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# 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 two new sections to be appropriately  
3 designated and to read as follows:

4           "§454M-       Change in control of a licensee; fees. (a) A  
5 licensee shall submit to the commissioner an application  
6 requesting approval of a proposed change of control of the  
7 licensee, accompanied by a nonrefundable application fee of  
8 \$500, payable to the division.

9           (b) The commissioner shall approve an application  
10 requesting approval of a proposed change of control under  
11 subsection (a) if, after investigation, the commissioner  
12 determines that:

13           (1) The person or group of persons who will obtain control  
14 will be in compliance with this chapter upon approval  
15 of the application;

16           (2) The person or group of persons who will obtain control  
17 has the competence, experience, character, and general



1           fitness to control the licensee or person in control  
 2           of the licensee in a lawful and proper manner; and  
 3           (3) The interests of the public will not be jeopardized by  
 4           the change of control.

5           §454M- Presumption of control. An individual is  
 6 presumed to control an entity if that individual is:

- 7           (1) An executive officer of the entity; or
- 8           (2) A director, general partner, or managing member who  
 9           directly or indirectly has the right to vote ten per  
 10           cent or more of a class of voting securities of the  
 11           entity or has the power to sell or direct the sale of  
 12           ten per cent or more of a class of voting securities  
 13           of the entity."

14           SECTION 2. Section 454M-1, Hawaii Revised Statutes, is  
 15 amended by adding a new definition to be appropriately inserted  
 16 and to read as follows:

17           "Executive officer" means a president, chairperson of an  
 18 executive committee, senior officer responsible for the business  
 19 of the subject entity or organization, chief financial officer,  
 20 or any other person who performs similar functions related to  
 21 the subject entity or organization."



1 SECTION 3. Section 454M-4, Hawaii Revised Statutes, is  
2 amended as follows:

3 1. By amending subsection (e) to read:

4 "(e) The applicant shall submit any other information that  
5 the commissioner may require, including the applicant's:

- 6 (1) Form and place of organization;
- 7 (2) Tax identification number; and
- 8 (3) Proposed method of doing business.

9 The applicant shall disclose whether the applicant or any of its  
10 executive officers, directors, [~~employees, managers, agents,~~]  
11 general partners, or managing members have ever been issued or  
12 been the subject of an injunction or administrative order  
13 pertaining to any aspect of the lending business, have ever been  
14 convicted of a misdemeanor involving the lending industry or any  
15 aspect of the lending business, or have ever been convicted of  
16 any felony."

17 2. By amending subsection (h) to read:

18 "(h) The mortgage servicer licensee shall file with NMLS  
19 or, if the information cannot be filed with NMLS, directly  
20 notify the commissioner in writing no later than five business



1 days after the licensee has reason to know of the occurrence of any  
2 of the following events:

- 3 (1) Filing for bankruptcy or the consummation of a  
4 corporate restructuring of the licensee;
- 5 (2) Filing of a criminal indictment against the licensee or  
6 receiving notification of the filing of any criminal  
7 felony indictment or felony conviction of any of the  
8 licensee's executive officers, directors, employees,  
9 managers, agents, managing members, general partners, or  
10 shareholders owning ten per cent or more of the  
11 outstanding stock of the licensee;
- 12 (3) Receiving notification of the initiation of license  
13 denial, cease and desist, suspension or revocation  
14 procedures, or other formal or informal regulatory  
15 action by any governmental agency against the licensee  
16 and the reasons for the action;
- 17 (4) Receiving notification of the initiation of any action  
18 against the licensee by the state attorney general or  
19 the attorney general of any other state and the reasons  
20 for the action;



1 (5) Suspension or termination of the licensee's status as  
2 an approved servicer by the Federal National Mortgage  
3 Association, Federal Home Loan Mortgage Corporation, or  
4 Government National Mortgage Association;

5 (6) Receiving notification that certain servicing rights of  
6 the licensee will be rescinded or canceled, and the  
7 reasons provided therefor;

8 (7) Receiving notification of filing for bankruptcy of any  
9 of the licensee's executive officers, directors,  
10 managing members, [~~managers, agents,~~] general  
11 partners, or shareholders owning ten per cent or more of  
12 the outstanding stock of the licensee; or

13 (8) Receiving notification of the initiation of a class action  
14 lawsuit on behalf of consumers against the licensee that  
15 is related to the operation of the licensed business."

16 SECTION 4. Section 454M-6, Hawaii Revised Statutes, is  
17 amended by amending subsection (c) to read as follows:

18 "(c) It shall be a violation of this chapter for any  
19 mortgage servicer to provide any [~~mortgage loan modifications or~~  
20 ~~other~~] services that would require licensing pursuant to chapter



1 454F, unless the mortgage servicer is licensed under chapter  
2 454F."

3 SECTION 5. Section 454M-8.5, Hawaii Revised Statutes, is  
4 amended by amending subsection (c) to read as follows:

5 "(c) Each licensee or person subject to this chapter shall  
6 provide to the commissioner upon request the books and records  
7 relating to the operations of the licensee or person subject to  
8 this chapter. The commissioner shall have access to the books  
9 and records and shall be permitted to interview the executive  
10 officers, directors, managing members, general partners,  
11 principals, mortgage [~~servicers~~ servicer's employees,  
12 independent contractors, agents, and customers of the licensee  
13 or person subject to this chapter concerning their business."

14 SECTION 6. Statutory material to be repealed is bracketed  
15 and stricken. New statutory material is underscored.

16 SECTION 7. This Act shall take effect on September 1,  
17 2017.



**Report Title:**

Mortgage Servicers; Division of Financial Institutions;  
Presumption of Control; Change in Control

**Description:**

Updates requirements relating to licensed mortgage servicers by requiring approval by the commissioner of financial institutions for a change in control; and clarifying which persons associated with a mortgage servicer are presumed to exercise control and are subject to interviews, examination, and disclosure requirements. Effective 9/1/2017. (CD1)

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

