STAND. COM. REP. NO. 3330

Honolulu, Hawaii

APR 0 3 2008

RE: H.B. No. 2254

H.D. 2 S.D. 1

Honorable Colleen Hanabusa President of the Senate Twenty-Fourth State Legislature Regular Session of 2008 State of Hawaii

Madam:

Your Committee on Judiciary and Labor, to which was referred H.B. No. 2254, H.D. 2, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO BANKS AND FINANCIAL INSTITUTIONS,"

begs leave to report as follows:

The purpose of this measure is to prohibit the use of the name or trademark of a financial institution or its affiliates or subsidiaries when marketing or soliciting existing or prospective customers if such marketing materials are used without written permission and in a manner that would lead a reasonable person to believe that the material or solicitation originated from a financial institution or its affiliates or subsidiaries.

A civil penalty of up to \$10,000 is authorized for each violation.

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

This measure addresses the common practice of out-of-state lenders who send direct mail solicitations for refinance opportunities that prominently list the existing lender in a manner that the recipients are led to erroneously believe that their lenders are sending important notices. The solicitations contain phrases, such as "Time Sensitive Material" and "Payment

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Reduction Notice," that make the recipient more apt to read the material. Only after carefully reading the literature or calling the listed phone number is it apparent that this is a refinance solicitation from a different lender.

According to testimony of the Hawaii Financial Services Association, this measure is necessary to prevent the all too common situation in which mortgage loan customers of Hawaii financial services loan companies are deceived by mail solicitations from mainland lenders regarding refinancing that make reference to the name of the Hawaii financial services loan company, originating the mortgage loan, to wrongly suggest that the Hawaii financial services loan company is the solicitor when in fact it is not. The name of the mainland lender does not appear in the solicitations or is in obscure fine print.

The intent of this measure is to protect the general public from deceptive marketing practices by banks and financial institutions.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2254, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Respectfully submitted on behalf of the members of the Committee on Judiciary and Labor,

BRIAN T. TANIGUCHI, Chair

The Senate Twenty-Fourth Legislature State of Hawaii

Record of Votes Committee on Judiciary and Labor JDL

Bill / Resolution No.:*	Committee Referral:			Date:	
HB 2254 HD2 SD1	OPH, JOL			3-2	1-08/
The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to:					
The Recommendation is:					
Pass, unamended Pass, with amendments Hold Recommit 2312 2311 2310 2313					
Members		Aye	Aye (WR)	Nay	Excused
TANIGUCHI, BRIAN T. (C)		V			
HEE, Clayton (VC)					
GABBARD, Mike		V			
KOKUBUN, Russell S.					
NISHIHARA, Clarence K.	***************************************				
SLOM, Sam		<u> </u>			
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Recommendation: Adopted Not Adopted					
Chair's or Designee's Signature:					
Distribution: Original File with Committee Re	Yellow Pink Goldenrod Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes