

# SB667

Measure Title: RELATING TO MORTGAGE SERVICERS.  
Report Title: Mortgage Servicers; Nonprofit Organization  
Description: Exempts nonprofit organizations and their employees from the licensing and regulations of mortgage servicers.  
Companion: [HB657](#)  
Package: None  
Current Referral: CPH  
Introducer(s): HARIMOTO, Dela Cruz, Espero, Keith-Agaran, Nishihara



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

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

THE TWENTY-NINTH LEGISLATURE  
REGULAR SESSION OF 2017

MONDAY, FEBRUARY 27, 2017  
9:30 a.m.

**TESTIMONY ON S.B. NO. 667  
RELATING TO MORTGAGE SERVICERS**

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

My name is Iris Ikeda, Commissioner of Financial Institutions ("Commissioner") of the Division of Financial Institutions ("DFI"), testifying on behalf of the Department of Commerce and Consumer Affairs ("Department"), on S.B. No. 667, Relating to Mortgage Servicers. The Department has concerns that the bill as drafted will create a regulatory gap at the state level that would be detrimental to Hawaii's mortgage consumers, and as such opposes the bill.

This bill would make Chapter 454M, Hawaii Revised Statutes (“HRS”), inapplicable to "any nonprofit organization and its employees exempt from section 454F-25", HRS. DFI regulates and supervises the mortgage loan origination ("MLO") industry, and enforces Chapter 454F, HRS, Hawaii’s Secure and Fair Enforcement for Mortgage Licensing Act. DFI regulates the mortgage servicer industry pursuant to the Mortgage Servicers law, Chapter 454M, HRS.

Regulation of mortgage activity consists of a robust level of regulation at the federal level and equally robust and complementary regulation at the state level. Currently, the viability of the federal Consumer Financial Protection Bureau and its rules are in question due to ongoing changes at the federal level, the launch of a sweeping review of Dodd-Frank Act rules by the current administration. This signals a desire to potentially scale back significantly the regulatory system, and possibly weaken or dismantle the agency.

As such, DFI is concerned about any negative repercussions that could follow the exemption of nonprofit servicers from Chapter 454M, HRS, and the mortgage servicing standards and duties legislated in the chapter. If an issue developed between the borrower and an exempt nonprofit servicer, the borrower could not request DFI’s assistance even if payments were misapplied or lost, if requests for loss mitigation were unheeded, or if an unlawful foreclosure were in process. Such impacts would most clearly include the loss of the borrowers’ ability to request DFI’s help in critical situations

(i.e., misapplication or loss of payments), and DFI is concerned for these kinds of impacts given the severity of mortgage defaults (e.g., potential loss of one's home, the ruining of one's credit, and other negative effects on one's family and long-term financial goals).

While the Department opposes the current exemption language in this measure, we suggest the following alternative solutions that may help nonprofit servicers operate. First, the cost of the nonprofit company license can be changed. As different company business models are contemplated, DFI is open to adjusting the application fee and renewal license fee for nonprofits to be more affordable. DFI notes that the nonprofit MLO company pays a different application and renewal licensee fee than for-profit companies. Second, the cost of an examination can be changed. In the normal course of planning an examination, the Commissioner scales examinations of mortgage servicers under Chapter 454M, HRS, according to the volume of loans it services, and other risk factors.

The Department opposes S.B. No. 667 as it is currently written because exempting nonprofit mortgage servicers from regulation would leave a group of borrowers without consumer protection assistance. Affected borrowers would effectively have nowhere to file complaints if something goes awry with their servicing during the decades that they are contractually obligated to pay on their mortgage loan. Borrowers who work with a nonprofit MLO organization to obtain a mortgage loan are

often first time homebuyers who could benefit most directly from the mortgage-related protections and assistance that DFI is currently authorized to provide.

The Department respectfully requests that this measure and the exemption it proposes be held. In the alternative, DFI would appreciate the Committee consider instead the possible alternative approaches to fees for nonprofit servicers discussed above.

