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# A BILL FOR AN ACT

RELATING TO MORTGAGE LOAN ORIGINATION.

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

1           SECTION 1. Chapter 454F, Hawaii Revised Statutes, is  
2 amended by adding two new sections to be appropriately  
3 designated and to read as follows:

4           "§454F- Mortgage servicer companies; loan originators.

5 An employee who performs mortgage loan originator activities for  
6 a mortgage servicer company is exempt from registration and  
7 licensure as a mortgage loan originator; provided that:

8           (1) The employee's actions are part of the employee's  
9           duties as an employee of the mortgage servicer  
10           company; and

11           (2) The employee only provides mortgage loan originator  
12           services with respect to a residential mortgage loan  
13           modification.

14           §454F- Nonprofit organizations; loan originators. (a)

15 An employees who performs mortgage loan originator activities  
16 for a nonprofit organization is exempt from registration and  
17 licensure as a mortgage loan originator; provided that:



1       (1) The employee's actions are part of the employee's  
2       duties as an employee of the nonprofit organization;

3       (2) The employee only provides mortgage loan originator  
4       services with respect to residential mortgage loans  
5       with terms favorable to the borrower; and

6       (3) The nonprofit organization registers with the  
7       Nationwide Mortgage Licensing System.

8       (b) The commissioner shall periodically examine the books  
9       and activities of nonprofit organizations and shall revoke an  
10       organization's registration as a nonprofit organization with the  
11       Nationwide Mortgage Licensing System if the nonprofit  
12       organization fails to meet the requirements to be a nonprofit  
13       organization.

14       (c) In determining whether a residential mortgage loan has  
15       terms favorable to the borrower, the commissioner shall examine:

16       (1) The interest rate that the home loan would carry;

17       (2) The charges that are imposed on the borrower for  
18       origination, application, closing, and other costs;

19       (3) Whether the mortgage includes any predatory  
20       characteristics;

21       (4) The borrower's ability to repay the loan; and

22       (5) The term of the mortgage."



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

3 1. By adding four new definitions to be appropriately  
4 inserted and to read:

5 "Housing finance agency" means any authority:

- 6 (1) That helps meet the affordable housing needs of the  
7 residents of the State;  
8 (2) That is supervised directly or indirectly by the State  
9 and includes nonprofit organizations;  
10 (3) That is subject to audit and review by the State; and  
11 (4) Whose activities make it eligible to be a member of  
12 the National Council of State Housing Agencies.

13 "Mortgage servicer company" means a mortgage service  
14 company licensed under chapter 454M.

15 "Nonprofit organization" means an organization that:

- 16 (1) Has the status of a tax-exempt organization under  
17 Section 501(c)(3) of the Internal Revenue Code of  
18 1986, as amended;  
19 (2) Promotes affordable housing or provides homeownership  
20 education or similar services;



1       (3) Conducts its activities in a manner that serves public  
2       or charitable purposes, rather than commercial  
3       purposes;

4       (4) Receives funding and revenue and charges fees in a  
5       manner that does not incentivize it or its employees  
6       to act other than in the best interests of its  
7       clients;

8       (5) Compensates its employees in a manner that does not  
9       incentivize employees to act other than in the best  
10       interests of its clients; and

11       (6) Provides, or identifies for the borrower, residential  
12       mortgage loans with terms favorable to the borrower  
13       and comparable to mortgage loans and housing  
14       assistance provided under government housing  
15       assistance programs.

16       "Residential mortgage loan modification" means:

17       (1) Modification of existing residential mortgage loans  
18       which generally includes a change in interest,  
19       principal, or term of loan; or

20       (2) The processing of the approval of loan assumptions.

21       The term shall not include origination of mortgage loans."

22       2. By amending the definition of "sponsor" to read:



- 1        "\"Sponsor\" means to [~~ereate~~]:
- 2        (1) Create a relationship through the Nationwide Mortgage
- 3        Licensing System [~~for the purpose of appropriately~~
- 4        ~~supervising a mortgage loan originator's activities.~~];
- 5        and
- 6        (2) Appropriately supervise a mortgage loan originator's
- 7        activities."

