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**Testimony of the Department of Commerce and Consumer Affairs**

**Before the  
Senate Committee on Commerce and Consumer Protection  
Friday, February 7, 2024  
9:40 a.m.  
Conference Room 229 and Videoconference**

**On the following measure:  
S.B. 3337, RELATING TO APPRAISAL MANAGEMENT COMPANIES**

Chair Keohokalole and Members of the Committee:

My name is Shelley Choy, and I am the Executive Officer of the Department of Commerce and Consumer Affairs' (Department) Professional Vocational Licensing Division, Appraisal Management Company Program (Program). The Department offers comments on this bill.

The purposes of this bill are to: (1) reestablish the appraisal management company registration program within the Department of Commerce and Consumer Affairs; (2) apply registration requirements retroactively to June 30, 2023; (3) appropriates moneys; and (4) declares that the appropriation exceeds the state general fund expenditure ceiling for 2024-2025.

The Department acknowledges the public's desire for the reestablishment of the Program, and offers the following comments:

The Department prefers the language of S.B. 2728, which was heard by this Committee and also seeks to reestablish the Appraisal Management Company, as its

effective date is not retroactive. Retroactive effective dates would create a gap during which among other things, the Department would have no way of ensuring licensees held current bonds and met other requirements as set forth in section 4 of this measure. Should the Committee be inclined to move forward with this measure, the Department requests the following deletion of lines 4-5 on page 40 as it is not in compliance with the Dodd-Frank Act:

~~"[(5) Except within the first ninety days after an independent appraiser is added to an appraiser panel,]"~~

The Department also respectfully requests the Committee amend the language of this measure to eliminate retroactive effective dates.

The Department has been working with representatives from the Real Estate Valuation Advocacy Association (REVAA) to address many of these issues and hope to come to some agreement shortly.

Thank you for the opportunity to testify on this bill.

February 7, 2024

**The Honorable Jarrett Keohokalole, Chair**

Senate Committee on Commerce and Consumer Protection  
State Capitol, Conference Room 229 & Videoconference

**RE: Senate Bill 3337, Relating to Appraisal Management Companies**

**HEARING: Wednesday, February 7, 2024, at 9:40 a.m.**

Aloha Chair Keohokalole, Vice Chair Fukunaga, and Members of the Committee:

My name is Lyndsey Garcia, Director of Advocacy, testifying on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawaii and its over 11,000 members. HAR **supports** Senate Bill 3337, which reestablishes the Appraisal Management Company Registration Program within the Department of Commerce and Consumer Affairs to conform with the minimum standards of the Appraisal Management Companies Final Rule and federal Dodd-Frank Wall Street Reform and Consumer Protection Act. Reestablishes registration requirements, standards, and penalties for violations. Makes an appropriation from the Compliance Resolution Fund.

An Appraisal Management Company (AMC) is a business that organizes independent appraisers to complete property evaluations for lenders. It acts as a go-between to make sure there's no influence between the appraiser and the loan provider. AMCs play a crucial role in residential transactions by coordinating appraisals, managing a group of qualified appraisers, ensuring independence between appraisers and lenders, and checking the quality of appraisals.

The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 instructed federal financial agencies to create rules for the minimum requirements for states to register AMCs. The final rules, effective from August 10, 2015, did not make it mandatory for states to adopt it, but if a state did not comply by August 10, 2018, non-federally regulated AMCs could not offer appraisal management services for federally-related transactions in that state.

In 2017, the Legislature passed and the Governor signed into law Act 118, which established an AMC structure in Hawaii. However, the Act sunsetted on June 30, 2023. HAR believes that not having a program in place could lead to unintended consequences for Hawaii consumers because a significant portion of Hawaii's funding for residential mortgage loans originates from out-of-state lenders. These lenders often engage AMCs to conduct assessments for these loans.

For the foregoing reasons, HAR supports reestablishing the AMC registration program and making it permanent. Mahalo for the opportunity to testify.



**SanHi**

GOVERNMENT STRATEGIES

A LIMITED LIABILITY LAW PARTNERSHIP

DATE: February 7, 2024

TO: Senator Jarrett Keohokalole  
Chair, Committee on Commerce and Consumer Protection

*Submitted Via Capitol Website*

FROM: Tiffany Yajima / Mihoko Ito

RE: **S.B. 3337 – Relating to Appraisal Management Companies**  
**Hearing Date: Wednesday, February 7, 2024 at 9:40 a.m.**  
**Conference Room: 229**

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Dear Chair Keohokalole, Vice Chair Fukunaga, and Members of the Committee on Commerce and Consumer Protection:

We submit this testimony on behalf of the Hawaii Bankers Association (HBA). HBA represents seven Hawai'i banks and one bank from the continent with branches in Hawai'i.

