

JAN 21 2011

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# A BILL FOR AN ACT

RELATING TO ESCROW DEPOSITORIES.

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

1           SECTION 1. Chapter 449, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4           "§449-       Nationwide Mortgage Licensing System unique  
5 identifier required; reporting requirement. (a) In every real  
6 estate transaction involving a person required by chapter 454F  
7 to maintain a unique identifier through the Nationwide Mortgage  
8 Licensing System, an escrow depository shall require that the  
9 person include the person's unique identifier on all documents  
10 relating to the real estate transaction submitted to the escrow  
11 depository. An escrow depository shall not accept any documents  
12 subject to this section that do not include the required unique  
13 identifier.

14           (b) A person acting as an escrow depository shall verify  
15 the validity of the unique identifier included on all documents  
16 subject to this section. If a document includes a unique  
17 identifier that is not current and valid, the person acting as  
18 an escrow depository shall report the name of the person who



1 submitted the document and the purported unique identifier to  
2 the commissioner.

3 (c) For purposes of this section only, the term "escrow  
4 depository" includes every person who acts as an escrow  
5 depository in a real estate transaction, including those persons  
6 normally exempt from this chapter pursuant to section 449-3."

7 SECTION 2. Section 449-1, Hawaii Revised Statutes, is  
8 amended by adding a new definition to be appropriately inserted  
9 and to read as follows:

10 "Unique identifier" means the unique identifier issued by  
11 the Nationwide Mortgage Licensing System and required for all  
12 persons subject to section 454F-1.5."

13 SECTION 3. Section 449-15, Hawaii Revised Statutes, is  
14 amended by amending subsection (b) to read as follows:

15 "(b) The audited financial statements shall be prepared in  
16 accordance with generally accepted accounting principles and the  
17 examination by the independent certified public accountant shall  
18 be performed in accordance with generally accepted auditing  
19 standards. The financial statements and the independent  
20 certified public accountant's report required by this section  
21 shall include but not be limited to the following:



- 1           (1) An unqualified opinion on the fair presentation of the  
2           financial statements taken as a whole [~~—To~~]; provided  
3           that to the extent that this is not possible, then a  
4           detailed footnote explaining the reason why an  
5           unqualified opinion could not be given shall suffice;
- 6           (2) A direct verification of escrow funds and escrow  
7           liabilities [~~—If~~]; provided that if less than a one  
8           hundred per cent verification is performed, there  
9           shall be a separate letter from the independent  
10          certified public accountant indicating: the number of  
11          accounts verified; the percentage of the verification;  
12          the basis for determining the sample size; the method  
13          used in selecting the sample items to verify; a  
14          description of the sampling technique used; the  
15          discrepancies noted; and how the discrepancies were  
16          resolved;
- 17          (3) Footnotes to the audited financial statement showing  
18          the escrow funds and escrow liabilities and, to the  
19          extent that these amounts differ, a reconciliation of  
20          the amounts; [~~and~~]
- 21          (4) A listing of all information regarding unique  
22          identifiers reported to the commissioner pursuant to



1            section 449-            and the date that the information was  
2            reported; and

3            [~~4~~] (5) A statement as to whether the escrow depository  
4            is in compliance with this chapter[~~—If~~]; provided  
5            that if the independent certified public accountant  
6            reports any incident involving noncompliance, the  
7            statement shall address whether the noncompliance may  
8            have a material adverse impact on the ongoing  
9            operations of the company."

10           SECTION 4. Section 454F-19, Hawaii Revised Statutes, is  
11 amended to read as follows:

12           "**§454F-19 Unique identifier shown.** (a) The unique  
13 identifier of any person originating a residential mortgage  
14 loan, except a person who is exempt from this chapter, shall be  
15 clearly shown on all residential mortgage loan application  
16 forms, solicitations, or advertisements, including business  
17 cards or websites, and any other documents as established by  
18 rule or order of the commissioner.

19           (b) Every person subject to section 454F-1.5 shall include  
20 the person's unique identifier on every document submitted to an  
21 escrow depository in every real estate transaction involving an  
22 escrow depository."

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

3 SECTION 6. This Act shall take effect on July 1, 2011.  
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INTRODUCED BY: Randy H. Bell



**Report Title:**

Escrow Depositories; Nationwide Mortgage Licensing System Unique Identifier

**Description:**

Requires every person subject to section 454F-1.5 to include the person's unique identifier on every document submitted to an escrow depository in a real estate transaction; requires escrow depositories to report invalid unique identifiers to the commissioner of financial institutions.

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

