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TO THE  
HOUSE COMMITTEE ON  
CONSUMER PROTECTION AND COMMERCE  
THE TWENTY-EIGHTH STATE LEGISLATURE  
REGULAR SESSION OF 2015

Wednesday, February 11, 2015  
2:30 p.m.

TESTIMONY ON H.B. NO. 1098

RELATING TO THE SECURE AND FAIR ENFORCEMENT  
FOR MORTGAGE LICENSING ACT

THE HONORABLE ANGUS L.K. MCKELVEY, CHAIR,  
AND MEMBERS OF THE COMMITTEE:

My name is Iris Ikeda, Commissioner of Financial Institutions ("Commissioner"),  
testifying on behalf of the Department of and Consumer Affairs ("Department") on  
House Bill No. 1098. The Department offers the following comments.

DFI has concerns about H.B. 1098's proposal to revise the threshold and  
mechanism for replenishing the Mortgage Loan Recovery Fund. The Commissioner  
oversees the MLRF pursuant to Section 454F-41, HRS.

Section 454F-41(d), HRS, authorizes the Commissioner to adjust or cease collection of fees by rule, when the MLRF reaches \$750,000. The Department has prepared draft rules that would allow the Commissioner to suspend or adjust the amount collected at renewal for the next licensing cycle if the balance is more than \$750,000. This method of adjusting recovery fund fees is consistent with the handling of recovery fund balances in other DCCA license types, and ensures that the Department has sufficient discretion to make timely payments to consumers while maintaining appropriate fund balances.

The bill proposal basically sets a \$750,000 floor and \$1 million ceiling on the MLRF balance. This does not provide flexibility in the likely event that the circuit court orders payouts from the MLRF.

DFI therefore suggests that the Committee allow this to be addressed through rulemaking rather than by statute.

Thank you for the opportunity to testify. I would be pleased to respond to any questions you may have.



**LATE**

February 10, 2015

TO: COMMITTEE ON COMMERCE PROTECTION & COMMERCE  
Angus L. K. McKelvey, Chair  
Justin H. Woodson, Vice Chair

FR: Cathy Lee, President  
Hawaii Association of Mortgage Brokers

RE: H.B. 1098 Relating to the Secure and Fair Enforcement for Mortgage Licensing Act.  
**Position: Support, with Proposed Amended Language**

Dear Chair Angus McKelvey, Vice Chair Justin Woodson and Members,

The Hawaii Association of Mortgage Brokers (HAMB) supports House Bill 1098. When the mortgage loan recovery fund was established in 2010, HAMB supported the collection and accumulation of fees to build a fund that would help compensate individuals harmed by unscrupulous mortgage loan originators. But, when this fund was established, it was expressly provided that the fund would build up a pool of \$750,000 to pay claims, and thereafter the Division of Financial Institutions (DFI) Commissioner would have the authority to cease or adjust further fees. DCCA's most recent report to the legislature shows the fund at more than \$1,100,000, far above the original target.

Based on recent discussions with the DFI Commissioner, we understand proposed rules are drafted and going through the required review process before it can go out to public hearing. Thus, we commend the Commissioner for initiating the process. Nonetheless, because the timing and date by which adoption and relief this would occur is uncertain due to the prolonged process that rule making can take under Ch. 91, HRS.

Therefore, as an alternative to the language that we requested be introduced to change ceiling and amounts in the fund that require adjustment of the fees, instead, HAMB would like to respectfully request a one-year reprieve for renewed fees. Attached, is proposed language which we respectfully submit for the Committee's consideration to repeals the renewal fee for one year, and then sunset automatically to re-enact existing law the following year. By that time, HAMB hopes the rules are adopted so that the fees can be adjusted to properly reflect the needs of the fund, but also align with the law's original intent of a \$750,000 ceiling.

Thank you for the opportunity to testify.

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# A BILL FOR AN ACT

RELATING TO THE SECURE AND FAIR ENFORCEMENT FOR MORTGAGE  
LICENSING ACT.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

SECTION 1. The legislature finds that Act 84, Session Laws of Hawaii 2010, established the mortgage loan recovery fund to bring the State into compliance with the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008. The mortgage loan recovery fund, which consists of fees collected from residential mortgage loan origination licensees, was designed to protect consumers by making it easier to recover losses caused by individuals or companies that violate the law governing fair mortgage practices. Initially, the goal was for the fund to collect and hold in reserve \$750,000. However, according to the most recent report to the legislature in 2014, there is more than \$1,100,000 in the fund. With this high fund balance, the commissioner of financial institutions has initiated proposed rules to adjust the mortgage loan recovery fund fees. However, due to the lengthy and uncertain time it may take for the rules to be adopted, licensees continue to have to pay the requisite fees that build the fund balance over and beyond the

\$750,000, and will probably be more than the \$1,100,000 in the fund at the end of the year.

The purpose of this Act is temporarily cease collections of mortgage loan recovery fund fees from license renewals for one year until the proposed rules are adopted and the fund balance can remain in line with the legislative intent in establishing the fund.

SECTION 2. Section 454F-41, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

~~"(c) Upon application for renewal of a license under this chapter, a licensee shall pay, in addition to the licensee's license renewal fee and fees required by NMLS, a mortgage loan recovery fund fee as follows for deposit in the mortgage loan recovery fund:~~

~~(1) The sum of \$200 for each principal office location of a mortgage loan originator company or a mortgage servicer company;~~

~~(2) The sum of \$100 for each branch office location of a mortgage loan originator company; and~~

~~(3) The sum of \$100 for each mortgage loan originator.~~

~~Mortgage loan recovery fees collected pursuant to this subsection shall be refundable upon the denial of a license renewal by the commissioner.]~~

SECTION 3. Statutory material to be repealed is bracketed and stricken.

SECTION 4. This Act shall take effect on July 1, 2015 and shall be repealed on June 30, 2016; provided that subsection 454F-41(c) shall be reenacted in the form in which it read on the day prior to the effective date of this Act.