HBA is in **support** of this measure to permanently reenact the appraisal management company registration program that was established by Act 118 in 2017.

There are 77 appraisal management companies operating in Hawaii that would be barred from providing appraisal management services should this law not be reenacted. Appraisal management companies serve as intermediaries between lenders and appraisers. These companies assist lenders in obtaining appraisals by providing appraisal management services, including contracting with licensed appraisers to perform appraisal assignments in a manner that is compliant with federal and state laws. If this program is not reenacted, Hawaii would be the only state without an AMC registration program and these companies would be barred from providing appraisal management services for federally related transactions in the state.

HBA further concurs with the testimony submitted by the lending community and understands that the Hawaii Financial Services Association has offered proposed amendments. We are in support of these amendments and ask the committee to pass this measure.

Thank you for the opportunity to submit testimony in support of this bill.



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

February 5, 2024

The Honorable Jarrett Keohokolole, Chair  
The Honorable Carol Fukunaga, Vice Chair  
Members of the Senate Committee on Commerce & Consumer Protection

Hearing Date: February 7, 2024  
Hearing Time: 9:40am

Re: SB 3337 Relating to Appraisal Management Companies

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. Our membership consists of employees of 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. The members of the MBAH 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.

The MBAH SUPPORTS THIS BILL. This Bill is pro-consumer and allows lenders the flexibility to use Appraisal Management Companies ("AMCs") when they do not have the internal resources to vet and manage a list of appraisers. The program that was formerly in place under HRS Chapter 466L was sunsetted on June 30, 2023, but written notification to the AMC's that were registered by the DCCA of the termination of their registration status was not provided until August 29, 2023. Therefore, there was a period during which lenders may have used unlicensed AMCs for "Federally related mortgage loans" <sup>(1)</sup> and unknowingly violated Dodd-Frank regulations which specify that only licensed AMCs may be used for these transactions. "Federally related mortgage loans" include mortgages that total upwards of half of all residential mortgage transactions in Hawaii. Hence, retroactive re-establishment of the same licensure program that was in place under HRS Chapter 466L, as proposed in this Bill, is essential.

We request expedited passage of this Bill by the Legislature, the signing by the Governor of this Bill into law, the re-establishment by DCCA of the same licensure program that was in existence for 6 years, and the re-registration by DCCA of the AMCs that had been registered before June 30, 2023 as soon as operationally viable.

We also support the amendments to the Bill as proposed in testimony submitted by MARVIN S.C. DANG as Attorney for Hawaii Financial Services Association with the exception of the effective date in the proposed new Section 10. We believe that retroactive effectivity of the bill to June 30, 2023 for reasons already described is crucial.

(1) <https://www.consumerfinance.gov/rules-policy/regulations/1024/2/#b-9>

Thank you for the opportunity to present this testimony.

Victor Brock  
Mortgage Bankers Association of Hawaii

# 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

February 7, 2024

Senator Jarrett Keohokalole, Chair  
Senator Carol Fukunaga, Vice Chair  
and members of the Senate Committee on Commerce & Consumer Protection  
Hawaii State Capitol  
Honolulu, Hawaii 96813

Re: **S.B. 3337 (Relating to Appraisal Management Companies)**  
**Hearing Date/Time: February 7, 2024, 9:40 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 strongly supports this Bill and offers proposed amendments.**

This Bill: (a) reestablishes the Appraisal Management Company registration program within the Department of Commerce and Consumer Affairs’ (b) clarifies that chapter 466L, Hawai‘i Revised Statutes, is repealed; (c) applies registration requirements retroactively to June 30, 2023; (d) appropriates moneys; and (e) declares that the appropriation exceeds the state general fund expenditure ceiling for 2024-2025.

## **This is a pro-consumer bill.**

Appraisal Management Companies (AMCs) are intermediaries between lenders and appraisers. AMCs are not appraisers.

Hawaii’s Appraisal Management Company Registration Program (“AMC Registration Program” or “Program”) sunsetted 7 months ago on June 30, 2023 when the Program’s law was repealed.

As explained in this testimony, because of the sunset of the Program, there is a negative impact to consumers, AMCs, appraisers, and others.

This bill is a pro-consumer bill to quickly re-establish the AMC Registration Program and to quickly re-register the AMCs that had been registered when the Program sunsetted.

