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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 be appropriately designated and to read  
3 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 device 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.

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

13 "Applicant" means a person applying for or renewing a  
14 license under this chapter.

15 "Borrower" means a person who has applied for or obtained a  
16 residential mortgage loan from or through a mortgage loan  
17 originator, or from or through a person required to be licensed  
18 as a mortgage loan originator under this chapter.

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 "Commissioner" means the commissioner of financial  
11 institutions.

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

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

19 "Insured depository institution" means the same as in 12  
20 U.S.C. section 1813(c)(2); provided that it also includes any  
21 credit union whose deposits are insured by the National Credit  
22 Union Association.

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

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

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

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

19 "Nationwide Mortgage Licensing System" means a mortgage  
20 licensing system developed and maintained by the Conference of  
21 State Bank Supervisors and the American Association of

1 Residential Mortgage Regulators for the licensing and  
2 registration of licensed mortgage loan originators.

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

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

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

13 (1) Acting as a real estate agent or real estate broker  
14 for a buyer, seller, lessor, or lessee of real  
15 property;

16 (2) Bringing together parties interested in the sale,  
17 purchase, lease, rental, or exchange of real property;

18 (3) Negotiating on behalf of any party, any portion of a  
19 contract relating to the sale, purchase, lease,  
20 rental, or exchange of real property other than in  
21 connection with providing financing with respect to  
22 any such transaction;

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

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

7 "Registered mortgage loan originator" means any individual  
8 who:

9 (1) Meets the definition of mortgage loan originator and  
10 is an employee of

11 (A) An insured depository institution;

12 (B) A subsidiary that is

13 (i) Owned and controlled by an insured  
14 depository institution; and

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

16 (C) An institution regulated by the Farm Credit  
17 Administration; and

18 (2) Is registered with, and maintains a unique identifier  
19 through, the Nationwide Mortgage Licensing System.

20 "Residential mortgage loan" means any loan primarily for  
21 personal, family, or household use that is secured by a  
22 mortgage, deed of trust, or other equivalent consensual security

1 interest on residential real estate or on a dwelling as defined  
2 in section 103(v) of the Truth in Lending Act, 15 United States  
3 Code 1601 et seq.

4 "Residential real estate" means any real property located  
5 in this State, upon which a dwelling is constructed or intended  
6 to be constructed.

7 "Unique identifier" means a number or other identifier  
8 assigned by protocols established by the Nationwide Mortgage  
9 Licensing System.

10 § -2 **Exemptions.** This chapter shall not apply to the  
11 following:

- 12 (1) A registered mortgage loan originator, when acting for  
13 an insured depository institution, a subsidiary of an  
14 insured depository institution regulated by a federal  
15 banking agency, or an institution regulated by the  
16 Farm Credit Administration;
- 17 (2) Any individual who offers or negotiates terms of a  
18 residential mortgage loan with, or on behalf of, an  
19 immediate family member of the individual;
- 20 (3) Any individual who offers or negotiates terms of a  
21 residential mortgage loan secured by a dwelling that  
22 served as the individual's residence;

- 1           (4) A licensed attorney who negotiates the terms of a  
2           residential mortgage loan on behalf of a client as an  
3           ancillary matter to the attorney's representation of  
4           the client unless the attorney is compensated by a  
5           lender, a mortgage broker, or other mortgage loan  
6           originator or by an agent of a lender, mortgage  
7           broker, or other mortgage loan originator;
- 8           (5) An individual engaging solely in loan processor or  
9           underwriter activities; provided that an individual  
10          who performs the services of a loan processor or  
11          underwriter but represents to the public, advertises,  
12          communicates, or provides information, including  
13          business cards, stationery, brochures, signs, rate  
14          lists, or other promotional items, that the individual  
15          can or will perform any of the activities of a  
16          mortgage loan originator, and a loan processor or  
17          underwriter who engages in the activities of a  
18          mortgage loan originator shall not be exempt under  
19          this chapter and shall obtain and maintain a license  
20          under this chapter and a valid unique identifier  
21          issued by the Nationwide Mortgage Licensing System;



1 (6) 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 broker, or other mortgage loan  
5 originator or by an agent of the lender, mortgage  
6 broker, or other mortgage loan originator; and

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

10 § -3 **Requirement of licensure.** An individual, unless  
11 specifically exempted from this chapter, shall not engage in the  
12 business of a mortgage loan originator with respect to any  
13 dwelling located in this State without obtaining and maintaining  
14 a license under this chapter. Each licensed mortgage loan  
15 originator shall register with, and maintain a valid unique  
16 identifier issued by the Nationwide Mortgage Licensing System  
17 and shall submit to the Nationwide Mortgage Licensing System any  
18 reports that the Nationwide Mortgage Licensing System may  
19 require.

20 § -4 **License and registration; application; issuance.**

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

1 (b) To fulfill the purposes of this chapter, the  
2 commissioner shall establish relationships or contracts with the  
3 Nationwide Mortgage Licensing System or other entities  
4 designated by the Nationwide Mortgage Licensing System to  
5 collect and maintain records and process transaction fees or  
6 other fees related to licensees or other persons subject to this  
7 chapter.

8 (c) For the purpose and the extent necessary to  
9 participate in the Nationwide Mortgage Licensing System, the  
10 commissioner may waive or modify, in whole or in part, by rule  
11 or order, any or all of the requirements of this chapter and  
12 shall establish new requirements as reasonably necessary to  
13 participate in the Nationwide Mortgage Licensing System.

