

A Bill for an Act Relating to Mortgage and Collection Servicing Agents.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 454D-3, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§454D-3]]~~ **Bond; letter of credit required.** (a) No person shall act, assume to act or advertise himself as a servicing agent, without having in effect a surety or cash bond previously obtained under and in compliance with this chapter, a copy of which shall be filed with the director of commerce and consumer affairs.¹ The amount of the bond required shall be \$25,000 until July 1, 1983, after which time the amount of the bond shall be \$50,000.

(b) The bond shall be obtained from an insurance company authorized to transact the business of a surety in this State, and shall be conditioned upon the full and faithful compliance with all requirements of this or any other statutes now in force or hereafter enacted with respect to the duties, conduct, obligations and liabilities of servicing agents. The bond shall run to the State to the benefit of any person who has received a court judgment against the servicing agent or an employee of the servicing agent; provided that the aggregate liability of the surety shall not exceed the sum of the bond. [In addition to any other remedy allowed by law, every person sustaining any damage resulting from a breach of the conditions of the bond may bring an action for the recovery under the bond of any damages sustained by such person.] The bond shall remain in full force and effect unless terminated or [cancelled] canceled by the surety, and shall by its terms provide that any such termination or cancellation shall not be effective unless written notice thereof is delivered by the surety to the director of commerce and consumer affairs¹ at least thirty days prior the date of termination or cancellation.

(c) The bond shall be furnished in addition to any other bond required by any other provision of law. The bond shall not preclude or preempt any additional bond that any principal of the servicing agent may, in the discretion of such principal, require of the servicing agent.

(d) Individual employees of any servicing agent need not themselves obtain a bond, provided that their employer’s bond covers the acts of such employees.

(e) In lieu of the bond required by this section an irrevocable letter of credit in a form approved by the director of commerce and consumer affairs drawn upon a bank or savings and loan association in the amount of the bond as required by this section, may be substituted. The beneficiary of such letter of credit shall be the director of commerce and consumer affairs to the benefit of any person who has

received a court judgment against the servicing agent or an employee of the servicing agent; provided that the aggregate liability of the letter of credit shall not exceed the sum of it."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 18, 1983.)

Note

1. Prior to amendment, "regulatory agencies" instead of "commerce and consumer affairs".