## **Enactment of the 2017 AMC Registration Program was to protect consumers.**

Hawaii’s AMC Registration Program was established in 2017 through Act 118, Session Laws of Hawaii 2017, and codified as Chapter 466L of the Hawaii Revised Statutes. Enacting the Program reflected the Legislature’s finding that it was necessary to create a regulatory framework for AMCs in accordance with the federal Dodd-Frank Wall Street Reform and Consumer Protection Act, P.L. 111-203 (“Dodd-Frank Act”) and “that doing so was essential to protect consumers.”

## **Hawaii’s AMC Program was given a finding of “Excellent” by the Appraisal Subcommittee.**

The Program was **administered by the Department of Commerce and Consumer Affairs (“DCCA”) Professional and Vocational Licensing Division (“PVL”)**. In 2022, there were 77 AMCs registered by the DCCA.

When the Program was administered by the DCCA PVL it was subject to oversight by the Appraisal Subcommittee, which is a federal agency that enforces and assesses compliance of state regulation of AMC's under the federal Dodd-Frank Act. The Appraisal Subcommittee is a part of the Federal Financial Institutions Examinations Council.

The Appraisal Subcommittee conducted a Compliance Review of Hawaii's AMC Program in December 2019 for the period from December 2017 to December 2019. The AMC Program was given a finding of "Excellent" by the Appraisal Subcommittee. The Subcommittee didn't find any areas of concern in its review.

The Appraisal Subcommittee's finding of "Excellent" for the Program is the highest of 5 possible findings. (The possible findings are Excellent, Good, Needs Improvement, Not Satisfactory, and Poor.)

### **Hawaii Auditor's Sunset Review Report and the "Public Interest" for a Continued AMC Registration Program.**

Because Act 118 (2017) included a June 30, 2023 sunset date for the Program, Hawaii's Office of the Auditor completed a sunset review report of HRS Chapter 466L and submitted it to the Legislature in January 2023.

The auditor report did not recommend the end of AMC licensing. Instead, the Auditor's report concluded that "we believe the public interest supports continuing the AMC registration program to allow AMC's to provide the appraisal management services for federally related transactions in the State."

The Auditor's report noted that: (1) regulation of AMC's reflects the Legislature's position that it was necessary to create a regulatory framework for AMC's in accordance with the federal Dodd-Frank Act; (2) all 50 states and the District of Columbia had opted to create an AMC registration program, and Hawaii would be the only state without an AMC registration program if HRS Chapter 466L is not reenacted; (3) AMC's that had been contracted to perform appraisals in Hawaii may be barred from providing appraisal management services for some federally related transactions; and (4) a large source of Hawaii's funding for residential mortgage loans are from outside Hawaii and those lenders frequently use AMC's for those loans.

### **The Sunset of the Program.**

Despite the conclusions in the Auditor's report, there was no legislation introduced to extend or remove the sunset date of June 30, 2023.

On August 29, 2023, the registered AMC's were notified by mail from the DCCA that their Hawaii registration ceased because of the June 30, 2023 sunset of HRS Chapter 466L.

### **The Negative Impact of the Sunset of Hawaii's AMC Registration Program.**

Nationally, AMC's are registered or licensed in 49 states and the District of Columbia (Hawaii was the 50th state before sunseting AMC licensing). Lenders in those states/jurisdictions can utilize AMC's to facilitate a residential appraisal for both a **federally related transaction ("FRT")** and a **non-federally related transaction ("non-FRT")**.

A FRT involves non-conforming mortgages that don't meet the guidelines of Fannie Mae and Freddie Mac (government-sponsored enterprises), unlike a non-FRT which involves conforming loans. Some examples of a FRT are jumbo home loans over \$1,149,825, homes in high-risk lava zones, and complex loans. Loans involving nonconforming properties would also be a FRT, such as a condominium apartment in a condominium project that is considered non-warrantable (e.g., where the majority of the units are not owner-occupied, or where the project is uninsurable or underinsured for wind or hurricane coverage or for other coverage).



Because of the sunset of the Hawaii Program, consumers, AMCs, appraisers, and others have been negatively impacted. Lenders that serve Hawaii mortgage consumers, and that have outsourced the responsibility to an AMC to facilitate an appraisal assignment, can no longer use an AMC to perform a FRT in Hawaii.

This means there are fewer choices and less competition among lenders for Hawaii consumers if some lenders choose not to provide FRT loans. Direct lending for residential mortgages from outside Hawaii has now been put at risk and may result in a shortage of mortgage availability for as long as there is no AMC registration program in place. These restrictions on lending capital may adversely impact home affordability and ownership in Hawaii.