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

18 (1) Fingerprints for submission to the Federal Bureau of  
19 Investigation, and any governmental agency or entity  
20 authorized to receive the fingerprints for a state,  
21 national, and international criminal history  
22 background check; and

1 (2) Personal history and experience in a form prescribed  
2 by the Nationwide Mortgage Licensing System including  
3 the submission of authorization for the Nationwide  
4 Mortgage Licensing System and the commissioner to  
5 obtain:

6 (A) An independent credit report obtained from a  
7 consumer reporting agency described in section  
8 603(p) of the Fair Credit Reporting Act, 15  
9 United States Code section 1681 et seq.; and

10 (B) Information related to any administrative, civil,  
11 or criminal findings by any governmental entity.

12 (e) The commissioner may use the Nationwide Mortgage  
13 Licensing System as an agent for requesting information from and  
14 distributing information to the Department of Justice or any  
15 governmental agency.

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

19 § -5 **Issuance of license.** The commissioner shall not  
20 issue a mortgage loan originator license unless the commissioner  
21 makes at a minimum the following findings:

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

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

9           (A) During the seven-year period preceding the date  
10           of the application for licensing and  
11           registration; or

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

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

17           (3) The applicant has demonstrated financial  
18           responsibility, character, and general fitness to  
19           command the confidence of the community and to warrant  
20           a determination that the mortgage loan originator  
21           shall operate honestly, fairly, and efficiently  
22           pursuant to this chapter.

1           For purposes of this section, a person is not  
2           financially responsible when the person has shown a  
3           disregard in the management of the person's financial  
4           condition. A determination that an individual has not  
5           shown financial responsibility may be based on:

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

8           (B) Current outstanding tax liens or other government  
9           liens and filings;

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

11          (D) A pattern of seriously delinquent accounts within  
12          the past three years;

13          (4) The applicant has completed the pre-licensing  
14          education requirement described in section     -6;

15          (5) The applicant has passed a written test that meets the  
16          test requirements in section     -7; and

17          (6) The applicant has met the surety bond requirement as  
18          required in section     -13.

19          **§   -6 Pre-licensing and re-licensing; education of**  
20 **mortgage loan originators.** (a) An applicant for a mortgage  
21 loan originator license shall complete at least twenty hours of

1 pre-licensing education approved in accordance with subsection

2 (b) that includes:

3 (1) Three hours of federal law and regulations;

4 (2) Three hours of ethics, that shall include instruction  
5 on fraud, consumer protection, and fair lending  
6 issues; and

7 (3) Two hours of training related to lending standards for  
8 the nontraditional mortgage product marketplace.

9 (b) Pre-licensing education courses shall be reviewed and  
10 approved by the Nationwide Mortgage Licensing System based upon  
11 reasonable standards. Review and approval of a pre-licensing  
12 education course shall include review and approval of the course  
13 provider.

14 (c) Nothing in this section shall prohibit the use of any  
15 pre-licensing education course approved by the Nationwide  
16 Mortgage Licensing System that is provided by the employer of  
17 the applicant, an entity that is affiliated with the applicant  
18 by an agency contract, or any subsidiary or affiliate of the  
19 employer or entity.

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

1 (e) Completion of the pre-licensing education requirements  
2 approved by the Nationwide Mortgage Licensing System pursuant to  
3 subsection (b) for any state shall be accepted as credit towards  
4 completion of pre-licensing education requirements in this  
5 State.

6 (f) A person previously licensed under this chapter and  
7 applying for license renewal under this chapter shall prove to  
8 the satisfaction of the commissioner that the person has  
9 completed all of the continuing education requirements for the  
10 year in which the license was last held.

11 **§ -7 Testing of mortgage loan originators.** (a) In order  
12 to meet the written test requirement in section -5, an  
13 applicant shall pass, in accordance with the standards  
14 established under this section, a qualified written test  
15 developed by the Nationwide Mortgage Licensing System and  
16 administered by a test provider approved by the Nationwide  
17 Mortgage Licensing System based upon reasonable standards.

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

22 (1) Ethics;

1 (2) Federal law and regulations pertaining to mortgage  
2 origination;

3 (3) State law and rules pertaining to mortgage  
4 origination; and

5 (4) Federal and state law, rules, and regulations  
6 including instruction on fraud, consumer protection,  
7 the nontraditional mortgage marketplace, and fair  
8 lending issues.

9 (c) Nothing in this section shall prohibit a test provider  
10 approved by the Nationwide Mortgage Licensing System from  
11 providing a test at the location of the employer of the  
12 applicant, the location of any subsidiary or affiliate of the  
13 employer of the applicant, or the location of any entity with  
14 which the applicant holds an exclusive arrangement to conduct  
15 the business of a mortgage loan originator.

16 (d) An individual shall have passed a qualified written  
17 test if the individual achieves a test score of seventy-five per  
18 cent of the correct answers to questions or better. An  
19 individual may retake a test three consecutive times with each  
20 consecutive taking occurring at least thirty days after the  
21 preceding test. After failing three consecutive tests, an  
22 individual shall wait at least six months before taking the test



1 again. A licensed mortgage loan originator who fails to  
2 maintain a valid license for a period of five years or longer,  
3 not taking into account any time during which the individual is  
4 a registered mortgage loan originator, shall retake the test.

