
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 waive or modify, in whole or in part, by rule or order, any or
9 all of the requirements of this chapter and establish new
10 requirements.

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

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

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

21 The applicant shall disclose whether the applicant or any
22 of its officers, directors, employees, managers, agents,



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

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

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

1 (5) If applicable, a copy of all notices to affected
2 borrowers required by the Real Estate Settlement
3 Procedures Act, Title 12 United States Code section
4 2601 et seq., or by regulations adopted pursuant to
5 the Real Estate Settlement Procedures Act, of the
6 assignment, sale, or transfer of the servicing of all
7 relevant loans that the licensee is currently
8 servicing under the license being surrendered.

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

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

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



- 1 (1) To misrepresent or conceal material facts, to make
2 false promises, or to pursue a course of
3 misrepresentation through its agents or otherwise;
- 4 (2) To engage in any transaction, practice, or course of
5 business that is not in good faith, does not
6 constitute fair dealing, or that constitutes a fraud
7 upon any person, in connection with the servicing,
8 purchase, or sale of any mortgage loan;
- 9 (3) To fail to comply with the mortgage loan servicing
10 transfer, escrow account administration, or borrower
11 inquiry response requirements imposed by sections 6
12 and 10 of the Real Estate Settlement Procedures Act,
13 12 United States Code sections 2605 and 2609, and
14 regulations adopted thereunder by the Secretary of
15 Housing and Urban Development; or
- 16 (4) To fail to comply with applicable federal laws and
17 regulations related to mortgage servicing.
- 18 (b) It shall be unlawful for any mortgage servicer to
19 provide any mortgage loan modifications or other services that
20 would require licensing pursuant to chapter 454F, unless the
21 mortgage servicer is licensed under chapter 454F."



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

3 "**§454M-10 Penalty.** Any person who violates any provision
4 of this chapter may be subject to an administrative fine of [~~at~~
5 ~~least \$1,000 and~~] not more than \$7,000 for each violation;
6 provided that \$1,000 of the aggregate fine amount per order
7 shall be deposited into the mortgage foreclosure dispute
8 resolution special fund established pursuant to section 667-86."

9 SECTION 7. This Act does not affect rights and duties that
10 matured, penalties that were incurred, and proceedings that were
11 begun before its effective date.

12 SECTION 8. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 9. This Act shall take effect upon its approval.



Report Title:

Mortgage Servicers; Mortgage Loan Modifications

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. Authorizes the commissioner of financial institutions to require all mortgage servicers to register with the Nationwide Mortgage Licensing System. Clarifies the portion of administrative fines collected for violations of chapter 454M, Hawaii Revised Statutes, to be deposited into the mortgage foreclosure dispute resolution special fund. (SD2)

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

