

HB
1283

A BILL FOR AN ACT

RELATING TO FINANCIAL SECURITY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that anyone can
2 experience financial hardship due to the loss of a job, a sudden
3 illness, or other circumstances. According to the 2017 Aloha
4 United Way report, across Hawaii, forty-eight per cent of
5 households struggled to afford basic household necessities in
6 2015. Fifty per cent of Hawaii families live paycheck to
7 paycheck, making any financial hardship a crisis, which can
8 result in defaulting on payments of loans such as a mortgage or
9 automobile loan, a prime cause of homelessness that can be
10 avoided.

11 On every island in Hawaii, families are sleeping in tents
12 on beaches and in public parks. Homelessness is a growing
13 epidemic, and anything that can be done to curtail it is a
14 necessary pursuit.

15 The purpose of this Act is to allow residents greater
16 financial flexibility to help avoid financial crises by
17 requiring certain mortgages or automobile loans to include an



1 option for the borrower to miss a monthly payment without
2 penalty.

3 SECTION 2. Chapter 412, Hawaii Revised Statutes, is
4 amended by adding a new section to article I to be appropriately
5 designated and to read as follows:

6 "§412- Grace period for certain loans. (a) Any
7 mortgage or automobile loan issued under this chapter in an
8 amount of \$1,000 or more shall include as a term of the loan an
9 option for the borrower to miss one monthly payment, that can be
10 used consecutively, for every twenty-four months for the term of
11 the loan without financial, credit, or other penalty, provided
12 that:

- 13 (1) The borrower informs the lender of the borrower's
14 decision to not submit a monthly payment on or before
15 the date that the monthly payment is due; and
- 16 (2) The lender may continue to accrue interest on the loan
17 in any month in which a borrower has not submitted
18 payment pursuant to this section."

19 SECTION 3. This Act does not affect rights and duties that
20 matured, penalties that were incurred, and proceedings that were
21 begun before its effective date.



1 SECTION 4. New statutory material is underscored.

2 SECTION 5. This Act shall take effect on January 1, 2020.

3

INTRODUCED BY:

Lida Antonilla Arce Kawa

Samuel S. King

[Signature]

Tom Barr

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Brian Koford

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Amy Parnaso

Christa [Signature]

Dan Carnas

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Tim Wilkerson



H.B. NO. 1283

Report Title:

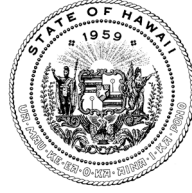
Financial Security; Grace Period; Loans

Description:

Requires certain mortgages or automobile loans of at least \$1000 to include an option for the borrower to miss a monthly payment without penalty.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.





DAVID Y. IGE
GOVERNOR

JOSH GREEN
LT. GOVERNOR

**STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

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Testimony of the Department of Commerce and Consumer Affairs

**Before the
House Committee on Consumer Protection and Commerce**

**Friday, February 1, 2019
2:00 p.m.
State Capitol, Conference Room 329**

**On the following measure:
H.B. 1283, RELATING TO FINANCIAL SECURITY**

Chair Takumi and Members of the Committee:

My name is Iris Ikeda, and I am the Commissioner of Financial Institutions for the Department of Commerce and Consumer Affairs' (Department) Division of Financial Institutions (DFI). The Department supports the intent of this bill and offers comments.

H.B. 1283 provides that mortgages or automobile loans of at least \$1,000 written under Hawaii Revised Statutes (HRS) chapter 412 shall include an option for the borrower to miss a monthly payment without penalty.

The Department appreciates efforts to afford "breathing room" for individuals facing financial hardship, sometimes due to no fault of their own. The recent federal budget impasse provided a stark example of how a family's normal cash flow can stop unexpectedly.

While the Department supports the intent of this bill, it notes the bill as drafted may have unintended consequences. HRS chapter 412 applies only to state-chartered

banks and not to national banks, credit unions and financial institutions operating under other laws. This would have the practical effect of placing state-chartered banks at a financial and competitive disadvantage to other lenders.

Specifically, residential mortgage and automobile loans that carry a statutory grace period requirement will not be able to be sold on the secondary market, and state-chartered banks would be required to hold unmarketable loans in their portfolio. The state-chartered banks would not be able to accurately make disclosures in compliance with the Truth in Lending Act, citing accurate annual percentage rates, and debt servicing requirements would be problematic.

The Department urges the Committee to consider debt relief options that do not disproportionately impact Hawaii's state-chartered banks.

Thank you for the opportunity to testify on this bill.



