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# A BILL FOR AN ACT

RELATING TO MORTGAGE LOAN ORIGINATORS.

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

1           SECTION 1. The Hawaii Revised Statutes is amended by  
2 adding a new chapter to title 22 to be appropriately designated  
3 and to read as follows:

4   **"CHAPTER**

5   **MORTGAGE BROKERS AND LOAN ORIGINATORS**

6           §   -1 **Definitions.** In this chapter, unless the context  
7 or subject matter otherwise requires:

8           "Advertisement" or "advertising" means:

- 9           (1) Issuing any card, sign, or device to any person;
- 10           (2) Causing, permitting, or allowing the placement of any  
11           sign or marking on or in any building, vehicle, or  
12           structure;
- 13           (3) Placing an advertisement in any newspaper, magazine,  
14           or on the Internet;
- 15           (4) Listing or advertising in any directory under a  
16           classification or heading that includes the words  
17           "mortgage loan originator", or the like;

- 1 (5) Broadcasting commercials by airwave or internet
- 2 transmission; or
- 3 (6) Transmitting any written communication, including:
- 4 (A) A letter or a postcard that encourages a person
- 5 to borrow from or through a mortgage loan
- 6 originator; or
- 7 (B) A written communication that encourages a person
- 8 to refinance the person's existing residential
- 9 mortgage loan and mentions that a new residential
- 10 mortgage loan will reduce the monthly payment the
- 11 borrower will pay on the new residential mortgage
- 12 loan or reduce the interest rate on the
- 13 borrower's existing residential mortgage loan.

14 "Agent" means a person who acts with the consent and on  
15 behalf of a mortgage loan originator, and is subject to the  
16 mortgage loan originator's direct control.

17 "Applicant" means a person applying for the issuance of a  
18 license or a renewal of a license under this chapter.

19 "Borrower" means a person who has applied for or obtained a  
20 residential mortgage loan from or through a mortgage loan  
21 originator, or from or through a person required to be licensed  
22 as a mortgage loan originator under this chapter.

1 "Clerical or support duties" include the following  
2 activities subsequent to the receipt of an application:

- 3 (1) The receipt, collection, distribution, and analysis of  
4 information for the processing or underwriting of a  
5 residential mortgage loan; and  
6 (2) Communication with a borrower to obtain the  
7 information necessary for the processing or  
8 underwriting of a loan, to the extent that the  
9 communication does not include offering or negotiating  
10 loan rates or terms or counseling borrowers about  
11 residential mortgage loan rates or terms.

12 "Commissioner" means the commissioner of financial  
13 institutions.

14 "Federal banking agencies" means the Board of Governors of  
15 the Federal Reserve System, the Comptroller of the Currency, the  
16 Office of Thrift Supervision, the National Credit Union  
17 Administration, and the Federal Deposit Insurance Corporation.

18 "Immediate family member" means a spouse, child, sibling,  
19 parent, grandparent, grandchild, stepparent, stepchild,  
20 stepsibling, and equivalent adoptive relationships.

21 "Insured depository institution" means the same as in 12  
22 U.S.C. section 1813(c)(2); provided that it also includes any

1 credit union whose deposits are insured by the National Credit  
2 Union Association.

3 "Loan processor or underwriter" means an individual who  
4 performs clerical or support duties as an employee at the  
5 direction of and subject to the supervision and instruction of a  
6 mortgage loan originator or a person who is exempt from  
7 licensing as a mortgage loan originator under this chapter.

8 "Mortgage loan origination agreement" means a written  
9 agreement under which a mortgage loan originator agrees to  
10 obtain a residential mortgage loan for the borrower or assist  
11 the borrower in obtaining a residential mortgage loan and does  
12 not include a promissory note and mortgage or any other document  
13 or instrument evidencing or securing the residential mortgage  
14 loan.

15 "Mortgage loan originator" means an individual who for  
16 compensation or gain or in the expectation of compensation or  
17 gain:

- 18 (1) Takes a residential mortgage loan application; or  
19 (2) Offers or negotiates terms of a residential mortgage  
20 loan.

21 "Nationwide Mortgage Licensing System" means a mortgage  
22 licensing system developed and maintained by the Conference of

1 State Bank Supervisors and the American Association of  
2 Residential Mortgage Regulators for the licensing and  
3 registration of licensed mortgage loan originators.

4 "Nontraditional mortgage product" means any mortgage  
5 product other than a thirty-year fixed rate residential mortgage  
6 loan where the interest rate is fixed for the thirty-year term.

7 "Person" means an individual, sole proprietorship,  
8 partnership, corporation, limited liability company, limited  
9 liability partnership, or other association of individuals,  
10 however organized.

11 "Real estate brokerage activity" means any activity that  
12 involves offering or providing real estate brokerage services to  
13 the public, including:

- 14 (1) Acting as a real estate agent or real estate broker  
15 for a buyer, seller, lessor, or lessee of real  
16 property;
- 17 (2) Bringing together parties interested in the sale,  
18 purchase, lease, rental, or exchange of real property;
- 19 (3) Negotiating on behalf of any party, any portion of a  
20 contract relating to the sale, purchase, lease,  
21 rental, or exchange of real property other than in

1 connection with providing financing with respect to  
2 any such transaction;

3 (4) Engaging in any activity for which a person is  
4 required to be registered or licensed as a real estate  
5 agent or real estate broker by the State; and

6 (5) Offering to engage in any activity, or act in any  
7 capacity, described in paragraphs (1), (2), (3), or  
8 (4).

9 "Registered mortgage loan originator" means any individual  
10 who:

11 (1) Meets the definition of mortgage loan originator and  
12 is an employee of

13 (A) An insured depository institution;

14 (B) A subsidiary that is

15 (i) Owned and controlled by an insured  
16 depository institution; and

17 (ii) Regulated by a federal banking agency; or

18 (C) An institution regulated by the Farm Credit  
19 Administration; and

20 (2) Is registered with, and maintains a unique identifier  
21 through, the Nationwide Mortgage Licensing System and  
22 Registry.

1 "Residential mortgage loan" means any loan primarily for  
2 personal, family, or household use that is secured by a  
3 mortgage, deed of trust, or other equivalent consensual security  
4 interest on a dwelling as defined in section 103(v) of the Truth  
5 in Lending Act, 15 United States Code 1601 et seq, or  
6 residential real estate.

7 "Residential real estate" means any real property located  
8 in this State, upon which a dwelling is constructed or intended  
9 to be constructed.

10 "Unique identifier" means a number or other identifier  
11 assigned by protocols established by the Nationwide Mortgage  
12 Licensing System.

