

LATE TESTIMONY



NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
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

KEALI'I S. LOPEZ
INTERIM DIRECTOR

EVERETT KANESHIGE
DEPUTY DIRECTOR

TO THE HOUSE COMMITTEES ON
CONSUMER PROTECTION & COMMERCE and JUDICIARY

THE TWENTY-SIXTH STATE LEGISLATURE
REGULAR SESSION OF 2012

Wednesday, January 25, 2012
2:00 p.m.

TESTIMONY ON HB. NO. 2033
RELATING TO MORTGAGE COLLECTIONS.

THE HONORABLE ROBERT N. HERKES, CHAIR, AND
THE HONORABLE GILBERT S.C. KEITH-AGARAN, CHAIR,
AND MEMBERS OF THE COMMITTEES:

My name is Iris Ikeda Catalani, Commissioner of Financial Institutions ("Commissioner"), testifying on behalf of the Department of Commerce and Consumer Affairs ("Department") with comments on House Bill No. 2033. The Department respectfully requests that this bill be amended to prevent confusion with Chapter 454M, Hawaii Revised Statutes ("HRS"), that regulates mortgage servicers.

The Division of Financial Institutions regulates mortgage servicers defined in Chapter 454M, HRS, as:

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... the person responsible for receiving any scheduled periodic payments from a borrower pursuant to the terms of any residential mortgage loan, including amounts for escrow accounts under section 10 of the Real Estate Settlement Procedures Act, 12 United States Code section 2609, and for making the payments to the owner of the loan or other third parties of principal and interest and such other payments with respect to the amounts received from the borrower as may be required pursuant to the terms of the mortgage servicing loan documents or servicing contract. In the case of a home equity conversion mortgage or reverse mortgage as referenced in this chapter, servicing includes making payments to the borrower.

We note that there is some overlap between the definitions of "mortgage servicer" and "mortgage collection firm" as defined in H.B. No. 2033. We also note that the function of the mortgage collection firms via their prohibitions are similar to prohibitions of "mortgage servicers."

We suggest that the committee clarify the language to either include or exclude mortgage servicers who are licensed by the Division of Financial Institutions.

Thank you for the opportunity to testify. I would be pleased to respond to any questions you may have.