
A BILL FOR AN ACT

RELATING TO TRANSITIONAL AUTHORITY IN THE MORTGAGE INDUSTRY.

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

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

4 **"PART . TRANSITIONAL AUTHORITY**

5 **§454F- Purpose.** The purpose of this part is to
6 implement section 106 of the Economic Growth, Regulatory Relief,
7 and Consumer Protection Act, P.L. 115-174.

8 **§454F- Employment transition of loan originators.** In
9 anticipation of satisfying all licensure requirements set out in
10 part I, an individual shall be deemed to have temporary
11 authority to act as a mortgage loan originator in this State as
12 provided by and subject to the requirements of this part.

13 **§454F- Definitions.** In this part, unless the context or
14 subject matter otherwise requires:

15 "Depository institution" has the same meaning as in title
16 12 United States Code section 5102.



1 "Federal banking agency" has the same meaning as in title
2 12 United States Code section 5102.

3 "Loan originator" has the meaning as in title 12 United
4 States Code section 5102, and in general:

5 (1) Means an individual who:

6 (A) Takes a residential mortgage loan application;
7 and

8 (B) Offers or negotiates terms of a residential
9 mortgage loan for compensation or gain; and

10 (2) Does not include:

11 (A) Any individual who is not otherwise described in
12 paragraph (1) and who performs purely
13 administrative or clerical tasks on behalf of a
14 person who is described in paragraph (1);

15 (B) A person or entity that only performs real estate
16 brokerage activities and is licensed or
17 registered in accordance with applicable state
18 law, unless the person or entity is compensated
19 by a lender, a mortgage broker, or other loan
20 originator or by any agent of such lender,
21 mortgage broker, or other loan originator; and



1 (C) A person or entity solely involved in extensions
2 of credit relating to timeshare plans, as that
3 term is defined in title 11 United States Code
4 section 101(53D).

5 "Registered loan originator" means any individual who:

6 (1) Meets the definition of loan originator and is an
7 employee of:

8 (A) A depository institution;

9 (B) A subsidiary that is:

10 (i) Owned and controlled by a depository
11 institution; and

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

13 (C) An institution regulated by the Farm Credit
14 Administration; and

15 (2) Is registered with, and maintains a unique identifier
16 through, NMLS.

17 "Secure and Fair Enforcement for Mortgage Licensing Act"

18 means the federal Secure and Fair Enforcement for Mortgage
19 Licensing Act of 2008, title 12 United States Code section 5101
20 et seq.



1 "State" means any state of the United States, the District
2 of Columbia, any territory of the United States, Puerto Rico,
3 Guam, American Samoa, the Trust Territory of the Pacific
4 Islands, the Virgin Islands, and the Northern Mariana Islands.

5 "State-licensed loan originator" means any individual who:

6 (1) Is a loan originator;

7 (2) Is not an employee of:

8 (A) A depository institution;

9 (B) A subsidiary that is:

10 (i) Owned and controlled by a depository
11 institution; and

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

13 (C) An institution regulated by the Farm Credit
14 Administration; and

15 (3) Is licensed by a state or by the Director of the
16 Bureau of Consumer Financial Protection and registered
17 as a loan originator with, and maintains a unique
18 identifier through, NMLS.

19 "State-licensed mortgage company" means an entity that is
20 licensed or registered under this chapter to engage in
21 residential mortgage loan origination and processing activities.



1 §454F- Employment transition of loan originators. (a)

2 Temporary authority to originate loans for loan originators
3 moving from a depository institution to a non-depository
4 institution shall be available as follows:

5 (1) Upon becoming employed by a state-licensed mortgage
6 company, an individual who is a registered loan
7 originator shall be deemed to have temporary authority
8 to act as a mortgage loan originator in this State for
9 the period described in paragraph (2) if the
10 individual:

11 (A) Has not had:

12 (i) An application for a loan originator license
13 denied; or

14 (ii) A loan originator license revoked or
15 suspended in any governmental jurisdiction;

16 (B) Has not been subject to, or served with, a cease
17 and desist order:

