



GOV. MSG. NO. 1348

EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

July 06, 2012

The Honorable Shan Tsutsui, President
and Members of the Senate
Twenty-Sixth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

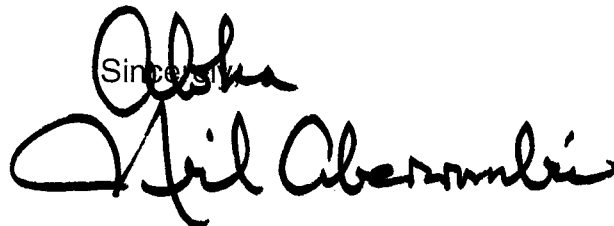
The Honorable Calvin Say, Speaker
and Members of the House
Twenty-Sixth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Tsutsui, Speaker Say and Members of the Legislature:

This is to inform you that on July 06, 2012, the following bill was signed into law:

HB2502 HD2 SD2 CD1

RELATING TO MORTGAGE SERVICERS.
Act 245 (12)

Since


NEIL ABERCROMBIE
Governor, State of Hawaii

RECEIVED
SENATE
OFFICE OF THE PRESIDENT

*12 JUL 10 A9:50

Approved by the Governor

on JUL 6 2012

ORIGINAL

ACT 245

HOUSE OF REPRESENTATIVES
TWENTY-SIXTH LEGISLATURE, 2012
STATE OF HAWAII

H.B. NO. 2502
H.D. 2
S.D. 2
C.D. 1

A BILL FOR AN ACT

RELATING TO MORTGAGE SERVICERS.

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

1 SECTION 1. Chapter 454M, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§454M- Registration with Nationwide Mortgage Licensing
5 System. The commissioner may require all mortgage servicers to
6 register with the Nationwide Mortgage Licensing System."

7 SECTION 2. Section 454M-1, Hawaii Revised Statutes, is
8 amended by adding a new definition to be appropriately inserted
9 and to read as follows:

10 ""Nationwide Mortgage Licensing System" has the same
11 meaning as defined in section 454F-1."

12 SECTION 3. Section 454M-2, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "§454M-2 License required. (a) No person except those
15 exempted under this chapter shall engage in the business of
16 mortgage servicing without a license as provided in this
17 chapter.



1 (b) No person shall engage in the business of mortgage
2 servicing in this State unless the person providing services has
3 a physical presence in the State pursuant to section 454M-
4 5(a)(5).

5 (c) No person licensed as a mortgage servicer shall
6 provide mortgage loan modifications or any other services that
7 would require licensing pursuant to chapter 454F without first
8 complying with the licensure requirements under chapter 454F."

9 SECTION 4. Section 454M-4, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "§454M-4 License; fees; renewals; voluntary surrender of
12 license. (a) An applicant for licensure shall file an
13 application on a form prescribed by the Nationwide Mortgage
14 Licensing System or by the commissioner and shall pay an
15 application fee of \$500. Each license shall expire on June 30
16 of each calendar year. A license may be renewed by filing a
17 renewal statement on a form prescribed by the Nationwide
18 Mortgage Licensing System or by the commissioner and paying a
19 renewal fee of \$250, on or before July 1 for licensure for the
20 following year.

21 (b) To fulfill the purposes of this chapter, the
22 commissioner may establish relationships or contracts with the



1 Nationwide Mortgage Licensing System or other entities
2 designated by the Nationwide Mortgage Licensing System to
3 collect and maintain records and process transaction fees or
4 other fees related to licensees or other persons subject to this
5 chapter.

6 (c) To the extent reasonably necessary to participate in
7 the Nationwide Mortgage Licensing System, the commissioner may
8 modify any or all of the requirements of section 454M-4(e) and
9 (f).

10 (d) The commissioner may use the Nationwide Mortgage
11 Licensing System as an agent for requesting information from and
12 distributing information to the United States Department of
13 Justice, any governmental agency, or any other source, as
14 directed by the commissioner.

