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TO THE HOUSE COMMITTEE ON
CONSUMER PROTECTION AND COMMERCE

TWENTY-NINTH LEGISLATURE
Regular Session of 2018

Friday, February 2, 2018
2:00 p.m.

TESTIMONY ON HOUSE BILL NO. 2344, RELATING TO MORTGAGE SERVICERS.

TO THE HONORABLE ROY M. TAKUMI, CHAIR, AND MEMBERS OF THE
COMMITTEE:

The Department of Commerce and Consumer Affairs (“Department”) appreciates the opportunity to testify on H.B. 2344, Relating to Mortgage Servicers. My name is Iris Ikeda, and I am the Commissioner of Financial Institutions (“Commissioner”) for the Department’s Division of Financial Institutions (“DFI”). The Department strongly supports this administration bill, which is a companion to S.B. 2771.

The first purpose of this bill is to expand the Commissioner’s ability to adapt the requirements of Hawaii Revised Statutes (“HRS”) chapter 454M, as reasonably necessary to use NMLS. NMLS is a web-based nationwide licensing system that streamlines workflows and communications for applicants, licensees, and DFI. Created by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators, NMLS began operations in January 2008 and is continually being improved.

Currently, DFI cannot accept through NMLS an electronic bond uploaded by an insurance carrier, due to HRS sections 454M-4(g) and (j), which respectively require

that a licensee “provide directly to the Commissioner” a bond rider or endorsement and that a prospective licensee file a bond “with the Commissioner.” Amendments in this bill will give the Commissioner authority to allow electronic bonds through NMLS, in accordance with the current practice of other states. In addition, DFI will be able to further use NMLS to manage licensure of mortgage servicers, without burdening licensees.

The second purpose of this bill is to authorize the Commissioner to enter into consent judgments and issue cease and desist orders (“C&D orders”) for HRS chapter violations by licensees and unlicensed persons. Recently, the Commissioner was unable to issue a C&D order against a mortgage servicer who did not want to comply with state law. Since the Commissioner could issue only a proposed C&D order, the licensee was able to continue the unlawful activity. After two years of negotiations, DFI and the mortgage servicer negotiated a settlement on behalf of consumers harmed. Amendments in this bill will enable the Commissioner to quickly minimize consumer harm by persons violating HRS chapter 454M. Authority to issue consent orders will also expedite decisions and save resources.

SECTION 1 of this bill adds a new section, “Enforcement authorities,” which authorizes the Commissioner to issue C&D orders if the Commissioner has reason to believe a person has violated or is violating licensure requirements of HRS section 454M-2. The Commissioner must commence an administrative proceeding within twenty days after issuing a C&D order.

SECTION 2 of this bill amends HRS section 454M-4(c) by allowing the Commissioner to modify certain requirements, pertaining to applications and license surrender, to participate in NMLS. It also adds the qualifier that adaptations must be “[f]or the purpose and to the extent reasonably necessary to use NMLS.”

SECTION 3 of this bill permits the Commissioner to issue a C&D order against a licensee if a chapter violation is likely to cause immediate and irreparable harm. The Commissioner may also enter into consent orders to resolve matters under HRS chapter 454M.

SECTION 4 of this bill amends HRS section 454M-8 to expressly add to the Commissioner's enumerated powers the issuance of C&D orders and consent judgments.

SECTION 5 of this bill amends HRS section 454M-10 to clarify that the chapter's penalty provision applies to violation of a chapter rule or order or an agreement with the Commissioner.

The Department strongly supports this administration bill and requests that it pass out of this committee unamended. Thank you for the opportunity to testify, and we ask for your favorable consideration.