

Honolulu, Hawaii

MAR 24, 2022

RE: S.B. No. 1105
S.D. 2
H.D. 1

Honorable Scott K. Saiki
Speaker, House of Representatives
Thirty-First State Legislature
Regular Session of 2022
State of Hawaii

Sir:

Your Committee on Consumer Protection & Commerce, to which was referred S.B. No. 1105, S.D. 2, entitled:

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

begs leave to report as follows:

The purpose of this measure is to amend the Secure and Fair Enforcement for Mortgage Licensing Act by:

- (1) Modifying when a person aggrieved by the fraud, misrepresentation, or deceit of a mortgage loan originator company licensee may be paid by the Mortgage Loan Recovery Fund to be upon final judgment, rather than by order, of a court;
- (2) Repealing Mortgage Loan Recovery Fund fees for mortgage loan originator companies and their branch locations; and
- (3) Authorizing the Commissioner of Financial Institutions to consider applications for recovery from the Mortgage Loan Recovery Fund, as an alternative to judicial proceedings.



Your Committee received testimony in support of this measure from the Commissioner of Financial Institutions.

Your Committee finds that the Secure and Fair Enforcement for Mortgage Licensing Act allows a person aggrieved by the fraud, misrepresentation, or deceit of a mortgage loan originator company licensee to be paid from the Mortgage Loan Recovery Fund upon the order of a court. To obtain such an order, the aggrieved person must, among other things, obtain a judgment stating the amount owed and make all reasonable efforts to recover the amount of the judgment from the judgment debtor. This process has been sluggish, typically taking eight to twelve months before a court orders the Division of Financial Institutions of the Department of Commerce and Consumer Affairs to pay the restitution. This measure modifies this process to allow for more expedient payment to aggrieved persons by allowing applications for payments from the Mortgage Loan Recovery Fund to be submitted to the Commissioner of Financial Institutions, who may grant the applications without an order by a court.

Your Committee further finds that existing funds in the Mortgage Loan Recovery Fund are sufficient to make restitution payments to aggrieved persons. As such, there no longer is a need to continue the assessments on mortgage loan originator companies and their branches to fund the Mortgage Loan Recovery Fund.

Your Committee has amended this measure by:

- (1) Changing the effective date to January 1, 2050, to encourage further discussion; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1105, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1105, S.D. 2, H.D. 1, and be referred to your Committee on Finance.



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



AARON LING JOHANSON, Chair



