

SB 1215

Measure Title:	RELATING TO MORTGAGE SERVICERS. Mortgage Servicers; Commissioner of Financial Institutions; Unlicensed Persons; Cease and Desist; Consent Order; Chapter 91; Administrative Proceeding; Rules; NMLS; Violation
Report Title:	
Description:	Authorizes the Commissioner of Financial Institutions to modify requirements and make new requirements in chapter 454M, Hawaii Revised Statutes, to implement changes and improvements made to NLMS. Authorizes the Commissioner of Financial Institutions to issue cease and desist orders against licensees and unlicensed persons and to enter into consent orders.
Companion:	HB989
Package:	Governor
Current Referral:	CPH, JDC
Introducer(s):	KOUCHI (Introduced by request of another party)



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Testimony of the Department of Commerce and Consumer Affairs

**Before the
Senate Committee on Commerce, Consumer Protection, and Health
Tuesday, February 5, 2019
9:00 a.m.
State Capitol, Conference Room 229**

**On the following measure:
S.B. 1215, RELATING TO MORTGAGE SERVICERS**

Chair Baker and Members of the Committee:

My name is Iris Ikeda, and I am the Commissioner of Financial Institutions (Commissioner) for the Department of Commerce and Consumer Affairs' (Department) Division of Financial Institutions (DFI). The Department supports this administration bill.

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 the Nationwide Mortgage Licensing System (NMLS). NMLS is a web-based nationwide licensing system that streamlines workflows and communications for applicants, licensees, and the DFI. Created by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators, the NMLS began operations in January 2008 and is continually being improved.

Currently, the 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 "provides directly to the commissioner a bond rider or endorsement" and that a prospective licensee file a surety bond "with the commissioner." Amendments in this bill will give the Commissioner authority to allow electronic bonds through the NMLS, in accordance with the current practice of other states. In addition, the DFI will

be able to further use the 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. 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, the 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 for applications and license surrender to participate in the NMLS. It also adds the qualifier that adaptations must be "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 supports this administration bill and requests that it pass out of this committee unamended. Thank you for the opportunity to testify.