

JAN 25 2017

A BILL FOR AN ACT

RELATING TO MORTGAGE LOAN ORIGINATION.

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

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

3 (1) By adding one new definition to be appropriately
4 inserted and to read as follows:

5 "Executive officer" means a president, chairperson of an
6 executive committee, senior officer responsible for the subject
7 entity or organization's business, chief financial officer, or
8 any other person who performs similar functions related to the
9 subject entity or organization."

10 (2) By amending the definition of "qualified individual"
11 to read as follows:

12 "Qualified individual" means an individual who is
13 responsible for the oversight of mortgage loan originators that
14 are employed by or contracted to perform work, for a mortgage
15 loan originator company[-] or an exempt sponsoring mortgage loan
16 originator company."

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1 SECTION 2. Section 454F-1.6, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "~~§454F-1.6~~ **Presumption of control.** An individual is
4 presumed to control a mortgage loan originator company if that
5 individual is [a]:

6 (1) An executive officer; or

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

13 SECTION 3. Section 454F-1.7, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "~~§454F-1.7~~ **Duties of a** ~~[mortgage loan originator~~
16 ~~company's]~~ **qualified individual and branch manager.** (a) Every
17 mortgage loan originator company licensed under this chapter and
18 every exempt sponsoring mortgage loan originator company
19 registered with NMLS under this chapter shall designate a
20 qualified individual to fulfill the duties and responsibilities
21 set forth in this chapter. A qualified individual shall have
22 the duty to manage and supervise the mortgage loan origination

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1 activities of [a] the principal office of the licensed mortgage
2 loan originator [~~company's principal office~~] company or exempt
3 sponsoring mortgage loan originator company, and the licensed
4 mortgage loan originators located at or working out of the
5 principal office and all company branch offices. A qualified
6 individual for a mortgage loan originator company shall hold a
7 license as a mortgage loan originator issued pursuant to this
8 chapter.

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

16 (c) A qualified individual for a mortgage loan originator
17 company or exempt sponsoring mortgage loan originator company
18 shall be responsible for:

- 19 (1) Supervising the maintenance and accounting of client
20 trust accounts and disbursements from those accounts;
- 21 (2) Supervising the maintenance of all records, contracts,
22 and documents of the mortgage loan originator

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- 1 company[+] or exempt sponsoring mortgage loan
2 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[+] or exempt
8 sponsoring mortgage loan originator company;
- 9 (4) Supervising all licensed mortgage loan originators who
10 are employed by or are independent contractors of the
11 mortgage loan originator company[+] or exempt
12 sponsoring mortgage loan originator company;
- 13 (5) Developing and enforcing policies and procedures
14 relating to the handling of residential mortgage loan
15 transactions and the professional conduct of the
16 licensed mortgage loan originators and other staff;
- 17 (6) Developing and monitoring compliance with a policy on
18 continuing education requirements for all licensed
19 mortgage loan originators who are employed by or are
20 independent contractors of the mortgage loan
21 originator company or exempt sponsoring mortgage loan

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- 1 originator company pursuant to the requirements of
2 this chapter and the rules of the commissioner;
- 3 (7) Ensuring that the licenses of all mortgage loan
4 originators who are employed by or are independent
5 contractors of the mortgage loan originator company[7]
6 or exempt sponsoring mortgage loan originator company,
7 and the license of the mortgage loan originator
8 company are current and active, that the exempt
9 sponsoring mortgage loan originator company is
10 registered with NMLS, and that all required fees are
11 timely paid to the mortgage loan recovery fund;
- 12 (8) Establishing and conducting a training program for all
13 licensed mortgage loan originators who are employed by
14 or are independent contractors of the mortgage loan
15 originator company[7] or exempt sponsoring mortgage
16 loan originator company;
- 17 (9) Ensuring that all licensed mortgage loan originators
18 who are employed by or are independent contractors of
19 the mortgage loan originator company or exempt
20 sponsoring mortgage loan originator company are
21 provided adequate information and training on the

