

JAN 29 2015

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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 the existing  
2 definition of "sole proprietorship" under chapter 454F, Hawaii  
3 Revised Statutes, does not adequately reflect the structure of  
4 some businesses regulated by this chapter, as some licensees  
5 under chapter 454F, Hawaii Revised Statutes, may be the only  
6 licensee for a sole proprietorship but may operate in other  
7 allowed business organizations, such as a limited liability  
8 corporation.

9           The legislature further finds that current provisions in  
10 chapter 454F, Hawaii Revised Statutes, require offices to be  
11 open for the entirety of regular business hours. However, this  
12 requirement does not reflect the operations of the industry or  
13 meet the needs of customers and the public, who may prefer to  
14 meet out of the business location or outside of regular business  
15 hours.



1           The legislature additionally finds that the mortgage loan  
2 recovery fund was established in 2010 to bring the State into  
3 compliance with the federal Secure and Fair Enforcement for  
4 Mortgage Licensing Act of 2008. The fund was designed to  
5 protect the State's consumers by making it easier to recover  
6 losses caused by individuals or companies that violate the law  
7 governing fair mortgage practices. Initially, the goal was to  
8 collect and hold in reserve \$750,000. However, according to the  
9 most recent report to the legislature, there is now more than  
10 \$1,100,000 in the fund. The legislature finds that the target  
11 fund balance should be raised to \$1,000,000, but is concerned  
12 with the continued collection of fees, which have not been  
13 adjusted since the fund was established, to fund the balance  
14 beyond the \$1,000,000 target.

15           The purpose of this Act is to:

- 16           (1) Amend the definition of "sole proprietorship";  
17           (2) Clarify that mortgage loan originator companies may  
18           post language specifying that members of the public  
19           may be seen by appointment during posted business  
20           hours; and



1           (3) Raise the target balance of the mortgage loan recovery  
2           fund and require the insurance commissioner to adjust  
3           the assessed mortgage loan recovery fund fee once the  
4           target balance is reached.

5           SECTION 2. Section 454F-1, Hawaii Revised Statutes, is  
6           amended by amending the definition of "sole proprietorship" to  
7           read as follows:

8           ""Sole proprietorship" means a mortgage loan originator  
9           business that is solely and personally owned and operated by an  
10          individual mortgage loan originator [~~and where there is no~~  
11          ~~legal distinction between the individual business owner and the~~  
12          ~~business~~]."

13          SECTION 3. Section 454F-10.5, Hawaii Revised Statutes, is  
14          amended by amending subsection (g) to read as follows:

15          "(g) The principal place of business and each branch  
16          office of the mortgage loan originator company shall be  
17          identified in NMLS to consumers as a location at which the  
18          licensee holds itself out as a mortgage loan originator company.  
19          Each such location shall be open for business to the public  
20          during posted business hours [which]; provided that the mortgage  
21          loan originator company may also post language that specifies



1 that members of the public are seen by appointment during posted  
2 business hours. Posted business hours shall be during regular  
3 business hours. If a location is in a commercial building, then  
4 the business hours shall be posted on or adjacent to the main  
5 office door of the mortgage loan originator company's location,  
6 and visible to the public from outside the location. If a  
7 location is not in a commercial building, or such posting is not  
8 permitted by the commercial building, then the business hours  
9 shall be posted on the home page of the mortgage loan originator  
10 company's website, along with the address and phone number of  
11 the location. Business hours, whether posted at a location or  
12 on a mortgage loan originator company website, shall be  
13 displayed in a clear, conspicuous, and accurate manner to inform  
14 the consumer when the location will be open."

15 SECTION 4. Section 454F-41, Hawaii Revised Statutes, is  
16 amended by amending subsection (d) to read as follows:

17 "(d) When the mortgage loan recovery fund attains a  
18 funding level of [~~\$750,000,~~] \$1,000,000, the commissioner [~~may,~~  
19 ~~by rule adopted pursuant to chapter 91,~~] shall cease collection  
20 of mortgage loan recovery fees for renewing licensees until such  
21 time as the funding level falls below \$750,000. At that time,



1 the commissioner shall adjust the fees generated by renewals [ex  
 2 ~~may determine that payments made by renewing licensees shall~~  
 3 ~~ease.]~~ to replenish the fund to attain a funding level of at  
 4 least \$750,000 but no more than \$1,000,000. If the funding  
 5 level falls below \$250,000 after the first five years of the  
 6 establishment of the fund, the commissioner may adjust the fees  
 7 to a reasonable level for the purpose of attaining a funding  
 8 level of \$750,000."

9 SECTION 5. Statutory material to be repealed is bracketed  
 10 and stricken. New statutory material is underscored.

11 SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY:

*Phil Pearce*

*Randy H Baker*

~~*DC Keith Agan*~~

*Erzanne Chun Oakland*

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*Joselyn J*  
*will sign*

*T.B. D.D. Jk*



# S.B. NO. 1262

**Report Title:**

Secure and Fair Enforcement for Mortgage Licensing; Sole Proprietorship; Mortgage Loan Originator Companies; Business Hours; Mortgage Loan Recovery Fund

**Description:**

Amends the definition of "sole proprietorship". Clarifies that mortgage loan originator companies may post language specifying that members of the public may be seen by appointment during posted business hours. Raises the target balance of the mortgage loan recovery fund and requires the insurance commissioner to adjust the assessed mortgage loan recovery fund fee once the target balance is reached.

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