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

- 15 (1) A registered mortgage loan originator, when acting for  
16 an insured depository institution, a subsidiary of an  
17 insured depository institution regulated by a federal  
18 banking agency, or an institution regulated by the  
19 Farm Credit 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 broker, or other mortgage loan  
9 originator or by an agent of a lender, mortgage  
10 broker, or other mortgage loan originator;
- 11 (5) An individual engaging solely in loan processor or  
12 underwriter activities; provided that an individual,  
13 including an independent contractor, who performs the  
14 services of a loan processor or underwriter shall not  
15 represent to the public, through advertising or other  
16 means of communicating or providing information,  
17 including the use of business cards, stationery,  
18 brochures, signs, rate lists, or other promotional  
19 items, that the individual can or will perform any of  
20 the activities of a mortgage loan originator, and any  
21 loan processor or underwriter, including an  
22 independent contractor, who advertises that the



1 individual can or will perform any of the activities  
2 of a mortgage loan originator or engages in the  
3 activities of a mortgage loan originator shall not be  
4 exempt under this chapter and shall obtain and  
5 maintain a license under this chapter and a valid  
6 unique identifier issued by the Nationwide Mortgage  
7 Licensing System;

8 (6) A person or entity that only performs real estate  
9 brokerage activities and is licensed or registered by  
10 the State unless the person or entity is compensated  
11 by a lender, a mortgage broker, or other mortgage loan  
12 originator or by an agent of the lender, mortgage  
13 broker, or other mortgage loan originator; or

14 (7) A person or entity solely involved in extensions of  
15 credit relating to timeshare plans, as the term is  
16 defined in section 101(53D) of Title 11, United States  
17 Code.

18 § -3 **Requirement of licensure.** An individual, unless  
19 specifically exempted from this chapter, shall not engage in the  
20 business of a mortgage loan originator with respect to any  
21 dwelling located in this State without first obtaining and  
22 maintaining annually, a license under this chapter. Each

1 licensed mortgage loan originator shall register with, and  
2 maintain a valid unique identifier issued by the Nationwide  
3 Mortgage Licensing System and shall submit to the Nationwide  
4 Mortgage Licensing System any reports that shall be in a form  
5 and contain information as the Nationwide Mortgage Licensing  
6 System may require.

7       §   -4   **License and registration; application; issuance.**

8       (a) Applicants for a license shall apply in a form as  
9 prescribed by the commissioner.

10       (b) To fulfill the purposes of this chapter, the  
11 commissioner shall establish relationships or contracts with the  
12 Nationwide Mortgage Licensing System or other entities  
13 designated by the Nationwide Mortgage Licensing System to  
14 collect and maintain records and process transaction fees or  
15 other fees related to licensees or other persons subject to this  
16 chapter.

17       (c) For the purpose and the extent necessary to  
18 participate in the Nationwide Mortgage Licensing System, the  
19 commissioner may waive or modify, in whole or in part, by rule  
20 or order, any or all of the requirements of this chapter and to  
21 establish new requirements as reasonably necessary to  
22 participate in the Nationwide Mortgage Licensing System.

1 (d) In connection with an application for licensing as a  
2 mortgage loan originator, the applicant, at a minimum, shall  
3 furnish to the Nationwide Mortgage Licensing System information  
4 concerning the applicant's identity, including:

5 (1) Fingerprints for submission to the Federal Bureau of  
6 Investigation, and any governmental agency or entity  
7 authorized to receive the fingerprints for a state,  
8 national, and international criminal history  
9 background check; and

10 (2) Personal history and experience in a form prescribed  
11 by the Nationwide Mortgage Licensing System including  
12 the submission of authorization for the Nationwide  
13 Mortgage Licensing System and the commissioner to  
14 obtain:

15 (A) An independent credit report obtained from a  
16 consumer reporting agency described in section  
17 603(p) of the Fair Credit Reporting Act, 15  
18 United States Code 1681 et seq; and

19 (B) Information related to any administrative, civil,  
20 or criminal findings by any governmental  
21 jurisdiction.

1           (e) The commissioner may use the Nationwide Mortgage  
2 Licensing System as an agent for requesting information from and  
3 distributing information to the Department of Justice or any  
4 governmental agency.

5           (f) The commissioner may use the Nationwide Mortgage  
6 Licensing System as an agent for requesting and distributing  
7 information to and from any source directed by the commissioner.

8           § -5 **Issuance of license.** The commissioner shall not  
9 issue a mortgage loan originator license unless the commissioner  
10 makes at a minimum the following findings:

11           (1) The applicant has never had a mortgage loan originator  
12 license revoked in any jurisdiction; provided that a  
13 subsequent formal vacation of a revocation shall not  
14 be deemed a revocation;

15           (2) The applicant has not been convicted of, or pled  
16 guilty or nolo contendere, or been granted a deferred  
17 acceptance of a guilty plea under chapter 853 to a  
18 felony in a domestic, foreign, or military court:

19           (A) During the seven-year period preceding the date  
20 of the application for licensing and  
21 registration; or

1 (B) At any time preceding the date of application, if  
2 the felony involved an act of fraud, dishonesty,  
3 breach of trust, or money laundering;

4 provided that any pardon of a conviction shall not be  
5 deemed a conviction for purposes of this section;

6 (3) The applicant has demonstrated financial  
7 responsibility, character, and general fitness to  
8 command the confidence of the community and to warrant  
9 a determination that the mortgage loan originator  
10 shall operate honestly, fairly, and efficiently  
11 pursuant to this chapter.

12 For purposes of this section, a person is not  
13 financially responsible when the person has shown a  
14 disregard in the management of the person's financial  
15 condition. A determination that an individual has not  
16 shown financial responsibility may be based on:

17 (A) Current outstanding judgments, except judgments  
18 solely as a result of medical expenses;

19 (B) Current outstanding tax liens or other government  
20 liens and filings;

21 (C) Foreclosures within the past three years; and

- 1 (D) A pattern of seriously delinquent accounts within
- 2 the past three years;
- 3 (4) The applicant has completed the pre-licensing
- 4 education requirement described in section -6;
- 5 (5) The applicant has passed a written test that meets the
- 6 test requirements in section -7; and
- 7 (6) The applicant has met the surety bond requirement as
- 8 required in section -13.

9 § -6 **Pre-licensing and re-licensing; education of**  
10 **mortgage loan originators.** (a) A person shall complete at  
11 least twenty hours of pre-licensing education approved in  
12 accordance with subsection (b) that includes:

- 13 (1) Three hours of federal law and regulations;
- 14 (2) Three hours of ethics, that shall include instruction
- 15 on fraud, consumer protection, and fair lending
- 16 issues; and
- 17 (3) Two hours of training related to lending standards for
- 18 the nontraditional mortgage product marketplace.