8        SECTION 3. Section 454F-1.5, Hawaii Revised Statutes, is

9        amended by amending subsection (a) to read as follows:

10        "(a) All mortgage loan originators, mortgage loan

11        originator companies, exempt sponsoring mortgage loan originator

12        companies, nonprofit organizations, mortgage servicer companies,

13        and [~~any~~] every other person in this State that originates a

14        residential mortgage loan, unless exempt under section 454F-2,

15        shall register with the Nationwide Mortgage Licensing System."

16        SECTION 4. Section 454F-1.6, Hawaii Revised Statutes, is

17        amended to read as follows:

18        "~~[§]454F-1.6[§]~~ **Presumption of control.** An individual is

19        presumed to control a mortgage loan originator company if that

20        individual is a director, general partner, managing [~~director,~~]

21        member, or executive officer of that mortgage loan originator

22        company."



1 SECTION 5. Section 454F-1.7, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "[+]§454F-1.7[+] Duties of qualified individual and branch  
4 manager. (a) A qualified individual shall have the duty to  
5 manage and supervise the mortgage loan origination activities of  
6 a licensed mortgage loan originator company's principal office  
7 and the licensed mortgage loan originators located at or working  
8 out of [~~that location.~~] the principal office and all company  
9 branch offices. A qualified individual shall hold a license as  
10 a mortgage loan originator issued pursuant to this chapter.

11 (b) A branch manager shall have the duty to directly  
12 manage and supervise a licensed mortgage loan originator  
13 company's branch office and the licensed mortgage loan  
14 originators located at or working out of that location. A  
15 branch manager shall be physically present in the branch office  
16 and shall hold a license as a mortgage loan originator issued  
17 pursuant to this chapter.

18 (c) A qualified individual for a mortgage loan originator  
19 company [~~and a branch manager for a branch office~~] shall be  
20 responsible for:

21 (1) Supervising the maintenance and accounting of client  
22 trust accounts and disbursements from those accounts;



- 1 (2) Supervising the maintenance of all records, contracts,  
2 and documents of the mortgage loan originator company;
- 3 (3) Supervising all mortgage loan originator agreements  
4 and mortgage loan documents and the handling of these  
5 documents by the licensed mortgage loan originators  
6 who are employed by or are independent contractors of  
7 the mortgage loan originator company;
- 8 (4) Supervising all licensed mortgage loan originators who  
9 are employed by or are independent contractors of the  
10 mortgage loan originator company;
- 11 (5) Developing and enforcing policies and procedures  
12 relating to the handling of residential mortgage loan  
13 transactions and the professional conduct of the  
14 licensed mortgage loan originators and other staff;
- 15 (6) Developing and monitoring compliance with a policy on  
16 continuing education requirements for all licensed  
17 mortgage loan originators who are employed by or are  
18 independent contractors of the mortgage loan  
19 originator company pursuant to the requirements of  
20 this chapter and the rules of the commissioner;
- 21 (7) Ensuring that the licenses of all mortgage loan  
22 originators who are employed by or are independent



1 contractors of the mortgage loan originator company,  
2 and the license of the mortgage loan originator  
3 company are current and active, and that all required  
4 fees are timely paid to the mortgage loan recovery  
5 fund;

6 (8) Establishing and conducting a training program for all  
7 licensed mortgage loan originators who are employed by  
8 or are independent contractors of the mortgage loan  
9 originator company;

10 (9) Ensuring that all licensed mortgage loan originators  
11 who are employed by or are independent contractors of  
12 the mortgage loan originator company are provided  
13 adequate information and training on the latest  
14 amendments to licensing laws and rules and any other  
15 applicable laws and rules;

16 (10) Notifying the commissioner of the termination of the  
17 employment or independent contractor relationship of  
18 licensed mortgage loan originators who were employed  
19 by or were independent contractors of the mortgage  
20 loan originator company upon the termination of  
21 employment or the independent contractor relationship;  
22 and





1 (11) Ensuring that the records, loan documents, and  
2 agreements including mortgage loan originator  
3 agreements are retained for seven years on paper or in  
4 electronic format by the mortgage loan originator  
5 company.

