

STAND. COM. REP. NO. 190

Honolulu, Hawaii

FEB 12 2021

RE: S.B. No. 1105
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-First State Legislature
Regular Session of 2021
State of Hawaii

Sir:

Your Committee on Commerce and Consumer Protection, to which was referred S.B. No. 1105 entitled:

"A BILL FOR AN ACT RELATING TO THE MORTGAGE LOAN RECOVERY FUND,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Allow a person aggrieved by the fraud, misrepresentation, or deceit of a mortgage loan originator company licensee to receive restitution payment upon a final court order;
- (2) Repeal fees paid by mortgage loan originator companies and their branch office locations to the Mortgage Loan Recovery Fund; and
- (3) Provide the Commissioner of Financial Institutions with the authority to consider applications to recover from the fund.

Your Committee received testimony in support of this measure from the Department of Commerce and Consumer Affairs.

Your Committee finds a person who holds a court order against a mortgage loan originator or a mortgage loan originator company



licensee for fraud, deceit, or misrepresentation is eligible to receive restitution from the Mortgage Loan Recovery Fund. However, that person must obtain a separate order from the court to receive the restitution payment from the Mortgage Loan Recovery Fund. In one recent example, it took the court approximately eight months to order the Division of Financial Institutions to issue the restitution payment. This measure will allow aggrieved persons to receive restitution payments more efficiently, as the Division of Financial Institutions will be able to issue those payments pursuant to final, rather than separate, court orders. Additionally, this measure repeals fees paid by mortgage loan originator companies and their branches to adjust the funding level of the Mortgage Loan Recovery Fund because currently there are sufficient funds to make restitution payments to aggrieved persons by assessing individual mortgage loan originators, as required by federal law.

Your Committee has amended this measure by clarifying that this measure shall take effect on July 1, 2021.

As affirmed by the record of votes of the members of your Committee on Commerce and Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1105, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1105, S.D. 1, and be referred to your Committees on Ways and Means and Judiciary.

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



ROSALYN H. BAKER, Chair



The Senate
 Thirty-First Legislature
 State of Hawai'i

Record of Votes
Committee on Commerce and Consumer Protection
CPN

Bill / Resolution No.:* SB1105	Committee Referral: CPN, JDC	Date: 02.10.2021
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The Committee is reconsidering its previous decision on this measure.
 If so, then the previous decision was to: _____

The Recommendation is:

Pass, unamended 2312
 Pass, with amendments 2311
 Hold 2310
 Recommit 2313

Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	✓			
CHANG, Stanley (VC)	✓			
MISALUCHA, Bennette E.	✓			
NISHIHARA, Clarence K.	/			
RIVIERE, Gil	/			
SAN BUENAVENTURA, Joy A.	/			
FEVELLA, Kurt	/			
TOTAL	7			

Recommendation:
 Adopted
 Not Adopted

Chair's or Designee's Signature:
Bennette E. Misalucha

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*Only one measure per Record of Votes