19 (b) Pre-licensing education courses shall be reviewed and  
20 approved by the Nationwide Mortgage Licensing System based upon  
21 reasonable standards. Review and approval of a pre-licensing

1 education course shall include review and approval of the course  
2 provider.

3 (c) Nothing in this section shall prohibit the use of any  
4 pre-licensing education course approved by the Nationwide  
5 Mortgage Licensing System that is provided by the employer of  
6 the applicant, an entity that is affiliated with the applicant  
7 by an agency contract, or any subsidiary or affiliate of the  
8 employer or entity.

9 (d) Pre-licensing education may be offered either in a  
10 classroom, online, or by any other means approved by the  
11 Nationwide Mortgage Licensing System.

12 (e) The pre-licensing education requirements approved by  
13 the Nationwide Mortgage Licensing System in subsection (a) for  
14 any state shall be accepted as credit towards completion of pre-  
15 licensing education requirements in this State.

16 (f) A person previously licensed under this chapter and  
17 applying to be licensed under this chapter shall prove to the  
18 satisfaction of the commissioner that the person has completed  
19 all of the continuing education requirements for the year in  
20 which the license was last held.

21 **§ -7 Testing of mortgage loan originators.** (a) In order  
22 to meet the passing of the written test requirement in section

1 -5, an applicant shall pass, in accordance with the standards  
2 established under this section, a qualified written test  
3 developed by the Nationwide Mortgage Licensing System and  
4 administered by a test provider approved by the Nationwide  
5 Mortgage Licensing System based upon reasonable standards.

6 (b) A written test shall not be treated as a qualified  
7 written test for purposes of subsection (a) unless the test  
8 adequately measures the applicant's knowledge and comprehension  
9 in appropriate subject areas, including:

- 10 (1) Ethics;
- 11 (2) Federal law and regulations pertaining to mortgage  
12 origination;
- 13 (3) State law and rules pertaining to mortgage  
14 origination; and
- 15 (4) Federal and state law, rules and regulations,  
16 including instruction on fraud, consumer protection,  
17 the nontraditional mortgage marketplace, and fair  
18 lending issues.

19 (c) Nothing in this section shall prohibit a test provider  
20 approved by the Nationwide Mortgage Licensing System from  
21 providing a test at the location of the employer of the  
22 applicant, the location of any subsidiary or affiliate of the



1 employer of the applicant, or the location of any entity with  
2 which the applicant holds an exclusive arrangement to conduct  
3 the business of a mortgage loan originator.

4 (d) An individual shall have passed a qualified written  
5 test if the individual achieves a test score of seventy-five per  
6 cent of the correct answers to questions or better. An  
7 individual may retake a test three consecutive times with each  
8 consecutive taking occurring at least thirty days after the  
9 preceding test. After failing three consecutive tests, an  
10 individual shall wait at least six months before taking the test  
11 again. A licensed mortgage loan originator who fails to  
12 maintain a valid license for a period of five years or longer  
13 not taking into account any time during which the individual is  
14 a registered mortgage loan originator, shall retake the test.

15 § -8 **Standards for license renewal.** (a) The minimum  
16 standards for license renewal for mortgage loan originators  
17 shall include the following:

18 (1) The mortgage loan originator continues to meet the  
19 minimum standards for licensure under section -5;

20 (2) The mortgage loan originator has satisfied the annual  
21 continuing education requirements in section -9;

22 and

1 (3) The mortgage loan originator has paid all required  
2 fees for renewal of the license.

3 (b) The license of a mortgage loan originator who fails to  
4 satisfy the minimum standards for license renewal shall expire.  
5 The commissioner may adopt procedures for the reinstatement of  
6 expired licenses consistent with the standards established by  
7 the Nationwide Mortgage Licensing System.

8 **§ -9 Continuing education; mortgage loan originators.**

9 (a) Each year, a licensed mortgage loan originator shall  
10 complete at least eight hours of education approved in  
11 accordance with subsection (b) that shall include at least:

- 12 (1) Three hours of federal law and regulations;  
13 (2) Two hours of ethics that shall include instruction on  
14 fraud, consumer protection, and fair lending issues;  
15 and  
16 (3) Two hours of training related to lending standards for  
17 the nontraditional mortgage product marketplace.

18 (b) For purposes of subsection (a), continuing education  
19 courses shall be reviewed and approved by the Nationwide  
20 Mortgage Licensing System based upon reasonable standards.  
21 Review and approval of a continuing education course shall  
22 include review and approval of the course provider.

1 (c) Nothing in this section shall prohibit the use of any  
2 education course that is approved by the Nationwide Mortgage  
3 Licensing System and provided by the employer of the mortgage  
4 loan originator, an entity that is affiliated with the mortgage  
5 loan originator by an agency contract, or any subsidiary or  
6 affiliate of the employer or entity.

7 (d) Continuing education may be offered either in a  
8 classroom, online, or by any other means approved by the  
9 nationwide mortgage licensing system and registry.

10 (e) A licensed mortgage loan originator:

11 (1) May only receive credit for a continuing education  
12 course in the year in which the course is taken,  
13 except for continuing education credits received  
14 pursuant to this chapter; and

15 (2) May not take the same approved course in the same or  
16 successive years to meet the annual requirements for  
17 continuing education.

18 (f) A licensed mortgage loan originator who is an approved  
19 instructor of an approved continuing education course may  
20 receive credit for the course taught at the rate of two hours  
21 credit for every one hour taught.

1 (g) Continuing education courses as described in  
2 subsection (a) and approved by the Nationwide Mortgage Licensing  
3 System for any state, that are successfully completed by a  
4 licensed mortgage originator, shall be accepted as credit  
5 towards completion of continuing education requirements in this  
6 State.

7 (h) A licensed mortgage loan originator who subsequently  
8 becomes unlicensed shall complete the continuing education  
9 requirements for the last year in which the license was held  
10 prior to issuance of a new or renewed license.

11 (i) A person meeting the requirements of  
12 section -8(a)(1) and (3) may make up any deficiency in  
13 continuing education as established by rule adopted by the  
14 commissioner.