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1 latest amendments to licensing laws and rules and any
2 other applicable laws and rules;

3 (10) Notifying the commissioner of the termination of the
4 employment or independent contractor relationship of
5 licensed mortgage loan originators who were employed
6 by or were independent contractors of the mortgage
7 loan originator company or exempt sponsoring mortgage
8 loan originator company upon the termination of
9 employment or the independent contractor relationship;
10 and

11 (11) Ensuring that the records, loan documents, and
12 agreements including mortgage loan originator
13 agreements are retained for seven years on paper or in
14 electronic format by the mortgage loan originator
15 company[-] or exempt sponsoring mortgage loan
16 originator company.

17 (d) A branch manager for a branch office shall be
18 responsible for supervising:

19 (1) The maintenance of all records, contracts, and
20 documents of the mortgage loan originator company
21 branch office;

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- 1 (2) All mortgage loan originator agreements and mortgage
2 loan documents and the handling of these documents by
3 the licensed mortgage loan originators or independent
4 contractors located at or working out of the mortgage
5 loan originator company branch office; and
- 6 (3) All licensed mortgage loan originators who are
7 employed by, or are independent contractors of, the
8 mortgage loan originator company and who are located
9 at or working out of the mortgage loan originator
10 company branch office."

11 SECTION 4. Section 454F-4, Hawaii Revised Statutes, is
12 amended by amending subsection (d) to read as follows:

13 "(d) In connection with an application for a license under
14 this chapter, the applicant, at a minimum, shall furnish to NMLS
15 information concerning the applicant's identity, including:

- 16 (1) Fingerprints of the applicant or, if an applicant is
17 not an individual, each of the applicant's control
18 persons, executive officers, directors, general
19 partners, and managing members for submission to the
20 Federal Bureau of Investigation and any governmental
21 agency or entity authorized to receive the
22 fingerprints for a state, national, and international

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1 criminal history background check[7], accompanied by
2 the appropriate payment of the applicable fee for each
3 record check; and

4 (2) Personal history and experience of the applicant or,
5 if an applicant is not an individual, each of the
6 applicant's control persons, executive officers,
7 directors, general partners, and managing members in a
8 form prescribed by NMLS including the submission of
9 authorization for NMLS and the commissioner to obtain:

10 (A) An independent credit report obtained from a
11 consumer reporting agency described in section
12 603(p) of the Fair Credit Reporting Act, title 15
13 United States Code section 1681 et seq.; and

14 (B) Information related to any administrative, civil,
15 or criminal findings by any governmental
16 jurisdiction;

17 provided that the commissioner may use any information obtained
18 pursuant to this subsection or through NMLS to determine an
19 applicant's demonstrated financial responsibility, character,
20 and general fitness for licensure."

21 SECTION 5. Section 454F-5, Hawaii Revised Statutes, is
22 amended by amending subsection (b) to read as follows:

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1 "(b) The applicant, or in the case of an applicant that is
2 not an individual, each of the applicant's control persons,
3 executive officers, directors, general partners, and [~~managers~~
4 managing members], shall submit authorization to the commissioner
5 for the commissioner to conduct background checks to determine
6 or verify the information in subsection (a) in each state where
7 the person has conducted mortgage loan origination
8 activities. Authorization pursuant to this subsection shall
9 include consent to provide additional fingerprints, if
10 necessary, to law enforcement or regulatory bodies in other
11 states."

12 SECTION 6. Section 454F-10.5, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

14 "(a) Every mortgage loan originator company licensed under
15 this chapter and every exempt sponsoring mortgage loan
16 originator company shall have and maintain a principal place of
17 business in the State and shall designate a qualified individual
18 to fulfill the duties and responsibilities of a qualified
19 individual set forth in section 454F-1.7."

