

JAN 23 2015

---

---

# A BILL FOR AN ACT

RELATING TO 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 to expand the pool of  
3 potential buyers for residential real property and provide  
4 buyers with an opportunity to purchase a home that would  
5 otherwise be out of reach, especially if they do not qualify for  
6 a traditional mortgage loan.

7           The legislature also finds that the Secure and Fair  
8 Enforcement for Mortgage Licensing Act under chapter 454F,  
9 Hawaii Revised Statutes, requires the licensing of mortgage loan  
10 originators who are in the business of offering, negotiating, or  
11 handling residential mortgage loans. Act 198, Session Laws of  
12 Hawaii 2014, repealed the licensing and regulatory exemption for  
13 any individual who offers or negotiates the terms of a  
14 residential mortgage loan with or on behalf of an immediate  
15 family member or for their own residence, including a vacation  
16 home, or an inherited dwelling. These amendments have



1 discouraged seller financing for residential mortgage loans  
2 involving the seller's own residence or their immediate family  
3 members by imposing licensing and other requirements of chapter  
4 454F, Hawaii Revised Statutes, on these transactions.

5 The purpose of this Act is to facilitate seller financing  
6 for residential property by restoring the exemptions from the  
7 Secure and Fair Enforcement for Mortgage Licensing Act for  
8 individuals who offer or negotiate the terms of a residential  
9 mortgage loan:

- 10 (1) With or on behalf of an immediate family member; or
- 11 (2) For the individual's own residence, including a  
12 vacation home, or an inherited dwelling if the  
13 individual does not provide seller financing more than  
14 three times each calendar year.

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

17 "**§454F-2 Exemptions.** This chapter shall not apply to the  
18 following:

- 19 (1) Any individual who offers or negotiates terms of a  
20 residential mortgage loan with, or on behalf of, an  
21 immediate family member of the individual;



1        (2) 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, including a  
4        vacation home, or inherited property that served as  
5        the deceased's dwelling; provided that the individual  
6        does not act as a mortgage loan originator or provide  
7        financing for such sales more than three times in a  
8        calendar year;

9        [~~1~~] (3) An exempt registered mortgage loan originator  
10        when acting for an insured depository institution or  
11        an institution regulated by the Farm Credit  
12        Administration;

13        [~~2~~] (4) A licensed attorney who negotiates the terms of a  
14        residential mortgage loan on behalf of a client as an  
15        ancillary matter to the attorney's representation of  
16        the client unless the attorney is compensated by a  
17        lender, a mortgage loan originator company, or other  
18        mortgage loan originator or by an agent of a lender,  
19        mortgage loan originator company, or other mortgage  
20        loan originator;



1       ~~[(3)]~~ (5) A person or entity that only performs real estate  
2                   brokerage activities and is licensed or registered by  
3                   the State unless the person or entity is compensated  
4                   by a lender, a mortgage loan originator company, or  
5                   other mortgage loan originator or by an agent of the  
6                   lender, mortgage loan originator company, or other  
7                   mortgage loan originator;

8       ~~[(4)]~~ (6) A person or entity solely involved in extensions  
9                   of credit relating to timeshare plans, as the term is  
10                  defined in title 11 United States Code section  
11                  101(53D);

12       ~~[(5)]~~ (7) An exempt sponsoring mortgage loan originator  
13                  company as defined by this chapter except as otherwise  
14                  provided by this chapter;

15       ~~[(6)]~~ (8) An insured depository institution;

16       ~~[(7)]~~ (9) An institution regulated by the Farm Credit  
17                  Administration;

18       ~~[(8)]~~ (10) Employees of government agencies or of housing  
19                  finance agencies who act as mortgage loan originators;  
20                  or



1        [~~9~~] (11) A mortgage servicer company that is exempt from  
2                    chapter 454M, pursuant to section 454M-3."

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

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

6

INTRODUCED BY:

~~SC. Tech. Comm.~~  
J. Ali G. G. G.



# S.B. NO. 474

**Report Title:**

Secure and Fair Enforcement for Mortgage Licensing Act;  
Residential Mortgage Loans; Seller Financing

**Description:**

Restores the exemptions from the Secure and Fair Enforcement for Mortgage Licensing Act for individuals who offer or negotiate the terms of a residential mortgage loan with or on behalf of an immediate family member or for the individual's own residence.

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