15 § -10 **Authority to require license.** In addition to any  
16 other duties imposed upon the commissioner, the commissioner  
17 shall require mortgage loan originators to be licensed and  
18 registered through the Nationwide Mortgage Licensing System.  
19 The commissioner is authorized to participate in the Nationwide  
20 Mortgage Licensing System. The commissioner may establish by  
21 rule pursuant to chapter 91, requirements for mortgage loan  
22 originators, including:

- 1 (1) Background checks of:
- 2 (A) Criminal history through fingerprint or other
- 3 databases;
- 4 (B) Civil or administrative records;
- 5 (C) Credit history; and
- 6 (D) Any other source deemed necessary by the
- 7 nationwide mortgage licensing system and
- 8 registry;
- 9 (2) Fees to apply for or renew licenses through the
- 10 Nationwide Mortgage Licensing System;
- 11 (3) The setting or resetting as necessary of license
- 12 renewal and reporting dates;
- 13 (4) Requirements for amending or surrendering a license;
- 14 and
- 15 (5) Any other activity the commissioner deems necessary to
- 16 participate in the Nationwide Mortgage Licensing
- 17 System.

18 § -11 **Nationwide Mortgage Licensing System; registry**

19 **information; challenge process.** The commissioner shall

20 establish a process by rule pursuant to chapter 91 whereby

21 mortgage loan originators may challenge information entered into

22 the Nationwide Mortgage Licensing System by the commissioner.

1           §   -12   **Enforcement authorities; violations; penalties.**

2   (a) In order to ensure the effective supervision and enforcement  
3 of this chapter, the commissioner may, pursuant to chapter 91:

4           (1) Deny, suspend, revoke, condition, or decline to renew  
5               a license because of a violation of this chapter,  
6               rules, an order, or a directive entered under this  
7               chapter;

8           (2) Deny, suspend, revoke, condition, or decline to renew  
9               a license if an applicant or licensed mortgage loan  
10              originator fails at any time to meet the requirements  
11              of section     -6 or section     -8, or withholds  
12              information or makes a material misstatement in an  
13              application for a license or renewal of a license;

14           (3) Order restitution against persons subject to this  
15              chapter for violations of this chapter;

16           (4) Impose fines on persons subject to this chapter; and

17           (5) Issue orders or directives under this chapter as  
18              follows:

19               (A) Order or direct persons subject to this chapter  
20                   to cease and desist from conducting business,  
21                   including immediate temporary orders to cease and  
22                   desist;

1 (B) Order or direct persons subject to this chapter  
2 to cease any harmful activities or violations of  
3 this chapter, including immediate temporary  
4 orders to cease and desist;

5 (C) Enter immediate temporary orders to cease doing  
6 business under a license or interim license  
7 issued pursuant to the authority granted under  
8 this chapter if the commissioner determines that  
9 the license was erroneously granted or the  
10 licensee is currently in violation of this  
11 chapter; or

12 (D) Order or direct any other affirmative action as  
13 the commissioner deems necessary.

14 (b) The commissioner may impose a civil penalty on a  
15 mortgage loan originator or person subject to this chapter if  
16 the commissioner finds on the record after notice and  
17 opportunity for hearing that the mortgage loan originator or  
18 person subject to this chapter has violated or failed to comply  
19 with any requirement of this chapter or any rule prescribed by  
20 the commissioner under this chapter or order issued under the  
21 authority of this chapter.

1 (c) The maximum penalty for each act or omission described  
2 in subsection (b) shall be \$25,000.

3 (d) Each violation or failure to comply with any directive  
4 or order of the commissioner shall be a separate and distinct  
5 violation.

6 § -13 **Surety bond; required.** (a) Each mortgage loan  
7 originator shall be covered by a surety bond in accordance with  
8 this section. In the event that the mortgage loan originator is  
9 an employee or exclusive agent of a person subject to this  
10 chapter, the surety bond of the person may be used in lieu of  
11 the mortgage loan originator's surety bond.

12 (b) The surety bond shall provide coverage for each  
13 mortgage loan originator in an amount prescribed in subsection

14 (c). The surety bond shall be in a form as prescribed by the  
15 commissioner. The commissioner may adopt rules with respect to  
16 the requirements for the surety bonds necessary to accomplish  
17 the purposes of this chapter.

18 (c) The penal sum of the surety bond shall be maintained  
19 in an amount that reflects the dollar amount of loans originated  
20 as determined by the commissioner.

21 (d) When an action is commenced on a licensee's bond, the  
22 commissioner may require the filing of a new bond.



1 (e) Immediately upon recovery of any action on the bond,  
2 the commissioner may require the filing of a new bond.

3 § -14 Confidentiality. (a) Except as otherwise  
4 provided in Public Law 110-289, section 1512, the requirements  
5 under any federal law regarding the privacy or confidentiality  
6 of any information or material provided to the Nationwide  
7 Mortgage Licensing System, and any privilege arising under  
8 federal or state law, including the rules of any federal or  
9 state court, with respect to the information or material shall  
10 continue to apply to the information or material after the  
11 information or material has been disclosed to the Nationwide  
12 Mortgage Licensing System. The information and material may be  
13 shared with all state and federal regulatory officials with  
14 mortgage industry oversight authority without the loss of  
15 privilege or the loss of confidentiality protections provided by  
16 federal or state law.

17 (b) For these purposes, the commissioner is authorized to  
18 enter into agreements or sharing arrangements with other  
19 governmental agencies, the Conference of State Bank Supervisors,  
20 the American Association of Residential Mortgage Regulators, or  
21 other associations representing governmental agencies as  
22 established by rule or order of the commissioner.

1 (c) Information or material that is subject to a privilege  
2 or confidentiality under subsection (a) shall not be subject to:

3 (1) Disclosure under any federal or state law governing  
4 the disclosure to the public of information held by an  
5 officer or an agency of the federal government or a  
6 state; or

7 (2) Subpoena or discovery, or admission into evidence, in  
8 any private civil action or administrative process,  
9 unless with respect to any privilege held by the  
10 Nationwide Mortgage Licensing System is applicable to  
11 the information or material; provided that the person  
12 to whom the information or material pertains waives,  
13 in whole or in part, that privilege.

14 (d) Notwithstanding chapter 92F, the examination process  
15 and related information and documents, including the reports of  
16 examination, are confidential and are not subject to discovery  
17 or disclosure in civil or criminal lawsuits.

18 (e) Notwithstanding any law to the contrary, the  
19 disclosure of confidential supervisory information or any  
20 information or material described in subsection (a) that is  
21 inconsistent with subsection (c) shall be superseded by the  
22 requirements of this section.

1 (f) This section shall not apply to information or  
2 material relating to the employment history of, and publicly  
3 adjudicated disciplinary and enforcement actions against,  
4 mortgage loan originators that are included in the Nationwide  
5 Mortgage Licensing System for access by the public.

