

# SB2850

Measure Title:	RELATING TO MORTGAGE INDUSTRY REGULATION.
Report Title:	Mortgage Loan Originators; Mortgage Servicers; Division of Financial Institutions; Chapter 454F; Chapter 454M; Secure and Fair Enforcement for Mortgage Licensing Act
Description:	Clarifies chapter 454F, Hawaii Revised Statutes, requirements for mortgage loan originators, and chapter 454M, requirements for mortgage servicers. Amends various definitions, including the definition of "residential mortgage loan". Moves mortgage servicer provisions that appear in chapter 454F, to chapter 454M, including a fee for a name or address change, that will apply to all mortgage servicers. Abolishes the mortgage loan servicer loan modification license under chapter 454F. Updates references to federal regulations.
Companion:	<a href="#">HB2321</a>
Package:	Governor
Current Referral:	CPH, WAM
Introducer(s):	KOUCHI (Introduced by request of another party)



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TO THE  
SENATE COMMITTEE ON  
COMMERCE, CONSUMER PROTECTION, AND HEALTH

THE TWENTY-EIGHTH LEGISLATURE  
REGULAR SESSION OF 2016

MONDAY, FEBRUARY 1, 2016  
9:00 a.m.

TESTIMONY ON S.B. NO. 2850  
RELATING TO MORTGAGE INDUSTRY REGULATION FINANCIAL INSTITUTIONS

THE HONORABLE ROSALYN H. BAKER, CHAIR,  
AND MEMBERS OF THE COMMITTEE:

My name is Iris Ikeda, Commissioner of Financial Institutions ("Commissioner"), testifying on behalf of the Department of Commerce and Consumer Affairs in strong support of S.B. No. 2850, with a requested amendment explained at the end of this testimony.

There is a degree of overlap between the mortgage loan origination industry governed by Chapter 454F, Hawaii Revised Statutes ("HRS"), the Safe and Fair Enforcement for Mortgage Licensing Act, and the mortgage servicer industry governed by Chapter 454M, HRS. Some companies conduct business under both chapters.

This measure makes the two chapters more usable in several ways. First, it enhances clarity and consistency in the chapters. It adds new definitions, and

uniformity to terms used in both chapters. It updates references to federal regulations. It amends the definition of “residential mortgage loan” to more closely track a federal regulatory definition of the term. The bill rewords requirements to make provisions easier to understand. Clearer requirements will support licensee compliance.

Second, the measure migrates the mortgage servicer provisions that appear in the mortgage loan originator law (Chapter 454F, HRS) into the mortgage servicer law (Chapter 454M, HRS). Currently, a mortgage servicer wishing to offer loan modifications must be licensed as a mortgage servicer under Chapter 454M, HRS, and additionally hold a special mortgage loan servicer loan modification (“MLSLM”) license under Chapter 454F, HRS. This has proven confusing to mortgage servicers. The measure abolishes the MLSLM license, as the need has been obviated by amendments to the mortgage servicer law in 2015. The measure also clarifies when employees of mortgage servicers need a mortgage loan originator license.

Abolishing the MLSLM license will reduce DFI’s licensing revenue under Chapter 454F, HRS. However, this should be offset by the measure’s increase in the mortgage servicer license renewal fee under Chapter 454M, HRS. For mortgage servicers, the net change in fees should be minimal, with the higher mortgage servicer license renewal fee offset by the abolished MLSLM license and associated fees.

The measure adds a small fee for a mortgage servicer’s name or address changes, to cover DFI staff time for processing the change. This is not expected to be a significant expense for mortgage servicers as they do not frequently change their names or addresses.

The mortgage servicer bond requirement is simplified by changing the wording of the required coverage from “the applicant or licensee’s principal office and any branch

office from which the applicant or licensee acts as a mortgage servicer”, to “the applicant or licensee”.

Finally, the Department requests that the measure be revised to include a new section that would provide an amendment to the penalty provision of the mortgage servicer law, Section 454M-10, HRS as follows:

“SECTION \_\_\_\_\_. Section 454M-10, Hawaii Revised Statutes, is amended as follows:

**§454M-10 Penalty.** Any person who violates any provision of this chapter 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.”

As currently worded, Section 454M-10, HRS, discourages the imposition of smaller fines. It requires that “\$1,000 of the aggregate fine amount” be deposited to the Mortgage Foreclosure Dispute Resolution Fund (“MFDRF”). In practice, if the aggregate fine is less than \$1,000, DFI must take funds from the Compliance Resolution Fund to make up the difference owed by statute to the MFDRF. DFI effectively loses the ability to compel compliance by our licensees by not imposing a fine of less than \$1,000; yet many violations do not warrant a fine of that size.

DFI strongly supports S.B. No. 2850, and respectfully requests it be passed with the amendment above.

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