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TO THE
HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE
&
THE HOUSE COMMITTEE ON JUDICIARY
THE TWENTY-EIGHTH STATE LEGISLATURE
REGULAR SESSION OF 2015

March 18, 2015
2:00 p.m.

TESTIMONY ON S.B. NO. 1093, S.D. 2
RELATING TO MORTGAGE SERVICERS

THE HONORABLE ANGUS L.K. MCKELVEY, CHAIR,
AND THE HONORABLE KARL RHOADS, CHAIR,
AND MEMBERS OF THE COMMITTEES:

My name is Iris Ikeda, Commissioner of Financial Institutions ("Commissioner"),
testifying on behalf of the Department of and Consumer Affairs ("Department") in strong
support of this administration bill, Senate Bill No. 1093, S.D. 2.

S.B. 1093, S.D. 2 amends the Mortgage Servicers law, Chapter 454M of the
Hawaii Revised Statutes. This bill strengthens the law to protect consumers, by adding
important new requirements for mortgage servicers, such as bonding, making specific
information available to borrowers about their mortgage, and setting loss mitigation
standards to help homeowners in distress, and penalties for chapter violations. The

provisions in this bill are especially important because while mainland mortgage servicers service loans for Hawaii homeowners, none has a physical presence in this State. This can make it very difficult for homeowners to obtain appropriate attention from their mortgage servicer. We believe that the provisions of this bill will not have a substantial negative impact on mortgage servicer companies since many companies have already implemented the proposed provisions.

Following the 2012 nationwide settlement between several major mortgage servicers and state and federal regulators, mortgage servicing practices have improved significantly. There are, however, no national or cross-state standards in place that are uniformly applied, and not all mortgage servicers have adopted policies and procedures that appropriately provide consumer protection. This bill addresses the need for effective regulation and enforcement.¹ This is especially important for a growing area of the industry; i.e., nonbank mortgage servicers. The states, through CSBS², have formed a work group³ to suggest prudential standards for mortgage servicer companies. CFPB requires that mortgage servicers possess a compliance management system and provides recommended elements of a robust system, but not any standards. CFPB has issued requirements relating to servicing standards that pertain to both bank and non-bank mortgage servicers.

Mortgage servicers handle administrative business after a mortgage loan has closed, by collecting mortgage payments and dealing with delinquent borrowers. In the

¹ Regulation X, 12 CFR 1024, provides some national servicing standards, but leaves gaps that are addressed by this bill.

² CSBS – Conference of State Bank Supervisors is a nationwide organization of banking regulators from all 50 states, District of Columbia, Guam, Puerto Rico and the U.S. Virgin Islands.

³ Hawaii's commissioner is a member of the work group.

past few years, there has been a dramatic rise of nonbank servicers. Nonbank specialty servicers, which typically service troubled loans, now hold approximately \$1.4 trillion in mortgage servicing rights out of a nearly \$10 trillion market. Nonbank specialty servicers at one time were seen as a cost-effective solution to larger banks that wanted to unload the responsibilities of servicing difficult loans.

However, nonbank servicers are subject to far less stringent regulatory and financial requirements than banks. (See FHFA, Office of Inspector General, “FHFA Actions to Manage Enterprise Risks from Nonbank Servicers Specializing in Troubled Mortgages” (July 1, 2014) (“FHFA-OIG Report”), p. 1, <http://fhfaoig.gov/Content/Files/AUD-2014-014.pdf>.) Consequently, the rise of this industry has been accompanied by consumer complaints, lawsuits, and other regulatory actions as the servicers' workload outstrips their processing capacity, according to the FHFA-OIG Report. As an example, in February 2014, the Consumer Financial Protection Bureau (“CFPB”) and 49 states entered a judgment requiring it to provide \$2.1 billion in consumer relief and comply with the National Mortgage Settlement servicing standards for its entire loan portfolio. (See CFPB v. Ocwen Financial Corp., Consent Judgment, <https://www.jasmithmonitoring.com/omso/wp-content/uploads/sites/4/2014/05/Ocwen-Consent-Judgment.pdf>.)

Poor mortgage servicing can cause consumers extreme stress and financial harm. If the servicer fails to credit payments, the consumer's credit report and borrowing capacity are damaged. If the servicer refuses to fairly consider loss mitigation options for homeowners in financial distress, homes are needlessly lost to foreclosure, devastating families and their financial futures. The Special Inspector

General for the Troubled Asset Relief Program (“SIGTARP”) found consumer loss mitigation efforts to be so gravely at risk when mortgage servicing rights are transferred, that it devoted an entire report to the topic, entitled, “Homeowners Can Get Lost in the Shuffle and Suffer Harm When Their Servicer Transfers Their Mortgage But Not the HAMP Application or Modification”, (October 29, 2014),

http://www.sig tarp.gov/Audit%20Reports/SIGTARP_Mortgage_Transfers_Report.pdf.

For the twenty-five month period ending January 31, 2015, Hawaii consumers lodged 516 mortgage complaints on the CFPB complaint database. Nearly all of these Hawaii complaints concerned loan servicing issues such as payments, escrow accounts, loan modification, collection, or foreclosure. These Hawaii homeowners were apparently so distressed by their mortgage servicers that they sought out avenues of possible relief, managed to find out about the relatively new CFPB and its database, and took the time to lodge a complaint. Consumer problems with mortgage servicers clearly continue. In January 2015, 1,501 consumer complaints about mortgages were lodged in CFPB database nationwide, and again, the great majority of complaints related to mortgage servicing issues.

This bill provides specific standards for mortgage servicer businesses, which the Division of Financial Regulations (“DFI”) needs to enhance its examinations, regulate the industry more meaningfully, and protect Hawaii consumers. It is important to strengthen Hawaii’s law now, given the nationwide surge in nonbank mortgage servicers, the types and gravity of complaints against the industry, and the serious potential for harm to consumers. By requiring nonbank mortgage servicers to meet the same servicing standards as regulated bank mortgage servicers, borrowers will have

the same protections in place for their mortgages, whether they are serviced by a bank or a nonbank servicer.

This should not have a significant impact on the mortgage servicers who already comply with many of these proposed provisions. This is an important bill that will enable State regulators to protect homeowners dealing with increasingly critical concerns about the mortgage servicer industry and its practices.

Finally, DFI requests that the terms “suspends” and “suspended” on page 27, lines 13 and 18 of S.B. 1093, S.D. 2, be changed to “suspenses” and “suspended”, respectively. The references are to an accounting term.

DFI strongly supports this administration bill, Senate Bill No. 1093, S.D. 2 and respectfully requests that it be passed out of the Committees with the technical amendment mentioned above.

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