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Testimony to the House Committee on Consumer Protection & Commerce
Friday, February 1, 2019, 2:00 pm
Hawaii State Capitol, Room 329

In Opposition to HB 1283, Relating to Financial Security

To: The Honorable Roy Takumi, Chair
The Honorable Linda Ichiyama, 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 51 Hawaii credit unions, representing over 800,000 credit union members across the state. We offer the following testimony in opposition to HB 1283, Relating to Financial Security.

All of Hawaii's credit unions currently offer loans of some type. This bill would allow for the borrower to miss one monthly payment for every twenty-four (24) months for the term of the loan, which can also be used consecutively. Put simply, for a 30-year mortgage, a borrower would be allowed to miss 15 payments in a row. This would amount to over a year of non-payment.

Hawaii's credit unions have a long history of taking care of their members. Allowing a borrower to miss a monthly payment due to financial hardship or other personal reasons is not uncommon among any financial institution. However, this should be a business decision made by the financial institution, and should not be a legislative mandate. Mandating this concept would have to be factored into the loan product, and would ultimately affect the term and interest rate of the loan, because the risk would be significantly higher for the lender.

Thank you for the opportunity to provide testimony in opposition.

HAWAII FINANCIAL SERVICES ASSOCIATION

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

P.O. Box 4109

Honolulu, Hawaii 96812-4109

Telephone No.: (808) 521-8521

LATE

February 1, 2019

Rep. Roy M. Takumi, Chair
Rep. Linda Ichiyama, Vice Chair
and members of the House Committee on Consumer Protection & Commerce
Hawaii State Capitol
Honolulu, Hawaii 96813

Re: **H.B. 1283 (Financial Security)**
Hearing Date/Time: Friday, February 1, 2019, 2:00 p.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.

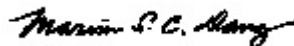
This Bill requires certain mortgages or automobile loans of at least \$1,000 to include an option for the borrower to miss a monthly payment without penalty.

As drafted, this Bill is problematic. If this Bill becomes law, every 24 months a borrower can unilaterally skip a monthly payment for any reason until the loan is paid in full “without financial, credit or other penalty.” For a 30 year mortgage loan, a borrower would be able to skip 15 monthly payments for any reason over the life of the loan. Of course, any missed payment and accrued interest will need to be paid with the next month’s payment. That might put the borrower in a worse position. Additionally, lenders or purchasers of mortgage loans, such as Fannie Mae or Freddie Mac, might decline to make or purchase loans that are subject to this statutorily-imposed provision. This wouldn’t be in the best interest of consumers when the availability of mortgage or automobile loans is reduced or the cost of the loans are increased because of the risks caused by this Bill.

This Bill is also unnecessary. Financial institutions already have programs in place to assist a borrower who truly has a hardship. Those programs are more flexible and beneficial for a borrower than what this Bill offers.

Accordingly, we ask that your Committee “hold” this Bill and not pass it.

Thank you for considering our testimony.



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

LATE



Eric W. Gill, Financial Secretary-Treasurer

Gemma G. Weinstein, President

Godfrey Maeshiro, Senior Vice-President

January 31, 2019

Consumer Protection & Commerce Committee

Re: Testimony on HB1283: Relating to Financial Security

Aloha Chair Takumi and Members of the Consumer Protection & Commerce Committee,

UNITE HERE Local 5 is a local labor organization representing 11,000 hotel, health care and food service workers employed throughout our State. We stand in strong support of HB1283.

Our Union believes one job should be enough to live in Hawaii, to keep up with the cost of living, to raise our families, and enough to retire with dignity. Our members fight diligently to make the “ONE JOB SHOULD BE ENOUGH” movement a reality for everyone in Hawaii. Local 5 successfully pulled off a 51 day strike and a bill such as this one would have alleviated the largest stress faced by striking workers.

As a Union, it is our duty to look out for the interest of workers. Therefore, we appreciate any measure that takes a pragmatic and progressive approach to provide financial security for working people living paycheck to paycheck.

We need the leaders of this state to pass legislation that protects our ability to retain basic necessities - a roof over our heads and a car to get to work. Please move HB1283 forward.



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

LATE

January 31, 2019

House Committee on Consumer Protection & Commerce February 1, 2019, 2:00 PM
The Honorable Roy Takumi, Chair **State Capitol**
The Honorable Linda Ichiyama, Vice-Chair **Conference Room 329**
Members of the Committee

Re: Testimony to OPPOSE HB 1283 Relating to Financial Security

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, with as little as 0% down payment loans, because Hawaii lenders have the flexibility to sell mortgages to Fannie Mae and Freddie Mac government sponsored agencies (aka the "GSE"s) and to receive guarantees of mortgages by the Veterans Administration, U.S.D.A., and H.U.D. Without these agency loan programs and the various guarantees, the low-down payment options available to homebuyers and homeowners would be severely restricted in Hawaii.