### **Immediate Need to Re-establish Hawaii's AMC Registration Program and Re-register AMCs.**

For this **pro-consumer bill**, time is of the essence in re-establishing Hawaii's AMC Registration Program. The following needs to be expedited: the passage of this Bill by the Legislature, the signing by the Governor of this Bill into law, the re-establishment by DCCA of the same Program that was in existence for 6 years, and the re-registration by DCCA of the AMCs that had been registered immediately before June 30, 2023.

### **Proposed Amendments.**

We note that **Senate Bill 2728** (Appraisal Management Companies), which is not a companion bill, was heard by your Senate Committee on Commerce & Consumer Protection (CPN) on Wednesday, January 31, 2024. S.B. 2728 passed CPN with amendments which we had proposed.

We should also note that **House Bill 2641** (Appraisal Management Companies), which is a companion bill of S.B. 3337, was heard by the House Committee on Labor & Government Operations (LGO) on Friday, February 2, 2024. H.B. 2641 passed with amendments which we had proposed; those amendments would align H.B. 2641 with SB 2728 as amended.

In view of the above, **we strongly support S.B. 3337 and propose the following amendments which will align S.B. 3337 as amended with S.B. 2728 as amended and House Bill 2641 as amended:**

- (1) Amend page 40, lines 4-5 by deleting a provision that the DCCA has told us is not in compliance with the federal Dodd-Frank Act:

*“(5) [Except within the first ninety days after an independent appraiser is added to an appraiser panel, remove] Remove”*

- (2) Delete SECTION 6 through SECTION 9 from page 62, line 13 through page 63, line 12; and
- (3) Replace those SECTIONS with new SECTIONS 6 through 10 below. The new SECTIONS: enable employment of necessary personnel; have the appropriation for the Program be from the compliance resolution fund (rather than the state general fund); add a conflict with federal law provision; **have an effective date of September 30, 2024 so that the Program can be re-established expeditiously and AMCs can be re-registered quickly (i.e. within 3 months after the law is enacted and during the 1<sup>st</sup> quarter of FY 2024-2025)**; and provide a blank effective date for an appropriation for fiscal year 2023-2024.

*“SECTION 6. The department of commerce and consumer affairs may employ necessary personnel without regard to chapter 76, Hawaii Revised Statutes, to assist with the implementation and continuing function of this Act.*

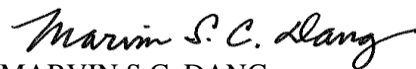
*SECTION 7. There is appropriated out of the compliance resolution fund established pursuant to section 26-9(o), Hawaii Revised Statutes, the sum of \$ \_\_\_\_\_ or so much thereof as may be necessary for fiscal year 2023-2024 and the sum of \$ \_\_\_\_\_ or so much thereof as may be necessary for fiscal year 2024-2025 to implement the appraisal management company registration program. The sum appropriated shall be expended by the department of commerce and consumer affairs for the purposes of this Act.*

*SECTION 8. The provisions of this Act shall be enforced to the extent they are not held to conflict with any federal law. If any provision of this Act is held in conflict with any federal law, this Act in its entirety, shall be invalid.*

*SECTION 9. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.*

*SECTION 10. This Act shall take effect on September 30, 2024; provided that section 6 of this Act for fiscal year 2023-2024 shall take effect on \_\_\_\_\_, 2024 and for fiscal year 2024-2025 shall take effect on July 1, 2024.”*

Thank you for considering our testimony.



MARVIN S.C. DANG

Attorney for Hawaii Financial Services Association



February 7, 2024

Senator Jarrett Keohokalole, Chair  
Senator Carol Fukunaga, Vice Chair  
and members of the Senate Committee on Commerce & Consumer Protection  
Hawaii State Capitol  
Honolulu, Hawaii 96813

Re: REVAA Support for S.B. 3337 (Appraisal Management Companies) and Proposed Amendments

Dear Chair Keohokalole, Vice Chair Fukunaga, and distinguished Committee Members:

On behalf of the Real Estate Valuation Advocacy Association (REVAA), I am pleased to offer our strong support for the passage of S.B. 3337(Appraisal Management Companies). In addition, we strongly support the proposed amendments submitted by the Hawaii Financial Services Association (HFSA).

REVAA is a national collaborative of Appraisal Management Companies (AMC) offering residential real estate valuation services including appraisal management, Broker Price Opinions (BPO), Evaluations, Automated Valuation Models (AVM) and others on behalf of national, state and local lenders. AMCs are licensed in every state, except Hawaii, in accordance with federal and state legal and regulatory requirements.