5       **§ -8 Standards for license renewal.** (a) The minimum  
6 standards for license renewal for mortgage loan originators  
7 shall include the following:

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

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

12          and

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

15          (b) The license of a mortgage loan originator who fails to  
16          satisfy the minimum standards for license renewal shall expire.

17          The commissioner may adopt procedures for the reinstatement of  
18          expired licenses consistent with the standards established by  
19          the Nationwide Mortgage Licensing System.

20       **§ -9 Continuing education; mortgage loan originators.**

21          (a) Each year, a licensed mortgage loan originator shall

1 complete at least eight hours of education approved in  
2 accordance with subsection (b) that shall include at least:

- 3 (1) Three hours of federal law and regulations;  
4 (2) Two hours of ethics that shall include instruction on  
5 fraud, consumer protection, and fair lending issues;  
6 and  
7 (3) Two hours of training related to lending standards for  
8 the nontraditional mortgage product marketplace.

9 (b) For purposes of subsection (a), continuing education  
10 courses shall be reviewed and approved by the Nationwide  
11 Mortgage Licensing System based upon reasonable standards.  
12 Review and approval of a continuing education course shall  
13 include review and approval of the course provider.

14 (c) Nothing in this section shall prohibit the use of any  
15 education course that is approved by the Nationwide Mortgage  
16 Licensing System and provided by the employer of the mortgage  
17 loan originator, an entity that is affiliated with the mortgage  
18 loan originator by an agency contract, or any subsidiary or  
19 affiliate of the employer or entity.

20 (d) Continuing education may be offered either in a  
21 classroom, online, or by any other means approved by the  
22 Nationwide Mortgage Licensing System.

1 (e) A licensed mortgage loan originator:

2 (1) May only receive credit for a continuing education  
3 course in the year in which the course is taken,  
4 except for continuing education credits received  
5 pursuant to this chapter; and

6 (2) May not take the same approved course in the same or  
7 successive years to meet the annual requirements for  
8 continuing education.

9 (f) A licensed mortgage loan originator who is an approved  
10 instructor of an approved continuing education course may  
11 receive credit for the course taught at the rate of two hours  
12 credit for every one hour taught.

13 (g) Continuing education courses as described in  
14 subsection (a) and approved by the Nationwide Mortgage Licensing  
15 System for any state, that are successfully completed by a  
16 licensed mortgage originator, shall be accepted as credit  
17 towards completion of continuing education requirements in this  
18 State.

19 (h) A licensed mortgage loan originator who becomes  
20 unlicensed shall complete the continuing education requirements  
21 for the last year in which the license was held prior to  
22 issuance of a new or renewed license.

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

5 § -10 **Authority to require license.** In addition to any  
6 other duties imposed upon the commissioner, the commissioner  
7 shall require mortgage loan originators to be licensed and  
8 registered through the Nationwide Mortgage Licensing System.  
9 The commissioner is authorized to participate in the Nationwide  
10 Mortgage Licensing System. The commissioner may establish by  
11 rule pursuant to chapter 91, requirements for mortgage loan  
12 originators, including:

- 13 (1) Background checks of:
- 14 (A) Criminal history through fingerprint or other
  - 15 databases;
  - 16 (B) Civil or administrative records;
  - 17 (C) Credit history; and
  - 18 (D) Any other source deemed necessary by the
  - 19 Nationwide Mortgage Licensing System;
- 20 (2) Fees to apply for or renew licenses through the
- 21 Nationwide Mortgage Licensing System;

- 1 (3) The setting or resetting as necessary of license  
2 renewal and reporting dates;
- 3 (4) Requirements for amending or surrendering a license;  
4 and
- 5 (5) Any other activity the commissioner deems necessary to  
6 participate in the Nationwide Mortgage Licensing  
7 System.

8 § -11 **Nationwide Mortgage Licensing System; registry**  
9 **information; challenge process.** The commissioner shall  
10 establish a process by rule pursuant to chapter 91 whereby  
11 mortgage loan originators may challenge information entered into  
12 the Nationwide Mortgage Licensing System by the commissioner.

13 § -12 **Enforcement authorities; violations; penalties.**

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

16 (1) Deny, suspend, revoke, condition, or decline to renew  
17 a license because of a violation of this chapter,  
18 rules, an order, or a directive entered under this  
19 chapter;

20 (2) Deny, suspend, revoke, condition, or decline to renew  
21 a license if an applicant or licensed mortgage loan  
22 originator fails at any time to meet the requirements

- 1 of section -6 or section -8, or withholds  
2 information or makes a material misstatement in an  
3 application for a license or renewal of a license;
- 4 (3) Order restitution against persons subject to this  
5 chapter for violations of this chapter;
- 6 (4) Impose fines on persons subject to this chapter; and
- 7 (5) Issue orders or directives under this chapter as  
8 follows:
- 9 (A) Order or direct persons subject to this chapter  
10 to cease and desist from conducting business,  
11 including immediate temporary orders to cease and  
12 desist;
- 13 (B) Order or direct persons subject to this chapter  
14 to cease any harmful activities or violations of  
15 this chapter, including immediate temporary  
16 orders to cease and desist;
- 17 (C) Enter immediate temporary orders to cease doing  
18 business under a license or interim license  
19 issued pursuant to the authority granted under  
20 this chapter if the commissioner determines that  
21 the license was erroneously granted or the

1            licensee is currently in violation of this  
2            chapter; or

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

5            (b) The commissioner may impose a civil penalty on a  
6 mortgage loan originator or person subject to this chapter if  
7 the commissioner finds on the record after notice and  
8 opportunity for hearing that the mortgage loan originator or  
9 person subject to this chapter has violated or failed to comply  
10 with any requirement of this chapter or any rule prescribed by  
11 the commissioner under this chapter or order issued under the  
12 authority of this chapter.

