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TO THE HOUSE COMMITTEE ON HOUSING

TWENTY-NINTH LEGISLATURE
Regular Session of 2018

Tuesday, January 30, 2018
9:30 a.m.

TESTIMONY ON HOUSE BILL NO. 1619, RELATING TO FINANCIAL INSTITUTIONS.

TO THE HONORABLE TOM BROWER, CHAIR, AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs ("Department") appreciates the opportunity to testify on H.B. 1619, Relating to Financial Institutions. My name is Iris Ikeda, and I am the Commissioner of Financial Institutions for the Department's Division of Financial Institutions ("DFI"). The Department would like to share its concerns about the application of this bill.

H.B. 1619 provides that financial institutions subject to Hawaii Revised Statutes ("HRS") chapter 412 may sell residential mortgage loans only to other chapter 412 financial institutions that have an authorized place of business in the State or that designates and maintains an agent in this state that is authorized to accept service of process on behalf of the financial institution.

This bill applies to HRS chapter 412 banks, savings banks, savings and loan associations, financial services loan companies, and credit unions (collectively, "chapter 412 financial institutions"), which DFI regulates. DFI has two main concerns regarding the application of this bill to Hawaii's six state-chartered financial institutions. First, this bill essentially restricts them from selling residential mortgage loans unless the buyer meets certain requirements and is also a chapter 412 financial institution. Second, the restrictions in this bill will place the six chapter 412 financial institutions at a competitive disadvantage to financial institutions not subject to chapter 412.

The practical application of the bill is that it precludes chapter 412 financial institutions from selling mortgage loans to Fannie Mae and Freddie Mac, as the latter are not chapter 412 financial institutions. These two government-sponsored enterprises ("GSEs") are very important to lender liquidity, as they buy mortgage loans from banks and other lenders and hold the loans in their portfolios, or they package the loans into mortgage-backed securities that may be sold. Approximately 80% of the residential loans originated by chapter 412 financial Institutions are sold to GSEs. Through the third quarter of 2017, Fannie Mae and Freddie Mac purchased $2.7 million home loans nationwide, with a combined loan volume of $620 billion.

For similar reasons, the bill's restrictions will limit the pool of buyers for other government loan guaranty programs, such as VA loans, FHA loans, and other mortgage loans made by chapter 412 financial institutions.

The GSEs and government loan guaranty programs benefit consumers by enabling their banks and other lenders to offer lower interest rates and origination fees due to low funding costs, as well as customizable mortgage programs that can help low- to moderate-income families find more affordable home financing options.

Effectively, the six state-chartered local banks regulated by DFI may have to hold the residential loans they originate in their portfolios. Loans held in a bank's portfolio generally have higher interest rates, since the bank would be unable to sell the mortgage loan to the GSEs and would have to take all the risks. In addition, the newest rule from the Dodd-Frank Act provides that banks are required to reserve the loss of the loans when they originate the loan, instead of as the loan matures. As a result, banks will be unable to originate as many loans to consumers and businesses.

The second way this bill may negatively affect chapter 412 financial institutions by giving an advantage to federally chartered banks and credit unions, mainland lenders, and mortgage bankers. These financial institutions are not supervised by DFI and would not be required to follow Hawaii’s mortgage laws, as they would not be subject to the bill's restrictions on mortgage loan sales.

Thank you for the opportunity to share the Department’s concerns.

HB-1619
Submitted on: 1/27/2018 4:13:20 PM
Testimony for HSG on 1/30/2018 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	OCC Legislative Priorities	Support	Yes

Comments:

PRESENTATION OF THE

OAHU COUNTY COMMITTEE ON LEGISLATIVE PRIORITIES

DEMOCRATIC PARTY OF HAWAII

TO THE COMMITTEE ON HOUSING

HOUSE OF REPRESENTATIVES

TWENTY-NINTH LEGISLATURE

REGULAR SESSION OF 2018

Tuesday, January 30, 2018

9:30 a.m.

Hawaii State Capitol, Conference Room 423

RE: **Testimony in Support** of HB 1619, RELATING TO FINANCIAL INSTITUTIONS

To the Honorable Tom Brower, Chair; the Honorable Nadine K. Nakamura, Vice-Chair and Members of the Committee on Housing:

Good morning, my name is Melodie Aduja. I serve as Chair of the Oahu County Legislative Priorities Committee of the Democratic Party of Hawaii. Thank you for the opportunity to provide written testimony on House Bill No. 1619, which restricts financial institutions from selling residential mortgage loans to financial institutions that do not maintain a presence in the State of Hawaii. The OCC Legislative Priorities Committee is in favor of House Bill No. 1619 and support its passage.