15 ~~[(b)]~~ (e) The applicant shall submit any other information
16 that the commissioner may require, including the applicant's:

- 17 (1) Form and place of organization;
18 (2) Tax identification number; and
19 (3) Proposed method of doing business.

20 The applicant shall disclose whether the applicant or any
21 of its officers, directors, employees, managers, agents,
22 partners, or members have ever been issued or been the subject



1 of an injunction or administrative order pertaining to any
2 aspect of the lending business, have ever been convicted of a
3 misdemeanor involving the lending industry or any aspect of the
4 lending business, or have ever been convicted of any felony.

5 [~~(e)~~] (f) A mortgage servicer licensed under this chapter
6 may voluntarily cease business and surrender its license by
7 giving written notice to the commissioner of its intent to
8 surrender its mortgage servicer license. Notice pursuant to
9 this subsection shall be given at least thirty days before the
10 surrender of the license and shall include:

- 11 (1) The date of surrender;
- 12 (2) The name, address, telephone number, facsimile number,
13 and electronic address of a contact individual with
14 knowledge and authority sufficient to communicate with
15 the commissioner regarding all matters relating to the
16 licensee during the period that it was licensed
17 pursuant to this chapter;
- 18 (3) The reason or reasons for surrender;
- 19 (4) The original license issued pursuant to this chapter
20 to the mortgage servicer; and
- 21 (5) If applicable, a copy of all notices to affected
22 borrowers required by the Real Estate Settlement



1 Procedures Act, Title 12 United States Code section
2 2601 et seq., or by regulations adopted pursuant to
3 the Real Estate Settlement Procedures Act, of the
4 assignment, sale, or transfer of the servicing of all
5 relevant loans that the licensee is currently
6 servicing under the license being surrendered.

7 Voluntary surrender of a license shall be effective upon
8 the date of surrender specified on the written notice to the
9 commissioner as required by this subsection; provided that if a
10 mortgage servicer is required to assign, sell, or transfer the
11 servicing of any loans, the voluntary surrender of the mortgage
12 servicer's license shall be effective upon the effective date of
13 the assignment, sale, or transfer of the servicing of all
14 loans."

15 SECTION 5. Section 454M-6, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "[+]§454M-6[+] Prohibited activities. (a) It shall be
18 unlawful for any mortgage servicer in the course of any mortgage
19 loan transaction:

- 20 (1) To misrepresent or conceal material facts, to make
21 false promises, or to pursue a course of
22 misrepresentation through its agents or otherwise;



1 (2) To engage in any transaction, practice, or course of
2 business that is not in good faith, does not
3 constitute fair dealing, or that constitutes a fraud
4 upon any person, in connection with the servicing,
5 purchase, or sale of any mortgage loan;

6 (3) To fail to comply with the mortgage loan servicing
7 transfer, escrow account administration, or borrower
8 inquiry response requirements imposed by sections 6
9 and 10 of the Real Estate Settlement Procedures Act,
10 12 United States Code sections 2605 and 2609, and
11 regulations adopted thereunder by the Secretary of
12 Housing and Urban Development; or

13 (4) To fail to comply with applicable federal laws and
14 regulations related to mortgage servicing.

15 (b) It shall be unlawful for any mortgage servicer to
16 provide any mortgage loan modifications or other services that
17 would require licensing pursuant to chapter 454F, unless the
18 mortgage servicer is licensed under chapter 454F."

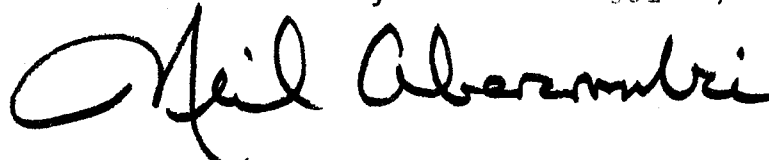
19 SECTION 6. This Act does not affect rights and duties that
20 matured, penalties that were incurred, and proceedings that were
21 begun before its effective date.



1 SECTION 7. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 8. This Act shall take effect upon its approval.

APPROVED this 6 day of JUL , 2012



GOVERNOR OF THE STATE OF HAWAII