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

15            (d) Each violation or failure to comply with any directive  
16 or order of the commissioner shall be a separate and distinct  
17 violation.

18            § -13 **Surety bond; required.** (a) Each mortgage loan  
19 originator shall be covered by a surety bond in accordance with  
20 this section. In the event that the mortgage loan originator is  
21 an employee or exclusive agent of a person subject to this

1 chapter, the surety bond of the person may be used in lieu of  
2 the mortgage loan originator's surety bond.

3 (b) The surety bond shall provide coverage for each  
4 mortgage loan originator in an amount prescribed in subsection  
5 (c). The surety bond shall be in a form as prescribed by the  
6 commissioner. The commissioner may adopt rules with respect to  
7 the requirements for the surety bonds necessary to accomplish  
8 the purposes of this chapter.

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

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

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

16 § -14 Confidentiality. (a) Except as otherwise  
17 provided in section 1512 of the Housing and Economic Recovery  
18 Act of 2008, 12 United States Code section 5111, the  
19 requirements under any federal law regarding the privacy or  
20 confidentiality of any information or material provided to the  
21 Nationwide Mortgage Licensing System, and any privilege arising  
22 under federal or state law, including the rules of any federal



1 or state court, with respect to the information or material  
2 shall continue to apply to the information or material after the  
3 information or material has been disclosed to the Nationwide  
4 Mortgage Licensing System. The information and material may be  
5 shared with all state and federal regulatory officials with  
6 mortgage industry oversight authority without the loss of  
7 privilege or the loss of confidentiality protections provided by  
8 federal or state law.

9 (b) For these purposes, the commissioner is authorized to  
10 enter into agreements or information sharing arrangements with  
11 other governmental agencies, the Conference of State Bank  
12 Supervisors, the American Association of Residential Mortgage  
13 Regulators, or other associations representing governmental  
14 agencies as established by rule or order of the commissioner.

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

17 (1) Disclosure under any federal or state law governing  
18 the disclosure to the public of information held by an  
19 officer or an agency of the federal government or a  
20 state; or

21 (2) Subpoena, discovery, or admission into evidence in any  
22 private civil action or administrative process, unless

1           the person to whom the information or material  
2           pertains waives, in whole or in part, a privilege held  
3           by the National Mortgage Licensing System.

4           (d) Notwithstanding chapter 92F, the examination process  
5           and related information and documents, including the reports of  
6           examination, are confidential and are not subject to discovery  
7           or disclosure in civil or criminal lawsuits.

8           (e) Notwithstanding any law to the contrary, the  
9           disclosure of confidential supervisory information or any  
10          information or material described in subsection (a) that is  
11          inconsistent with subsection (c) shall be superseded by the  
12          requirements of this section.

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

18          §    -15   **Investigation and examination authority.** (a) In  
19          addition to any other authority under this chapter, the  
20          commissioner shall have the authority to conduct investigations  
21          and examinations. The commissioner may access, receive, and use

1 any books, accounts, records, files, documents, information, or  
2 evidence including but not limited to:

3 (1) Criminal, civil, and administrative history  
4 information, including nonconviction data under  
5 chapter 853;

6 (2) Personal history and experience information including  
7 independent credit reports obtained from a consumer  
8 reporting agency described in section 603(p) of the  
9 Fair Credit Reporting Act; and

10 (3) Any other documents, information, or evidence the  
11 commissioner deems relevant to the inquiry or  
12 investigation, regardless of the location, possession,  
13 control, or custody of the documents, information, or  
14 evidence.

15 (b) For the purposes of investigating violations or  
16 complaints arising under this chapter, or for the purposes of  
17 examination, the commissioner may review, investigate, or  
18 examine any licensed mortgage loan originator, individual, or  
19 person subject to this chapter, as often as necessary in order  
20 to carry out the purposes of this chapter. The commissioner may  
21 direct, subpoena, or order the attendance of, and examine under  
22 oath all persons whose testimony may be required about loans or

1 the business or subject matter of any examination or  
2 investigation, and may direct, subpoena, or order the person to  
3 produce books, accounts, records, files, and any other documents  
4 the commissioner deems relevant to the inquiry.

5 (c) Each licensed mortgage loan originator, individual, or  
6 person subject to this chapter shall provide to the commissioner  
7 upon request, the books and records relating to the operations  
8 of the licensee, individual, or person subject to this chapter.  
9 The commissioner shall have access to the books and records and  
10 shall be permitted to interview the officers, principals,  
11 mortgage loan originators, employees, independent contractors,  
12 agents, and customers of the licensed mortgage loan originator,  
13 individual, or person subject to this chapter concerning their  
14 business.

