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# 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-2, Hawaii Revised Statutes, is  
8 amended to read as follows:

9           "**§454M-2 License required.** (a) No person except those  
10 exempted under this chapter shall engage in the business of  
11 mortgage servicing without a license as provided in this  
12 chapter.

13           (b) No person shall engage in the business of mortgage  
14 servicing in this State unless the person providing services has  
15 a physical presence in the State pursuant to section 454M-  
16 5(a)(5).

17           (c) No person licensed as a mortgage servicer shall  
18 provide mortgage loan modification services without first



1 complying with the licensure requirements for mortgage servicers  
2 under chapter 454F."

3 SECTION 3. Section 454M-4, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 **"§454M-4 License; fees; renewals; voluntary surrender of**  
6 **license.** (a) An applicant for licensure shall file an  
7 application on a form prescribed by the Nationwide Mortgage  
8 Licensing System or by the commissioner and shall pay an  
9 application fee of \$500. Each license shall expire on June 30  
10 of each calendar year. A license may be renewed by filing a  
11 renewal statement on a form prescribed by the Nationwide  
12 Mortgage Licensing System or by the commissioner and paying a  
13 renewal fee of \$250, on or before July 1 for licensure for the  
14 following year.

15 (b) To fulfill the purposes of this chapter, the  
16 commissioner may establish relationships or contracts with the  
17 Nationwide Mortgage Licensing System or other entities  
18 designated by the Nationwide Mortgage Licensing System to  
19 collect and maintain records and process transaction fees or  
20 other fees related to licensees or other persons subject to this  
21 chapter.



1           (c) The commissioner may use the Nationwide Mortgage  
2 Licensing System as an agent for:

3           (1) Requesting information from and distributing  
4           information to the United States Department of Justice  
5           or any governmental agency; and

6           (2) Requesting and distributing information to and from  
7           any source directed by the commissioner.

8           ~~[(b)]~~ (d) The applicant shall submit any other information  
9 that the commissioner may require, including the applicant's:

- 10           (1) Form and place of organization;
- 11           (2) Tax identification number; and
- 12           (3) Proposed method of doing business.

13           The applicant shall disclose whether the applicant or any  
14 of its officers, directors, employees, managers, agents,  
15 partners, or members have ever been issued or been the subject  
16 of an injunction or administrative order pertaining to any  
17 aspect of the lending business, have ever been convicted of a  
18 misdemeanor involving the lending industry or any aspect of the  
19 lending business, or have ever been convicted of any felony.

20           ~~[(e)]~~ (e) A mortgage servicer licensed under this chapter  
21 may voluntarily cease business and surrender its license by  
22 giving written notice to the commissioner of its intent to

1 surrender its mortgage servicer license. Notice pursuant to  
2 this subsection shall be given at least thirty days before the  
3 surrender of the license and shall include:

- 4 (1) The date of surrender;
- 5 (2) The name, address, telephone number, facsimile number,  
6 and electronic address of a contact individual with  
7 knowledge and authority sufficient to communicate with  
8 the commissioner regarding all matters relating to the  
9 licensee during the period that it was licensed  
10 pursuant to this chapter;
- 11 (3) The reason or reasons for surrender;
- 12 (4) The original license issued pursuant to this chapter  
13 to the mortgage servicer; and
- 14 (5) If applicable, a copy of all notices to affected  
15 borrowers required by the Real Estate Settlement  
16 Procedures Act, Title 12 United States Code Section  
17 2601 et seq., or by regulations adopted pursuant to  
18 the Real Estate Settlement Procedures Act, of the  
19 assignment, sale, or transfer of the servicing of all  
20 relevant loans that the licensee is currently  
21 servicing under the license being surrendered.



1 Voluntary surrender of a license shall be effective upon  
2 the date of surrender specified on the written notice to the  
3 commissioner as required by this subsection; provided that if a  
4 mortgage servicer is required to assign, sell, or transfer the  
5 servicing of any loans, the voluntary surrender of the mortgage  
6 servicer's license shall be effective upon the effective date of  
7 the assignment, sale, or transfer of the servicing of all  
8 loans."

9 SECTION 4. Section 454M-6, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 "~~§454M-6~~ **Prohibited activities.** (a) It shall be  
12 unlawful for any mortgage servicer in the course of any mortgage  
13 loan transaction:

14 (1) To misrepresent or conceal material facts, to make  
15 false promises, or to pursue a course of  
16 misrepresentation through its agents or otherwise;

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



1 (3) To fail to comply with the mortgage loan servicing  
2 transfer, escrow account administration, or borrower  
3 inquiry response requirements imposed by Sections 6  
4 and 10 of the Real Estate Settlement Procedures Act,  
5 12 United States Code Sections 2605 and 2609, and  
6 regulations adopted thereunder by the Secretary of  
7 Housing and Urban Development; or

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

10 (b) It shall be unlawful for any mortgage servicer to  
11 provide any mortgage loan modifications or other services which  
12 would require licensing pursuant to chapter 454F, unless the  
13 mortgage servicer is licensed under chapter 454F."

14 SECTION 5. Statutory material to be repealed is bracketed  
15 and stricken. New statutory material is underscored.

16 SECTION 6. This Act shall take effect upon January 1,  
17 3000.



**Report Title:**

Mortgage Servicers

**Description:**

Requires every mortgage servicer who provides loan modification services that would require licensure as a mortgage loan originator to be licensed as a mortgage loan originator in addition to being licensed as a mortgage servicer. Effective January 1, 3000. (HB2502 HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

