
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 two new sections to be appropriately
3 designated and to read as follows:

4 "§454M- Change in control of a licensee; fees. (a) A
5 licensee shall submit to the commissioner an application
6 requesting approval of a proposed change of control of the
7 licensee, accompanied by a nonrefundable application fee of
8 \$500, payable to the division.

9 (b) The commissioner shall approve a request for change of
10 control under subsection (a) if, after investigation, the
11 commissioner determines that the person or group of persons who
12 will obtain control will be in compliance with this chapter upon
13 approval of the application for a proposed change of control of
14 the licensee; have the competence, experience, character, and
15 general fitness to control the licensee or person in control of
16 the licensee in a lawful and proper manner; and that the



1 interests of the public will not be jeopardized by the change of
2 control.

3 §454M- Presumption of control. An individual is
4 presumed to control a mortgage servicer if that individual is:

- 5 (1) An executive officer; or
- 6 (2) A director, general partner, or managing member, who
7 directly or indirectly has the right to vote ten per
8 cent or more of a class of voting securities or has
9 the power to sell or direct the sale of ten per cent
10 or more of a class of voting securities of that
11 licensee or applicant."

12 SECTION 2. Section 454M-1, Hawaii Revised Statutes, is
13 amended by adding a new definition to be appropriately inserted
14 and to read as follows:

15 "Executive officer" means a president, chairperson of an
16 executive committee, senior officer responsible for the business
17 of the subject entity or organization, chief financial officer,
18 or any other person who performs similar functions related to
19 the subject entity or organization."

20 SECTION 3. Section 454M-4, Hawaii Revised Statutes, is
21 amended as follows:



- 1 1. By amending subsection (2) to read:
- 2 "(e) The applicant shall submit any other information that
- 3 the commissioner may require, including the applicant's:
- 4 (1) Form and place of organization;
- 5 (2) Tax identification number; and
- 6 (3) Proposed method of doing business.
- 7 The applicant shall disclose whether the applicant or any of its
- 8 executive officers, directors, [~~employees, managers, agents,~~
- 9 general partners, or managing members have ever been issued or
- 10 been the subject of an injunction or administrative order
- 11 pertaining to any aspect of the lending business, have ever been
- 12 convicted of a misdemeanor involving the lending industry or any
- 13 aspect of the lending business, or have ever been convicted of
- 14 any felony."
- 15 2. By amending subsection (h) to read:
- 16 "(h) The mortgage servicer licensee shall file with NMLS
- 17 or, if the information cannot be filed with NMLS, directly
- 18 notify the commissioner in writing no later than five business
- 19 days after the licensee has reason to know of the occurrence of any
- 20 of the following events:



- 1 (1) Filing for bankruptcy or the consummation of a
2 corporate restructuring of the licensee;
- 3 (2) Filing of a criminal indictment against the licensee or
4 receiving notification of the filing of any criminal
5 felony indictment or felony conviction of any of the
6 licensee's executive officers, directors, employees,
7 managers, agents, managing members, general partners, or
8 shareholders owning ten per cent or more of the
9 outstanding stock of the licensee;
- 10 (3) Receiving notification of the initiation of license
11 denial, cease and desist, suspension or revocation
12 procedures, or other formal or informal regulatory
13 action by any governmental agency against the licensee
14 and the reasons for the action;
- 15 (4) Receiving notification of the initiation of any action
16 against the licensee by the state attorney general or
17 the attorney general of any other state and the reasons
18 for the action;
- 19 (5) Suspension or termination of the licensee's status as
20 an approved servicer by the Federal National Mortgage



- 1 Association, Federal Home Loan Mortgage Corporation, or
2 Government National Mortgage Association;
- 3 (6) Receiving notification that certain servicing rights of
4 the licensee will be rescinded or canceled, and the
5 reasons provided therefor;
- 6 (7) Receiving notification of filing for bankruptcy of any
7 of the licensee's executive officers, directors,
8 managing members, [~~managers, agents,~~] general
9 partners, or shareholders owning ten per cent or more of
10 the outstanding stock of the licensee; or
- 11 (8) Receiving notification of the initiation of a class action
12 lawsuit on behalf of consumers against the licensee that
13 is related to the operation of the licensed business."

14 SECTION 4. Section 454M-6, Hawaii Revised Statutes, is
15 amended by amending subsection (c) to read as follows:

16 "(c) It shall be a violation of this chapter for any
17 mortgage servicer to provide any [~~mortgage loan modifications or~~
18 ~~ether~~] services that would require licensing pursuant to chapter
19 454F, unless the mortgage servicer is licensed under chapter
20 454F."



1 SECTION 5. Section 454M-8.5, Hawaii Revised Statutes, is
2 amended by amending subsection (c) to read as follows:

3 "(c) Each licensee or person subject to this chapter shall
4 provide to the commissioner upon request the books and records
5 relating to the operations of the licensee or person subject to
6 this chapter. The commissioner shall have access to the books
7 and records and shall be permitted to interview the executive
8 officers, directors, managing members, general partners,
9 principals, mortgage [~~servicers~~ servicer's employees,
10 independent contractors, agents, and customers of the licensee
11 or person subject to this chapter concerning their business."

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

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



Report Title:

Mortgage Servicers; Division of Financial Institutions; Chapter 454M; Presumption of Control; Change in Control

Description:

Clarifies and updates requirements under chapter 454M, Hawaii Revised Statutes, for mortgage servicers. Adds new sections for change in control, and defines "presumption of control". Adds a definition of "executive officer". (HB1084 HD1)

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