
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 a new section to be appropriately designated
3 and to read as follows:

4 "§454M- Investigation and examination authority. (a)

5 For the purposes of investigating violations or complaints
6 arising under this chapter, or for the purposes of examination,
7 the commissioner may review, investigate, or examine any
8 licensee or person subject to this chapter, as often as
9 necessary to carry out the purposes of this chapter. The
10 commissioner may direct, subpoena, or order the attendance of,
11 and examine under oath, all persons whose testimony may be
12 required about loans or the business or subject matter of any
13 examination or investigation, and may direct, subpoena, or order
14 the person to produce books, accounts, records, files, and any
15 other documents the commissioner deems relevant to the inquiry.

16 (b) Each licensee or person subject to this chapter shall
17 provide to the commissioner upon request, the books and records
18 relating to the operations of the licensee or person subject to



1 this chapter. The commissioner shall have access to the books
2 and records and shall be permitted to interview the officers,
3 principals, mortgage loan originators, employees, independent
4 contractors, agents, and customers of the licensed mortgage loan
5 originator or person subject to this chapter concerning their
6 business.

7 (c) Each licensee or person subject to this chapter shall
8 make or compile reports or prepare other information as directed
9 by the commissioner in order to carry out the purposes of this
10 section, including:

11 (1) Accounting compilations;

12 (2) Information lists and data concerning loan
13 transactions in a format prescribed by the
14 commissioner; or

15 (3) Other information deemed necessary to carry out the
16 purposes of this section.

17 (d) In conducting any examination or investigation
18 authorized by this chapter, the commissioner may control access
19 to any documents and records of the licensee or person under
20 examination or investigation. The commissioner may take
21 possession of the documents and records or place a person in
22 exclusive charge of the documents and records. During the



1 period of control, no person shall remove or attempt to remove
2 any of the documents and records except pursuant to a court
3 order or with the consent of the commissioner. Unless the
4 commissioner has reasonable grounds to believe the documents or
5 records of the licensee or person under examination or
6 investigation have been, or are at risk of being, altered or
7 destroyed for purposes of concealing a violation of this
8 chapter, the licensee or owner of the documents and records
9 shall have access to the documents or records as necessary to
10 conduct its ordinary business affairs.

11 (e) To carry out the purposes of this chapter, the
12 commissioner may:

13 (1) Retain accountants, or other professionals and
14 specialists, who may be exempt from chapter 76, as
15 examiners, auditors, or investigators to conduct or
16 assist in the conduct of examinations or
17 investigations;

18 (2) Enter into agreements or relationships with other
19 government officials or regulatory associations in
20 order to improve efficiencies and reduce regulatory
21 burden by sharing resources, standardized or uniform



- 1 methods or procedures, and documents, records,
2 information, or evidence obtained under this section;
- 3 (3) Use, hire, contract, or employ public or privately
4 available analytical systems, methods, or software to
5 examine or investigate the licensee or person subject
6 to this chapter;
- 7 (4) Accept and rely on examination or investigation
8 reports made by other government officials, within or
9 outside of this State; and
- 10 (5) Accept audit reports made by an independent certified
11 public accountant for the licensee or person subject
12 to this chapter in the course of that part of the
13 examination covering the same general subject matter
14 as the audit and may incorporate the audit report in
15 the report of the examination, report of
16 investigation, or other writing of the commissioner.
- 17 (f) The authority of this section shall remain in effect,
18 whether a licensee or person subject to this chapter acts or
19 claims to act under any licensing or registration law of this
20 State, or claims to act without such authority.
- 21 (g) No licensee or person subject to investigation or
22 examination under this section may knowingly withhold, abstract,



1 remove, mutilate, destroy, or secrete any books, records,
2 computer records, or other information.

3 (h) The commissioner may charge an examination or
4 investigation fee, payable to the commissioner, based upon the
5 cost per hour per examiner for all licensees and persons subject
6 to this chapter examined or investigated by the commissioner or
7 the commissioner's staff. The hourly fee shall be \$ _____ or
8 an amount as the commissioner shall establish by rule pursuant
9 to chapter 91. In addition to the examination or investigation
10 fee, the commissioner may charge any person that is examined or
11 investigated by the commissioner or the commissioner's staff
12 pursuant to this section additional amounts for travel, per
13 diem, mileage, and other reasonable expenses incurred in
14 connection with the examination or investigation, payable to the
15 commissioner.

16 (i) Any person having reason to believe that this chapter
17 or the rules adopted pursuant thereto have been violated, or
18 that a license issued under this chapter should be suspended or
19 revoked, may file a written complaint with the commissioner
20 setting forth the details of the alleged violation or grounds
21 for suspension or revocation."