In 2017, REVAA worked with industry stakeholders on the original enabling legislation that established AMC licensing. From 2018 to 2023, AMCs were licensed by the Department of Commerce and Consumer Affairs (DCCA). Since the program was shut down, REVAA has worked with HFSA, DCCA, and other stakeholders to re-establish a federally compliant AMC licensing program in the State of Hawaii.

We firmly believe that the licensing of AMCs in Hawaii is an important consumer protection. As outlined in this testimony, REVAA is seeking passage of this pro-consumer bill to immediately re-establish the successful program that existed from 2018- 2023.

**S.B. 3337 accomplishes the following:**

- re-establishes the Appraisal Management Company Registration Program within the Department of Commerce and Consumer Affairs to conform with the minimum standards of the Appraisal Management Companies Final Rule and federal Dodd-Frank Wall Street Reform and Consumer Protection Act,
- re-establishes registration requirements, standards, and penalties for violations, and
- makes an appropriation from the Compliance Resolution Fund.

**About AMCs**

An AMC is a third party hired by mortgage lenders to facilitate the process of obtaining residential property valuations including appraisals. For appraisals, AMCs engage state credentialed appraisers on behalf of lenders to facilitate the completion of an appraisal in compliance with state and federally mandated requirements.

AMCs aid consumer protection, mortgage lending and secondary markets:

- Ensure lender compliance with federal and state AMC, banking and mortgage regulations
- Safeguard appraiser independence
- Provide quality controls to help ensure the integrity of a supportable, dependable and credible appraisal
- Follow consumer protection and fair housing laws

The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 added Appraisal Management Company (AMC) Minimum Requirements to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (Title XI). It directed federal financial and consumer agencies to establish, by administrative rule, minimum requirements for state registration and supervision of AMCs. These rules were promulgated and became effective in 2015.

Until Hawaii sunsetted its program in 2023, all 50 states and the District of Columbia had federally compliant AMC licensing programs in place. Hawaii has joined Puerto Rico, Virgin Islands, Guam and the Northern Marianas Islands as the only United States jurisdictions without an AMC licensing program.

### **Hawaii's AMC Licensing Program**

Hawaii's AMC Registration Program was established in 2017 through Act 118, Session Laws of Hawaii 2017, and codified as Chapter 466L of the Hawaii Revised Statutes. Enacting the Program reflected the Legislature's finding that it was necessary to create a regulatory framework for AMCs in accordance with the federal Dodd-Frank Wall Street Reform and Consumer Protection Act, P.L. 111-203 ("Dodd-Frank Act") and "that doing so was essential to protect consumers."

The Program was administered by the Department of Commerce and Consumer Affairs ("DCCA") Professional and Vocational Licensing Division ("PVL"). In 2022, there were 77 AMCs registered by the DCCA.

Hawaii's AMC program was given a finding of "Excellent" by the Appraisal Subcommittee, a federal agency that enforces and assesses compliance of state regulation of AMCs under the federal Dodd-Frank Act. The Appraisal Subcommittee is a part of the Federal Financial Institutions Examinations Council that reviews state AMC programs and monitors state compliance with federal regulation. It determines whether a state, like Hawaii, is maintaining an effective regulatory program.

The last Compliance Review by the Appraisal Subcommittee of Hawaii's AMC Program was in December 2019 for the period from December 2018 to December 2019. The AMC Program was given a finding of "Excellent" by the Appraisal Subcommittee. The Subcommittee didn't find any areas of concern in its review. The Subcommittee's finding of "Excellent" for Hawaii's AMC Program is the highest of 5 possible findings. (The possible findings are Excellent, Good, Needs Improvement, Not Satisfactory, and Poor.)

The Hawaii AMC law had a June 30, 2023 sunset date. There was no legislation introduced at any legislative session (2018-2023) to extend or remove the sunset date. On August 29, 2023, AMC licensees were notified by the DCCA by mail that their licensure ceased because of the June 30, 2023 sunset of Hawaii's AMC law. Lenders were immediately notified by AMCs about the sunset.

### **Hawaii Auditor's Sunset Review Report and the "Public Interest" for a Continued Program.**

Act 118 included a June 30, 2023 sunset date for the Program. In January 2023, Hawaii's Office of the Auditor completed a sunset review report of Chapter 466L and provided it to the Legislature.

The auditor report did not recommend the end of AMC licensing. Instead, the Auditor's report concluded that "we believe the public interest supports continuing the AMC registration program to allow AMCs to provide the appraisal management services for federally related transactions in the State."