6 § -15 **Investigation and examination authority.** (a) In  
7 addition to any other authority under this chapter, the  
8 commissioner shall have the authority to conduct investigations  
9 and examinations. The commissioner may access, receive, and use  
10 any books, accounts, records, files, documents, information, or  
11 evidence including but not limited to:

12 (1) Criminal, civil, and administrative history  
13 information, including nonconviction data under  
14 chapter 853;

15 (2) Personal history and experience information including  
16 independent credit reports obtained from a consumer  
17 reporting agency described in section 603(p) of the  
18 Fair Credit Reporting Act; and

19 (3) Any other documents, information, or evidence the  
20 commissioner deems relevant to the inquiry or  
21 investigation, regardless of the location, possession,

1 control, or custody of the documents, information, or  
2 evidence.

3 (b) For the purposes of investigating violations or  
4 complaints arising under this chapter, or for the purposes of  
5 examination, the commissioner may review, investigate, or  
6 examine any licensed mortgage loan originator, individual, or  
7 person subject to this chapter, as often as necessary in order  
8 to carry out the purposes of this chapter. The commissioner may  
9 direct, subpoena, or order the attendance of, and examine under  
10 oath all persons whose testimony may be required about loans or  
11 the business or subject matter of any examination or  
12 investigation, and may direct, subpoena, or order the person to  
13 produce books, accounts, records, files, and any other documents  
14 the commissioner deems relevant to the inquiry.

15 (c) Each licensed mortgage loan originator, individual, or  
16 person subject to this chapter shall provide to the commissioner  
17 upon request, the books and records relating to the operations  
18 of the licensee, individual, or person subject to this chapter.  
19 The commissioner shall have access to the books and records and  
20 shall be permitted to interview the officers, principals,  
21 mortgage loan originators, employees, independent contractors,  
22 agents, and customers of the licensed mortgage loan originator,

1 individual, or person subject to this chapter concerning their  
2 business.

3 (d) Each licensed mortgage loan originator, individual, or  
4 person subject to this chapter shall make or compile reports or  
5 prepare other information as directed by the commissioner in  
6 order to carry out the purposes of this section including but  
7 not limited to:

8 (1) Accounting compilations;

9 (2) Information lists and data concerning loan  
10 transactions in a format prescribed by the  
11 commissioner; or

12 (3) Other information deemed necessary to carry out the  
13 purposes of this section.

14 (e) The commissioner may charge an examination fee based  
15 upon the cost per hour per examiner for all mortgage loan  
16 originators examined by the commissioner or the commissioner's  
17 staff. The hourly fee shall be \$40 or an amount as the  
18 commissioner shall establish by rule pursuant to chapter 91.

19 § -16 **Written agreements.** (a) For any transaction  
20 between a mortgage loan originator and a borrower, the following  
21 requirements shall apply:

- 1           (1) A mortgage loan originator shall comply with all  
2           provisions of the Real Estate Settlement Procedures  
3           Act, the Truth in Lending Act, and the Equal Credit  
4           Opportunity Act, as those laws currently exist or as  
5           they may be amended;
- 6           (2) Any written commitment letter to make a residential  
7           mortgage loan with specified terms, including loan  
8           amount, interest rate, points, and payment terms that  
9           is issued by a mortgage loan originator and accepted  
10          by a borrower, shall be honored by the mortgage loan  
11          originator if the borrower has completely satisfied  
12          all of the conditions of the commitment in a timely  
13          manner and prior to the specified expiration date of  
14          the commitment. A written commitment letter shall  
15          specify the conditions precedent to closing the  
16          residential mortgage loan and the lender that has the  
17          ultimate authority to fund and close the residential  
18          mortgage loan;
- 19          (3) Within three business days of receipt of a borrower's  
20          completed residential mortgage loan application by the  
21          licensee, and before the borrower gives the mortgage  
22          loan originator any moneys except for an application

1 fee, the mortgage loan originator shall sign a  
2 mortgage brokerage agreement with the borrower. The  
3 mortgage brokerage agreement shall be with the person  
4 employing the mortgage loan originator or the mortgage  
5 loan originator if the mortgage loan originator is not  
6 an employee. The mortgage brokerage agreement shall  
7 be in writing and signed and dated by both the  
8 borrower and the mortgage loan originator. The  
9 mortgage brokerage agreement shall include a clear and  
10 conspicuous statement:

- 11 (A) Explaining that a copy shall be made available  
12 upon request, to the borrower or the borrower's  
13 attorney for review prior to signing;
- 14 (B) Explaining whether the mortgage loan originator  
15 is a fiduciary for the borrower;
- 16 (C) Explaining the nature of the mortgage loan  
17 originator's compensation, and if the mortgage  
18 loan originator is an employee, explaining the  
19 compensation of the person that the mortgage loan  
20 originator is employed by, and whether the  
21 mortgage loan originator may receive compensation  
22 from the borrower, the lender, or both;

- 1 (D) Describing the services the mortgage loan  
2 originator will perform for the borrower;
- 3 (E) Setting forth the conditions under which the  
4 borrower is obligated to pay fees to the mortgage  
5 loan originator, the manner in which the borrower  
6 may cancel the mortgage brokerage agreement, the  
7 borrower's liabilities for fees and costs, and  
8 the mortgage loan originator's contact  
9 information for dispute resolution; and
- 10 (F) Explaining that if the mortgage loan originator  
11 makes materially false or misleading statements  
12 or omissions in the mortgage brokerage agreement,  
13 the borrower, upon written notice, may void the  
14 mortgage brokerage agreement and recover moneys  
15 paid to the mortgage loan originator by the  
16 borrower for which no services have been  
17 performed.

18 (b) A copy of the fully signed mortgage brokerage  
19 agreement shall be given to the borrower by the mortgage loan  
20 originator immediately after signing the mortgage brokerage  
21 agreement.



1           §    **-17 Mortgage call reports.** Each licensed mortgage  
2 originator shall submit to the Nationwide Mortgage Licensing  
3 System reports of condition, which shall be in such form and  
4 contain such information as the Nationwide Mortgage Licensing  
5 System may require.