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

3 1. By adding a new definition of "NMLS" to be
4 appropriately inserted and to read:

5 "NMLS" means a mortgage licensing system developed and
6 maintained by the Conference of State Bank Supervisors and the
7 American Association of Residential Mortgage Regulators for the
8 state licensing and registration of state-licensed loan
9 originators and other financial services providers, or any
10 system provided by the Consumer Financial Protection Bureau."

11 2. By repealing the definition of "Nationwide Mortgage
12 Licensing System".

13 [~~"Nationwide Mortgage Licensing System" has the same~~
14 ~~meaning as defined in section 454F-1."~~]

15 SECTION 3. Section 454M-4, Hawaii Revised Statutes, is
16 amended by amending subsections (a), (b), (c), and (d) to read
17 as follows:

18 "(a) An applicant for licensure shall file an application
19 on a form prescribed by [~~the Nationwide Mortgage Licensing~~
20 ~~System~~] NMLS or by the commissioner and shall pay an application
21 fee of [~~\$500-~~] \$ _____. Each license shall expire on June 30
22 of each calendar year. A license may be renewed by filing a



1 renewal statement on a form prescribed by [~~the Nationwide~~
2 ~~Mortgage Licensing System~~] NMLS or by the commissioner and
3 paying a renewal fee of [~~\$250,~~] \$ _____, at least four weeks
4 prior to July 1 for licensure for the following year.

5 (b) To fulfill the purposes of this chapter, the
6 commissioner may establish relationships or contracts with [~~the~~
7 ~~Nationwide Mortgage Licensing System~~] NMLS or other entities
8 designated by [~~the Nationwide Mortgage Licensing System~~] NMLS to
9 collect and maintain records and process transaction fees or
10 other fees related to licensees or other persons subject to this
11 chapter.

12 (c) To the extent reasonably necessary to participate in
13 [~~the Nationwide Mortgage Licensing System,~~] NMLS, the
14 commissioner may modify any or all of the requirements of
15 section 454M-4(e) and (f).

16 (d) The commissioner may use [~~the Nationwide Mortgage~~
17 ~~Licensing System~~] NMLS as an agent for requesting information
18 from and distributing information to the United States
19 Department of Justice, any governmental agency, or any other
20 source, as directed by the commissioner."

21 SECTION 4. Section 454M-4.5, Hawaii Revised Statutes, is
22 amended to read as follows:



1 "~~§454M-4.5 Registration with [Nationwide Mortgage~~
2 ~~Licensing System.] NMLS.~~ (a) The commissioner may require all
3 mortgage servicers to register with [~~the Nationwide Mortgage~~
4 ~~Licensing System.] NMLS.~~

5 (b) A mortgage servicer who holds a license that is valid
6 as of June 30, 2013, shall be determined to be in compliance
7 with the licensing provisions of this chapter until December 31,
8 2013."

9 SECTION 5. Section 454M-8, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "~~[+]§454M-8[+]~~ **Powers of commissioner.** In addition to any
12 other acts or conditions provided by law, the commissioner may:

- 13 (1) Adopt, amend, or repeal rules, issue declaratory
14 rulings or informal nonbinding interpretations, and
15 investigate and act upon written consumer complaints;
- 16 (2) Grant, deny, forfeit, renew, reinstate, or restore the
17 license of any mortgage servicer;
- 18 (3) Revoke, suspend, or otherwise limit the license of any
19 mortgage servicer for any violation of the provisions
20 in this chapter, or any rule or order of, or agreement
21 with the commissioner;



- 1 (4) Report any violation of this chapter or violation of
2 federal or state law to the [~~United States~~
3 ~~Commissioner of Housing and Urban Development~~]
4 Consumer Financial Protection Bureau or other federal
5 agency having jurisdiction over the licensee;
- 6 (5) Investigate and conduct hearings regarding any
7 violation of this chapter, or any rule or order of or
8 agreement with the commissioner; and
- 9 (6) Do any and all things necessary or incidental to the
10 exercise of the commissioner's power and duties,
11 including the authority to conduct contested case
12 proceedings under chapter 91."

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

15 SECTION 7. This Act shall take effect on July 1, 2112.



Report Title:

Mortgage Servicers; Fees

Description:

Authorizes the Commissioner of Financial Institutions to conduct examinations and investigations and adjust the fees for mortgage servicer licensees to use NMLS. Effective July 1, 2112. (HB839 HD1)

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