The Auditor's report noted that: (1) regulation of AMCs reflects the Legislature's position that it was necessary to create a regulatory framework for AMCs in accordance with the federal Dodd-Frank Act; (2) all 50 states and the District of Columbia had opted to create an AMC registration program, and Hawaii would be the only state without an AMC registration program if HRS Chapter 466L is not reenacted; (3) AMCs that had been contracted to perform appraisals in Hawaii may be barred from providing appraisal management services for some federally related transactions; and (4) a large source of Hawaii's funding for residential mortgage loans are from outside Hawaii and those lenders frequently use AMCs for those loans.

### **The Negative Impact of the Sunset of Hawaii's AMC Registration Program.**

Nationally, AMCs are registered or licensed in 49 states and the District of Columbia (Hawaii was the 50th state before sunseting AMC licensing). Lenders in those states/jurisdictions can utilize AMCs to facilitate a residential appraisal for both a federally related transaction ("FRT") and a non-federally related transaction ("non-FRT").

Federal banking law (12 U.S.C.A. § 3350) defines a "federally related transaction" as: "Any real estate-related financial transaction which: (A) a federal financial institutions regulatory agency or the Resolution Trust Corporation engages in, contracts for, or regulates; and (B) requires the services of an appraiser." The federal financial agencies have outlined 13 exemptions that change a FRT to a Non-FRT.

- A Non-FRT is generally a conforming mortgage that meets the dollar limits set by the Federal Housing Finance Agency (FHFA) and the funding criteria of Freddie Mac and Fannie Mae.
  - GSE guidelines consist of a maximum loan amount (in Hawaii it is \$1,089,300), suitable properties, down payment requirements, and credit requirements, among other factors. Conforming loans typically offer lower interest rates than other types of mortgages.
  - Non-FRTs include transactions that are insured by a government agency (VA, FHA, USDA).
  - Conforming loans are packaged and sold in the secondary mortgage market.
- A FRT is generally a nonconforming mortgage that does not meet the guidelines of government-sponsored enterprises (GSE) such as Fannie Mae and Freddie Mac and, therefore, cannot be sold to them. Mortgages that the GSEs cannot buy are inherently riskier for banks to write. These difficult-to-sell loans either stay in the bank's portfolio or are sold to entities specializing in the secondary market for nonconforming loans.

Other FRTs include residential transactions not insured by a government agency (VA, FHA, USDA); home loans over \$1,089,300 (jumbo loan); homes in Hawaii located in high risk lava zones; complex loans; default portfolios; and some alternative valuations.

- A nonconforming mortgage is a home loan that does not adhere to government-sponsored enterprises (GSE) guidelines and, therefore, cannot be resold to agencies such as Fannie Mae or Freddie Mac. These loans often carry higher interest rates than conforming mortgages.
- Mortgages exceeding the conforming loan limit are nonconforming (i.e., jumbo mortgages).
- Beyond loan size, mortgages may become nonconforming based on a borrower's high loan-to-value ratio (down payment size); high debt-to-income ratio; low credit score and problematic credit history; and documentation requirements.
- Property type may determine if a mortgage is nonconforming. For example, condominium buyers often learn a unit is nonconforming because the complex is considered non-warrantable. That includes condominium associations where a single entity (i.e., developer) owns more than 10% of the units or if a majority of the units are not owner-occupied. Condominiums in a condominium project may also be nonconforming because they are uninsurable/underinsured (e.g., for wind or hurricane).

Because of the sunset of the Hawaii Program, consumers, AMCs, appraisers, and others have been negatively impacted. Lenders that serve Hawaii mortgage consumers, and that have outsourced the responsibility to an AMC to facilitate an appraisal assignment, can no longer use an AMC to perform a FRT in Hawaii.

This means:

- There are fewer choices and less competition among lenders for Hawaii consumers if some lenders choose not to provide FRT loans.
- Direct lending for residential mortgages from outside Hawaii has now been put at risk and may result in a shortage of mortgage availability for as long as there is no AMC registration program in place.
- These restrictions on lending capital may adversely impact home affordability and ownership in Hawaii.

**REVAA Strongly Supports the Amendments Proposed by Hawaii Financial Services Association (HFSA)**

We note that Senate Bill 2728 (Appraisal Management Companies), which is not a companion bill, was heard by your Senate Committee on Commerce & Consumer Protection (CPN) on Wednesday, January 31, 2024. S.B. 2728 passed CPN with amendments which we had proposed.

We should also note that House Bill 2641 (Appraisal Management Companies), which is a companion bill of S.B. 3337, was heard by the House Committee on Labor & Government Operations (LGO) on Friday, February 2, 2024. H.B. 2641 passed with amendments which we had proposed; those amendments would align H.B. 2641 with S.B. 2728 as amended.

