
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 an escrow depository and a person
7 required by chapter 454F to maintain a unique identifier through
8 the Nationwide Mortgage Licensing System, an escrow depository
9 shall require that the person include the person's unique
10 identifier on all residential mortgage loan applications
11 submitted to the escrow depository. An escrow depository shall
12 not accept any documents subject to this section that do not
13 include the required unique identifier.

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



1 the name of the person who submitted the residential mortgage
2 loan application and the purported unique identifier to the
3 commissioner within five days of verification."

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

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

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

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

19 (1) An unqualified opinion on the fair presentation of the
20 financial statements taken as a whole [~~—Te~~]; provided
21 that to the extent that this is not possible, then a



- 1 detailed footnote explaining the reason why an
2 unqualified opinion could not be given shall suffice;
- 3 (2) A direct verification of escrow funds and escrow
4 liabilities~~[. If]~~; provided that if less than a one
5 hundred per cent verification is performed, there
6 shall be a separate letter from the independent
7 certified public accountant indicating: the number of
8 accounts verified; the percentage of the verification;
9 the basis for determining the sample size; the method
10 used in selecting the sample items to verify; a
11 description of the sampling technique used; the
12 discrepancies noted; and how the discrepancies were
13 resolved;
- 14 (3) Footnotes to the audited financial statement showing
15 the escrow funds and escrow liabilities and, to the
16 extent that these amounts differ, a reconciliation of
17 the amounts; ~~[and]~~
- 18 (4) A listing of all information regarding unique
19 identifiers reported to the commissioner pursuant to
20 section 449- and the date that the information was
21 reported; and



1 [~~(4)~~] (5) A statement as to whether the escrow depository
2 is in compliance with this chapter [~~—If~~]; provided
3 that if the independent certified public accountant
4 reports any incident involving noncompliance, the
5 statement shall address whether the noncompliance may
6 have a material adverse impact on the ongoing
7 operations of the company."

8 SECTION 4. Section 449-17, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§449-17 Revocation and suspension of licenses.** The
11 commissioner may revoke any license issued hereunder, or suspend
12 the right of the licensee to use the license, for any of the
13 following causes:

- 14 (1) Making any misrepresentation concerning any escrow
15 transaction;
- 16 (2) Making any false promises concerning any escrow
17 transaction of a character likely to mislead another;
- 18 (3) Pursuing a continued and flagrant course of
19 misrepresentation, or making of false promises,
20 through advertising or otherwise;
- 21 (4) Without first having obtained the written consent so
22 to do of both parties involved in any escrow



- 1 transaction, acting for both parties in connection
2 with such transaction, or collecting or attempting to
3 collect commissions or other compensation for its
4 services from both of the parties;
- 5 (5) Failing, within a reasonable time, to account for any
6 moneys belonging to others which may be in the
7 possession or under the control of the licensee;
- 8 (6) Any other conduct constituting fraudulent or dishonest
9 dealings;
- 10 (7) Violating any of the provisions of this chapter or the
11 rules promulgated pursuant thereto;
- 12 (8) Splitting fees with or otherwise compensating others
13 not licensed hereunder for referring business;
- 14 (9) Commingling the moneys or other property of others
15 with its own;
- 16 (10) Engaging in an unsafe or unsound practice that is
17 likely to cause insolvency or substantial dissipation
18 of assets or earnings of the licensee;
- 19 (11) Failing to maintain books and records that are
20 sufficiently complete and accurate so as to permit the
21 commissioner to determine the financial condition of
22 the licensee; [and]



1 (12) Ceasing, for a period of six consecutive months or
2 more, to engage in the business for which its license
3 was granted[-];

4 (13) Knowingly failing to report a unique identifier that
5 does not correspond to a person licensed pursuant to
6 chapter 454F that is included on a residential
7 mortgage loan application as required by section
8 449- ; and

9 (14) Knowingly failing to verify a unique identifier that
10 is included on a residential mortgage loan application
11 as required by section 449- .

12 No license shall be suspended for longer than five years
13 and no corporation whose license has been revoked shall be
14 eligible to apply for a new license until the expiration of five
15 years."

16 SECTION 5. Section 449-24, Hawaii Revised Statutes, is
17 amended by amending subsection (b) to read as follows:

18 "(b) [~~Nothing in this section shall preclude the~~
19 ~~commissioner at any time from seeking any relief or sanction~~
20 ~~from the courts that may otherwise be permitted by law.] To
21 ensure the effective supervision of licensees and enforcement of~~



1 this chapter, the commissioner may, pursuant to chapter 91,
2 issue orders or directives to:

3 (1) Order or direct any person subject to this chapter to
4 cease and desist the conduct of business, including
5 through an immediate temporary order to cease and
6 desist;

7 (2) Order or direct any person subject to this chapter to
8 cease any harmful activities or violations of this
9 chapter, including through an immediate temporary
10 order to cease and desist harmful activities or
11 violations;

12 (3) Enter an immediate temporary order to cease doing
13 business under a license granted pursuant to this
14 chapter if the commissioner determines that the
15 license was granted erroneously or that the licensee
16 is currently in violation of this chapter; and

17 (4) Order or direct any other affirmative action that the
18 commissioner deems necessary."

19 SECTION 6. Section 454F-19, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "**§454F-19 Unique identifier shown.** (a) The unique
22 identifier of any person originating a residential mortgage



1 loan, except a person who is exempt from this chapter, shall be
2 clearly shown on all residential mortgage loan application
3 forms, solicitations, or advertisements, including business
4 cards or websites, and any other documents as established by
5 rule or order of the commissioner.

6 (b) Every person subject to section 454F-1.5 shall include
7 the person's unique identifier on each residential mortgage loan
8 application submitted to an escrow depository in every real
9 estate transaction involving an escrow depository."

10 SECTION 7. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 8. This Act shall take effect on July 1, 2050.

13



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 residential mortgage loan application submitted to an escrow depository in a real estate transaction; requires escrow depositories to report invalid unique identifiers to the commissioner of financial institutions. Effective 7/1/2050. (SD1)

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

