

HB2502 HD2

Measure Title: RELATING TO MORTGAGE SERVICERS.

Report Title: Mortgage Servicers; Mortgage Loan Modifications

Description: Requires every mortgage servicer who provides loan modification services that 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 HD2)

Companion: SB2764

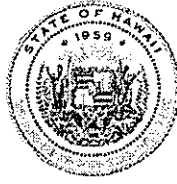
Package: Gov

Current Referral: CPN, WAM

Introducer(s): SAY (Introduced by request of another party)

<u>Sort by Date</u>		Status Text
1/23/2012	H	Pending introduction.
1/25/2012	H	Introduced and Pass First Reading.
1/25/2012	H	Referred to CPC, FIN, referral sheet 7
1/26/2012	H	Bill scheduled to be heard by CPC on Monday, 01-30-12 2:00PM in House conference room 325.
1/30/2012	H	The committee(s) on CPC recommend(s) that the measure be deferred until 02-06-12.
2/3/2012	H	Bill scheduled for decision making on Monday, 02-06-12 2:15PM in conference room 325.
2/6/2012	H	The committees on CPC recommend that the measure be PASSED, WITH AMENDMENTS. The votes were as follows: 12 Ayes: Herkes, Yamane, Brower, Coffman, Ito, Keith-Agaran, Luke, Souki, Tsuji, Ching, Thielen; Ayes with reservations: Marumoto; 0 Noes: none; and 3 Excused: Cabanilla, Carroll, McKelvey.
2/16/2012	H	Reported from CPC (Stand. Com. Rep. No. 458-12) as amended in HD 1, recommending passage on Second Reading and referral to FIN.
2/16/2012	H	Passed Second Reading as amended in HD 1 and referred to the committee(s) on FIN with none voting aye with reservations; none

		voting no (0) and M. Lee, Souki excused (2).
2/26/2012	H	Bill scheduled to be heard by FIN on Wednesday, 02-29-12 10:00AM in House conference room 308.
2/27/2012	H	Broadcast of hearing/briefing available. See: www.capitoltv.org
3/1/2012	H	The committees on FIN recommend that the measure be PASSED, WITH AMENDMENTS. The votes were as follows: 17 Ayes: Representative(s) Oshiro, M. Lee, Choy, Cullen, Giugni, Har, Hashem, Ichiyama, Jordan, Kawakami, C. Lee, Morikawa, Tokioka, Yamashita, Riviere, Ward; Ayes with reservations: Representative(s) Marumoto; Noes: none; and Excused: none.
3/2/2012	H	Reported from FIN (Stand. Com. Rep. No. 945-12) as amended in HD 2, recommending passage on Third Reading.
3/2/2012	H	Forty-eight (48) hours notice Tuesday, 03-06-12.
3/6/2012	H	Passed Third Reading as amended in HD 2 with none voting aye with reservations; none voting no (0) and none excused (0). Transmitted to Senate.
3/8/2012	S	Received from House (Hse. Com. No. 226).
3/8/2012	S	Passed First Reading.
3/8/2012	S	Referred to CPN, WAM.
3/9/2012	S	The committee(s) on CPN has scheduled a public hearing on 03-13-12 9:00AM in conference room 229.



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
DIRECTOR

TO THE
SENATE COMMITTEE ON
COMMERCE AND CONSUMER PROTECTION
THE TWENTY-SIXTH STATE LEGISLATURE
REGULAR SESSION OF 2012

Tuesday, March 13, 2012
9:00 a.m.

TESTIMONY ON H.B. NO. 2502, H.D. 2
RELATING TO MORTGAGE SERVICERS

THE HONORABLE ROSALYN H. BAKER, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Iris Ikeda Catalani, Commissioner of Financial Institutions ("Commissioner"), testifying on behalf of the Department of Commerce and Consumer Affairs ("DCCA") in strong support of administration bill, House Bill No. 2502, H.D. 2.

Following the failure of the nation's mortgage loan systems, every state and the federal government are reevaluating their efforts to close loopholes and provide the protection the public needs and expects. This bill continues efforts to tighten up the mortgage loan system in Hawaii.

Persons acting as mortgage servicers provide a variety of services including some mortgage loan modification services that could be considered to be mortgage loan originator activities. These include services such as taking a residential mortgage loan application or offering or negotiating the terms of a residential mortgage loan. Any licensed mortgage servicer providing such services must also be licensed as a mortgage loan originator. However, this is not always evident to those who hold mortgage servicer licenses. This bill clarifies these distinctions and ensures that anyone providing mortgage loan origination services will need to be licensed to do so, even those already licensed as mortgage servicers. A license as a mortgage servicer cannot take the place of a mortgage loan originator's license if the person is providing mortgage loan originator services.

In addition, there has been national discussion about the possibility that mortgage servicers may be required to register with the Nationwide Mortgage Licensing System ("NMLS"). If that occurs, it is imperative that the Commissioner has the ability to work with NMLS and establish a program similar to the recently established program for mortgage loan originators and mortgage loan originator companies. This bill will provide the Commissioner the needed authority to do so when and if this becomes necessary. Without the authority to enter into any agreement to make the process of licensing mortgage servicers more efficient, there may be a risk that companies will leave Hawaii's marketplace. This after the industry went from 54 to 68 licensees in the last year. We

believe we have been successful in encouraging the industry to provide mortgage servicing for loans made in Hawaii.

DFI would like to note that the Senate version of this bill (S.B. 2764, S.D. 1) made changes to the bill that were more in line with the national guidance and discussion of mortgage servicers which we prefer.

To illustrate the unintended consequence of the penalty provision, I provide one example. Fines are computed based on several factors including the severity of the violation, harm to consumers, mitigating actions taken by the company, the company's understanding of the laws, and if the company had been warned of the violation and continued to engage in the prohibited or unlawful activity. For instance, there were a few cases where new companies did not know they had to be licensed in Hawaii as a mortgage servicer in 2010. The discovery occurred after I was a speaker at an industry event. The new companies (unlicensed) contacted DFI soon after the event and applied to be licensed. The fine imposed was the minimum penalty allowable by statute and could have put one local business out of business as the minimum penalty is \$2,000 per violation (\$1,000 for the compliance violation and \$1,000 to be collected for the mortgage dispute resolution program) as the penalty was calculated as \$2 million. Without the discretion to adjust any monetary penalty, the state runs the risk of closing any business, including one owned and operated in Hawaii. We request an

TESTIMONY ON HOUSE BILL NO. 2502, H.D. 2
March 13, 2012, 9:00 a.m.
Page 4

amendment to have the language in the original bill to allow the Commissioner to compute the fines based on the various factors identified above.

We also provide an example of how the rulemaking authority would be used. Although recently the rulemaking process has not been used to set fees, rulemaking also allows the Commissioner to clarify and identify the process to apply for licensure or renewals. Without any rulemaking authority, the Commissioner would not be able to provide guidance to licensees as they apply for licensure or renewal. We would request that the Commissioner retain the rulemaking authority as identified in the original bill.

For these reasons, DFI strongly supports this administration bill, House Bill No. 2502, H.D. 2, and respectfully asks that the measure be passed with the proposed amendments.

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