House Bill No. 1619, is in alignment with the Platform of the Democratic Party of Hawai'i ("DPH"), 2016, as it aims to restrict the sales of residential mortgage loans to out of state financial institutions. Specifically, the DPH Platform states, “The management of businesses should be ethical and responsive to the community with transparency for investors and shareholders guaranteeing sound healthy management.” (Platform of the DPH, P. 2, Lines 63-64 (2016)).

House Bill No. 1619 places restrictions on the ability of financial institutions to sell residential mortgage loans to other financial institutions. “Residential mortgage loans” is defined as any loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling or residential real estate upon which is constructed or intended to be constructed a dwelling, and includes refinancings, reverse mortgages, home equity lines of credit, and other first and additional lien loans. Restricting financial institutions from selling residential mortgage loans only to financial institutions that have authorized places of business in this State or designate and maintain agents in this State that are duly authorized to accept service of process on behalf of the financial institutions afford transparency for investors and shareholders and fairness to the homeowner-borrower, thereby guaranteeing sound healthy business management, and as such, it is the position of the OCC Legislative Priorities Committee to support this measure.

Thank you very much for your kind consideration.

Sincerely yours,

/s/ **Melodie Aduja**

Melodie Aduja, Chair, OCC Legislative Priorities Committee

Email: legislativeprorities@gmail.com, Tel.: (808) 258-8889

HB-1619
Submitted on: 1/28/2018 9:14:10 PM
Testimony for HSG on 1/30/2018 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
De MONT R. D. CONNER	Ho'omanapono Political Action Committee (HPAC)	Support	Yes

Comments:

MORTGAGE BANKERS ASSOCIATION OF HAWAII

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

January 27, 2018

House Committee on Housing
The Honorable Tom Brower, Chair
The Honorable Nadine K. Nakamura, Vice Chair
Members of the Committee

January 30, 2018 at 9:30 AM
State Capitol Conference Room 423

Re: Testimony to OPPOSE HB 1619 Relating to Financial Institutions

I am Victor Brock, 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 and includes 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. MBAH members 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 or rules, it is related only to mortgage lending and servicing.

Hawaii homeowners and home buyers enjoy the benefits of low mortgage interest rates and easily available mortgage financing because Hawaii lenders have the flexibility to manage their balance sheets and interest rate risk, and to offer products that they might not otherwise offer, by selling mortgage loans into the national secondary market. HB1619 would severely impact these lenders' ability to sell mortgages and, therefore, would have a disastrous negative impact on home financing in Hawaii as detailed below.

Interest-rate risk management adversely affected
Hawaii based depository mortgage lenders retain and service many of the mortgages that they originate in their portfolio without selling them. However the ability to sell their longer-term mortgages (e.g. those for 30 year terms) provides a method for them to manage the interest-rate risk of the balance sheet and to assure that the duration of their assets (loans) is not skewed relative to the average duration of their liabilities (deposits), as was the situation with the savings and loans that failed in the late 1980's. When loans are sold to Fannie Mae and Freddie Mac the sale is invisible to the borrower, as these sales are made with servicing "retained", meaning the originating lender continues to receive payments, and among other matters, respond to borrower inquiries, etc. HB1619 would shut down sales of loans to Fannie Mae and Freddie Mac, as neither is a "financial institution that designates and maintains an agent in this State." Without the ability to manage their interest rate risk by selling these longer term loans, Hawaii lenders would be restricted in the number of long-term mortgages that they could offer and may severely limit or discontinue offering the most affordable mortgage types for homebuyers.

Credit Risk transfer adversely affected
In addition to interest-rate risk transfer, Hawaii lenders also transfer credit risk when they originate and sell certain higher-risk mortgage loans that they might not otherwise be willing to offer homebuyers if they had to retain the loans in their portfolios. For example, Fannie Mae and Freddie Mac will both purchase mortgages with loan-to-value ratios of 97% (=3% down payment). Hawaii lenders would likely discontinue offering these loans targeted to first-time homebuyers if they could not be sold, due to the additional credit risk which they do not want to retain in their portfolio.