20 SECTION 7. Section 454F-10.7, Hawaii Revised Statutes, is
21 amended by amending subsection (b) to read as follows:

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1 "(b) The commissioner shall approve a request for change
2 of control under subsection (a) if, after investigation, the
3 commissioner determines that the person or group of persons who
4 will obtain control [~~are licensed pursuant to~~] will be in
5 compliance with this chapter[+] upon approval of the application
6 for a proposed change of control of the licensee; have the
7 competence, experience, character, and general fitness to
8 control the licensee or person in control of the licensee in a
9 lawful and proper manner; and that the interests of the public
10 will not be jeopardized by the change of control."

11 SECTION 8. Section 454F-18, Hawaii Revised Statutes, is
12 amended by amending subsection (b) to read as follows:

13 "(b) In addition to any other powers provided by law, the
14 commissioner shall have the authority to:

- 15 (1) Administer and enforce the provisions and requirements
16 of this chapter;
- 17 (2) Adopt, amend, or repeal rules and issue declaratory
18 rulings or informal nonbinding interpretations;
- 19 (3) Develop requirements for licensure through rules,
20 including establishing the content of the written
21 tests required under section 454F-7;

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- 1 (4) Investigate and conduct hearings regarding any
2 violation of this chapter or any rule or order of, or
3 agreement with, the commissioner;
- 4 (5) Create fact-finding committees that may make
5 recommendations to the commissioner for the
6 commissioner's deliberations;
- 7 (6) Require an applicant or any of its control persons,
8 executive officers, directors, [~~employees,~~] general
9 partners, and managing members [~~, managers, and agents~~]
10 to disclose their relevant criminal history and
11 request a criminal history record check in accordance
12 with chapter 846;
- 13 (7) Contract with or employ qualified persons, including
14 investigators, examiners, or auditors who may be
15 exempt from chapter 76 and who shall assist the
16 commissioner in exercising the commissioner's powers
17 and duties;
- 18 (8) Require that all fees, fines, and charges collected by
19 the commissioner under this chapter, except for fees
20 designated for deposit into the mortgage loan recovery
21 fund pursuant to section 454F-41, be deposited into

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1 the compliance resolution fund established pursuant to
2 section 26-9(o);

3 (9) Process and investigate complaints, subpoena witnesses
4 and documents, administer oaths, and receive
5 affidavits and oral testimony, including telephonic
6 communications, and do any and all things necessary or
7 incidental to the exercise of the commissioner's power
8 and duties, including the authority to conduct
9 contested case proceedings under chapter 91; and

10 (10) Require a licensee to comply with any rule, guidance,
11 guideline, statement, supervisory policy or any
12 similar proclamation issued or adopted by the Federal
13 Deposit Insurance Corporation to the same extent and
14 in the same manner as a bank chartered by the State or
15 in the alternative, any policy position of the
16 Conference of State Bank Supervisors."

17 SECTION 9. Section 454F-22, Hawaii Revised Statutes, is
18 amended by amending subsections (a), (b), and (c) to read as
19 follows:

20 "(a) Except as provided in subsection (b), a mortgage loan
21 originator shall pay the following fees to obtain and maintain a
22 valid mortgage loan originator license:

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- 1 (1) Initial application fee of \$600;
2 (2) Annual license renewal fee of \$350;
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.] pursuant to section 454F-4.~~

8 (b) A sole proprietorship mortgage loan originator shall
9 pay the following fees to obtain and maintain a valid sole
10 proprietor mortgage loan originator license:

- 11 (1) Initial application fee of \$35;
12 (2) Annual license renewal fee of \$35;
13 (3) Reinstatement fee of \$100;
14 (4) Late fee of \$25 per day; and
15 (5) Criminal background check fee [~~of \$35, or of an amount~~
16 ~~determined by the commissioner by rule pursuant to~~
17 ~~chapter 91.] pursuant to section 454F-4.~~

18 (c) A mortgage loan originator company shall pay the
19 following fees to maintain a valid mortgage loan originator
20 company license or branch license:

- 21 (1) Fees payable for a principal office of a mortgage loan
22 originator company:

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- 1 (A) Initial application fee of \$900;
- 2 (B) Processing fee of \$35 for each control person;
- 3 (C) Annual license renewal fee of \$600;
- 4 (D) Reinstatement fee of \$100;
- 5 (E) Late fee of \$25 per day; and
- 6 (F) Criminal background check fee [~~of \$35, or of an~~
- 7 ~~amount determined by the commissioner by rule~~
- 8 ~~pursuant to chapter 91, for each control person,~~
- 9 ~~executive officer, director, general partner, and~~
- 10 ~~manager, and] pursuant to section 454F-4.~~
- 11 (2) Fees payable for each branch office of a mortgage loan
- 12 originator company:
- 13 (A) Initial application fee of \$250;
- 14 (B) Annual license renewal fee of \$100;
- 15 (C) Reinstatement fee of \$100; and
- 16 (D) Late fee of \$25 per day."

17 SECTION 10. Section 454F-25, Hawaii Revised Statutes, is

18 amended to read as follows:

19 "**§454F-25 Nonprofit organizations; mortgage loan**

20 **originators.** (a) An employee who performs mortgage loan

21 originator activities for a nonprofit organization is exempt

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1 from registration and licensure as a mortgage loan originator;
2 provided that:

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

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

8 (3) The nonprofit organization [~~registers with~~] maintains
9 a valid registration as a nonprofit organization in
10 NMLS, and a unique identifier through NMLS.

11 (b) The commissioner shall periodically examine the books
12 and activities of nonprofit organizations as defined in section
13 454F-1 and shall revoke an organization's registration as a
14 nonprofit organization with NMLS if the nonprofit organization
15 fails to meet the requirements to be a nonprofit organization.

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

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

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

21 (3) Whether the mortgage includes any predatory
22 characteristics;

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- 1 (4) The borrower's ability to repay the loan; and
- 2 (5) The term of the mortgage.
- 3 (d) A nonprofit organization shall designate an employee
- 4 who shall have the duty to directly manage and supervise the
- 5 mortgage loan origination activity of the nonprofit, including:
- 6 (1) The maintenance of all records, contracts, and
- 7 documents of the nonprofit organization relating to
- 8 mortgage loan origination activity;
- 9 (2) All mortgage loan originator agreements and mortgage
- 10 loan documents and the handling of these documents by
- 11 the nonprofit organization's employees, or by
- 12 independent contractors located at or working out of
- 13 the nonprofit organization; and
- 14 (3) All employees of the nonprofit organization, and all
- 15 independent contractors of the nonprofit organization
- 16 located at or working out of the nonprofit
- 17 organization, who are working on or handling mortgage
- 18 loan origination activity of the nonprofit
- 19 organization."

20 SECTION 11. Section 846-2.7, Hawaii Revised Statutes, is

21 amended by amending subsection (b) to read as follows:

22 "(b) Criminal history record checks may be conducted by:

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- 1 (1) The department of health or its designee on operators
2 of adult foster homes for individuals with
3 developmental disabilities or developmental
4 disabilities domiciliary homes and their employees, as
5 provided by section 321-15.2;
- 6 (2) The department of health or its designee on
7 prospective employees, persons seeking to serve as
8 providers, or subcontractors in positions that place
9 them in direct contact with clients when providing
10 non-witnessed direct mental health or health care
11 services as provided by section 321-171.5;
- 12 (3) The department of health or its designee on all
13 applicants for licensure or certification for,
14 operators for, prospective employees, adult
15 volunteers, and all adults, except adults in care, at
16 healthcare facilities as defined in section 321-15.2;
- 17 (4) The department of education on employees, prospective
18 employees, and teacher trainees in any public school
19 in positions that necessitate close proximity to
20 children as provided by section 302A-601.5;
- 21 (5) The counties on employees and prospective employees
22 who may be in positions that place them in close

