families for years to come.

I strongly support and ask that you vote in favor of HB1241.

Mahalo,


Jim Murphy
 Executive Director

Donate at www.honoluluhabitat.org!

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 6, 2017 1:41 PM
To: CPCtestimony
Cc: jflowers7733@gmail.com
Subject: *Submitted testimony for HB1241 on Feb 7, 2017 14:00PM*

HB1241

Submitted on: 2/6/2017

Testimony for CPC on Feb 7, 2017 14:00PM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Jerry Wayne FlowersJr	Individual	Support	No

Comments:

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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