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

20 (1) Accounting compilations;

1 (2) Information lists and data concerning loan  
2 transactions in a format prescribed by the  
3 commissioner; or

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

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

11 § -16 **Written agreements.** (a) For any transaction  
12 between a mortgage loan originator and a borrower, the following  
13 requirements shall apply:

14 (1) A mortgage loan originator shall comply with all  
15 provisions of the Real Estate Settlement Procedures  
16 Act, the Truth in Lending Act, and the Equal Credit  
17 Opportunity Act, as those laws currently exist or as  
18 they may be amended;

19 (2) Any written commitment letter to make a residential  
20 mortgage loan with specified terms, including loan  
21 amount, interest rate, points, and payment terms that  
22 is issued by a mortgage loan originator and accepted

1 by a borrower, shall be honored by the mortgage loan  
2 originator if the borrower has completely satisfied  
3 all of the conditions of the commitment in a timely  
4 manner and prior to the specified expiration date of  
5 the commitment. A written commitment letter shall  
6 specify the conditions precedent to closing the  
7 residential mortgage loan and the lender that has the  
8 ultimate authority to fund and close the residential  
9 mortgage loan;

- 10 (3) Within three business days of receipt of a borrower's  
11 completed residential mortgage loan application by the  
12 licensee, and before the borrower gives the mortgage  
13 loan originator any moneys except for an application  
14 fee, the mortgage loan originator shall sign a  
15 mortgage brokerage agreement with the borrower. The  
16 mortgage brokerage agreement shall be with the person  
17 employing the mortgage loan originator or with the  
18 mortgage loan originator if the mortgage loan  
19 originator is not an employee. The mortgage brokerage  
20 agreement shall be in writing, signed, and dated by  
21 both the borrower and the mortgage loan originator.

1           The mortgage brokerage agreement shall include a clear  
2           and conspicuous statement:

3           (A)   Explaining that a copy shall be made available  
4                upon request, to the borrower or the borrower's  
5                attorney for review prior to signing;

6           (B)   Explaining whether the mortgage loan originator  
7                is a fiduciary for the borrower;

8           (C)   Explaining the nature of the mortgage loan  
9                originator's compensation, and if the mortgage  
10              loan originator is an employee, explaining the  
11              compensation of the person that the mortgage loan  
12              originator is employed by, and whether the  
13              mortgage loan originator may receive compensation  
14              from the borrower, the lender, or both;

15          (D)   Describing the services the mortgage loan  
16              originator will perform for the borrower;

17          (E)   Setting forth the conditions under which the  
18              borrower is obligated to pay fees to the mortgage  
19              loan originator, the manner in which the borrower  
20              may cancel the mortgage brokerage agreement, the  
21              borrower's liabilities for fees and costs, and

1                   the mortgage loan originator's contact  
2                   information for dispute resolution; and  
3           (F)   Explaining that if the mortgage loan originator  
4                   makes materially false or misleading statements  
5                   or omissions in the mortgage brokerage agreement,  
6                   the borrower, upon written notice, may void the  
7                   mortgage brokerage agreement and recover moneys  
8                   paid to the mortgage loan originator by the  
9                   borrower for which no services have been  
10                  performed.

11           (b)   A copy of the fully signed mortgage brokerage  
12 agreement shall be given to the borrower by the mortgage loan  
13 originator immediately after signing the mortgage brokerage  
14 agreement.

15           §   -17   **Mortgage call reports.**   Each licensed mortgage  
16 originator shall submit to the Nationwide Mortgage Licensing  
17 System reports of condition, which shall be in the form and  
18 contain any information that the Nationwide Mortgage Licensing  
19 System may require.

20           §   -18   **Prohibited practices.**   It shall be a violation of  
21 this chapter for a mortgage loan originator to:



- 1 (1) Directly or indirectly employ any scheme, device, or  
2 artifice to defraud or mislead borrowers or lenders or  
3 to defraud any person;
- 4 (2) Engage in any unfair or deceptive practice toward any  
5 person;
- 6 (3) Obtain property by fraud or misrepresentation;
- 7 (4) Solicit or enter into any contract with a borrower  
8 that provides in substance that the person or  
9 individual subject to this chapter may earn a fee of  
10 commission through "best efforts" to obtain a loan  
11 even though no loan in actually obtained for the  
12 borrower;
- 13 (5) Solicit, advertise, or enter into a contract for  
14 specific interest rates, points, or other financing  
15 terms unless the terms are actually available at the  
16 time of soliciting, advertising, or contracting;
- 17 (6) Conduct any business covered by this chapter without  
18 holding a valid license as required under this  
19 chapter, or assist, aid, or abet any person in the  
20 conduct of business under this chapter without a valid  
21 license as required under this chapter;

- 1           (7) Fail to make disclosures as required by this chapter  
2           and any other applicable state or federal law  
3           including rules or regulations thereunder;
- 4           (8) Fail to comply with this chapter or rules adopted  
5           under this chapter, or fail to comply with any other  
6           state or federal law applicable to any business  
7           authorized or conducted pursuant to this chapter,  
8           including the rules and regulations adopted  
9           thereunder;
- 10          (9) Make, in an manner, any false or deceptive statement  
11          or representation, including with regard to the rates,  
12          points, or other financing terms or conditions for a  
13          residential mortgage loan, or engage in bait and  
14          switch advertising;
- 15          (10) Negligently make any false statement or knowingly and  
16          wilfully making any omission of material fact in  
17          connection with any information or reports filed with  
18          a governmental agency or the Nationwide Mortgage  
19          Licensing System or in connection with any  
20          investigation conducted by the commissioner or another  
21          government agency;