Loan Servicing designations and approval for government loans
Similarly, it is almost certain that the availability of certain government guaranteed/insured loan products (FHA, VA, and USDA RHS) loans, which offer low- or no-down payment purchase-money mortgage programs to first-time and/or low/moderate income borrowers, would be negatively impacted. In addition to higher credit risk to the lender, these programs require that the mortgage servicer comply with additional requirements and receive specific approvals and designation to service these types of loans. Due to cost constraints and lack of economies of scale, most Hawaii based lenders do not receive these approvals to service such loans, but, nevertheless, are able to offer these products to first-time homebuyers because they are able to sell the loans after origination to a mainland buyer who has the required servicer designation. HB1619 would prevent these lenders from offering these products, as these mainland buyers are not also considered “a financial institution that designates and maintains an agent in this State”.

Access to funds to mortgage lenders constrained
HB1619 would have an additional negative impact to the Hawaii based lenders in that their access to funds would be constrained or discontinued. Non-depository lenders must sell loans on a continual basis in order to stay in business, as they do not have sufficient capital or other sources of funds, such as deposits, to fund and retain mortgage loans on their balance sheets. They obtain funds from a “warehouse” line of credit to be able to temporarily fund each loan until such time that each loan can be sold, and each mortgage loan is pledged as security for this warehouse line advance. Even if they are able to find purchasers for these loans who may comply with the stipulations of HB1619, it is likely that warehouse line lenders would no longer accept the mortgage as a pledge of security, as its liquidity as a marketable asset would be severely impaired due to the stipulations on who can purchase these mortgages. This bill will shut down many independent locally owned small business mortgage lenders who need to sell their loans in order to continue to stay in business. Similarly, Hawaii based depositories who pledge mortgage loans as security to maintain contingency funding lines of credit with the Federal Reserve Bank or Federal Home Loan Bank would be adversely impacted, as their lines would be reduced due to the impaired marketability of these pledged mortgages.

Local lenders disadvantaged
Lastly, the change to HRS412 as proposed would place all these restrictions only on Hawaii chartered lenders. Non-Hawaii based lenders, who are chartered outside of the state or maintain a national charter, would be exempt. Therefore, HB 1619 creates an uneven competitive environment which specifically disadvantages locally based lenders.

Our position: OPPOSE

In summary, we strongly oppose this bill due to the negative impacts on the availability of mortgage loans for consumers in Hawaii and specifically first-time homebuyers in Hawaii.

Thank you for the opportunity to present this testimony.

VICTOR BROCK
Mortgage Bankers Association of Hawaii

Hawaii Bankers Association

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Honolulu, HI 96813-4203

Presentation To
House Committee on Housing
January 30, 2018 at 9:30 AM
State Capitol Conference Room 423

Testimony in Opposition to House Bill 1619

TO: The Honorable Tom Brower, Chair
The Honorable Nadine K. Nakamura, Vice Chair
Members of the Committee

My name is Neal K. Okabayashi 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.

The Hawaii Bankers Association opposes House Bill 1619. HB 1619 seeks in good faith to address a mortgage servicing issue but the approach focuses on loans rather than the servicing of the loans, and thus creates collateral consequences which would impact Hawaii borrowers who wish to borrow from a lender to buy a home or perhaps refinance an existing mortgage loan to pay for home renovation or college tuition. HBA is ready to assist in efforts to remedy the servicing situation without causing unintended consequences to borrowers who wish to borrow under loans.

The bill prohibits local banks from selling residential mortgage loans to Fannie Mae, Freddie Mac (both Fannie Mae and Freddie Mac are ineligible buyers under the bill), and impedes the sale of mortgage loans to a financial institution not located in Hawaii.

The adverse impact on housing will result from a reduction in available loans because the bill prohibits selling loans to Fannie Mae and Freddie Mac or impedes the sale of FHA and VA loans, which FHA and VA loans are popular for first time home buyers and low to moderate income borrowers. Both Fannie Mae and Freddie Mac as well as FHA and VA will purchase or guarantee low down payment loans which are especially advantageous for first time home buyers and low to moderate income buyers. An inadequate down payment is a major cause of the inability to buy a home because even if the buyer is able to pay the mortgage, the buyer often does not have the down payment funds. However, because of servicing requirements on such loans, banks would not want to make such loans if they cannot be sold, and the banks' ability to offer such loans with such desirable features would be diminished.

Another impact on borrowers is the cost of a mortgage. Generally, a loan that is held by banks in its' portfolio carries a higher cost, in part, due to the greater risk. That risk increases if the banks cannot sell those loans, even at a later date, and since pricing correlates to risk, such loans will be more costly to the borrower.