6           §    **-18 Prohibited practices.** It shall be a violation of  
7 this chapter for a mortgage loan originator to:

- 8           (1) Directly or indirectly employ any scheme, device, or  
9           artifice to defraud or mislead borrowers or lenders or  
10           to defraud any person;
- 11           (2) Engage in any unfair or deceptive practice toward any  
12           person;
- 13           (3) Obtain property by fraud or misrepresentation;
- 14           (4) Solicit or enter into any contract with a borrower  
15           that provides in substance that the person or  
16           individual subject to this chapter may earn a fee of  
17           commission through "best efforts" to obtain a loan  
18           even though no loan in actually obtained for the  
19           borrower;
- 20           (5) Solicit, advertise, or enter into a contract for  
21           specific interest rates, points, or other financing

- 1 terms unless the terms are actually available at the  
2 time of soliciting, advertising, or contracting;
- 3 (6) Conduct any business covered by this chapter without  
4 holding a valid license as required under this  
5 chapter, or assist or aid and abet any person in the  
6 conduct of business under this chapter without a valid  
7 license as required under this chapter;
- 8 (7) Fail to make disclosures as required by this chapter  
9 and any other applicable state or federal law  
10 including rules or regulations thereunder;
- 11 (8) Fail to comply with this chapter or rules adopted  
12 under this chapter, or fail to comply with any other  
13 state or federal law, including the rules and  
14 regulations adopted thereunder, applicable to any  
15 business authorized or conducted pursuant to this  
16 chapter;
- 17 (9) Make, in an manner, any false or deceptive statement  
18 or representation, including, with regard to the  
19 rates, points, or other financing terms or conditions  
20 for a residential mortgage loan, or engage in bait and  
21 switch advertising;

- 1 (10) Negligently make any false statement or knowingly and  
2 wilfully making any omission of material fact in  
3 connection with any information or reports filed with  
4 a governmental agency or the Nationwide Mortgage  
5 Licensing System or in connection with any  
6 investigation conducted by the commissioner or another  
7 government agency;
- 8 (11) Make any payment, threat, or promise, directly or  
9 indirectly, to any person for the purposes of  
10 influencing the independent judgment of the person in  
11 connection with a residential mortgage loan, or make  
12 any payment, threat, or promise, directly or  
13 indirectly, to any appraiser of a property for the  
14 purpose of influencing the independent judgment of the  
15 appraiser with respect to the value of a property;
- 16 (12) Collect, charge, attempt to collect or charge, or use  
17 or propose any agreement purporting to collect or  
18 charge any fee prohibited by this chapter;
- 19 (13) Cause or require a borrower to obtain property  
20 insurance coverage in an amount that exceeds the  
21 replacement cost of the improvements as established by  
22 the property owner;

- 1 (14) Fail to truthfully account for moneys belonging to a  
2 party to a residential mortgage loan transaction;
- 3 (15) Deliver a misleading or deceptive communication or  
4 advertising, whether written, electronic, or oral,  
5 when marketing or soliciting a residential mortgage  
6 loan. A communication or advertisement that uses the  
7 name or trademark of a financial institution as  
8 defined in section 412:1-109 or its affiliates or  
9 subsidiaries, or infers that the communication or  
10 advertisement is from, endorsed by, is related to, or  
11 is the responsibility of the financial institution is  
12 a misleading or deceptive communication. Advertising  
13 that a specific interest rate, points, or financial  
14 terms are available when the rates, points, or  
15 financial terms are not actually available is a  
16 misleading or deceptive communication;
- 17 (16) Solicit or arrange for a residential mortgage loan or  
18 engage in the activity of a mortgage loan originator  
19 as a direct result of arranging or soliciting a  
20 residential mortgage loan at the dwelling of a  
21 borrower without a prearranged appointment initiated  
22 by and at the invitation of the borrower;

1 (17) Fill in or complete, without the consent of the  
2 borrower, any blank on a residential mortgage loan  
3 application that requests material information,  
4 including financial information;

5 (18) Fill in or complete, without the consent of the  
6 borrower, any blank on any instrument evidencing or  
7 securing the residential mortgage loan, which blank  
8 relates to the amount, interest rate, or monthly  
9 payment of the residential mortgage loan; or

10 (19) Fail to comply with this chapter or any order or rule  
11 issued or adopted under the authority of this chapter.

12 § -19 Powers of commissioner. (a) The commissioner may  
13 adopt rules pursuant to chapter 91 as the commissioner deems  
14 necessary for the administration of this chapter.

15 (b) In addition to any other powers provided by law, the  
16 commissioner shall have the authority to:

17 (1) Administer and enforce the provisions and requirements  
18 of this chapter;

19 (2) Adopt, amend, or repeal rules and issue declaratory  
20 rulings or informal nonbinding interpretations;

- 1 (3) Develop requirements for licensure through rules,  
2 including establishing the content of the written  
3 tests required under section -7;
- 4 (4) Investigate and conduct hearings regarding any  
5 violation of this chapter or any rule or order of, or  
6 agreement with, the commissioner;
- 7 (5) Create fact-finding committees that may make  
8 recommendations to the commissioner for the  
9 commissioner's deliberations;
- 10 (6) Require an applicant or any of its officers,  
11 directors, employees, partners, members, managers, and  
12 agents to disclose their relevant criminal history and  
13 request a criminal history record check in accordance  
14 with chapter 846;
- 15 (7) Contract with qualified persons, including  
16 investigators who may be exempt from chapter 76 and  
17 who shall assist the commissioner in exercising the  
18 commissioner's powers and duties;
- 19 (8) Require that all fees, fines, and charges collected by  
20 the commissioner under this chapter be deposited into  
21 the compliance resolution fund established pursuant to  
22 section 26-9(o);

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

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

15          §    **-20 Unique identifier shown.** The unique identifier of  
16 any person originating a residential mortgage loan shall be  
17 clearly shown on all residential mortgage loan application  
18 forms, solicitations, or advertisements, including business  
19 cards or websites, and any other documents as established by  
20 rule or order of the commissioner.

21          §    **-21 Report to Nationwide Mortgage Licensing System.**

22 Notwithstanding any other law to the contrary, the commissioner

1 is required to regularly report violations of this chapter, as  
2 well as enforcement actions and other relevant information, to  
3 the Nationwide Mortgage Licensing System subject to the  
4 provisions contained in section -14.

5 § -22 **Fees and costs.** (a) Each application for a  
6 mortgage loan originator license shall be accompanied by an  
7 application fee of \$ , or an amount as the commissioner  
8 shall establish by rule pursuant to chapter 91.

9 (b) Upon obtaining approval for a license, an initial  
10 license fee shall be paid to the commissioner in the amount of  
11 \$ or an amount as the commissioner shall establish by  
12 rule pursuant to chapter 91.

13 (c) By December 31 of each year, every mortgage broker and  
14 loan originator licensed under this chapter shall pay an annual  
15 license renewal fee of \$ , or an amount as the  
16 commissioner shall establish by rule pursuant to chapter 91.

17 § -23 **Elders.** (a) Any person who, in the course of  
18 engaging in conduct that requires a license under this chapter,  
19 commits a violation of this chapter or the rules adopted  
20 pursuant to this chapter, which violation includes conduct that  
21 is directed towards, targets, or is committed against an elder,  
22 may be fined an amount not to exceed \$10,000 for each violation



1 in addition to any other fine or penalty assessed against that  
2 person.