- 1 (11) Make any payment, threat, or promise, directly or  
2 indirectly, to any person for the purposes of  
3 influencing the independent judgment of the person in  
4 connection with a residential mortgage loan, or make  
5 any payment, threat, or promise, directly or  
6 indirectly, to any appraiser of a property for the  
7 purpose of influencing the independent judgment of the  
8 appraiser with respect to the value of a property;
- 9 (12) Collect, charge, attempt to collect or charge, or use  
10 or propose any agreement purporting to collect or  
11 charge any fee prohibited by this chapter;
- 12 (13) Cause or require a borrower to obtain property  
13 insurance coverage in an amount that exceeds the  
14 replacement cost of the improvements as established by  
15 the property owner;
- 16 (14) Fail to truthfully account for moneys belonging to a  
17 party to a residential mortgage loan transaction;
- 18 (15) Deliver a misleading or deceptive communication or  
19 advertising, whether written, electronic, or oral,  
20 when marketing or soliciting a residential mortgage  
21 loan. A communication or advertisement that uses the  
22 name or trademark of a financial institution as

1 defined in section 412:1-109 or its affiliates or  
2 subsidiaries or that infers that the communication or  
3 advertisement is from, endorsed by, related to, or the  
4 responsibility of the financial institution is a  
5 misleading or deceptive communication. Advertising  
6 that a specific interest rate, points, or financial  
7 terms are available when the rates, points, or  
8 financial terms are not actually available is a  
9 misleading or deceptive communication;

10 (16) Solicit or arrange for a residential mortgage loan or  
11 engage in the activity of a mortgage loan originator  
12 as a direct result of arranging or soliciting a  
13 residential mortgage loan at the dwelling of a  
14 borrower without a prearranged appointment initiated  
15 by and at the invitation of the borrower;

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

20 (18) Fill in or complete, without the consent of the  
21 borrower, any blank on any instrument evidencing or  
22 securing the residential mortgage loan, which blank

1 relates to the amount, interest rate, or monthly  
2 payment of the residential mortgage loan.

3 § -19 Powers of commissioner. (a) The commissioner may  
4 adopt rules pursuant to chapter 91 as the commissioner deems  
5 necessary for the administration of this chapter.

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

- 8 (1) Administer and enforce the provisions and requirements  
9 of this chapter;
- 10 (2) Adopt, amend, or repeal rules and issue declaratory  
11 rulings or informal nonbinding interpretations;
- 12 (3) Develop requirements for licensure through rules,  
13 including establishing the content of the written  
14 tests required under section -7;
- 15 (4) Investigate and conduct hearings regarding any  
16 violation of this chapter or any rule or order of, or  
17 agreement with, the commissioner;
- 18 (5) Create fact-finding committees that may make  
19 recommendations to the commissioner for the  
20 commissioner's deliberations;
- 21 (6) Require an applicant or any of its officers,  
22 directors, employees, partners, members, managers, and

1 agents to disclose their relevant criminal history and  
2 request a criminal history record check in accordance  
3 with chapter 846;

4 (7) Contract with qualified persons, including  
5 investigators who may be exempt from chapter 76, to  
6 assist the commissioner in exercising the  
7 commissioner's powers and duties;

8 (8) Require that all fees, fines, and charges collected by  
9 the commissioner under this chapter be deposited into  
10 the compliance resolution fund established pursuant to  
11 section 26-9(o);

12 (9) Subpoena witnesses and documents, administer oaths,  
13 and receive affidavits and oral testimony, including  
14 through telephonic communication, and do any and all  
15 things necessary or incidental to the exercise of the  
16 commissioner's power and duties, including the  
17 authority to conduct contested case proceedings under  
18 chapter 91; and

19 (10) Require a mortgage loan originator to comply with any  
20 rule, guidance, guideline, statement, supervisory  
21 policy, or any similar proclamation issued or adopted  
22 by the Federal Deposit Insurance Corporation to the

1 same extent and in the same manner as a bank chartered  
2 by the State or in the alternative, to comply with any  
3 policy position of the Conference of State Bank  
4 Supervisors.

5 § -20 **Unique identifier shown.** The unique identifier of  
6 any person originating a residential mortgage loan shall be  
7 clearly shown on all residential mortgage loan application  
8 forms, solicitations, or advertisements, including business  
9 cards or websites, and any other documents as established by  
10 rule or order of the commissioner.

11 § -21 **Report to Nationwide Mortgage Licensing System.**  
12 Notwithstanding any other law to the contrary, the commissioner  
13 is required to regularly report violations of this chapter,  
14 enforcement actions, and other relevant information to the  
15 Nationwide Mortgage Licensing System subject to section -14.

16 § -22 **Fees and costs.** (a) Each application for a  
17 mortgage loan originator license shall be accompanied by an  
18 application fee of \$250, or an amount that the commissioner  
19 shall establish by rule pursuant to chapter 91.

20 (b) Upon obtaining approval for a license, an initial  
21 license fee shall be paid to the commissioner in the amount of

1 \$175 or an amount that the commissioner shall establish by rule  
2 pursuant to chapter 91.

3 (c) By December 31 of each year, every mortgage broker and  
4 loan originator licensed under this chapter shall pay an annual  
5 license renewal fee of \$325, or an amount that the commissioner  
6 shall establish by rule pursuant to chapter 91.

