

TESTIMONY BY GEORGINA K. KAWAMURA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE SENATE COMMITTEE ON WAYS AND MEANS
ON
SENATE BILL NO. 2603, S.D. 1

February 22, 2010

RELATING TO THE SECURE AND FAIR ENFORCEMENT FOR MORTGAGE
LICENSING ACT

Senate Bill No. 2603, S.D. 1, amends the application, licensing, and regulatory requirements of the Secure and Fair Mortgage Licensing Act. Among other amendments, the bill also authorizes the Commissioner of Financial Institutions to hire temporary and permanent staff and creates the Mortgage Recovery special fund. The purpose of the fund is to reimburse individuals awarded actual damages up to \$25,000 from mortgage loan companies or licensed mortgage loan originators. Revenue comes from fees charged for applications made by mortgage loan companies or licensed mortgage loan originators.

As a matter of general policy, this department does not support the creation of any special or revolving fund which does not meet the requirements of Sections 37-52.3 and 37-52.4 of the Hawaii Revised Statutes. Special or revolving funds should: 1) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries of the program; 2) provide an appropriate means of financing for the program or activity; and 3) demonstrate the capacity to be financially self-sustaining. It is difficult to determine whether the fund will be self-sustaining.



LINDA LINGLE
GOVERNOR
JAMES R. AIONA, JR.
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
335 MERCHANT STREET, ROOM 310
P.O. Box 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
www.hawaii.gov/dcca

LAWRENCE M. REIFURTH
DIRECTOR
RONALD BOYER
DEPUTY DIRECTOR

TO THE
SENATE COMMITTEE ON WAYS AND MEANS

THE TWENTY-FIFTH STATE LEGISLATURE
REGULAR SESSION OF 2010

Monday, February 22, 2010
10:00 a.m.

WRITTEN COMMENTS ON S.B. NO. 2603, S.D. 1 - RELATING TO THE SECURE AND
FAIR ENFORCEMENT FOR MORTGAGE LICENSING ACT

THE HONORABLE DONNA MERCADO KIM, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Nick Griffin, Commissioner of Financial Institutions ("Commissioner"), providing written comments on behalf of the Department of Commerce and Consumer Affairs ("Department"). We appreciate the opportunity to comment on Senate Bill No. 2603, S.D.1. The Department has long supported the appropriate regulation and supervision of mortgage loan originators (MLO), and has worked for some years attempting to implement such a program. This bill, which contains the necessary amendments to Hawaii Revised Statutes Chapter 454F such that it is compliant with the federal S.A.F.E. Act, would essentially appear to accomplish the Department's objectives

TESTIMONY ON SENATE BILL NO. 2603, S.D.1
February 22, 2010, 10:00 a.m.
Page 2

in this regard since it also provides the requisite appropriation and staffing necessary for the Division of Financial Institutions to implement this industry-funded program.

Thank you for the opportunity to comment. I would be happy to respond to any questions you may have.



February 12, 2010

The Honorable Donna Mercado Kim, Chair
Senate Ways and Means Committee
State Capitol, Room 229
Honolulu, Hawaii 96813

Aloha Chair Kim, Vice-Chair Ige, and Members of the WAM Committee,

I am writing this letter in Support of SB2603 SD1

SB2603, SD1 goes a long way in the right direction to better protect the public. In recent years the lending industry has taken on the appearance of the Wild West. There are too many folks running around originating mortgages with little to no training. There are also way too many loan originators taking advantage of consumers.

Until now, to be a loan officer in Hawaii you only needed a few dollars to get a license. No educational requirements and no test needed. If you work for a bank or a credit union you do not even need the few dollars or a license.

This bill addresses the two main issues for the protection of consumers (education and recourse). If this bill becomes law, mortgage brokers will need to take a pre-licensing course and pass a pre-licensing test. The state will establish a recovery fund and the State of Hawaii will regulate their activities. If I had my wish no one originating loans in Hawaii would be exempt from this law. Bank and credit union employees should also be required to take a pre-licensing school, pass a license exam and take continuing education.

I am writing this testimony in support of SB2603, SD1 as an individual and do not speak for any of my industry organizations or that of any of the non-profits or community groups that I hold positions of leadership.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Randy L. Prothero".

Randy L. Prothero, REALTOR®
ABR, AHWD, CRS, e-PRO GRI
(808) 384-5645 cell
Homes@HawaiiRandy.com
www.HawaiiRandy.com

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

Fax No.: (808) 521-8522

February 22, 2010

Sen. Donna Mercado Kim, Chair,
and members of the Senate Committee on Ways and Means
Hawaii State Capitol
Honolulu, Hawaii 96813

Re: **Senate Bill 2603, SD1 (Secure and Fair Enforcement for Mortgage Licensing Act)**
Hearing Date/Time: Monday, February 22, 2010, 10:00 A.M.

I am the attorney for the **Hawaii Financial Services Association** ("HFSA"). The HFSA is the trade association for Hawaii's financial services loan companies, which are regulated by the Hawaii Commissioner of Financial Institutions. Financial services loan companies make mortgage loans and other loans.

The HFSA supports the intent of this Bill.

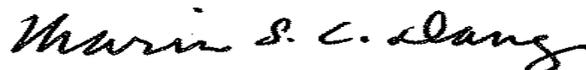
The purposes of this Bill are to: (a) make amendments to the application, licensing, and regulatory requirements of the Secure and Fair Enforcement for Mortgage Licensing Act; (b) establish the mortgage recovery fund to protect consumers injured by violations of HRS Chapter 454F; (c) include mortgage loan originator companies in the regulatory system established by HRS Chapter 454F; and (d) authorize the Commissioner of Financial Institutions to hire temporary and permanent staff to effectuate the purposes of HRS Chapter 454F.

HRS Chapter 454F is the Secure and Fair Enforcement for Mortgage Licensing Act ("Hawaii SAFE Act"). It was enacted in 2009 pursuant to the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 ("federal SAFE Act") and is based on the model state law of the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators.

This Bill is still a "work in progress" as to certain issues such as the dollar amount of the fees that need to be paid by applicants and licensees.

One intent of this Bill is that a "nondepository financial services loan company" licensed under Article 9 of HRS Chapter 412 is exempt from being licensed under HRS Chapter 454F as a "mortgage loan originator company". Another intent of this Bill is that a "loan processor or underwriter" who is an "employee" of a "nondepository financial services loan company" is not required to be licensed under HRS Chapter 454F as a "mortgage loan originator". To the extent that the current S.D. 1 version of this Bill is not clear regarding those two intents, this Bill needs to be reworded in future drafts.

Thank you for considering our testimony.



MARVIN S.C. DANG
Attorney for Hawaii Financial Services Association



TEL:
808-524-5161
FAX:
808-521-4120
ADDRESS:
1000 Bishop Street, Suite 301B
Honolulu, HI 96813-4203

Presentation to the Senate Committee on Ways and Means

Monday, February 22, 2010, at 10:00 am, Conf Rm 211

Testimony for SB 2603 Relating to the Secure and Fair Enforcement
for Mortgage Licensing Act

TO: The Honorable Donna Mercado Kim, Chair
The Honorable Shan S. Tsutsui, Vice Chair
Members of the Senate Committee on Ways and Means

My name is Neal Okabayashi of First Hawaiian Bank for the Hawaii Bankers Association. We support the intent of SB 2603, SD 1.

Thank you for this opportunity to testify. I would be happy to answer any questions the Committee may have.