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

**SENATE BILL No. 667**  
**RELATING TO MORTGAGE SERVICERS**  
**Attachment A**

**Division of Financial Institutions**  
**Alternative Solution for Nonprofit Organizations**  
**Operating under Chapter 454M, HRS**

1. Section 454M-1, Hawaii Revised Statutes, is amended by adding one new definition to be appropriately inserted and to read as follows:

"Nonprofit organization" means an organization that has the status of a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code of 1986, as amended; conducts its activities in a manner that serves public or charitable purposes, rather than commercial purposes; receives funding and revenue and charges fees in a manner that does not incentivize it or its employees to act other than in the best interests of its clients; compensates its employees in a manner that does not incentivize employees to act other than in the best interests of its clients; and offers or provides one or more services of a mortgage servicer.

2. Section 454M-4, Hawaii Revised Statutes, is amended by amending subsections (a), (b) and (c) to read as follows:

(a) The commissioner may approve a license or license renewal application upon receipt of a complete application; provided that an applicant for licensure shall file an application on a form prescribed by NMLS or by the commissioner and shall pay an application fee [~~of \$675~~] required in subsection (b). Each license shall expire on December 31 of each calendar year unless the license is renewed. A licensee may apply for license renewal by filing a renewal statement on a form prescribed by NMLS or by the commissioner and paying [a] the renewal fee [~~of \$600~~] required in subsection (b), at least four weeks prior to December 31. The minimum standards for license renewal shall include the following:

- (1) The licensee continues to meet the minimum standards for licensure established pursuant to this section;
- (2) The licensee has paid all required fees for renewal of the license; and

- (3) The licensee is registered with the business registration division of the department of commerce and consumer affairs.

All fees paid pursuant to this section, including fees paid in connection with an application, shall be nonrefundable. No fee paid pursuant to this section shall be prorated if the license is surrendered, revoked, or suspended prior to the expiration of the period for which it was approved.

(b) Fees payable pursuant to this section are as follows:

- (1) A mortgage servicer shall pay an initial application fee of \$675, and a fee of \$600 upon application for an annual license renewal; and  
(2) A nonprofit organization shall pay an initial application fee of \$200, and a fee of \$150 upon application for an annual license renewal.

~~[(b)]~~ (c) To fulfill the purposes of this chapter, the commissioner may ~~establish~~:

- (1) Establish relationships or contracts with NMLS or other entities designated by NMLS to collect and maintain records and process transaction fees or other fees related to licensees or other persons subject to this chapter[.]; and

~~[(e)]~~ (2) To the extent reasonably necessary to participate in NMLS, ~~[the commissioner may]~~ modify any or all of the requirements of subsections (e) and (i).



February 23, 2017

From: George S. Massengale  
To: Senate Committee on Commerce, Consumer Protection, and Health  
Date: Hearing February 27, 2017 at 9:30 A.M.  
Subj: SB667, Relating to Mortgage Servicers

### **Testimony in Strong Support**

Chair Baker, Vice Chair Nishihara and members of the Committee. I am here today to testify on behalf of all 7 Habitat for Humanity affiliates in Hawaii, to offer testimony in strong support of SB667.

I would like to start by talking about Habitat's business model. All Habitat's in the United States utilize volunteer labor and donations of material, and money, to build simple, decent, and affordable homes. Habitat is an organization that strives to keep cost low. In Hawaii the average Habitat construction cost for a three-bedroom home is slightly over \$150,000. Because our Habitat affiliates originate loans through funds they have raised (self financing) we provide mortgages to low income buyers at 0% interest. The average 30-year mortgage for a Habitat family is around \$500.00 per month. However our policy remains that the monthly payment for our homeowners remain at no more than 30% of their income and setting the terms accordingly. Mortgage payments are recycled into building more homes and serving more families. It is a successful program and has escalated Habitat to become the number one homebuilder in the country!

