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ATTORNEY GENERAL SHIKADA CALLS ON CFPB TO PROHIBIT MORTGAGE SERVICERS FROM CHARGING CONVENIENCE FEES

HONOLULU– Hawaii Attorney General Holly T. Shikada joined a coalition of 22 attorneys general led by Illinois Attorney General Kwame Raoul, urging the Consumer Financial Protection Bureau (CFPB) to prohibit mortgage servicers from charging convenience fees. According to the coalition, convenience fees charged by mortgage servicers are one of the more exploitative "pay to pay" fees consumers face.

In their letter, the attorneys general highlighted convenience fees in response to the CFPB's request for information about various fees imposed upon consumers in the financial marketplace. In their letter, Raoul and the coalition urge the CFPB to evaluate convenience fees in the mortgage industry and argue they are particularly unfair and abusive, as unlike most marketplaces, homeowners have no choice in their mortgage servicers.

"The process of obtaining and paying for a mortgage should be transparent and fair, and homeowners should not be subject to a myriad of hidden fees that they only learn of after committing to a product or service," Attorney General Shikada said. "Navigating this process is daunting enough without the fear of being taken advantage of by these often inappropriate and unnecessary fees."

In their comments, the attorneys general point out that when taking out a mortgage, many consumers believe they are entering into a long-term relationship with a specific financial institution. However, after origination, many mortgage loans and their servicing rights are sold in the secondary markets, and may be sold many times over the course of the loan. As a result, consumers do not know which company will service their mortgage loan and have no ability to change servicers. The letter says the CFPB's further evaluation of discretionary fees charged by servicers is warranted due to the duration of mortgage loans coupled with consumers' lack of servicer choice and the fact that some servicers have attempted to impose convenience fees even when they are not authorized by the original loan documents.

The coalition also points out the lack of uniformity in convenience fees in that some servicers charge them, while others do not. In addition, the charges add up. As an example, the attorneys general point to PHH Mortgage, which charges individuals $7.50 to make payments online or via the telephone through an automated service. Those who opt to speak to a live operator will be charged $17.50. Other servicers charge more, less, or nothing at all. In addition, borrowers do not have the option of switching to another servicer to avoid the fees.

The coalition also raises concerns that the convenience fees servicers charge exceed their actual cost to accept payments online or over the phone. In their comment letter, the coalition cites an industry study, which found that processing a check costs debt collectors between $1 and $4, while processing payments made online or over the phone typically costs debt collectors approximately $.50 per transaction. When a mortgage servicer's most basic function is to accept payments, the attorneys general argue that a servicer being able to impose an additional fee for performing its core function is fundamentally flawed. Mortgage servicers have already been compensated for the costs of accepting payments when they either enter into the original loan or choose to acquire servicing rights for the loan. By charging convenience fees, mortgage servicers are essentially being compensated twice when accepting a payment.

The coalition of attorneys general is urging the CFPB to consider prohibiting mortgage servicers from imposing convenience fees on consumers. Alternatively, the attorneys general encourage the CFPB to prohibit servicers from charging convenience fees that exceed the actual cost of processing a borrower's payment. The coalition further asks that the CFPB require servicers to fully document their costs supporting the imposition of convenience fees.

Joining Attorneys General Raoul and Shikada in sending the letter are the attorneys general of California, Colorado, Connecticut, Delaware, the District of Columbia, Iowa, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New Mexico, New York, North Carolina, Oregon, Pennsylvania, Rhode Island and Washington, as well as the Hawaii Office of Consumer Protection.

A copy of the letter is available here.

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