
A BILL FOR AN ACT

RELATING TO MORTGAGE LOAN ORIGINATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 454F, Hawaii Revised Statutes, is
2 amended by adding two new sections to be appropriately
3 designated and to read as follows:

4 "§454F- Mortgage servicer companies; loan originators.

5 An employee who performs mortgage loan originator activities for
6 a mortgage servicer company is exempt from registration and
7 licensure as a mortgage loan originator; provided that:

8 (1) The employee's actions are part of the employee's
9 duties as an employee of the mortgage servicer
10 company; and

11 (2) The employee only provides mortgage loan originator
12 services with respect to a residential mortgage loan
13 modification.

14 §454F- Nonprofit organizations; loan originators. (a)

15 An employees who performs mortgage loan originator activities
16 for a nonprofit organization is exempt from registration and
17 licensure as a mortgage loan originator; provided that:



1 (1) The employee's actions are part of the employee's
2 duties as an employee of the nonprofit organization;

3 (2) The employee only provides mortgage loan originator
4 services with respect to residential mortgage loans
5 with terms favorable to the borrower; and

6 (3) The nonprofit organization registers with the
7 Nationwide Mortgage Licensing System.

8 (b) The commissioner shall periodically examine the
9 records and activities of nonprofit organizations and shall
10 revoke an organization's registration as a nonprofit
11 organization with the Nationwide Mortgage Licensing System if
12 the nonprofit organization fails to meet the requirements to be
13 a nonprofit organization.

14 (c) In determining whether a residential mortgage loan has
15 terms favorable to the borrower, the commissioner shall examine:

16 (1) The interest rate that the home loan would carry;

17 (2) The charges that are imposed on the borrower for
18 origination, application, closing, and other costs;

19 (3) Whether the mortgage includes any predatory
20 characteristics;

21 (4) The borrower's ability to repay the loan; and

22 (5) The term of the mortgage."



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

3 1. By adding four new definitions to be appropriately
4 inserted and to read:

5 "Housing finance agency" means any authority:

6 (1) That helps meet the affordable housing needs of the
7 residents of the State;

8 (2) That is supervised directly or indirectly by the State
9 and includes nonprofit organizations;

10 (3) That is subject to audit and review by the State; and

11 (4) Whose activities make it eligible to be a member of
12 the National Council of State Housing Agencies.

13 "Mortgage servicer company" means a mortgage service
14 company licensed under chapter 454M.

15 "Nonprofit organization" means an organization that:

16 (1) Has the status of a tax-exempt organization under
17 Section 501(c)(3) of the Internal Revenue Code of
18 1986, as amended;

19 (2) Promotes affordable housing or provides homeownership
20 education or similar services;



1 (3) Conducts its activities in a manner that serves public
2 or charitable purposes, rather than commercial
3 purposes;

4 (4) Receives funding and revenue and charges fees in a
5 manner that does not incentivize it or its employees
6 to act other than in the best interests of its
7 clients;

8 (5) Compensates its employees in a manner that does not
9 incentivize employees to act other than in the best
10 interests of its clients; and

11 (6) Provides, or identifies for the borrower, residential
12 mortgage loans with terms favorable to the borrower
13 and comparable to mortgage loans and housing
14 assistance provided under government housing
15 assistance programs.

16 "Residential mortgage loan modification" means:

17 (1) Modification of existing residential mortgage loans
18 which generally includes a change in interest,
19 principal, or term of loan; or

20 (2) The processing of the approval of loan assumptions.

21 The term shall not include origination of mortgage loans."

22 2. By amending the definition of "sponsor" to read:



1 ""Sponsor" means to [~~ereate~~]:

2 (1) Create a relationship through the Nationwide Mortgage
3 Licensing System [~~for the purpose of appropriately~~
4 ~~supervising a mortgage loan originator's activities.~~];

5 and

6 (2) Appropriately supervise a mortgage loan originator's
7 activities."