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- 1 proximity to children in recreation or child care
2 programs and services;
- 3 (6) The county liquor commissions on applicants for liquor
4 licenses as provided by section 281-53.5;
- 5 (7) The county liquor commissions on employees and
6 prospective employees involved in liquor
7 administration, law enforcement, and liquor control
8 investigations;
- 9 (8) The department of human services on operators and
10 employees of child caring institutions, child placing
11 organizations, and foster boarding homes as provided
12 by section 346-17;
- 13 (9) The department of human services on prospective
14 adoptive parents as established under section
15 346-19.7;
- 16 (10) The department of human services or its designee on
17 applicants to operate child care facilities, household
18 members of the applicant, prospective employees of the
19 applicant, and new employees and household members of
20 the provider after registration or licensure as
21 provided by section 346-154, and persons subject to
22 section 346-152.5;

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- 1 (11) The department of human services on persons exempt
2 pursuant to section 346-152 to be eligible to provide
3 child care and receive child care subsidies as
4 provided by section 346-152.5;
- 5 (12) The department of health on operators and employees of
6 home and community-based case management agencies and
7 operators and other adults, except for adults in care,
8 residing in community care foster family homes as
9 provided by section 321-15.2;
- 10 (13) The department of human services on staff members of
11 the Hawaii youth correctional facility as provided by
12 section 352-5.5;
- 13 (14) The department of human services on employees,
14 prospective employees, and volunteers of contracted
15 providers and subcontractors in positions that place
16 them in close proximity to youth when providing
17 services on behalf of the office or the Hawaii youth
18 correctional facility as provided by section 352D-4.3;
- 19 (15) The judiciary on employees and applicants at detention
20 and shelter facilities as provided by section 571-34;
- 21 (16) The department of public safety on employees and
22 prospective employees who are directly involved with

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1 the treatment and care of persons committed to a
2 correctional facility or who possess police powers
3 including the power of arrest as provided by section
4 353C-5;

5 (17) The board of private detectives and guards on
6 applicants for private detective or private guard
7 licensure as provided by section 463-9;

8 (18) Private schools and designated organizations on
9 employees and prospective employees who may be in
10 positions that necessitate close proximity to
11 children; provided that private schools and designated
12 organizations receive only indications of the states
13 from which the national criminal history record
14 information was provided pursuant to section 302C-1;

15 (19) The public library system on employees and prospective
16 employees whose positions place them in close
17 proximity to children as provided by section
18 302A-601.5;

19 (20) The State or any of its branches, political
20 subdivisions, or agencies on applicants and employees
21 holding a position that has the same type of contact
22 with children, vulnerable adults, or persons committed

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1 to a correctional facility as other public employees
2 who hold positions that are authorized by law to
3 require criminal history record checks as a condition
4 of employment as provided by section 78-2.7;

5 (21) The department of health on licensed adult day care
6 center operators, employees, new employees,
7 subcontracted service providers and their employees,
8 and adult volunteers as provided by section 321-15.2;

9 (22) The department of human services on purchase of service
10 contracted and subcontracted service providers and
11 their employees serving clients of the adult
12 protective and community services branch, as provided
13 by section 346-97;

14 (23) The department of human services on foster grandparent
15 program, senior companion program, and respite
16 companion program participants as provided by section
17 346-97;

18 (24) The department of human services on contracted and
19 subcontracted service providers and their current and
20 prospective employees that provide home and community-
21 based services under section 1915(c) of the Social
22 Security Act, title 42 United States Code section

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1 1396n(c), or under any other applicable section or
2 sections of the Social Security Act for the purposes
3 of providing home and community-based services, as
4 provided by section 346-97;

5 (25) The department of commerce and consumer affairs on
6 proposed directors and executive officers of a bank,
7 savings bank, savings and loan association, trust
8 company, and depository financial services loan
9 company as provided by section 412:3-201;