HB667, would if passed clarify the inconsistencies between HRS-454F and 454M. Specifically, we are an exempt nonprofit loan originator in HRS-454F. However, we were not included as, exempt loan servicers, in 454M. One of the reasons that nonprofit mortgage servicers were not included was that the Division of Financial Institutions believes that exempting nonprofit mortgage servicers from regulation would leave a group of borrowers without consumer protection assistance.

We would like to point out to the Committee that nationally our 1,400+ Habitat for Humanity affiliates have helped over 1 million families in obtaining mortgages. Of the 1 million + families that Habitat as served across the country, there are 34 complaints (.0034%) registered with the Consumer Finance Protection Bureau (for perspective, there are over 72,000 complaints registered with CPFEB since 2011). 16 of these complaints are regarding loan servicing and all but one are closed with explanation (the one is a recent complaint) and only three were disputed by the consumer. NONE of these complaints are from Hawaii. As a mortgage originator and servicer organization we continuously work with our families and assist them through a financial crisis when this occurs.

Secondly, Habitat for Humanity International (HFHI - Habitat's parent organization) has a division specifically for Mortgage Policy and Regulation (MPAR). It is a group of mortgage attorneys who are a resource for all Habitat affiliates, and is tracking federal and state policies regarding mortgage lending. They are providing training for loan originators and servicers and are available for both Habitat personnel and Habitat homebuyers.



Habitat home buyers have access to our national organization to register disputes against the Habitat organization they are/have been working with. There is a process that deals with disputes that the Habitat affiliate must follow to remain in good standing with the parent organization.

We would note for the Committee that both the FDIC and the Consumer Financial Protection Bureau (CFPB), considers Habitat for Humanity and its affiliates as small servicers which are exempt from certain rules that larger servicers must follow. The CFPB specifically mentions Habitat for Humanity in several of their exemption guidance's. We should also point out that a number states provide for a nonprofit mortgage servicers exemptions.

Additionally, we would like to make the committee aware that HFHI will require that all Habitat affiliates across the US follow state and federal regulations with regard to mortgage origination and servicing by July, 2017, as part of their Good Standing requirements, which not only gives the affiliates access to resources, but allows them to use the Habitat brand for their programs. This will be regulated by the MPAR.

Habitat affiliates are already subject to following the Federal regulations, as required by our national policies and procedures to operate as Habitat branded organizations. The new regulations with implementation dates in 2014, that Habitat has become most subjected to and have had to change our models, are onerous and we are working very hard to make the changes necessary.

We understand that we have been subject to the state's registration requirements since 2010, however, our organizations were not aware of it until we started doing our due diligence with regard to the 2014 changes. With the focus on origination, we neglected to realize that we were subjected to licensing as a servicer.

We apologize for our negligence, but this change has been overwhelming for an organization that started as a grassroots home ownership organization with a simple model to provide opportunities to hard working families, who with a little help can be successful homeowners.

Finally, I would like to comment on HB1241 as amended by the HD1. We fully endorse SECTION 2, which directs the Commissioner of Financial Institutions to conduct an analysis of Chapter 454M and its impact on nonprofit organizations. Because the report is to be submitted to legislature due before the 2019 session, **we would ask the Committee that all the Habitat Affiliates be given a temporary Servicers Exemption pending the report findings.**

Most respectfully,



George S. Massengale  
Director, Community Engagement



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February 19, 2017

The Honorable Senator Rosalyn Baker  
Chairwoman, Senate Committee on Commerce, Consumer Protection and Health

The Honorable Senator Clarence Nishihara  
Vice Chair, Senate Committee on Commerce, Consumer Protection and Health

**Re: Testimony in Support of SB667 Relating to Mortgage Servicer exemption.**

Aloha Chair Baker and members of the Senate Committee on Commerce, Consumer Protection and Health:

I am Dennis Oshiro, Executive Director of HHOC Mortgage a 501c3 non-profit organization, testifying in support of S.B. 667, relating to proposed HRS454M-7 exemption for non-profit mortgage servicers.