8 SECTION 3. Section 454F-1.5, Hawaii Revised Statutes, is
9 amended by amending subsection (a) to read as follows:

10 "(a) All mortgage loan originators, mortgage loan
11 originator companies, exempt sponsoring mortgage loan originator
12 companies, nonprofit organizations, mortgage servicer companies,
13 and [~~any~~] every other person in this State that originates a
14 residential mortgage loan, unless exempt under section 454F-2,
15 shall register with the Nationwide Mortgage Licensing System."

16 SECTION 4. Section 454F-1.6, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "~~[+]§454F-1.6[+]~~ **Presumption of control.** An individual is
19 presumed to control a mortgage loan originator company if that
20 individual is a director, general partner, managing [~~director,~~
21 ~~member,~~ or executive officer of that mortgage loan originator
22 company."



1 SECTION 5. Section 454F-1.7, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[~~+~~§454F-1.7~~+~~] **Duties of qualified individual and branch**
4 **manager.** (a) A qualified individual shall have the duty to
5 manage and supervise the mortgage loan origination activities of
6 a licensed mortgage loan originator company's principal office
7 and the licensed mortgage loan originators located at or working
8 out of [~~that location.~~] the principal office and all company
9 branch offices. A qualified individual shall hold a license as
10 a mortgage loan originator issued pursuant to this chapter.

11 (b) A branch manager shall have the duty to directly
12 manage and supervise a licensed mortgage loan originator
13 company's branch office and the licensed mortgage loan
14 originators located at or working out of that location. A
15 branch manager shall be physically present in the branch office
16 and shall hold a license as a mortgage loan originator issued
17 pursuant to this chapter.

18 (c) A qualified individual for a mortgage loan originator
19 company [~~and a branch manager for a branch office~~] shall be
20 responsible for:

21 (1) Supervising the maintenance and accounting of client
22 trust accounts and disbursements from those accounts;



- 1 (2) Supervising the maintenance of all records, contracts,
2 and documents of the mortgage loan originator company;
- 3 (3) Supervising all mortgage loan originator agreements
4 and mortgage loan documents and the handling of these
5 documents by the licensed mortgage loan originators
6 who are employed by or are independent contractors of
7 the mortgage loan originator company;
- 8 (4) Supervising all licensed mortgage loan originators who
9 are employed by or are independent contractors of the
10 mortgage loan originator company;
- 11 (5) Developing and enforcing policies and procedures
12 relating to the handling of residential mortgage loan
13 transactions and the professional conduct of the
14 licensed mortgage loan originators and other staff;
- 15 (6) Developing and monitoring compliance with a policy on
16 continuing education requirements for all licensed
17 mortgage loan originators who are employed by or are
18 independent contractors of the mortgage loan
19 originator company pursuant to the requirements of
20 this chapter and the rules of the commissioner;
- 21 (7) Ensuring that the licenses of all mortgage loan
22 originators who are employed by or are independent



- 1 contractors of the mortgage loan originator company,
2 and the license of the mortgage loan originator
3 company are current and active, and that all required
4 fees are timely paid to the mortgage loan recovery
5 fund;
- 6 (8) Establishing and conducting a training program for all
7 licensed mortgage loan originators who are employed by
8 or are independent contractors of the mortgage loan
9 originator company;
- 10 (9) Ensuring that all licensed mortgage loan originators
11 who are employed by or are independent contractors of
12 the mortgage loan originator company are provided
13 adequate information and training on the latest
14 amendments to licensing laws and rules and any other
15 applicable laws and rules;
- 16 (10) Notifying the commissioner of the termination of the
17 employment or independent contractor relationship of
18 licensed mortgage loan originators who were employed
19 by or were independent contractors of the mortgage
20 loan originator company upon the termination of
21 employment or the independent contractor relationship;
22 and



1 (11) Ensuring that the records, loan documents, and
2 agreements including mortgage loan originator
3 agreements are retained for seven years on paper or in
4 electronic format by the mortgage loan originator
5 company.

6 (d) A branch manager for a branch office shall be
7 responsible for supervising:

8 (1) The maintenance of all records, contracts, and
9 documents of the mortgage loan originator company
10 branch office;

11 (2) All mortgage loan originator agreements and mortgage
12 loan documents and the handling of these documents by
13 the licensed mortgage loan originators or independent
14 contractors located at or working out of the mortgage
15 loan originator company branch office; and

16 (3) All licensed mortgage loan originators who are
17 employed by, or are independent contractors of, the
18 mortgage loan originator company and who are located
19 at or working out of the mortgage loan originator
20 company branch office."