7 § -23 **Elders.** (a) Any person who, in the course of  
8 engaging in conduct that requires a license under this chapter,  
9 commits a violation of this chapter or the rules adopted  
10 pursuant to this chapter which includes conduct that is directed  
11 towards, targets, or is committed against an elder, may be fined  
12 an amount not to exceed \$10,000 for each violation in addition  
13 to any other fine or penalty assessed against that person.

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

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

19 ""Mortgage loan company" means any company licensed under  
20 chapter [454-] \_\_\_\_\_."

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



1           "**§412:3-502 Foreign financial institution.** No foreign  
2 financial institution shall receive deposits, lend money, or pay  
3 checks, negotiate orders of withdrawal or share drafts from any  
4 principal office, branch, agency, automatic teller machine, or  
5 other location in this State, unless expressly authorized by  
6 this chapter, other laws of this State, or federal law; provided  
7 that nothing in this section shall prohibit any foreign  
8 financial institution from participating in the disbursement of  
9 cash through an automatic teller machine network or from  
10 operating from any location in this State as a mortgage [~~broker~~  
11 ~~licensed under chapter 454,~~] loan originator licensed under  
12 chapter \_\_\_\_\_ or as a real estate collection servicing agent."

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

15           "(e) All fees shall be established and adopted by the  
16 director in accordance with chapter 91 and shall be deposited  
17 into the compliance resolution fund established pursuant to  
18 section 26-9(o) [~~-~~]; provided that, in order to establish  
19 regulatory practices for residential mortgage lending, a  
20 surcharge that shall be due on December 31, 2009 of \$100 shall  
21 be charged to every mortgage broker and a surcharge that shall  
22 be due on December 31, 2009 of \$100 shall be charged to every

1 mortgage solicitor. Failure of any mortgage broker or mortgage  
2 solicitor to pay the biennial renewal fee on or before  
3 December 31 of an even-numbered year or failure to pay the  
4 surchage required by this subsection shall constitute an  
5 automatic forfeiture of the license. The forfeited license may  
6 be restored; provided that application for restoration is made  
7 within six months of the forfeiture and a penalty fee is paid in  
8 addition to the delinquent license fee[-] or surcharge. A  
9 licensee who fails to restore a license as provided in this  
10 subsection shall apply as a new applicant."

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

14 ""Creditor" means any bank; savings and loan association;  
15 trust company; financial services loan company; credit union;  
16 mortgage banker[~~, broker, or solicitor~~]; mortgage loan  
17 originator; pawnbroker; mutual benefit society or fraternal  
18 benefit society; debt adjuster; the issuer of a credit card as  
19 defined in section 708-800; any person who initiates, extends,  
20 renews, or continues loans of money or credit; any person who  
21 regularly arranges for the initiation, extension, renewal, or  
22 continuation of a loan of money or credit; or any assignee of an

1 original creditor who participates in the decision to grant,  
2 extend, renew, or ~~to~~ continue ~~[such]~~ a loan of money or  
3 credit."

4 SECTION 6. Section 667-21, Hawaii Revised Statutes, is  
5 amended by amending the definition of "foreclosing mortgagee" in  
6 subsection (b) to read as follows:

7 "(b) As used in this part:

8 "Foreclosing mortgagee" means the mortgagee that intends to  
9 conduct a power of sale foreclosure; provided that the mortgagee  
10 is a federally insured bank, a federally insured savings and  
11 loan association, a federally insured savings bank, a depository  
12 financial services loan company, a nondepository financial  
13 services loan company, a credit union insured by the National  
14 Credit Union Administration, a bank holding company, a foreign  
15 lender as defined in section 207-11, or an institutional  
16 investor ~~[as defined in section 454-1]~~."

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

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

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

- 1           (2) The department of health on prospective employees,  
2           persons seeking to serve as providers, or  
3           subcontractors in positions that place them in direct  
4           contact with clients when providing non-witnessed  
5           direct mental health services as provided by section  
6           321-171.5;
- 7           (3) The department of health on all applicants for  
8           licensure for, operators for, and prospective  
9           employees, and volunteers at one or more of the  
10          following: skilled nursing facility, intermediate  
11          care facility, adult residential care home, expanded  
12          adult residential care home, assisted living facility,  
13          home health agency, hospice, adult day health center,  
14          special treatment facility, therapeutic living  
15          program, intermediate care facility for the mentally  
16          retarded, hospital, rural health center and  
17          rehabilitation agency, and, in the case of any of the  
18          above-related facilities operating in a private  
19          residence, on any adult living in the facility other  
20          than the client as provided by section 321-15.2;
- 21          (4) The department of education on employees, prospective  
22          employees, and teacher trainees in any public school

- 1 in positions that necessitate close proximity to  
2 children as provided by section 302A-601.5;
- 3 (5) The counties on employees and prospective employees  
4 who may be in positions that place them in close  
5 proximity to children in recreation or child care  
6 programs and services;
- 7 (6) The county liquor commissions on applicants for liquor  
8 licenses as provided by section 281-53.5;
- 9 (7) 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 (8) The department of human services on prospective  
14 adoptive parents as established under section  
15 346-19.7;
- 16 (9) The department of human services on applicants to  
17 operate child care facilities, prospective employees  
18 of the applicant, and new employees of the provider  
19 after registration or licensure as provided by section  
20 346-154;
- 21 (10) The department of human services on persons exempt  
22 pursuant to section 346-152 to be eligible to provide

