

JAN 22 2010

A BILL FOR AN ACT

RELATING TO MORTGAGE LOAN ORIGINATORS.

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

1 SECTION 1. Section 454F-3, Hawaii Revised Statutes, is
2 amended to read as follows:

3 " ~~[+] §454F-3 [.]~~ Requirement of licensure. Effective
4 August 1, 2010, or such later date approved by the United States
5 Department of Housing and Urban Development pursuant to the
6 authority granted under Public Law 110-289, Section 1508(e), an
7 individual ~~[, unless specifically exempted from this chapter,]~~
8 shall not engage in the business of a mortgage loan originator
9 with respect to any dwelling located in this State without first
10 obtaining and maintaining annually, a license under this
11 chapter. Each licensed mortgage loan originator shall register
12 with and maintain a valid unique identifier issued by the
13 Nationwide Mortgage Licensing System, and shall submit to the
14 Nationwide Mortgage Licensing System any reports that shall be
15 in a form and contain information as the Nationwide Mortgage
16 Licensing System may require."



1 SECTION 2. Section 454F-7, Hawaii Revised Statutes, is
2 amended by amending subsection (d) to read as follows:

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

14 SECTION 3. Section 454F-1, Hawaii Revised Statutes, is
15 amended by deleting the definitions of "clerical and support
16 duties", "immediate family member", "insured depository
17 institution", "loan processor or underwriter", and "registered
18 mortgage loan originator".

19 ~~["Clerical or support duties" include the following~~
20 ~~activities subsequent to the receipt of an application:~~



1 ~~(1) The receipt, collection, distribution, and analysis of~~
2 ~~information for the processing or underwriting of a~~
3 ~~residential mortgage loan; and~~

4 ~~(2) Communication with a borrower to obtain the~~
5 ~~information necessary for the processing or~~
6 ~~underwriting of a loan, to the extent that the~~
7 ~~communication does not include offering or negotiating~~
8 ~~loan rates or terms or counseling borrowers about~~
9 ~~residential mortgage loan rates or terms.~~

10 ~~"Immediate family member" means a spouse, child, sibling,~~
11 ~~parent, grandparent, grandchild, stepparent, stepchild,~~
12 ~~stepsibling, and equivalent adoptive relationships.~~

13 ~~"Insured depository institution" means the same as in 12~~
14 ~~United States Code Section 1813(c)(2); provided that it also~~
15 ~~includes any credit union whose deposits are insured by the~~
16 ~~National Credit Union Association.~~

17 ~~"Loan processor or underwriter" means an individual who~~
18 ~~performs clerical or support duties as an employee at the~~
19 ~~direction of and subject to the supervision and instruction of a~~
20 ~~mortgage loan originator or a person who is exempt from~~
21 ~~licensing as a mortgage loan originator under this chapter.~~



1 ~~"Registered mortgage loan originator" means any individual~~

2 ~~who:~~

3 ~~(1) Meets the definition of mortgage loan originator and~~
4 ~~is an employee of:~~

5 ~~(A) An insured depository institution;~~

6 ~~(B) A subsidiary that is:~~

7 ~~(i) Owned and controlled by an insured~~
8 ~~depository institution; and~~

9 ~~(ii) Regulated by a federal banking agency; or~~

10 ~~(C) An institution regulated by the Farm Credit~~
11 ~~Administration; and~~

12 ~~(2) Is registered with, and maintains a unique identifier~~
13 ~~through, the Nationwide Mortgage Licensing System and~~
14 ~~Registry."]~~

15 SECTION 4. Section 454F-2, Hawaii Revised Statutes, is
16 repealed.

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

19 ~~(1) A registered mortgage loan originator, when acting for~~
20 ~~an insured depository institution; a subsidiary of an~~
21 ~~insured depository institution regulated by a federal~~



- 1 ~~banking agency, or an institution regulated by the~~
2 ~~Farm Credit Administration;~~
- 3 ~~(2) Any individual who offers or negotiates terms of a~~
4 ~~residential mortgage loan with, or on behalf of, an~~
5 ~~immediate family member of the individual;~~
- 6 ~~(3) Any individual who offers or negotiates terms of a~~
7 ~~residential mortgage loan secured by a dwelling that~~
8 ~~served as the individual's residence;~~
- 9 ~~(4) A licensed attorney who negotiates the terms of a~~
10 ~~residential mortgage loan on behalf of a client as an~~
11 ~~ancillary matter to the attorney's representation of~~
12 ~~the client unless the attorney is compensated by a~~
13 ~~lender, a mortgage broker, or other mortgage loan~~
14 ~~originator or by an agent of a lender, mortgage~~
15 ~~broker, or other mortgage loan originator;~~
- 16 ~~(5) An individual engaging solely in loan processor or~~
17 ~~underwriter activities; provided that an individual,~~
18 ~~including an independent contractor, who performs the~~
19 ~~services of a loan processor or underwriter shall not~~
20 ~~represent to the public, through advertising or other~~
21 ~~means of communicating or providing information,~~
22 ~~including the use of business cards, stationery,~~



1 ~~brochures, signs, rate lists, or other promotional~~
2 ~~items, that the individual can or will perform any of~~
3 ~~the activities of a mortgage loan originator, and any~~
4 ~~loan processor or underwriter, including an~~
5 ~~independent contractor, who advertises that the~~
6 ~~individual can or will perform any of the activities~~
7 ~~of a mortgage loan originator or engages in the~~
8 ~~activities of a mortgage loan originator shall not be~~
9 ~~exempt under this chapter and shall obtain and~~
10 ~~maintain a license under this chapter and a valid~~
11 ~~unique identifier issued by the Nationwide Mortgage~~
12 ~~Licensing System;~~

13 ~~(6) A person or entity that only performs real estate~~
14 ~~brokerage activities and is licensed or registered by~~
15 ~~the State unless the person or entity is compensated~~
16 ~~by a lender, a mortgage broker, or other mortgage loan~~
17 ~~originator or by an agent of the lender, mortgage~~
18 ~~broker, or other mortgage loan originator; or~~

19 ~~(7) A person or entity solely involved in extensions of~~
20 ~~credit relating to timeshare plans, as the term is~~
21 ~~defined in Section 101(53D) of Title 11, United States~~
22 ~~Code."]~~

1 SECTION 5. Statutory material to be repealed is bracketed
2 and stricken.

3 SECTION 6. This Act shall take effect on July 1, 2010.

4

INTRODUCED BY: Michelle D. Fideni
BY REQUEST



Report Title:

Mortgage Loan Originators; Secure and Fair Enforcement for
Mortgage Licensing Act

Description:

Removes exemptions from licensure under the SAFE Mortgage
Licensing Act. Makes conforming amendments.

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