10 (26) The department of commerce and consumer affairs on
11 proposed directors and executive officers of a
12 nondepository financial services loan company as
13 provided by section 412:3-301;

14 (27) The department of commerce and consumer affairs on the
15 original chartering applicants and proposed executive
16 officers of a credit union as provided by section
17 412:10-103;

18 (28) The department of commerce and consumer affairs on:
19 (A) Each principal of every non-corporate applicant
20 for a money transmitter license;
21 (B) The executive officers, key shareholders, and
22 managers in charge of a money transmitter's

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1 activities of every corporate applicant for a
2 money transmitter license; and

3 (C) The persons who are to assume control of a money
4 transmitter licensee in connection with an
5 application requesting approval of a proposed
6 change in control of licensee,

7 as provided by sections 489D-9 and 489D-15;

8 (29) The department of commerce and consumer affairs on
9 applicants for licensure and persons licensed under
10 title 24;

11 (30) The Hawaii health systems corporation on:

12 (A) Employees;

13 (B) Applicants seeking employment;

14 (C) Current or prospective members of the corporation
15 board or regional system board; or

16 (D) Current or prospective volunteers, providers, or
17 contractors,

18 in any of the corporation's health facilities as
19 provided by section 323F-5.5;

20 (31) The department of commerce and consumer affairs on:

21 (A) An applicant for a mortgage loan originator
22 license [~~+~~ and], or license renewal; and

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- 1 (B) Each control person, executive officer, director,
2 general partner, and ~~[manager]~~ managing member of
3 an applicant for a mortgage loan originator
4 company license~~[7]~~ or license renewal,
5 as provided by chapter 454F;
- 6 (32) The state public charter school commission or public
7 charter schools on employees, teacher trainees,
8 prospective employees, and prospective teacher
9 trainees in any public charter school for any position
10 that places them in close proximity to children, as
11 provided in section 302D-33;
- 12 (33) The counties on prospective employees who work with
13 children, vulnerable adults, or senior citizens in
14 community-based programs;
- 15 (34) The counties on prospective employees for fire
16 department positions which involve contact with
17 children or vulnerable adults;
- 18 (35) The counties on prospective employees for emergency
19 medical services positions which involve contact with
20 children or vulnerable adults;
- 21 (36) The counties on prospective employees for emergency
22 management positions and community volunteers whose

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1 responsibilities involve planning and executing
2 homeland security measures including viewing,
3 handling, and engaging in law enforcement or
4 classified meetings and assisting vulnerable citizens
5 during emergencies or crises;

6 (37) The State and counties on employees, prospective
7 employees, volunteers, and contractors whose position
8 responsibilities require unescorted access to secured
9 areas and equipment related to a traffic management
10 center;

11 (38) The State and counties on employees and prospective
12 employees whose positions involve the handling or use
13 of firearms for other than law enforcement purposes;

14 (39) The State and counties on current and prospective
15 systems analysts and others involved in an agency's
16 information technology operation whose position
17 responsibilities provide them with access to
18 proprietary, confidential, or sensitive information;

19 (40) The department of commerce and consumer affairs on
20 applicants for real estate appraiser licensure or
21 certification as provided by chapter 466K;

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1 (41) The department of health or its designee on all license
2 applicants, licensees, employees, contractors, and
3 prospective employees of medical marijuana
4 dispensaries, and individuals permitted to enter and
5 remain in medical marijuana dispensary facilities as
6 provided under sections 329D-15(a)(4) and
7 329D-16(a)(3);

8 (42) The department of commerce and consumer affairs on
9 applicants for nurse licensure or license renewal,
10 reactivation, or restoration as provided by sections
11 457-7, 457-8, 457-8.5, and 457-9;

12 [+] (43) [+] The county police departments on applicants for
13 permits to acquire firearms pursuant to section 134-2
14 and on individuals registering their firearms pursuant
15 to section 134-3;