6 (d) A branch manager for a branch office shall be  
7 responsible for supervising:

8 (1) The maintenance of all records, contracts, and  
9 documents of the mortgage loan originator company  
10 branch office;

11 (2) All mortgage loan originator agreements and mortgage  
12 loan documents and the handling of these documents by  
13 the licensed mortgage loan originators or independent  
14 contractors located at or working out of the mortgage  
15 loan originator company branch office; and

16 (3) All licensed mortgage loan originators who are  
17 employed by, or are independent contractors of, the  
18 mortgage loan originator company and who are located  
19 at or working out of the mortgage loan originator  
20 company branch office."

21 SECTION 6. Section 454F-1.8, Hawaii Revised Statutes, is  
22 amended to read as follows:



1        "[+]§454F-1.8[+] Sponsorship by mortgage loan origination  
2 company [~~er~~], exempt sponsoring mortgage loan originator  
3 company[-], or nonprofit organizations. All mortgage loan  
4 originators shall be sponsored by a mortgage loan originator  
5 company [~~er by~~], an exempt sponsoring mortgage loan originator  
6 company[-], or a nonprofit organization. At no time shall a  
7 mortgage loan originator be sponsored by more than one Hawaii  
8 licensed mortgage loan originator company, exempt sponsoring  
9 mortgage loan originator company, or nonprofit organization."

10        SECTION 7. Section 454F-2, Hawaii Revised Statutes, is  
11 amended to read as follows:

12        "§454F-2 Exemptions. This chapter shall not apply to the  
13 following:

- 14        (1) An exempt registered mortgage loan originator[-] when  
15 acting for an insured depository institution[-a  
16 subsidiary of an insured depository institution  
17 regulated by a federal banking agency,] or an  
18 institution regulated by the Farm Credit  
19 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 loan originator company, or other  
9           mortgage loan originator or by an agent of a lender,  
10          mortgage loan originator company, or other mortgage  
11          loan originator;
- 12          (5) A person or entity that only performs real estate  
13          brokerage activities and is licensed or registered by  
14          the State unless the person or entity is compensated  
15          by a lender, a mortgage loan originator company, or  
16          other mortgage loan originator or by an agent of the  
17          lender, mortgage loan originator company, or other  
18          mortgage loan originator;
- 19          (6) 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 (7) An exempt sponsoring mortgage loan originator company  
2 as defined by this chapter except as otherwise  
3 provided by this chapter; [e~~r~~]
- 4 (8) An insured depository institution[~~-~~];
- 5 (9) An institution regulated by the Farm Credit  
6 Administration; or
- 7 (10) Individuals who act as loan originators as employees  
8 of government agencies or of housing finance  
9 agencies."

10 SECTION 8. Section 454F-4.9, Hawaii Revised Statutes, is  
11 amended by amending subsection (a) to read as follows:

12 "(a) An application for licensure pursuant to this chapter  
13 shall be considered abandoned if an applicant fails to provide  
14 evidence of continued efforts to complete the licensing  
15 application process for [~~six consecutive months-~~] thirty days.  
16 The thirty-day period shall begin on the last day of contact  
17 with the division by the applicant. The commissioner may extend  
18 this period for good cause. No refund of filing fees shall be  
19 provided to an applicant for an abandoned application. The  
20 commissioner shall not be required to act on any abandoned  
21 application and is not required to retain abandoned applications  
22 or supporting documents. The commissioner may withdraw



1 abandoned applications from the Nationwide Mortgage Licensing  
2 System."