21 SECTION 6. Section 454F-1.8, Hawaii Revised Statutes, is
22 amended to read as follows:



1 "~~+~~\$454F-1.8~~+~~ Sponsorship by mortgage loan origination
2 company ~~[or]~~, exempt sponsoring mortgage loan originator
3 company~~[-]~~, or nonprofit organizations. All mortgage loan
4 originators shall be sponsored by a mortgage loan originator
5 company ~~[or by]~~, an exempt sponsoring mortgage loan originator
6 company~~[-]~~, or a nonprofit organization. At no time shall a
7 mortgage loan originator be sponsored by more than one Hawaii
8 licensed mortgage loan originator company, exempt sponsoring
9 mortgage loan originator company, or nonprofit organization."

10 SECTION 7. Section 454F-2, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**\$454F-2 Exemptions.** This chapter shall not apply to the
13 following:

- 14 (1) An exempt registered mortgage loan originator~~[-]~~ when
15 acting for an insured depository institution~~[-a~~
16 ~~subsidiary of an insured depository institution~~
17 ~~regulated by a federal banking agency,~~] or an
18 institution regulated by the Farm Credit
19 Administration;
- 20 (2) Any individual who offers or negotiates terms of a
21 residential mortgage loan with, or on behalf of, an
22 immediate family member of the individual;



- 1 (3) Any individual who offers or negotiates terms of a
2 residential mortgage loan secured by a dwelling that
3 served as the individual's residence;
- 4 (4) A licensed attorney who negotiates the terms of a
5 residential mortgage loan on behalf of a client as an
6 ancillary matter to the attorney's representation of
7 the client unless the attorney is compensated by a
8 lender, a mortgage loan originator company, or other
9 mortgage loan originator or by an agent of a lender,
10 mortgage loan originator company, or other mortgage
11 loan originator;
- 12 (5) A person or entity that only performs real estate
13 brokerage activities and is licensed or registered by
14 the State unless the person or entity is compensated
15 by a lender, a mortgage loan originator company, or
16 other mortgage loan originator or by an agent of the
17 lender, mortgage loan originator company, or other
18 mortgage loan originator;
- 19 (6) A person or entity solely involved in extensions of
20 credit relating to timeshare plans, as the term is
21 defined in section 101(53D) of Title 11, United States
22 Code;



- 1 (7) An exempt sponsoring mortgage loan originator company
2 as defined by this chapter except as otherwise
3 provided by this chapter; [~~or~~]
- 4 (8) An insured depository institution[~~-~~];
- 5 (9) An institution regulated by the Farm Credit
6 Administration; or
- 7 (10) Individuals who act as loan originators as employees
8 of government agencies or of housing finance
9 agencies."

10 SECTION 8. Section 454F-4.9, Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

12 "(a) An application for licensure pursuant to this chapter
13 shall be considered abandoned if an applicant fails to provide
14 evidence of continued efforts to complete the licensing
15 application process for [~~six consecutive months.~~] thirty days.
16 The thirty-day period shall begin on the last day of contact
17 with the division by the applicant. The commissioner may extend
18 this period for good cause. No refund of filing fees shall be
19 provided to an applicant for an abandoned application. The
20 commissioner shall not be required to act on any abandoned
21 application and is not required to retain abandoned applications
22 or supporting documents. The commissioner may withdraw



1 abandoned applications from the Nationwide Mortgage Licensing
2 System."

3 SECTION 9. Section 454F-8, Hawaii Revised Statutes, is
4 amended by amending subsection (b) to read as follows:

5 "(b) The minimum standards for license renewal for
6 mortgage loan originator companies shall include the following:

7 (1) The mortgage loan originator company continues to meet
8 the minimum standards for licensure established
9 pursuant to section 454F-5;

10 (2) The mortgage loan originator company's [~~branch manager~~
11 ~~and~~] qualified individual and every branch manager
12 have satisfied the minimum standards for license
13 renewal; and

14 (3) The mortgage loan originator company has paid all
15 required fees for renewal of the license."

