

ASSEMBLY HOUSING AND COMMUNITY DEVELOPMENT COMMITTEE

STATEMENT TO **ASSEMBLY, No. 4997**

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 6, 2019

The Assembly Housing and Community Development Committee reports favorably Assembly Bill No. 4997, with committee amendments.

As amended, this bill, entitled the “Mortgage Servicers Licensing Act,” requires any person acting as a mortgage servicer to obtain a license from the Commissioner of Banking and Insurance for each main office and each branch office where business is conducted, unless the person is exempt under certain exemptions provided for by the bill. The bill defines a “mortgage servicer” as any person, wherever located, who performs certain functions for the holder of a residential mortgage loan secured by real property located in this State.

The bill provides that the commissioner shall issue a mortgage servicer license to an applicant if the commissioner makes certain findings, including that the applicant has met certain financial and character and fitness requirements.

The bill requires a mortgage servicer to file annually with the commissioner certain information regarding the mortgages that it services in the State. The bill also requires mortgage servicers to file with the commissioner a surety bond, fidelity bond, and evidence of coverage, that meet certain standards as set forth in the bill.

Both mortgage servicers and persons exempt from licensure are required to maintain adequate records of each residential mortgage loan transaction and are required to produce the records upon request of the commissioner. Upon assigning the servicing rights on a residential mortgage loan, the servicer must make certain disclosures to the mortgagor as set forth in the bill. A mortgage servicer must maintain a schedule of fees charged to mortgagors. The bill also prohibits certain unfair and deceptive trade practices.

The bill provides the commissioner the authority to conduct investigations and examinations of mortgage servicers. The commissioner can suspend, revoke, or refuse to renew a mortgage servicer license for certain reasons as set forth in the bill.

The commissioner may also order that any person who has been found to have knowingly violated any provision of bill and has caused

financial harm to consumers, shall be barred from acting as a residential mortgage servicer, residential mortgage lender, residential mortgage broker, or mortgage loan originator, or a stock holder, an officer, director, partner or other owner, or an employee of a licensee, or active in any other capacity pursuant to the bill.

The bill also allows the commissioner to impose certain civil and criminal penalties for violations of the bill, and specifies that these remedies are in addition to any accorded by common law and statutory law, including those provided to the Attorney General pursuant to the consumer fraud act.

The bill also adds mortgage servicers licensed pursuant to the “Mortgage Servicers Licensing Act” to those entities that are governed by the “special purpose apportionment statute,” P.L.2005, c.199 (C.17:1C-33 et seq.), which allows the commissioner to assess various regulated entities in order to fund the Division of Banking for its regulatory operations.

Finally, the bill provides the commissioner the authority to adopt rules and regulations, pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), including any fines or penalties, necessary to effectuate the provisions of the bill.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

- Revise certain aspects of the financial responsibility standards that mortgage servicers must meet.
- Provide additional enforcement mechanisms to the Commissioner of Banking and Insurance.
- Allow the commissioner to impose specific civil and criminal penalties.
- Clarify that the remedies provided by the bill are in addition to any accorded by common law and statutory law.
- Add mortgage servicers to the entities that are governed by the Division of Banking’s “special purpose apportionment statute.”