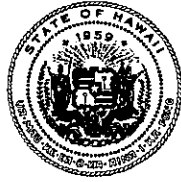


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TO THE
HOUSE COMMITTEE ON
CONSUMER PROTECTION & COMMERCE
THE TWENTY-SIXTH STATE LEGISLATURE
REGULAR SESSION OF 2012

Monday, January 30, 2012
2:00 p.m.

TESTIMONY ON H.B. NO. 2502
RELATING TO MORTGAGE SERVICERS

THE HONORABLE ROBERT N. HERKES, 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.

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.

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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. 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.

This bill will provide more discretion for the Commissioner by removing the lower threshold for administrative fines of \$1,000, allowing the Commissioner to provide for a fine of less than \$1,000 for each violation. Fines are computed based on several factors including the severity of the violation, any harm to consumers, any mitigating

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factors by the company's actions, 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 contacted DFI soon after the event and applied to be licensed. The fine imposed was the minimum penalty allowable by statute.

For these reasons, DFI strongly supports this administration bill, House Bill No. 2502 and respectfully asks that the measure be passed.

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