Another unintended consequence is that banks who cannot sell mortgage loans will be forced to keep the loans for as long as thirty years. A correlation to this long holding period is a requirement that monies deposited in the bank remain in the bank for thirty years without the ability to withdraw the money for certain needs. That requirement would not be welcome. This bill has that same effect on banks. This will dilute the banks' ability to make more mortgage loans because the concentration of mortgage loans owned by the banks will result in regulatory concern about the lack of diversity in the banks' loan portfolio and perhaps a nudge towards diversifying the loan portfolio into other loan categories. Thus this bill results in a disincentive to make mortgage loans which hurts potential homeowners.

Another unintended consequence is that since the banks cannot sell the loans, loan sale funds cannot serve as a source of mortgage funds and the source of funds to make loans shrinks to deposit and capital, and diminishes money available to make loans.

The bill also creates an uneven playing field. It only affects six Hawaii banks and certain Hawaii financial services loan companies. It does not subject the bill's provisions to other mortgage lenders operating in Hawaii including out-of-state banks and mortgage lenders.

We incorporate by reference the various concerns raised in the testimonies of the Mortgage Bankers Association of Hawaii and Hawaii Financial Services Association.

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

Neal K. Okabayashi
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HAWAII FINANCIAL SERVICES ASSOCIATION

c/o Marvin S.C. Dang, Attorney-at-Law
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January 30, 2018

Rep. Tom Brower, Chair
Rep. Nadine K. Nakamura, Vice Chair
and members of the House Committee on Housing
Hawaii State Capitol
Honolulu, Hawaii 96813

Re: **H.B. 1619 (Financial Institutions)**
Hearing Date/Time: Tuesday, January 30, 2018, 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 **opposes** this Bill as drafted.

This Bill: (a) places restrictions on the ability of financial institutions to sell residential mortgage loans to other financial institutions; and (b) defines "residential mortgage loans" as any loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling or residential real estate upon which is constructed or intended to be constructed a dwelling, and includes refinancings, reverse mortgages, home equity lines of credit, and other first and additional lien loans that meet the qualifications of the definition.

We understand that the genesis for this Bill was because a homeowner was unable to timely reach the servicer of his mortgage loan to have his insurance check endorsed so that repairs could be made to his home.

If that is the problem and if a legislative solution is determined to be appropriate, then this Bill is too broadly drafted with its restrictions. We incorporate by reference the testimonies of the Hawaii Bankers Association (HBA) and the Mortgage Bankers Association of Hawaii (MBAH) which describe how the Bill's restrictions will reduce the availability of mortgage loans.

If this Bill as drafted becomes law, there could be negative unintended consequences. This Bill could cause unnecessary uncertainty and disruption to Hawaii's housing market and real estate industry. Potential homeowners will be adversely impacted if they have less options available for mortgage loans to buy properties. With a smaller pool of home buyers, property owners will be negatively affected when they have difficulty selling their properties. Additionally, homeowners will discover that they won't be able to refinance existing mortgage loans or obtain new loans at competitive interest rates and terms.

We ask that your Committee "hold" this Bill and not pass it as drafted. We are willing to work with your Committee and others (such as the HBA, the MBAH, and the Hawaii Division of Financial Institutions) to determine if there could be a more narrowly focused solution within the current regulatory framework and without the need for legislation.

Thank you for considering our testimony.

Marvin S.C. Dang

MARVIN S.C. DANG
Attorney for Hawaii Financial Services Association

(MSCD/hfsa)

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Unite for Good

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Testimony to the House Committee on Housing
Tuesday, January 30, 2018, 9:30 am
State Capitol, Room 423

Comments on HB 1619, Relating to Financial Institutions

To: The Honorable Tom Brower, Chair
The Honorable Nadine Nakamura, 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 54 Hawaii credit unions, representing over 800,000 credit union members across the state. We offer the following comments on HB 1619, Relating to Financial Institutions.

Approximately 40 Hawaii credit unions currently offer mortgage loans. HB 1619 would restrict financial institutions covered under HRS Chapter 412 from selling a mortgage loan to another financial institution that does not have a physical presence in the State of Hawaii. This legislation would only apply to state-chartered financial institutions, however, preventing the sale of mortgages on the secondary market in this manner could have a detrimental impact on the mortgage loan and real estate industries as a whole.

Thank you for the opportunity to provide comments.

HB-1619
Submitted on: 1/26/2018 4:16:18 PM
Testimony for HSG on 1/30/2018 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Ray Oda		Support	No

Comments: