



GOV. MSG. NO. 1192

10:59 AM HST
EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

May 31, 2013

The Honorable Donna Mercado Kim,
President
and Members of the Senate
Twenty-Seventh State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

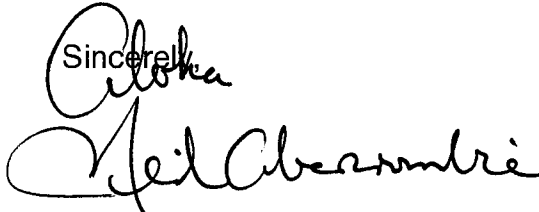
The Honorable Joseph M. Souki,
Speaker and Members of the
House of Representatives
Twenty-Seventh State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Kim, Speaker Souki, and Members of the Legislature:

This is to inform you that on May 31, 2013, the following bill was signed into law:

SB1070 SD2 HD1 CD1

RELATING TO MORTGAGE SERVICERS
ACT 092 (13)

Sincerely,


NEIL ABERCROMBIE
Governor, State of Hawaii

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 In addition to any other authority under this chapter, the
6 commissioner shall have the authority to conduct investigations
7 and examinations in accordance with this section. The
8 commissioner may access, receive, and use any books, accounts,
9 records, files, documents, information, or evidence that the
10 commissioner deems relevant to the inquiry or investigation,
11 regardless of the location, possession, control, or custody of
12 the documents, information, or evidence.

13 (b) For the purposes of investigating violations or
14 complaints arising under this chapter, or for the purposes of
15 examination, the commissioner may review, investigate, or
16 examine any licensee or person subject to this chapter, as often
17 as necessary to carry out the purposes of this chapter. The
18 commissioner may direct, subpoena, or order the attendance of,



1 and examine under oath, all persons whose testimony may be
2 required about loans or the business or subject matter of any
3 examination or investigation and may direct, subpoena, or order
4 the person to produce books, accounts, records, files, and any
5 other documents the commissioner deems relevant to the inquiry.

6 (c) Each licensee or person subject to this chapter shall
7 provide to the commissioner upon request the books and records
8 relating to the operations of the licensee or person subject to
9 this chapter. The commissioner shall have access to the books
10 and records and shall be permitted to interview the officers,
11 principals, mortgage loan originators, employees, independent
12 contractors, agents, and customers of the licensed mortgage loan
13 originator or person subject to this chapter concerning their
14 business.

15 (d) Each licensee or person subject to this chapter shall
16 make or compile reports or prepare other information as directed
17 by the commissioner in order to carry out the purposes of this
18 section, including:

- 19 (1) Accounting compilations;
- 20 (2) Information lists and data concerning loan
21 transactions in a format prescribed by the
22 commissioner; or



1 (3) Other information that the commissioner deems
2 necessary to carry out the purposes of this section.

3 (e) In conducting any examination or investigation
4 authorized by this chapter, the commissioner may control access
5 to any documents and records of the licensee or person under
6 examination or investigation. The commissioner may take
7 possession of the documents and records or place a person in
8 exclusive charge of the documents and records. During the
9 period of control, no person shall remove or attempt to remove
10 any of the documents and records except pursuant to a court
11 order or with the consent of the commissioner. Unless the
12 commissioner has reasonable grounds to believe the documents or
13 records of the licensee or person under examination or
14 investigation have been, or are at risk of being, altered or
15 destroyed for purposes of concealing a violation of this
16 chapter, the licensee or owner of the documents and records
17 shall have access to the documents or records as necessary to
18 conduct its ordinary business affairs.

19 (f) To carry out the purposes of this chapter, the
20 commissioner may:

21 (1) Retain accountants or other professionals and
22 specialists, who may be exempt from chapter 76, as



- 1 examiners, auditors, or investigators to conduct or
2 assist in the conduct of examinations or
3 investigations;
- 4 (2) Enter into agreements or relationships with other
5 government officials or regulatory associations in
6 order to improve efficiencies and reduce regulatory
7 burden by sharing resources, standardized or uniform
8 methods or procedures, and documents, records,
9 information, or evidence obtained under this section;
- 10 (3) Use, hire, contract, or employ public or privately
11 available analytical systems, methods, or software to
12 examine or investigate the licensee or person subject
13 to this chapter;
- 14 (4) Accept and rely on examination or investigation
15 reports made by other government officials, within or
16 without this State; and
- 17 (5) Accept audit reports made by an independent certified
18 public accountant for the licensee or person subject
19 to this chapter in the course of that part of the
20 examination covering the same general subject matter
21 as the audit and may incorporate the audit report in



1 the report of the examination, report of

2 investigation, or other writing of the commissioner.

