

STAND. COM. REP. NO.

494

Honolulu, Hawaii

MAR 03 2011

RE: S.B. No. 646
S.D. 1

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2011
State of Hawaii

Sir:

Your Committee on Commerce and Consumer Protection, to which
was referred S.B. No. 646 entitled:

"A BILL FOR AN ACT RELATING TO ESCROW DEPOSITORIES,"

begs leave to report as follows:

The purpose and intent of this measure is to require every
person subject to licensure as a mortgage loan originator to
include the person's unique identifier on every document submitted
to an escrow depository in a real estate transaction and to
require escrow depositories to report invalid unique identifiers
to the Commissioner of Financial Institutions.

Your Committee received testimony in support of this measure
from Hawaii Mortgage Company, Inc. Your Committee received
testimony in opposition to this measure from the Commissioner of
Financial Institutions of the Department of Commerce and Consumer
Affairs and Title Guarantee Escrow Services, Inc.

Your Committee finds that this measure allows the Division of
Financial Institutions of the Department of Commerce and Consumer
Affairs to be proactive in its enforcement of the Secure and Fair
Enforcement of Mortgage Licensing Act (SAFE Act), chapter 454F,
Hawaii Revised Statutes. Your Committee notes that the Division
of Financial Institutions' enforcement powers under the SAFE Act
are currently dependent on the filing of a complaint which
triggers an investigation into purported violations. Your
Committee finds that this measure clarifies the ability of the
Division of Financial Institutions to take immediate action



against a person who violates the SAFE Act before harm to a consumer occurs. Finally, your Committee notes that this measure, as amended, is a product of collaboration among the stakeholders on this issue. Your Committee acknowledges that the parties have not yet been able to come to full agreement on this measure. However, your Committee encourages the parties to continue their discussions throughout the legislative process in order to reach consensus on this important measure.

Your Committee has amended this measure by:

- (1) Clarifying that a licensee under chapter 454F, Hawaii Revised Statutes, shall include the licensee's unique identifier on all residential mortgage loan applications submitted to an escrow depository;
- (2) Clarifying that the reporting requirements of this measure apply to escrow depositories licensed pursuant to chapter 449, Hawaii Revised Statutes;
- (3) Specifying that the grounds for revocation or suspension of a license issued pursuant to chapter 449, Hawaii Revised Statutes, include the knowing failure to verify a unique identifier included on a residential mortgage loan application or to report an invalid unique identifier;
- (4) Specifying that the Commissioner of Financial Institutions' authority to enforce chapter 449, Hawaii Revised Statutes, includes the authority to issue orders and directives to cease doing business, cease specified activities, or any other affirmative action that the Commissioner of Financial Institutions deems necessary; and
- (5) Inserting an effective date of July 1, 2050, to allow for further discussion.

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. 646, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 646, S.D. 1, and be placed on the calendar for Third Reading.



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


ROSALYN H. BAKER, Chair



The Senate
Twenty-Sixth Legislature
State of Hawai'i

Record of Votes
Committee on Commerce and Consumer Protection
CPN

Bill / Resolution No.:* <div style="font-size: 1.2em; font-family: cursive;">SB 646</div>	Committee Referral: <div style="font-size: 1.2em; font-family: cursive;">CPN</div>	Date: <div style="font-size: 1.2em; font-family: cursive;">2-28-11</div>		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="text-align: center;"><input type="checkbox"/> Pass, unamended 2312</div> <div style="text-align: center;"><input checked="" type="checkbox"/> Pass, with amendments 2311</div> <div style="text-align: center;"><input type="checkbox"/> Hold 2310</div> <div style="text-align: center;"><input type="checkbox"/> Recommit 2313</div> </div>				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	✓			
TANIGUCHI, Brian T. (VC)	✓			
GALUTERIA, Brickwood	✓			
GREEN, M.D., Josh	✓			
NISHIHARA, Clarence K.				✓
SOLOMON, Malama				✓
SLOM, Sam	✓			
TOTAL	5	0	0	2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <div style="font-size: 1.5em; font-family: cursive; margin-left: 50px;">[Signature]</div>				
Distribution: <div style="display: flex; justify-content: space-around; font-size: 0.8em;"> Original File with Committee Report Yellow Clerk's Office Pink Drafting Agency Goldenrod Committee File Copy </div>				

*Only one measure per Record of Votes