- 1 child care and receive child care subsidies as  
2 provided by section 346-152.5;
- 3 (11) The department of human services on operators and  
4 employees of home and community-based case management  
5 agencies and operators and other adults, except for  
6 adults in care, residing in foster family homes as  
7 provided by section 346-335;
- 8 (12) The department of human services on staff members of  
9 the Hawaii youth correctional facility as provided by  
10 section 352-5.5;
- 11 (13) The department of human services on employees,  
12 prospective employees, and volunteers of contracted  
13 providers and subcontractors in positions that place  
14 them in close proximity to youth when providing  
15 services on behalf of the office or the Hawaii youth  
16 correctional facility as provided by section 352D-4.3;
- 17 (14) The judiciary on employees and applicants at detention  
18 and shelter facilities as provided by section 571-34;
- 19 (15) The department of public safety on employees and  
20 prospective employees who are directly involved with  
21 the treatment and care of persons committed to a  
22 correctional facility or who possess police powers

1 including the power of arrest as provided by section  
2 353C-5;

3 (16) The department of commerce and consumer affairs on  
4 applicants for private detective or private guard  
5 licensure as provided by section 463-9;

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

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

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

- 1           who hold positions that are authorized by law to  
2           require criminal history record checks as a condition  
3           of employment as provided by section 78-2.7;
- 4           (20) The department of human services on licensed adult day  
5           care center operators, employees, new employees,  
6           subcontracted service providers and their employees,  
7           and adult volunteers as provided by section 346-97;
- 8           (21) The department of human services on purchase of  
9           service contracted and subcontracted service providers  
10          and their employees serving clients of the adult and  
11          community care services branch, as provided by section  
12          346-97;
- 13          (22) The department of human services on foster grandparent  
14          program, retired and senior volunteer program, senior  
15          companion program, and respite companion program  
16          participants as provided by section 346-97;
- 17          (23) The department of human services on contracted and  
18          subcontracted service providers and their current and  
19          prospective employees that provide home and community-  
20          based services under Section 1915(c) of the Social  
21          Security Act [†], Title 42 United States Code  
22          [~~Section~~] section 1396n(c) [†], or under any other



1 applicable section or sections of the Social Security  
2 Act for the purposes of providing home and community-  
3 based services, as provided by section 346-97;

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

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

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

17 [†] (27) [†] The department of commerce and consumer affairs on:

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

20 (B) The executive officers, key shareholders, and  
21 managers in charge of a money transmitter's

1 activities of every corporate applicant for a  
2 money transmitter license,  
3 as provided by section 489D-9; [~~and~~]  
4 (28) The department of commerce and consumer affairs on the  
5 applicant for a mortgage loan originator's license as  
6 provided by chapter or the applicant's officers,  
7 directors, partners, members, managers, employees, or  
8 agents; and  
9 [~~+(28)+~~] (29) Any other organization, entity, or the State,  
10 its branches, political subdivisions, or agencies as  
11 may be authorized by state law."

12 SECTION 8. No new license shall be issued and no license  
13 renewal shall be effected under chapter 454, Hawaii Revised  
14 Statutes, after July 31, 2010. After July 31, 2010, any person  
15 subject to section -3, Hawaii Revised Statutes, shall obtain  
16 licensure under this Act; provided that a mortgage broker or  
17 mortgage solicitor licensed under chapter 454, Hawaii Revised  
18 Statutes, as of January 1, 2009, shall obtain licensure under  
19 this Act by December 31, 2010.

20 SECTION 9. An individual shall not be subject to chapter  
21 454, Hawaii Revised Statutes, upon the effective date of the  
22 individual's license under this Act; provided that this section

1 shall not affect right and duties that have matured, penalties  
2 that were incurred, and proceedings that were begun before the  
3 effective date of the individual's license under this Act.

4 SECTION 10. There is appropriated out of the compliance  
5 resolution fund established by section 26-9(o), Hawaii Revised  
6 Statutes, the sum of \$140,000, or so much thereof as may be  
7 necessary for fiscal year 2009-2010, to carry out the purposes  
8 of this Act including the hiring in the division of financial  
9 institutions of one permanent clerical assistant and three  
10 permanent examiners who shall be exempt from chapter 76, Hawaii  
11 Revised Statutes, to implement this Act.

12 The sum appropriated shall be expended by the department of  
13 commerce and consumer affairs for the purpose of this Act.

14 SECTION 11. Chapter 454, Hawaii Revised Statutes, is  
15 repealed.

16 SECTION 12. The repeal of chapter 454, Hawaii Revised  
17 Statutes, in section 11 of this Act shall not affect rights and  
18 duties that have matured, penalties that were incurred, and  
19 proceedings that were begun before its repeal.

20 SECTION 13. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.

- 1 SECTION 14. This Act shall take effect on July 1, 2090;
- 2 provided that section 11 shall take effect on December 31, 2010.

**Report Title:**

Mortgage Brokers

**Description:**

Allows the commissioner of financial institutions to regulate, license, examine, and enforce laws regulating mortgage brokers and loan originators. Repeals chapter 454, Hawaii Revised Statutes, effective 12/31/10. Effective 07/01/2090. (SD1)