3 (g) The authority of this section shall remain in effect,
4 whether a licensee or person subject to this chapter acts or
5 claims to act under any licensing or registration law of this
6 State, or claims to act without such authority.

7 (h) No licensee or person subject to investigation or
8 examination under this section may knowingly withhold, abstract,
9 remove, mutilate, destroy, or secrete any books, records,
10 computer records, or other information.

11 (i) The commissioner may charge an examination or
12 investigation fee, payable to the commissioner, based upon the
13 cost per hour per examiner for all licensees and persons subject
14 to this chapter examined or investigated by the commissioner or
15 the commissioner's staff. The hourly fee shall be \$60 or an
16 amount as the commissioner shall establish by rule pursuant to
17 chapter 91. In addition to the examination or investigation
18 fee, the commissioner may charge any person who is examined or
19 investigated by the commissioner or the commissioner's staff
20 pursuant to this section additional amounts for travel, per
21 diem, mileage, and other reasonable expenses incurred in



1 connection with the examination or investigation, payable to the
2 commissioner.

3 (j) Any person having reason to believe that this chapter
4 or the rules adopted pursuant thereto have been violated, or
5 that a license issued under this chapter should be suspended or
6 revoked, may file a written complaint with the commissioner
7 setting forth the details of the alleged violation or grounds
8 for suspension or revocation."

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

11 1. By adding a new definition to be appropriately inserted
12 and to read:

13 "NMLS" means a mortgage licensing system developed and
14 maintained by the Conference of State Bank Supervisors and the
15 American Association of Residential Mortgage Regulators for the
16 state licensing and registration of state-licensed loan
17 originators and other financial services providers, or any
18 system provided by the Consumer Financial Protection Bureau."

19 2. By deleting the definition of "Nationwide Mortgage
20 Licensing System".

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



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

4 "(a) An applicant for licensure shall file an application
5 on a form prescribed by [~~the Nationwide Mortgage Licensing~~
6 ~~System~~] NMLS or by the commissioner and shall pay an application
7 fee of [~~\$500.~~] \$675. Each license shall expire on June 30 of
8 each calendar year. A license may be renewed by filing a
9 renewal statement on a form prescribed by [~~the Nationwide~~
10 ~~Mortgage Licensing System~~] NMLS or by the commissioner and
11 paying a renewal fee of [~~\$250, on or before July 1~~] \$425, at
12 least four weeks prior to the renewal period for licensure for
13 the following year.

14 (b) To fulfill the purposes of this chapter, the
15 commissioner may establish relationships or contracts with [~~the~~
16 ~~Nationwide Mortgage Licensing System~~] NMLS or other entities
17 designated by [~~the Nationwide Mortgage Licensing System~~] NMLS to
18 collect and maintain records and process transaction fees or
19 other fees related to licensees or other persons subject to this
20 chapter.

21 (c) To the extent reasonably necessary to participate in
22 [~~the Nationwide Mortgage Licensing System,~~] NMLS, the



1 commissioner may modify any or all of the requirements of
2 [~~section 454M-4(e) and (f)~~] subsections (e) and (f).

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

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

10 "[~~§~~454M-4.5[~~§~~] **Registration with [~~Nationwide Mortgage~~**
11 ~~Licensing System~~.] NMLS. The commissioner may require all
12 mortgage servicers to register with [~~the Nationwide Mortgage~~
13 ~~Licensing System~~.] NMLS."

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

16 "[~~§~~454M-8[~~§~~] **Powers of commissioner**. In addition to any
17 other acts or conditions provided by law, the commissioner may:

- 18 (1) Adopt, amend, or repeal rules, issue declaratory
19 rulings or informal nonbinding interpretations, and
20 investigate and act upon written consumer complaints;
- 21 (2) Grant, deny, forfeit, renew, reinstate, or restore the
22 license of any mortgage servicer;



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

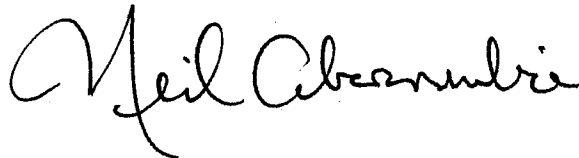
17 SECTION 6. A mortgage servicer who holds a license that is
18 valid as of June 30, 2013, shall be determined to be in
19 compliance with the licensing provisions of chapter 454M, Hawaii
20 Revised Statutes, as amended by this Act, until December 31,
21 2013.

1 SECTION 7. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 8. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 9. This Act shall take effect upon its approval.

APPROVED this 31 day of MAY, 2013



GOVERNOR OF THE STATE OF HAWAII