18 (i) In any governmental jurisdiction; or

19 (ii) Under section 5113(c) of the Secure and Fair
20 Enforcement for Mortgage Licensing Act;



- 1 (C) Has not been convicted of a misdemeanor or felony
2 that would preclude licensure under the laws of
3 this State;
- 4 (D) Has submitted an application to be a state-
5 licensed loan originator in this State; and
- 6 (E) Was registered in NMLS as a loan originator
7 during the one-year period preceding the date on
8 which the information required under section
9 454F-4(d) is submitted.
- 10 (2) For purposes of paragraph (1), the temporary authority
11 period shall begin on the date on which an individual
12 described in paragraph (1) submits the information
13 required under section 454F-4(d) and pays the fees
14 required under section 454F-22, and shall end on the
15 earliest of the date:
- 16 (A) On which the individual withdraws the application
17 to be a state-licensed loan originator in this
18 State;
- 19 (B) On which this State denies, or issues a notice of
20 intent to deny, the application;



- 1 (C) On which this State grants a mortgage loan
- 2 originator license; or
- 3 (D) That is one hundred twenty days after the date on
- 4 which the individual submits the application, if
- 5 the application is listed on NMLS as incomplete.
- 6 (b) Temporary authority to originate loans shall be
- 7 available for state-licensed loan originators moving interstate
- 8 as follows:
 - 9 (1) A state-licensed loan originator shall be deemed to
 - 10 have temporary authority to act as a mortgage loan
 - 11 originator in this State for the period described in
 - 12 paragraph (2) if the state-licensed loan originator:
 - 13 (A) Meets the requirements of subsection (a) (1) (A)
 - 14 through (a) (1) (D);
 - 15 (B) Is employed by a state-licensed mortgage company
 - 16 in this State; and
 - 17 (C) Was licensed in a state other than this State
 - 18 during the thirty-day period preceding the date
 - 19 on which the information required under section
 - 20 454F-4(d) was submitted in connection with the
 - 21 application submitted to this State.



- 1 (2) For purposes of paragraph (1), the temporary authority
2 period described in this paragraph shall begin on the
3 date on which the state-licensed loan originator
4 submits the information required under section
5 454F-4(d) in connection with the application submitted
6 to the commissioner and pays the fees required under
7 section 454F-22, and end on the earliest of the date:
- 8 (A) On which the state-licensed loan originator
9 withdraws the application to be a state-licensed
10 loan originator in this State;
- 11 (B) On which this State denies, or issues a notice of
12 intent to deny, the application;
- 13 (C) On which this State grants a mortgage loan
14 originator license; or
- 15 (D) That is one hundred twenty days after the date on
16 which the state-licensed loan originator submits
17 the application, if the application is listed on
18 NMLS as incomplete.
- 19 (c) With respect to temporary authority authorized by this
20 section:



1 (1) Any person employing an individual who is deemed to
2 have temporary authority to act as a loan originator
3 in this State under this part shall be subject to the
4 requirements of this chapter and to applicable law of
5 this State to the same extent as if that individual
6 was a state-licensed loan originator licensed by this
7 State.

8 (2) Any individual who is deemed to have temporary
9 authority to act as a loan originator in this State
10 under this part and who engages in residential
11 mortgage loan origination activities shall be subject
12 to the requirements of this chapter and to applicable
13 law of this State to the same extent as if that
14 individual was a state-licensed loan originator
15 licensed by this State.

16 (d) An application submitted pursuant to this part shall
17 not be subject to section 454F-4.9(a) through (c), pertaining to
18 abandoned applications."

19 SECTION 2. This Act shall take effect on November 24,
20 2019.



Report Title:

Mortgage Loan Originators; Mortgage Loan Origination;
Transitional Authority; Temporary Transitional Authority;
Temporary License; SAFE Act

Description:

Implements section 106 of the Economic Growth, Regulatory Relief, and Consumer Protection Act, P.L. 115-174, by providing one hundred twenty-day temporary transitional authority to originate loans in this State for loan originators moving from a depository institution to a non-depository institution and state-licensed loan originators moving interstate. Effective 11/24/2019. (SD1)

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