16 [+] (44) [+] The department of commerce and consumer affairs on:
17 (A) Each of the controlling persons of the applicant
18 for licensure as an escrow depository, and each of
19 the officers, directors, and principals who will
20 be in charge of the escrow depository's activities
21 upon licensure; and

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1 (B) Each of the controlling persons of an applicant
2 for proposed change in control of an escrow
3 depository licensee, and each of the officers,
4 directors, and principals who will be in charge of
5 the licensee's activities upon approval of such
6 application,

7 as provided by chapter 449; and

8 [+] (45) [+] Any other organization, entity, or the State, its
9 branches, political subdivisions, or agencies as may
10 be authorized by state law."

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

13 SECTION 13. This Act, upon its approval, shall take effect
14 on September 1, 2017.

15

16

INTRODUCED BY: *M. N. W.*

17

BY REQUEST

S.B. NO. 951

Report Title:

Mortgage Loan Originators; Division of Financial Institutions; Chapter 454F; Secure and Fair Enforcement for Mortgage Licensing Act

Description:

Clarifies and updates requirements under chapter 454F, Hawaii Revised Statutes, for mortgage loan origination. Clarifies persons subject to criminal history disclosures and criminal history background checks on applications for licensure and change of control of the licensee, and when a person is presumed to control a mortgage loan originator company (MLOC). Clarifies responsibilities of a "qualified individual", amends the definition, and requires an exempt sponsoring MLOC to have a qualified individual and a principal place of business in the State. Clarifies supervisory requirements of nonprofit organizations under chapter 454F, Hawaii Revised Statutes, and when a nonprofit employee is exempt from registration and licensure as a mortgage loan originator. Clarifies the applicable fee for a criminal history background check. Defines "executive officer".

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

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JUSTIFICATION SHEET

DEPARTMENT: Commerce and Consumer Affairs

TITLE: A BILL FOR AN ACT RELATING TO MORTGAGE LOAN ORIGINATION.

PURPOSE: The purpose of this bill is to enhance the effectiveness of chapter 454F, Hawaii Revised Statutes (HRS), governing mortgage loan origination, by adding clarity and consistency to various provisions. To add a definition of "executive officer" and amend the definition of "qualified individual". To clarify persons subject to disclosure of their relevant criminal history and criminal history background checks on applications for licensure and change of control of the licensee. To clarify the applicable fee for a criminal history background check. To clarify persons presumed to control a mortgage loan originator company (MLOC) and responsibilities of a qualified individual. To require an exempt sponsoring MLOC to have a qualified individual and a principal place of business in the State. To clarify supervisory requirements of nonprofit organizations under chapter 454F, HRS, and when a nonprofit employee is exempt from registration and licensure as a mortgage loan originator.

MEANS: Amend sections 454F-1, 454F-1.6, 454F-1.7, 454F-4(d), 454F-5(b), 454F-10.5(a), 454F-10.7(b), 454F-18(b), 454F-22(a), (b), and (c), 454F-25, and 846-2.7(b), HRS.

JUSTIFICATION: MLOCs, exempt sponsoring MLOCs, nonprofit organizations and others originate billions of dollars of residential mortgage loans annually. Clarification of which persons will be subject to a criminal background check will improve compliance, regulatory oversight and the ability of the

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(Commissioner) to enforce chapter 454F, HRS.

Additionally, the fees collected for the criminal background check are collected for the government agency that conducts the criminal background check and are not retained by the Division of Financial Institutions. This measure would more closely tie the fee for a criminal background check under chapter 454F, HRS, to the agency conducting it.

Impact on the public: This bill will promote consumer protection with respect to the mortgage loan origination industry by providing the appropriate oversight required by federal law.

Impact on the department and other agencies: This measure will improve compliance, regulatory oversight and the Commissioner's ability to enforce chapter 454F, HRS.

GENERAL FUNDS: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: CCA-104.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: September 1, 2017.