

SB2849

Measure Title:	RELATING TO ESCROW DEPOSITORIES.
Report Title:	Escrow Depositories; Division of Financial Institutions; Chapter 449D; Chapter 846; Change In Control; Controlling Person; NMLS; Principal; Transfer or Sale; Fee; Criminal Background Check
Description:	Clarifies chapter 449, Hawaii Revised Statutes, by adding definitions and change in control requirements. Identifies previously authorized fees for initial license issuance; adds a nominal fee for license reissuance upon licensee name change; moves fee for application for proposed change in control to fee section. Authorizes the commissioner to implement use of NMLS, and changes license renewal date from July 1 to December 31 to conform to NMLS. Adds criminal background check and disclosure requirements to licensure and change in control applications, and amends section 846-2.7, Hawaii Revised Statutes, accordingly.
Companion:	HB2320
Package:	Governor
Current Referral:	CPH/JDL, WAM
Introducer(s):	KOUCHI (Introduced by request of another party)



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**PRESENTATION OF THE
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

TO THE SENATE COMMITTEE ON
COMMERCE, CONSUMER PROTECTION, AND HEALTH

AND

TO THE SENATE COMMITTEE ON
JUDICIARY AND LABOR

THE TWENTY-EIGHTH LEGISLATURE
REGULAR SESSION OF 2016

FRIDAY, FEBRUARY 12, 2016
9:00 a.m.

**TESTIMONY ON S.B. No. 2849
RELATING TO ESCROW DEPOSITORIES**

TO THE HONORABLE ROSALYN H. BAKER, CHAIR,
TO THE HONORABLE GILBERT S.C. KEITH-AGARAN, CHAIR,
AND MEMBERS OF THE COMMITTEES:

My name is Iris Ikeda, Commissioner of Financial Institutions ("Commissioner"),
testifying on behalf of the Department of Commerce and Consumer Affairs in strong
support of this administration bill, S.B. No. 2849.

This bill improves the Escrow Depositories law, Chapter 449, Hawaii Revised Statutes (“HRS”), in a number of ways. First, the bill rewords the license transfer provisions to make it clear that the Commissioner must approve the purchase or transfer of an escrow depository license. The prospective purchaser or transferee (“applicant”) must submit an application for approval of a proposed change in control of the licensee, pay an application fee, and authorize the Commissioner to conduct criminal background checks on key personnel. The Commissioner approves the application only upon finding, among others, that the applicant and key personnel are competent to successfully control and manage an escrow business. The change in control application fee is moved from the subject matter section to the chapter’s fee section, for internal consistency.

Second, the bill streamlines the licensing process by authorizing the Commissioner to use NMLS for its escrow depositories program. NMLS is a nationwide online licensing and registration system for state-licensed providers of financial services. It is much more efficient for both DFI and licensees than a paper-based system. NMLS also provides public online access to updated licensee information. The Division of Financial Institutions (“DFI”) has successfully implemented NMLS under statutory authority, for its mortgage loan originator, mortgage servicer, and money transmitter programs.

The bill also moves the license renewal period from June 30 of each year to December 31 of each year to be consistent with NMLS' renewal period. For this year, DFI proposes to allow a "long year" for escrow companies that are currently licensed by June 30, 2016, and allow these escrow companies to renew their license by December 31, 2016 through NMLS.

Third, requirements for initial licensure are augmented to include the applicant's material litigation history and criminal convictions for the past five years, criminal background checks of key personnel, and information the Commissioner may need to participate in NMLS. Criminal background checks will enhance protection of consumer funds and transactions involving escrow depositories. The fee for a new license authorized by Section 449-8, HRS, is specified.

Definitions are added to make the chapter more readable and improve support for licensee compliance. A nominal fee is added for license reissuance on a name change. It should have little impact on licensees as they infrequently change names.

DFI strongly supports this administration bill, S.B. No. 2849, and respectfully requests it be passed.

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



First American Title Company

Testimony to the Senate Committee on Commerce, Consumer Protection, and Health and the
Committee on Judiciary and Labor
Friday February 12, 2016 at 9:00 am
Conference Room 229

RE: SENATE BILL 2849 RELATING TO ESCROW DEPOSITORIES

Chair Baker, Chair Keith-Agaran, Vice Chair Kidani, Vice Chair Shimabukuro, and Members of the Committees:

First American Title Company (“First American”), a licensed Escrow Depository, with branches across the state **supports** SB 2849 which clarifies and adds some new criteria to Chapter 449 of Hawaii Revised Statutes.

This bill improves the Department of Commerce and Consumer Affairs’ (DCCA) ability to determine suitability of new applicants for Escrow Depository licenses by requiring disclosure of the 5 preceding years of material litigation for the entity, and criminal history record checks for the principals, officers, and controlling parties of these applicants. This will allow the State to properly vet newcomers to the Escrow Depository industry to ensure that the industry will not be negatively impacted by those who will not respect and uphold the laws. First American also supports the addition of a definition of “Control” as it relates to triggering a change of control event. By adding this definition and clarifying that a change of control event requires that the Commissioner approve the license transfer through a change of control event. This will ensure that any entity entering into the business of an Escrow Depository must meet the same criteria as a new applicant, including the material litigation submission and the criminal background checks.

First American also supports the adoption and use of the NMLS (Nationwide Multistate Licensing System & Registry). The NMLS is the system of record for non-depository, financial services and in the jurisdictions that adopt it, it is the official system for companies and individuals to amend, renew and surrender licenses. The NMLS has been adopted nationwide to manage the registrations for all Mortgage Licenses. In Hawaii it has also been utilized in the Money Transmittal industry. Hawaii’s adoption of NMLS will improve the Escrow Depository’s license registration and renewal process, with online capabilities and record-keeping.

The nature of our industry is reliant on the public’s trust that each licensed Escrow Depository will follow the rules proscribed by the State, and enforced by the Department of Financial Institutions. The enhanced scrutiny further promotes the interest of providing for the safety and security of consumer funds in Escrow Depositories, and the interactions conducted through Escrow Depositories.

Thank you for the opportunity to testify in support of this bill.

FIRST AMERICAN TITLE COMPANY

Diana M. Allen