3 (b) As used in this section, "elder" means a consumer who  
4 is sixty-two years of age or older."

5 SECTION 2. Section 241-1, Hawaii Revised Statutes, is  
6 amended by amending the definition of "mortgage loan company "  
7 to read as follows:

8 "Mortgage loan company" means any company licensed under  
9 chapter [454.] \_\_\_\_."

10 SECTION 3. Section 412:3-502, Hawaii Revised Statutes, is  
11 amended to read as follows:

12 "**§412:3-502 Foreign financial institution.** No foreign  
13 financial institution shall receive deposits, lend money, or pay  
14 checks, negotiate orders of withdrawal or share drafts from any  
15 principal office, branch, agency, automatic teller machine, or  
16 other location in this State, unless expressly authorized by  
17 this chapter, other laws of this State, or federal law; provided  
18 that nothing in this section shall prohibit any foreign  
19 financial institution from participating in the disbursement of  
20 cash through an automatic teller machine network or from  
21 operating from any location in this State as a mortgage [~~broker~~

1 ~~licensed under chapter 454,~~ loan originator licensed under  
2 chapter \_\_\_\_\_ or as a real estate collection servicing agent."

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

5 "(e) All fees shall be established and adopted by the  
6 director in accordance with chapter 91 and shall be deposited  
7 into the compliance resolution fund established pursuant to  
8 section 26-9(o) ~~[-];~~ provided that, in order to establish  
9 regulatory practices for residential mortgage lending, a  
10 surcharge of \$400 shall be charged to every mortgage broker that  
11 shall be due on December 31, 2009 and a surcharge of \$100 shall  
12 be charged to every mortgage solicitor that shall be due on  
13 December 31, 2009. Failure of any mortgage broker or mortgage  
14 solicitor to pay the biennial renewal fee on or before  
15 December 31 of an even-numbered year or the surcharge shall  
16 constitute an automatic forfeiture of the license. The  
17 forfeited license may be restored; provided that application for  
18 restoration is made within six months of the forfeiture and a  
19 penalty fee is paid in addition to the delinquent license fee or  
20 surcharge. A licensee who fails to restore a license as  
21 provided in this subsection shall apply as a new applicant."

1 SECTION 5. Section 477E-2, Hawaii Revised Statutes, is  
2 amended by amending the definition of "creditor" to read as  
3 follows:

4 "Creditor" means any bank; savings and loan association;  
5 trust company; financial services loan company; credit union;  
6 mortgage banker[~~, broker, or solicitor~~]; mortgage loan  
7 originator; pawnbroker; mutual benefit society or fraternal  
8 benefit society; debt adjuster; the issuer of a credit card as  
9 defined in section 708-800; any person who initiates, extends,  
10 renews, or continues loans of money or credit; any person who  
11 regularly arranges for the initiation, extension, renewal, or  
12 continuation of a loan of money or credit; or any assignee of an  
13 original creditor who participates in the decision to grant,  
14 extend, renew, or to continue [~~such~~] a loan of money or credit."

15 SECTION 6. Section 667-21, Hawaii Revised Statutes, is  
16 amended by amending subsection (b) to read as follows:

17 "(b) As used in this part:

18 "Borrower" means the borrower, maker, cosigner, or  
19 guarantor under a mortgage agreement.

20 "Foreclosing mortgagee" means the mortgagee that intends to  
21 conduct a power of sale foreclosure; provided that the mortgagee  
22 is a federally insured bank, a federally insured savings and

1 loan association, a federally insured savings bank, a depository  
2 financial services loan company, a nondepository financial  
3 services loan company, a credit union insured by the National  
4 Credit Union Administration, a bank holding company, a foreign  
5 lender as defined in section 207-11, or an institutional  
6 investor [~~as defined in section 454-1~~].

7 "Mailed" means to be sent by regular mail, postage prepaid,  
8 and by certified, registered, or express mail, postage prepaid  
9 and return receipt requested.

10 "Mortgage" means a mortgage, security agreement, or other  
11 document under which property is mortgaged, encumbered, pledged,  
12 or otherwise rendered subject to a lien for the purpose of  
13 securing the payment of money or the performance of an  
14 obligation.

15 "Mortgage agreement" includes the mortgage, the note or  
16 debt document, or any document amending any of the foregoing.

17 "Mortgaged property" means the property that is subject to  
18 the lien of the mortgage.

19 "Mortgagee" means the current holder of record of the  
20 mortgagee's or the lender's interest under the mortgage, or the  
21 current mortgagee's or lender's duly authorized agent.

1 "Mortgagor" means the mortgagor or borrower named in the  
2 mortgage and, unless the context otherwise indicates, includes  
3 the current owner of record of the mortgaged property whose  
4 interest is subject to the mortgage.

5 "Open house" means a public showing of the mortgaged  
6 property during a scheduled time period.

7 "Power of sale" or "power of sale foreclosure" means a  
8 nonjudicial foreclosure under this part when the mortgage  
9 contains, authorizes, permits, or provides for a power of sale,  
10 a power of sale foreclosure, a power of sale remedy, or a  
11 nonjudicial foreclosure.

12 "Property" means property (real, personal, or mixed), an  
13 interest in property (including fee simple, leasehold, life  
14 estate, reversionary interest, and any other estate under  
15 applicable law), or other interests that can be subject to the  
16 lien of a mortgage.

17 "Record" or "recorded" means a document is recorded or  
18 filed with the office of the assistant registrar of the land  
19 court under chapter 501 or recorded with the registrar of  
20 conveyances under chapter 502, or both, as applicable.

21 "Served" means to have service of the notice of default  
22 made in accordance with the service of process or the service of

1 summons under the Hawaii rules of civil procedure, and under  
2 sections 634-35 and 634-36."

