



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

April 1, 2024

The Honorable Senator Karl Rhoads, Chair
The Honorable Senator Mike Gabbard, Vice Chair
Members of the Committee on Judiciary

Hearing Date: April 2, 2024
Hearing Time: 10:05am
Hearing Place: State Capitol, Conference Room 016

Re: HB 1902 HD1, SD1 Relating to Emergency Management

I am Linda Nakamura, 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 is in opposition of HB 1902 HD1, SD1 and offers the following comments.

HB 1902 HD1, SD1 clarifies that the Governor's and mayor's emergency management powers shall be consistent with the state constitution; clarifies the scope of the comprehensive emergency management plan; clarifies the powers of the Governor and mayors to extend or terminate a state of emergency; shortens the duration of price control periods from ninety-six hours to seventy-two hours; and amends emergency management law to protect tenants, mortgagors, consumers, and residents for certain periods of time after the issuance of a gubernatorial or mayoral emergency proclamation.

The MBAH understands that the intent of the bill is to assist consumers affected by disasters such as the Maui wildfires and we feel sadness and compassion for our families affected.

The bill, as written, amends Hawaii Revised Statutes (HRS), Chapter 127A with the following when the Governor or Mayor issues a proclamation declaring a state of emergency:

- Suspension of residential tenant rent collections
- Suspension of summary possession of a residential dwelling

- Foreclosure moratorium on residential properties
- Deferment of mortgage payments for three years and subsequent deferrals of an unlimited period
- Suspension of rent collection and summary possession on small business commercial tenants
- Deferment of any type of consumer loan, student loan and commercial loan payments
- Allow consumers affected by the disaster to contact the credit reporting agencies to exclude adverse information

Mortgage Lending is a highly regulated industry. Mortgage Lenders are required to follow the regulations set forth by their respective regulators and investors they sell mortgage loans to. The Government Sponsored Entities (“GSE’s), such as Fannie Mae and Freddie Mac, as well as the Veterans Administration (“VA”), Federal Housing Administration (“FHA”), and U.S.D.A., who guarantee over half of all mortgages originated in Hawaii, all have published guidelines that allow accommodations for distressed borrowers in designated disaster areas. The accommodations are well known to the investors who purchase mortgage-backed securities issued by Fannie Mae, Freddie Mac, and Ginnie Mae (for FHA and VA). HB 1902 HD1, SD1 expands these accommodations far beyond the national standards set by these entities, and, if passed into law, may have the negative effect of the GSEs and agencies limiting or eliminating additional mortgage lending in Hawaii because the requirements are beyond what purchasers of mortgage-backed securities will tolerate. Hence, the most affordable mortgage financing options for first-time homebuyers and low- to moderate-income borrowers may be eliminated.

One of the requirements of the bill requires mortgage lenders to defer the collection of mortgage payments for three years and, if in receipt of a subsequent request for continued deferment, the bill allows for unlimited years of deferrals. This requirement makes the mortgage debt effectively uncollectible.

Another requirement of the bill requires Lenders to provide deferments on all other non-residential loans such as consumer loans, student loans and commercial loans. This would render all loans in a financial institution uncollectible and considered a loss.

HB 1902, HD1, SD1 will have a major impact on local financial institutions’ lending policies and safety and soundness requirements. If any debt (residential, consumer, student and commercial) may be rendered uncollectible all at the same time, financial institutions will be forced to make the changes including curbing their lending appetite, raising lending qualifying requirements and charging higher rates to mitigate potential losses. Additionally, mainland lenders may exit the Hawaii market due to the potential negative impact to their loan portfolios. Financing options of all types may be severely curtailed. The future of lending is at stake.

Thank you for the opportunity to present this testimony.

Linda Nakamura
Mortgage Bankers Association of Hawaii