16 SECTION 10. Section 454F-22, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§454F-22 Mortgage loan originator, mortgage loan**
19 **originator company, and exempt sponsoring mortgage loan**
20 **originator company fees.** (a) A mortgage loan originator shall
21 pay the following fees to obtain and maintain a valid mortgage
22 loan originator license:



- 1 (1) Initial application fee of [~~\$500~~] \$550;
- 2 (2) Annual license renewal fee of [~~\$300~~] \$400;
- 3 (3) Reinstatement fee of \$100;
- 4 (4) Late fee of \$25 per day; and
- 5 (5) Criminal background check fee of \$35, or of an amount
- 6 determined by the commissioner by rule pursuant to
- 7 chapter 91.

8 (b) A mortgage loan originator company shall pay the
9 following fees to maintain a valid mortgage loan originator
10 company license or branch license:

- 11 (1) Fees payable for a principal office of a mortgage loan
- 12 originator company:
 - 13 (A) Initial application fee of \$900;
 - 14 (B) Annual license renewal fee of \$600;
 - 15 (C) Reinstatement fee of \$100;
 - 16 (D) Late fee of \$25 per day; and
 - 17 (E) Criminal background check fee of \$35, or of an
 - 18 amount determined by the commissioner by rule
 - 19 pursuant to chapter 91, for each control person,
 - 20 executive officer, director, general partner, and
 - 21 manager; and



1 (2) Fees payable for each branch office of a mortgage loan
2 originator company:

3 (A) Initial application fee of \$250;

4 (B) Annual license renewal fee of \$100;

5 (C) Reinstatement fee of \$100; and

6 (D) Late fee of \$25 per day.

7 (c) An exempt sponsoring mortgage loan originator company
8 shall pay the following [~~fees~~] fees to maintain a valid
9 registration in the Nationwide Mortgage Licensing System:

10 (1) Initial registration fee of \$200;

11 (2) Annual registration renewal fee of \$150; and

12 (3) Late fee of \$25 per day.

13 (d) A nonprofit organization shall pay the following fees
14 to maintain a valid registration as a nonprofit organization in
15 the Nationwide Mortgage Licensing System:

16 (1) Initial registration fee of \$200;

17 (2) Annual registration renewal fee of \$150; and

18 (3) Late fee of \$25 per day.

19 [~~d~~] (e) In addition to fees charged by the Nationwide
20 Mortgage Licensing System, a licensee shall pay to the
21 commissioner a fee of [~~\$50~~] \$100 for each of the following



1 amendments to information provided to the Nationwide Mortgage
2 Licensing System that require the review of the commissioner:

3 (1) Change of physical [~~location, including address~~
4 change] or mailing address for branch office or
5 principal place of business;

6 (2) Addition or deletion of a "d/b/a" assignment;

7 (3) Change of mortgage loan originator's sponsor;

8 (4) Change of qualified individual;

9 [~~(3)~~] (5) Change of branch manager; [~~or~~] and

10 [~~(4)~~] (6) Change of mortgage loan originator company's
11 legal name.

12 The commissioner, upon a showing of good cause, may waive any
13 fee set forth in this subsection.

14 [~~(e)~~] (f) The fees established by this section are
15 nonrefundable and are in addition to any fees established and
16 charged by the Nationwide Mortgage Licensing System, an approved
17 educational course provider, an approved educational testing
18 provider, a law enforcement agency for fingerprints and
19 background checks, or a credit reporting agency used by the
20 Nationwide Mortgage Licensing System.



1 [~~f~~] (g) The commissioner may establish, by rule pursuant
2 to chapter 91, any other fees or charges necessary for the
3 administration of this chapter."

4 SECTION 11. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 12. This Act shall take effect on July 1, 2050.



Report Title:

Mortgage Loan Originators; Mortgage Loan Originator Companies;
Fees

Description:

Amends the Secure and Fair Enforcement for Mortgage Licensing Act to reflect recent federal changes and adjust fees in consideration of the new regulatory requirements. Effective date 07/01/2050. (SD2)

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