These various government agencies already have specific loan servicing guidelines in place that provide accommodation for borrowers who are in distressed situations and which allow temporary forbearance and long-term modification. These accommodations are offered after an analysis of the borrower's overall financial situation with the intent of keeping the homeowners in their homes and making them successful in the long run. The skip-a-pay option mandated by HB1283 directly conflicts with the servicing requirements of these agencies and may make the matter worse for the borrower in the long run, as the underlying situation leading to the inability of the homeowner to make the payment is not diagnosed and addressed.

The majority of all 1-4 family residential mortgage originated in the state of Hawaii are either sold to or guaranteed by one of these agencies. For 2017, 52% of all mortgages originated in the state of Hawaii were sold or securitized by Fannie Mae or Freddie Mac. Additionally, 41% of all first-time homebuyer transactions were guaranteed by the V.A. If HB 1283 were passed into law, Hawaii lenders would not be able to sell or receive

guarantee of these loans by the agencies, which would lead to a severe curtailment in the availability of low-down payment product offerings and a likely increase in interest rates offered.

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

LATE

HB-1283

Submitted on: 1/31/2019 7:00:25 PM

Testimony for CPC on 2/1/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
John Bickel	Individual	Support	No

Comments:

Many people live paycheck to paycheck. When that paycheck is interrupted or a medical emergency eats it up, it creates a crisis. This bill would alleviate some of the pain.

LATE

HB-1283

Submitted on: 1/31/2019 9:12:21 PM

Testimony for CPC on 2/1/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Joseph Brown III	Individual	Support	No

Comments:

Aloha Chair Takumi, Vice Chair Ichiyama, and Members,

I strongly Support this measure. Hawai'i families continue to struggle with high cost of living, and for some, that cost is combined with low, unlivable wages. Making ends meet is a constant balancing act. In fact, it's not uncommon for many of us to be living paycheck to paycheck. As we saw with the recent Federal government shutdown, even one missed paycheck can have heartbreaking and disastrous results for the average, low-middle class worker. Anyone can experience financial hardship at anytime, and having a wider net there to catch any of us who might fall, is not only an act of good governance, but an act of humanity. This bill helps to widen that net a little bit more. Please vote YES.

Mahalo,

Joey Brown, Kailua, HI

Presentation to The
Committee on Consumer Protection & Commerce
February 1, 2019 at 2:00 P.M.
State Capitol Conference Room 329

Testimony in Opposition to House Bill 1283

TO: The Honorable Roy M. Takumi, Chair, Committee on Consumer Protection & Commerce
The Honorable Linda Ichiyama, Vice Chair Committee on Consumer Protection & Commerce
Members of the Committee

My name is Neal K. Okabayashi, the Executive Director of the Hawaii Bankers Association (HBA). HBA is the trade association representing banks with branches in Hawaii.

This bill seeks to enable borrowers who borrow from certain Hawaii banks to avoid making installment payments for any or no reason without consequences. However, there will be detrimental consequences for Hawaii borrowers.

The logical consequence for this measure is that the secondary market for residential mortgages will disappear as Fannie Mae and Freddie Mac, among others, will refuse to purchase mortgage loans made in Hawaii. Thus, Hawaii residents will be forced to rely on Hawaii lenders who are willing to make portfolio mortgage loans (in other words, loans not sold on the secondary mortgage market) and thus run the risk that the loan will not be a qualified mortgage under the rules of the Consumer Financial Protection Bureau.

Further, under the rules of the Consumer Financial Protection Bureau, the bill could cause the loan to lose eligibility as a qualified mortgage because the loan would be structured with a balloon payment at the end of the loan term. This results from the borrower's ability to skip a payment every two years, and since, the normal term for a mortgage loan is 30 years, that means 15 monthly payments not paid and a large balloon payment at the termination of the loan.

That consequence also encourages lenders to resort to 15-year term mortgage which means larger monthly payments.

With the possibility of a large balloon payment that the borrower cannot pay, this bill only incentivizes default and foreclosure. It is ironic that this bill has provisions which run counter to the rules of the Consumer Financial Protection Bureau.

However, more than helping consumers, it helps businesses, large and small, that are borrowers under a commercial mortgage since the provisions of the bill apply to all mortgage loans.