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# A BILL FOR AN ACT

RELATING TO THE SECURE AND FAIR ENFORCEMENT FOR MORTGAGE  
LICENSING ACT.

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

1           SECTION 1. The legislature finds that seller financing is  
2 a useful tool in the credit market. It expands the pool of  
3 potential buyers for a seller and gives buyers an opportunity to  
4 make a purchase that would otherwise be out of reach,  
5 particularly in situations where a person is unable to qualify  
6 for a traditional mortgage loan.

7           The purpose of this Act is to establish a mortgage license  
8 exemption for sellers of real property who offer or negotiate  
9 terms of a residential mortgage loan secured by the seller's own  
10 real property and for which the seller is the mortgagee.

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

13           "**§454F-2 Exemptions.** This chapter shall not apply to the  
14 following:

15           (1) An exempt registered mortgage loan originator when  
16           acting for an insured depository institution or an



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



- 1 (5) An exempt sponsoring mortgage loan originator company
- 2 as defined by this chapter except as otherwise
- 3 provided by this chapter;
- 4 (6) An insured depository institution;
- 5 (7) An institution regulated by the Farm Credit
- 6 Administration;
- 7 (8) Employees of government agencies or of housing finance
- 8 agencies who act as mortgage loan originators; [~~e~~]
- 9 (9) A mortgage servicer company that is exempt from
- 10 chapter 454M, pursuant to section 454M-3[-]; or
- 11 (10) A seller of real property who offers or negotiates
- 12 terms of a residential mortgage loan secured by the
- 13 seller's own real property and for which the seller is
- 14 the mortgagee; provided that the seller is an
- 15 individual who provides three or fewer residential
- 16 mortgage loans in one calendar year and the interest
- 17 rate for the loan is not above the State's usury
- 18 limit. The seller shall provide the buyer a
- 19 disclosure with the terms of the transaction,
- 20 including the cost and fees of the transaction."



1 SECTION 3. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 4. This Act shall take effect upon its approval.

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**Report Title:**

Secure and Fair Enforcement for Mortgage Licensing Act; Seller Exemption; Owner Financing; Residential Mortgage Loans; Real Property

**Description:**

Establishes a mortgage license exemption for sellers of real property who offer or negotiate terms of a residential mortgage loan secured by the seller's own real property and for which the seller is the mortgagee; provided that the seller is an individual who provides three or fewer mortgage loans in one calendar year and the interest is not above the State's usury limit. Requires the seller to provide the buyer a disclosure with the terms of the transaction. (SD1)

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