In view of the above, we strongly support S.B. 3337 and propose the following amendments which will align S.B. 3337 as amended with S.B. 2728 as amended and House Bill 2641 as amended:

- 1) Amend page 40, lines 4-5 by deleting a provision that the DCCA has told us is not in compliance with the federal Dodd-Frank Act:

*“(5) [Except within the first ninety days after an independent appraiser is added to an appraiser panel, remove] Remove”*

- 2) Delete SECTION 6 through SECTION 9 from page 62, line 13 through page 63, line 12; and
- 3) Replace those SECTIONS with new SECTIONS 6 through 10 below. The new SECTIONS: enable employment of necessary personnel; have the appropriation for the Program be from the compliance resolution fund (rather than the state general fund); add a conflict with federal law provision; have an effective date of September 30, 2024 so that the Program can be re-established expeditiously and AMCs can be re-registered quickly (i.e. within 3 months after the law is enacted and during the 1st quarter of FY 2024-2025); and provide a blank effective date for an appropriation for fiscal year 2023-2024.

“SECTION 6. The department of commerce and consumer affairs may employ necessary personnel without regard to chapter 76, Hawaii Revised Statutes, to assist with the implementation and continuing function of this Act.

*SECTION 7. There is appropriated out of the compliance resolution fund established pursuant to section 26-9(o), Hawaii Revised Statutes, the sum of \$\_\_\_\_\_ or so much thereof as may be necessary for fiscal year 2023-2024 and the sum of \$\_\_\_\_\_ or so much thereof as may be necessary for fiscal year 2024-2025 to implement the appraisal management company registration program. The sum appropriated shall be expended by the department of commerce and consumer affairs for the purposes of this Act.*

*SECTION 8. The provisions of this Act shall be enforced to the extent they are not held to conflict with any federal law. If any provision of this Act is held in conflict with any federal law, this Act in its entirety, shall be invalid.*

*SECTION 9. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.*

*SECTION 10. This Act shall take effect on September 30, 2024; provided that section 6 of this Act for fiscal year 2023-2024 shall take effect on \_\_\_\_\_, 2024 and for fiscal year 2024-2025 shall take effect on July 1, 2024.”*

Thank you for considering our testimony. Please let me know if you have questions.

Sincerely,



Mark Schiffman  
Executive Director



TO: Senator Jarrett Keohokalole, Chair, and Senator Carol Fukunaga, Vice Chair

RE: SB 3337

HEARING: Wednesday, February 7, 2024

9:40 AM

Conference Room 229 & Videoconference

State Capitol

415 South Beretania Street

TESTIMONY IN SUPPORT OF SB 3337

## INTRODUCTION

Solidifi US Inc ("Solidifi") is a licensed appraisal management company ("AMC") in every state and in Washington, DC. Solidifi became licensed in Hawaii in March 2018 (AMC-1203) and remained in good standing until the Hawaii AMC licensing and certification program sunset per statute.

Since 2008, Solidifi has focused on building partnerships with thousands of appraisers, recognizing outstanding performance, exceptional customer service and a commitment to quality. Our goal is to empower our panel of independent appraisers so they can perform at the highest level and grow their businesses. This partnership includes many Hawaii appraisers such as Athena Coughlin (CRA 0000836), who was recently recognized as a [Solidifi Extraordinary Appraiser](#), and David Murphy (CRA 0001437), a trusted appraiser partner. Solidifi is a proud supporter of the Appraiser Diversity Initiative seeking to attract new diverse individuals to join the appraisal profession.

As one of the largest independent AMCs, Solidifi is trusted by top 100 mortgage originators in America in the origination, REO/default, servicing and home equity channels, including Government Sponsored Enterprises ("GSEs"), the five largest banks by asset size, the second largest non-bank lender and the nation's largest credit union.

## SUPPORT FOR SB 3337

- Property value is a key input to a mortgage's loan-to-value ratio, which captures the degree of homeowner equity and is a key determinant of borrower credit risk.
- AMCs facilitate the appraisal process in a way that allows lenders and GSEs to better manage their risk appetite, while protecting independent appraisers and consumers.
  - AMCs are required to provide transparent information to independent appraisers, pay reasonable and customary fees for appraisal services, and maintain the