3 SECTION 9. Section 454F-8, Hawaii Revised Statutes, is  
4 amended by amending subsection (b) to read as follows:

5 "(b) The minimum standards for license renewal for  
6 mortgage loan originator companies shall include the following:

7 (1) The mortgage loan originator company continues to meet  
8 the minimum standards for licensure established  
9 pursuant to section 454F-5;

10 (2) The mortgage loan originator company's [~~branch manager~~  
11 ~~and~~] qualified individual and every branch manager  
12 have satisfied the minimum standards for license  
13 renewal; and

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

16 SECTION 10. Section 454F-22, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 "**§454F-22 Mortgage loan originator, mortgage loan**  
19 **originator company, and exempt sponsoring mortgage loan**  
20 **originator company fees.** (a) A mortgage loan originator shall  
21 pay the following fees to obtain and maintain a valid mortgage  
22 loan originator license:



- 1 (1) Initial application fee of [~~\$500~~] \$550;
- 2 (2) Annual license renewal fee of [~~\$300~~] \$400;
- 3 (3) Reinstatement fee of \$100;
- 4 (4) Late fee of \$25 per day; and
- 5 (5) Criminal background check fee of \$35, or of an amount
- 6 determined by the commissioner by rule pursuant to
- 7 chapter 91.

8 (b) A mortgage loan originator company shall pay the  
9 following fees to maintain a valid mortgage loan originator  
10 company license or branch license:

- 11 (1) Fees payable for a principal office of a mortgage loan
- 12 originator company:
  - 13 (A) Initial application fee of \$900;
  - 14 (B) Annual license renewal fee of \$600;
  - 15 (C) Reinstatement fee of \$100;
  - 16 (D) Late fee of \$25 per day; and
  - 17 (E) Criminal background check fee of \$35, or of an
  - 18 amount determined by the commissioner by rule
  - 19 pursuant to chapter 91, for each control person,
  - 20 executive officer, director, general partner, and
  - 21 manager; and



1 (2) Fees payable for each branch office of a mortgage loan  
2 originator company:

3 (A) Initial application fee of \$250;

4 (B) Annual license renewal fee of \$100;

5 (C) Reinstatement fee of \$100; and

6 (D) Late fee of \$25 per day.

7 (c) An exempt sponsoring mortgage loan originator company  
8 shall pay the following [~~fees~~] fees to maintain a valid  
9 registration in the Nationwide Mortgage Licensing System:

10 (1) Initial registration fee of \$200;

11 (2) Annual registration renewal fee of \$150; and

12 (3) Late fee of \$25 per day.

13 (d) A nonprofit organization shall pay the following fees  
14 to maintain a valid registration as a nonprofit organization in  
15 the Nationwide Mortgage Licensing System:

16 (1) Initial registration fee of \$200;

17 (2) Annual registration renewal fee of \$150; and

18 (3) Late fee of \$25 per day.

19 [~~d~~] (e) In addition to fees charged by the Nationwide  
20 Mortgage Licensing System, a licensee shall pay to the  
21 commissioner a fee of [~~\$50~~] \$100 for each of the following



1 amendments to information provided to the Nationwide Mortgage  
2 Licensing System that require the review of the commissioner:

3 (1) Change of physical [~~location, including address~~  
4 change] or mailing address for branch office or  
5 principal place of business;

6 (2) Addition or deletion of a "d/b/a" assignment;

7 (3) Change of mortgage loan originator's sponsor;

8 (4) Change of qualified individual;

9 [~~(3)~~] (5) Change of branch manager; [~~or~~] and

10 [~~(4)~~] (6) Change of mortgage loan originator company's  
11 legal name.

12 The commissioner, upon a showing of good cause, may waive any  
13 fee set forth in this subsection.

14 [~~(e)~~] (f) The fees established by this section are  
15 nonrefundable and are in addition to any fees established and  
16 charged by the Nationwide Mortgage Licensing System, an approved  
17 educational course provider, an approved educational testing  
18 provider, a law enforcement agency for fingerprints and  
19 background checks, or a credit reporting agency used by the  
20 Nationwide Mortgage Licensing System.





1           [~~(f)~~] (g) The commissioner may establish, by rule pursuant  
2 to chapter 91, any other fees or charges necessary for the  
3 administration of this chapter."

4           SECTION 11. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6           SECTION 12. This Act shall take effect upon its approval.



**Report Title:**

Mortgage Loan Originators; Mortgage Loan Originator Companies;  
Fees

**Description:**

Amends the Secure and Fair Enforcement for Mortgage Licensing Act to reflect recent federal changes and adjust fees in consideration of the new regulatory requirements. (SD1)

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