

JAN 17 2024

A BILL FOR AN ACT

RELATING TO THE MORTGAGE LOAN RECOVERY FUND.

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

1 SECTION 1. Section 454F-41, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§454F-41 Mortgage loan recovery fund; use of fund; fees.**

4 (a) The commissioner shall establish and maintain a fund that
5 shall be known as the mortgage loan recovery fund, from which
6 any person aggrieved by an act, representation, transaction, or
7 conduct of a mortgage loan originator licensee or a mortgage
8 loan originator company licensee involving fraud,
9 misrepresentation, or deceit in violation of this chapter may
10 recover, by final judgment of the circuit court or district
11 court of the county where the violation occurred, an amount of
12 ten per cent of the residential mortgage loan, but not more than
13 \$150,000, including court costs and fees as set by law and
14 reasonable attorney fees as determined by the court, for damages
15 sustained by the fraud, misrepresentation, or deceit of a
16 mortgage loan originator licensee or a mortgage loan originator
17 company licensee.



1 In addition to application fees and any fees required by
2 NMLS, a mortgage loan originator licensee shall pay to the
3 division a mortgage loan recovery fund fee in the sum of \$200.

4 Upon application for renewal of a license under this
5 chapter, a mortgage loan originator licensee shall pay to the
6 division, in addition to the licensee's license renewal fee and
7 fees required by NMLS, a mortgage loan recovery fund fee in the
8 sum of \$100.

9 The \$100 mortgage loan recovery fund fee collected pursuant
10 to this subsection shall be refundable upon the denial of a
11 license renewal by the commissioner.

12 (b) When the mortgage loan recovery fund attains a funding
13 level of \$750,000, the commissioner may make a finding to adjust
14 the fees payable to the fund or may determine that payments made
15 by mortgage loan originator licensees shall cease. If
16 acceptance of payments is ceased, it shall remain ceased until
17 the funding level falls below \$750,000. If the funding level
18 falls below \$250,000 after the first five years of the
19 establishment of the fund, the commissioner may adjust the fees
20 to a reasonable level to attain a funding level of \$750,000.



1 (c) The commissioner or the commissioner's designee, as
2 the manager of the mortgage loan recovery fund, shall be
3 authorized to expend moneys in the mortgage loan recovery fund
4 to:

5 (1) Retain private legal counsel to represent the
6 commissioner or the division in any action that
7 involves or may result in payment from the mortgage
8 loan recovery fund;

9 (2) Retain a certified public accountant for accounting
10 and auditing of the mortgage loan recovery fund;

11 (3) Employ necessary personnel, not subject to chapter 76,
12 to assist the commissioner in exercising the
13 commissioner's powers and duties with respect to the
14 mortgage loan recovery fund; and

15 (4) Retain a consultant to recover and collect any
16 payments from the mortgage loan recovery fund, plus
17 interest from the judgment debtor.

18 (d) Each fiscal year, the division may use up to \$50,000
19 from the mortgage loan recovery fund's surplus balance exceeding
20 \$1,500,000 to:

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- 1 (1) Train the division's staff, including the division's
- 2 attorneys, in the residential mortgage industry;
- 3 (2) Provide training for the licensees;
- 4 (3) Publish educational materials for licensees relating
- 5 to licensure under this chapter; and
- 6 (4) Provide educational sessions and publish educational
- 7 materials for consumers relating to residential
- 8 mortgage loans."

9 SECTION 2. Section 454F-42, Hawaii Revised Statutes, is
 10 amended by amending subsection (f) to read as follows:

11 "(f) Notwithstanding any other provision, the liability of
 12 the mortgage loan recovery fund shall not exceed the sum of
 13 [~~\$100,000~~] \$150,000 against any one licensee."

14 SECTION 3. Statutory material to be repealed is bracketed
 15 and stricken. New statutory material is underscored.

16 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:  _____



S.B. NO. 2121

Report Title:

DCCA; Division of Financial Institutions; Mortgage Loan Recovery Fund; Mortgage Loan Originator Licensee

Description:

Authorizes consumers aggrieved by the conduct of a mortgage loan originator licensee to recover from the mortgage loan recovery fund. Allows for excess moneys in the mortgage loan recovery fund to be used for certain training and educational purposes. Increases to \$150,000 the restitution available to consumers from the mortgage loan recovery fund.

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