- independence of appraisers, which in turn helps lenders comply with all applicable laws and regulations.
- AMCs support consumer protection by adhering to appraisal independence protocols, conducting appraisal quality control reviews, screening for appraiser bias and discrimination, and providing processes for reconsideration of value requests and addressing consumer complaints.
  - Regulation of appraisal management companies was an important and necessary reaction to two financial crises linked to real estate bubbles:
    - In 1989, following the Savings and Loan Crisis, the United States Congress created requirements governing real estate appraisals via Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"). FIRREA created a federal framework to oversee the state licensing and certification of real estate appraisers.
    - During the 2008 financial crisis, appraisal quality and validity issues were the basis for many of the repurchase requests lenders received from the GSEs. Specific appraisal quality issues found by the GSEs at that time included poor data quality, unsupported adjustments and value conclusions, deficient market analysis, errors in property condition, inflated or fraudulent valuations, and a lack of appraiser independence from the lender originating the mortgage. Following the financial crisis of 2008, banks began to operate in a more stringently regulated environment with respect to evaluating the collateral they use for real estate lending. Multiple layers of regulatory reform were introduced, such as the Housing and Economic Recovery Act of 2008 ("HERA"), the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act"), revised Interagency Appraisal and Evaluation Guidelines, and state AMC requirements.
    - Implemented in May 2009, the Home Valuation Code of Conduct (the "HVCC") was the result of a joint agreement among Fannie Mae and Freddie Mac, the Federal Housing Finance Agency and the New York State Attorney General and applied to certain mortgage loans that would be delivered to Fannie Mae and Freddie Mac. The objective of the HVCC was to enhance the independence and accuracy of the appraisal process. Key components included appraiser independence safeguards, a requirement to provide a copy of the appraisal report to the borrower, appraiser engagement requirements, appraisal quality control testing and requirements to prevent improper influences on appraisers.
    - The Dodd-Frank Act, signed into law in July 2010, had far-reaching implications for the financial services industry, including appraisal activities. The Dodd-Frank Act repealed HVCC, but ensured that its consumer protection and appraiser independence components remained in place for covered consumer credit transactions by codifying key components into the federal Truth in Lending Act ("TILA"), which the Consumer Financial Protection Bureau (the "CFPB") has authority to enforce. Specifically, the Dodd-Frank Act added provisions requiring appraiser



independence, requiring lenders and their agents pay appraisers customary and reasonable fees and prohibiting conflicts of interest to TILA. It also added AMC minimum requirements to FIRREA to be imposed by a participating State appraiser certifying and licensing agency. (See AMC Rule, the interagency final rule on minimum requirements for State registration and supervision of AMCs (12 CFR 34.210 – 34.216)).

- This framework of legislation, regulation and guidelines is designed to ensure that every real estate appraisal is independent and without influence or pressure from parties that have a financial interest in the loan transaction, that appraisers have the requisite qualifications and competency for the specific property being appraised, and that appraisers are paid "customary and reasonable fees" as per the Dodd-Frank Act.
- Appraiser independence, in particular, has been a significant area of lender and regulatory scrutiny for traditional AMCs. Solidifi strictly adheres to the Dodd-Frank Act's requirements, provides lenders with fully compliant services, pays appraisers fairly and provides transparency to lenders.
- In order for Solidifi and other AMCs to conduct business in a compliant manner and in accordance with these laws and their implementing regulations, it is necessary for Hawaii to maintain an appraisal management company licensing and certification program.

Solidifi urges the legislature to reestablish the appraisal management company license and certification program in Hawaii so that Solidifi and other AMCs may provide appraisal services for federally related transactions. Licensing appraisal management companies will allow Solidifi to engage Hawaii licensed real estate appraisers, thereby supporting these local businesses, and will facilitate residential lending transactions for Hawaii residents and property owners.

Thank you for the opportunity to express our support for SB 3337.

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**SB-3337**

Submitted on: 2/5/2024 2:33:48 PM

Testimony for CPN on 2/7/2024 9:40:00 AM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Testify</b>         |
|---------------------|---------------------|---------------------------|------------------------|
| David F. Murphy     | Individual          | Support                   | Written Testimony Only |

Comments:

Hello my name is David Murphy, I am currently a Certified (Licensed) Residential Real Estate Appraiser in Hawaii. I typically cover areas for Honolulu County and Maui County. I just want to add emphasis on how important the adoption of an early expedited bill is. I sense others directly within the industry understand the importance, but the fact is there are individuals in our community trying to acquire access to capital daily. The circumstances of course are varied, for example the happiness that comes along with buying a new property to the extreme of finding money to rebuild from natural disasters. Maui is an epic example of trying to recover and rebuild. There are people statewide that have their own circumstances as well. The quicker we can get what is really an expired bill back and reinstated the better. Every citizen of Hawaii and second homeowners should have equal and readily available access to funding and mortgage resources just like the other 49 states. We all agree that we need to be aligned and make this happen quickly.