3 SECTION 7. Section 846-2.7, Hawaii Revised Statutes, is  
4 amended by amending subsection (b) to read as follows:

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

6 (1) The department of health on operators of adult foster  
7 homes or developmental disabilities domiciliary homes  
8 and their employees, as provided by section 333F-22;

9 (2) The department of health on prospective employees,  
10 persons seeking to serve as providers, or  
11 subcontractors in positions that place them in direct  
12 contact with clients when providing non-witnessed  
13 direct mental health services as provided by section  
14 321-171.5;

15 (3) The department of health on all applicants for  
16 licensure for, operators for, and prospective  
17 employees, and volunteers at one or more of the  
18 following: skilled nursing facility, intermediate  
19 care facility, adult residential care home, expanded  
20 adult residential care home, assisted living facility,  
21 home health agency, hospice, adult day health center,  
22 special treatment facility, therapeutic living

- 1 program, intermediate care facility for the mentally  
2 retarded, hospital, rural health center and  
3 rehabilitation agency, and, in the case of any of the  
4 above-related facilities operating in a private  
5 residence, on any adult living in the facility other  
6 than the client as provided by section 321-15.2;
- 7 (4) The department of education on employees, prospective  
8 employees, and teacher trainees in any public school  
9 in positions that necessitate close proximity to  
10 children as provided by section 302A-601.5;
- 11 (5) The counties on employees and prospective employees  
12 who may be in positions that place them in close  
13 proximity to children in recreation or child care  
14 programs and services;
- 15 (6) The county liquor commissions on applicants for liquor  
16 licenses as provided by section 281-53.5;
- 17 (7) The department of human services on operators and  
18 employees of child caring institutions, child placing  
19 organizations, and foster boarding homes as provided  
20 by section 346-17;

- 1           (8) The department of human services on prospective  
2           adoptive parents as established under section  
3           346-19.7;
- 4           (9) The department of human services on applicants to  
5           operate child care facilities, prospective employees  
6           of the applicant, and new employees of the provider  
7           after registration or licensure as provided by section  
8           346-154;
- 9           (10) The department of human services on persons exempt  
10          pursuant to section 346-152 to be eligible to provide  
11          child care and receive child care subsidies as  
12          provided by section 346-152.5;
- 13          (11) The department of human services on operators and  
14          employees of home and community-based case management  
15          agencies and operators and other adults, except for  
16          adults in care, residing in foster family homes as  
17          provided by section 346-335;
- 18          (12) The department of human services on staff members of  
19          the Hawaii youth correctional facility as provided by  
20          section 352-5.5;
- 21          (13) The department of human services on employees,  
22          prospective employees, and volunteers of contracted



1 providers and subcontractors in positions that place  
2 them in close proximity to youth when providing  
3 services on behalf of the office or the Hawaii youth  
4 correctional facility as provided by section 352D-4.3;  
5 (14) The judiciary on employees and applicants at detention  
6 and shelter facilities as provided by section 571-34;  
7 (15) The department of public safety on employees and  
8 prospective employees who are directly involved with  
9 the treatment and care of persons committed to a  
10 correctional facility or who possess police powers  
11 including the power of arrest as provided by section  
12 353C-5;  
13 (16) The department of commerce and consumer affairs on  
14 applicants for private detective or private guard  
15 licensure as provided by section 463-9;  
16 (17) Private schools and designated organizations on  
17 employees and prospective employees who may be in  
18 positions that necessitate close proximity to  
19 children; provided that private schools and designated  
20 organizations receive only indications of the states  
21 from which the national criminal history record

**Report Title:**

Mortgage Brokers; Mortgage Loan Originator

**Description:**

Allows the commissioner of financial institutions to regulate, license, examine, and enforce laws regulating mortgage brokers and loan originators. Repeals chapter 454, HRS, relating to mortgage brokers and solicitors. (SD2)

- 1 information was provided as provided by section  
2 302C-1;
- 3 (18) The public library system on employees and prospective  
4 employees whose positions place them in close  
5 proximity to children as provided by section  
6 302A-601.5;
- 7 (19) The State or any of its branches, political  
8 subdivisions, or agencies on applicants and employees  
9 holding a position that has the same type of contact  
10 with children, vulnerable adults, or persons committed  
11 to a correctional facility as other public employees  
12 who hold positions that are authorized by law to  
13 require criminal history record checks as a condition  
14 of employment as provided by section 78-2.7;
- 15 (20) The department of human services on licensed adult day  
16 care center operators, employees, new employees,  
17 subcontracted service providers and their employees,  
18 and adult volunteers as provided by section 346-97;
- 19 (21) The department of human services on purchase of  
20 service contracted and subcontracted service providers  
21 and their employees serving clients of the adult and

1 community care services branch, as provided by section  
2 346-97;

3 (22) The department of human services on foster grandparent  
4 program, retired and senior volunteer program, senior  
5 companion program, and respite companion program  
6 participants as provided by section 346-97;

7 (23) The department of human services on contracted and  
8 subcontracted service providers and their current and  
9 prospective employees that provide home and community-  
10 based services under Section 1915(c) of the Social  
11 Security Act (Title 42 United States Code Section  
12 1396n(c)), or under any other applicable section or  
13 sections of the Social Security Act for the purposes  
14 of providing home and community-based services, as  
15 provided by section 346-97;

16 (24) The department of commerce and consumer affairs on  
17 proposed directors and executive officers of a bank,  
18 savings bank, savings and loan association, trust  
19 company, and depository financial services loan  
20 company as provided by section 412:3-201;

21 (25) The department of commerce and consumer affairs on  
22 proposed directors and executive officers of a

1 nondepository financial services loan company as  
2 provided by section 412:3-301;

3 (26) The department of commerce and consumer affairs on the  
4 original chartering applicants and proposed executive  
5 officers of a credit union as provided by section  
6 412:10-103;

7 ~~[(27)]~~ The department of commerce and consumer affairs on:

8 (A) Each principal of every non-corporate applicant  
9 for a money transmitter license; and

10 (B) The executive officers, key shareholders, and  
11 managers in charge of a money transmitter's  
12 activities of every corporate applicant for a  
13 money transmitter license,

14 as provided by section 489D-9; ~~[and]~~

15 (28) The department of commerce and consumer affairs on the  
16 applicant for a mortgage loan originator's license as  
17 provided by chapter \_\_\_\_\_ or the applicant's officers,  
18 directors, partners, members, managers, employees, or  
19 agents; and

20 ~~[(28)]~~ (29) Any other organization, entity, or the State, its  
21 branches, political subdivisions, or agencies as may  
22 be authorized by state law."

1 SECTION 8. Chapter 454, Hawaii Revised Statutes, is  
2 repealed.

3 SECTION 9. A mortgage broker or mortgage solicitor  
4 licensed under chapter 454, Hawaii Revised Statutes, as of  
5 July 1, 2009 shall not be required to be re-licensed as a  
6 mortgage loan originator under this Act until such later date  
7 approved by the Secretary of the United States Department of  
8 Housing and Urban Development, pursuant to the authority granted  
9 under Public Law 110-289, section 1508(d).

10 SECTION 10. There is appropriated out of the compliance  
11 resolution fund established under section 26-9(o), Hawaii  
12 Revised Statutes, the sum of \$ or so much thereof as  
13 may be necessary for fiscal year 2009-2010 to carry out the  
14 purposes of this Act.

15 The sum appropriated shall be expended by the department of  
16 commerce and consumer affairs for the purposes of this Act.

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

19 SECTION 12. This Act shall take effect on July 1, 2090.

20