As a non-profit organization our mission is to provide Hawaii's low to moderate income, first-time home buyers with access to the most affordable and flexible financing available. Our staff members all embrace this purpose and act accordingly when seeking options for our borrowers.

A license and fee exemption would greatly help us keep our services more affordable to our target market borrowers. As a 501c3 under the IRS and a registered mortgage originator under the NMLS system and the State's Department of Financial Institution's purview, we are bound to honor our mission and serve our target market.

I urge your support of SB667 and thank you for your consideration.

Sincerely,

Dennis Oshiro  
Executive Director



*Building houses,  
building hope*

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Board President

Dr. Ann Marie Muramoto  
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Mike Medina  
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Alan Tuhy, Esq.

Craig "Bo" Kahui

Father Richard Tardiff

Michael Ross

Ron Lloyd

Shane Kitchen, AIA

Patrick F. Hurney  
Executive Director

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Community Partner

To: Senate Committee on Commerce, Consumer Protection, and Health  
Hearing: Monday, February 27, 2017, Room 227  
Subject: SB667, Relating to Mortgage Servicers

TESTIMONY IN SUPPORT

Aloha Chair, Senator Baker & Vice Chair, Senator Nishihara and members of the Committee.

My name is Fr. Richard Tardiff and I am a member of the Board of Directors at Habitat for Humanity West Hawaii. We support granting a licensing exemption as a mortgage services for our organization. We have assisted 32 families in obtaining no interest mortgages in the past ten years and this exemption would greatly benefit our organization. It is also our policy that if any of our homeowner encounters financial difficulty, we will work with them and make financial arrangements.

We understand that a very similar mortgage servicer bill HB1241, was recently heard in the House Consumer Protection Committee and was passed with amendments. We do not support the new amendments in SECTION 1, of the bill. We do support SECTION 2, requiring the commissioner of financial institutions to conduct an analysis and report back to the legislature.

In the meantime, we can support being granted a temporary exemption pending the outcome of the commissioner's report. **Although, we would prefer to be fully exempt as a mortgage servicer.**

We have statewide housing crisis that we are currently addressing, imposing and additional regulatory burden on us now would divert us from our primary mission of building decent and affordable homes for low income families on **Hawaii Island.**

Sincerely,

*Richard A. Tardiff*

The Rev. Dr. Richard A. Tardiff  
81-6627 Kekaa Place  
Kealahou, Hawaii 96750

Mr. Stephen Arnett  
Page 2  
January 15, 2010



**Habitat  
for Humanity®**  
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*Building houses,  
building hope*

To: Senate Committee on Commerce, Consumer Protection, and Health  
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Community Partner

TESTIMONY IN SUPPORT

Aloha Chair, Senator Baker & Vice Chair, Senator Nishihara and members of the Committee.

My name is Jennifer Stangland and I'm a bookkeeper at Habitat for Humanity West Hawaii. We support granting a licensing exemption as a mortgage services for our organization. We have assisted 32 families in obtaining no interest mortgages in the past ten years and this exemption would greatly benefit our organization. It is also our policy that if any of our homeowner encounters financial difficulty, we will work with them and make financial arrangements.

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Sincerely,

Jennifer M. Stangland  
Resident of Waikoloa, HI



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Hearing: Monday, February 27, 2017, Room 227  
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TESTIMONY IN SUPPORT

Aloha Chair, Senator Baker & Vice Chair, Senator Nishihara and members of the Committee.

My name is Patrick Hurney and I am the Executive Director at Habitat for Humanity West Hawaii. We support granting a licensing exemption as a mortgage services for our organization. We have assisted 32 families in obtaining no interest mortgages in the past ten years and this exemption would greatly benefit our organization. It is also our policy that if any of our homeowner encounters financial difficulty, we will work with them and make financial arrangements.

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Sincerely,

Patrick F. Hurney  
Executive Director