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Testimony of the Department of Commerce and Consumer Affairs

**Before the
House Committee on Consumer Protection and Commerce
Wednesday, March 23, 2022
2:00 p.m.
Via Videoconference**

**On the following measure:
S.B. 1105, S.D. 2 RELATING TO THE MORTGAGE LOAN RECOVERY FUND**

Chair Johanson and Members of the Committees:

My name is Iris Ikeda, and I am the Commissioner of the Department of Commerce and Consumer Affairs' (Department) Division of Financial Institutions (DFI). The Department supports this administration bill with one amendment.

The purpose of this bill is to 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 and repeals fee paid by mortgage loan originator companies and their branch office locations to the Mortgage Loan Recovery Fund and provides the commissioner of financial institutions with the authority to consider applications to recover from the fund.

The Department requests that the effective date of the bill be amended to July 1, 2022.

The Department's Commissioner of Financial Institutions ("Commissioner") is responsible under Hawaii Revised Statutes chapter 454F to establish and maintain the Mortgage Loan Recovery Fund ("MLRF"). 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 MLRF. However, that person must obtain a separate order from the court to receive the restitution payment from the MLRF. In a recent payout from the MLRF, the court took about eight months to order the Division of Financial Institutions to issue a restitution payment.

S.B. 1105, S.D. 2 seeks to enable persons aggrieved by such misconduct of a mortgage loan originator licensee to more efficiently receive restitution payments from the MLRF. The bill would authorize the Commissioner to issue those payments pursuant to final, rather than separate, court orders, and give the Commissioner authority to consider applications to recover from the MLRF.

S.B. 1105, S.D. 2 also seeks to repeal fees paid by mortgage loan originator companies and their branches to adjust the funding level of the MLRF. Currently, the MLRF has sufficient funds to make restitution payments to aggrieved persons by assessing individual mortgage loan originators, as required by federal law.

Thank you for the opportunity to testify, and we respectfully ask the Committee to pass this administration bill with the amendment.