RELATING TO MORTGAGE SERVICERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Chapter 454M, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§454M- Enforcement authorities. (a) If the commissioner has reason to believe that a person has violated or is violating section 454M-2, the commissioner may issue orders or directives under this chapter as follows:

(1) Order or direct persons subject to this chapter to cease and desist from conducting business, including immediate temporary orders to cease and desist;

(2) Order or direct persons subject to this chapter to cease any harmful activities or violations of this chapter, including immediate temporary orders to cease and desist;

(3) Enter immediate temporary orders to cease doing business under a license issued pursuant to the authority granted under this chapter if the commissioner determines that the license was

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erroneously granted or the licensee or any person
subject to this chapter is currently in violation of
this chapter; or
(4) Order or direct any other affirmative action as the
commissioner deems necessary.
(b) An order to cease and desist becomes effective upon
service of the order upon the person.
(c) An order to cease and desist remains effective and
enforceable pending the completion of an administrative
proceeding pursuant to chapter 91.
(d) The commissioner shall commence an administrative
proceeding within twenty days after issuing an order to cease
and desist."

SECTION 2. Section 454M-4, Hawaii Revised Statutes, is
amended by amending subsection (c) to read as follows:
"(c) To the extent reasonably necessary to [participate
in] use NMLS, the commissioner may modify, in whole or in part,
by rule or order, any or all of the requirements of [subsections
(e) and (i)] this chapter and establish new requirements."

SECTION 3. Section 454M-7, Hawaii Revised Statutes, is
amended to read as follows:
License sanctions; [suspension, revocation, denial, condition, and refusal to renew, reinstate, or restore.] cease and desist and other orders. (a) In addition to any other actions authorized by law, the commissioner may suspend, revoke, deny, condition in any manner, or refuse to renew, reinstate, or restore, any license issued under this chapter, or fine any person holding a license issued under this chapter, for any violation of this chapter. All such orders shall be made pursuant to chapter 91[-], except as provided by section 454M- or another provision of this chapter.

(b) If the commissioner finds that a violation of this chapter or a rule adopted or an order issued under this chapter by a licensee is likely to cause immediate and irreparable harm to the licensee, the licensee's customers, or the public as a result of the violation, or is likely to cause insolvency or significant dissipation of assets of the licensee, then the commissioner may issue an order requiring the licensee to cease and desist from the violation. The order becomes effective upon service of the order upon the licensee.

(c) The commissioner may enter into a consent order at any time with a person to resolve a matter arising under this chapter. A consent order shall be signed by the person to whom
the order is issued or by the person's authorized representative and shall indicate agreement with the terms of the order. A consent order may provide that it does not constitute an admission by a person that this chapter or a rule adopted or an order issued under this chapter has been violated."

SECTION 4. Section 454M-8, Hawaii Revised Statutes, is amended to read as follows:

"§454M-8 Powers of commissioner. In addition to any other acts or conditions provided by law, the commissioner may:

(1) Adopt, amend, or repeal rules, issue declaratory rulings or informal nonbinding interpretations, and investigate and act upon written consumer complaints;

(2) Grant, deny, forfeit, renew, reinstate, or restore the license of any mortgage servicer;

(3) Revoke, suspend, or otherwise limit the license of any mortgage servicer for any violation of the provisions in this chapter, or any rule or order of, or agreement with the commissioner;

(4) Issue orders to cease and desist and enter into consent orders;

(5) Report any violation of this chapter or violation of federal or state law to the Consumer Financial Regulation Authority."

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Protection Bureau or other federal agency having jurisdiction over the licensee;

[+5+] (6) Investigate and conduct hearings regarding any violation of this chapter, or any rule or order of or agreement with the commissioner; and

[+6+] (7) Do any and all things necessary or incidental to the exercise of the commissioner's power and duties, including the authority to conduct contested case proceedings under chapter 91."

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

"§454M-10 Penalty. Any person who violates any provision of this chapter, rule adopted or order issued pursuant to this chapter, or agreement with the commissioner may be subject to an administrative fine of not more than $7,000 for each violation; provided that if the aggregate fine amount exceeds $7,000, $1,000 of the aggregate fine amount shall be deposited into the mortgage foreclosure dispute resolution special fund established pursuant to section 667-86."

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.
SECTION 7. This Act shall take effect upon its approval.

INTRODUCED BY: 

BY REQUEST  
JAN 22 2019
Report Title:
Mortgage Servicers; Commissioner of Financial Institutions;
Unlicensed Persons; Cease and Desist; Consent Order; Chapter 91;
Administrative Proceeding; Rules; NMLS; Violation

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
NMLS. Authorizes the Commissioner of financial institutions to
issue cease and desist orders against licensees and unlicensed
persons and to enter into consent orders.

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

TITLE: A BILL FOR AN ACT RELATING TO MORTGAGE SERVICERS.

PURPOSE: To give the Commissioner of Financial Institutions (Commissioner) authority to:
(1) modify requirements and make new requirements in chapter 454M, Hawaii Revised Statutes (HRS), to implement changes and improvements made to the Nationwide Mortgage Licensing System (NMLS); and (2) issue cease and desist orders against licensees and unlicensed persons to quickly stop harmful activity, and enter into consent orders.

MEANS: Add a new section to chapter 454M and amend sections 454M-4(c), 454M-7, 454M-8, and 454M-10, HRS.

JUSTIFICATION: It is necessary to augment the Commissioner's authority to implement changes and improvements made to NMLS. This will enable the Department of Commerce and Consumer Affairs' Division of Financial Institutions to better use NMLS to manage the licensure of mortgage servicers without burdening licensees. In addition, authorizing the Commissioner to issue cease and desist orders will enable the Commissioner to act swiftly to minimize consumer harm. The Commissioner's authority to enter into consent orders will also expedite decisions and save resources.

Impact on the public: Implementing updates made to NMLS will save time for applicants and licensees and increase their ease in using the system. The Commissioner's authority to swiftly issue cease and desist orders against chapter 454M violators will improve consumer protection. The Commissioner's ability to enter into consent orders will expedite decisions and save the parties resources.
Impact on the department and other agencies: None.

GENERAL FUNDS: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: CCA-104.

OTHER AFFECTED AGENCIES: None.

EFFECTIVE DATE: Upon approval.