

ACT 74

H.B. NO. 988

A Bill for an Act Relating to Transitional Authority in the Mortgage Industry.

Be It Enacted by the Legislature of the State of Hawaii:

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

“PART . TRANSITIONAL AUTHORITY

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

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

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

“Depository institution” has the same meaning as in title 12 United States Code section 5102.

“Federal banking agency” has the same meaning as in title 12 United States Code section 5102.

“Federal SAFE Act” means the Secure and Fair Enforcement for Mortgage Licensing Act of 2008, title 12 United States Code section 5101 et seq.

“Loan originator” has the same meaning as in title 12 United States Code section 5102.

“Registered loan originator” means any individual who:

- (1) Meets the definition of loan originator and is an employee of:
 - (A) A depository institution;
 - (B) A subsidiary that is:
 - (i) Owned and controlled by a depository institution; and
 - (ii) Regulated by a federal banking agency; or
 - (C) An institution regulated by the Farm Credit Administration; and
- (2) Is registered with, and maintains a unique identifier through, NMLS.

“State” means any state of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

“State-licensed loan originator” means any individual who:

- (1) Is a loan originator;
- (2) Is not an employee of:
 - (A) A depository institution;
 - (B) A subsidiary that is:
 - (i) Owned and controlled by a depository institution; and
 - (ii) Regulated by a federal banking agency; or
 - (C) An institution regulated by the Farm Credit Administration; and
- (3) Is licensed by a state or by the Director of the Bureau of Consumer Financial Protection and registered as a loan originator with, and maintains a unique identifier through, NMLS.

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

“This State” means the State of Hawaii.

§454F- Employment transition of loan originators. (a) Temporary authority to originate loans for loan originators moving from a depository institution to a non-depository institution shall be available as follows:

- (1) Upon becoming employed by a state-licensed mortgage company, an individual who is a registered loan originator shall be deemed to have temporary authority to act as a mortgage loan originator in this State for the period described in paragraph (2) if the individual:
 - (A) Has not had:
 - (i) An application for a loan originator license denied; or
 - (ii) A loan originator license revoked or suspended in any governmental jurisdiction;
 - (B) Has not been subject to, or served with, a cease and desist order:
 - (i) In any governmental jurisdiction; or
 - (ii) Under section 5113(c) of the federal SAFE Act;
 - (C) Has not been convicted of a misdemeanor or felony that would preclude licensure under the laws of this State;
 - (D) Has submitted an application to be a state-licensed loan originator in this State; and

- (E) Was registered in NMLS as a loan originator during the one-year period preceding the date on which the information required under section 454F-4(d) is submitted; and
- (2) For purposes of paragraph (1), the temporary authority period shall begin on the date on which an individual described in paragraph (1) submits the information required under section 454F-4(d) and pays the fees required under section 454F-22, and shall end on the earliest of the date:
 - (A) On which the individual withdraws the application to be a state-licensed loan originator in this State;
 - (B) On which this State denies, or issues a notice of intent to deny, the application;
 - (C) On which this State grants a mortgage loan originator license; or
 - (D) That is one hundred twenty days after the date on which the individual submits the application, if the application is listed on NMLS as incomplete.
- (b) Temporary authority to originate loans shall be available for state-licensed loan originators moving interstate as follows:
 - (1) A state-licensed loan originator shall be deemed to have temporary authority to act as a mortgage loan originator in this State for the period described in paragraph (2) if the state-licensed loan originator:
 - (A) Meets the requirements of subsection (a)(1)(A) through (a)(1)(D);
 - (B) Is employed by a state-licensed mortgage company in this State; and
 - (C) Was licensed in a state other than this State during the thirty-day period preceding the date on which the information required under section 454F-4(d) was submitted in connection with the application submitted to this State; and
 - (2) For purposes of paragraph (1), the temporary authority period shall begin on the date on which the state-licensed loan originator submits the information required under section 454F-4(d) in connection with the application submitted to the commissioner and pays the fees required under section 454F-22, and end on the earliest of the date:
 - (A) On which the state-licensed loan originator withdraws the application to be a state-licensed loan originator in this State;
 - (B) On which this State denies, or issues a notice of intent to deny, the application;
 - (C) On which this State grants a mortgage loan originator license; or
 - (D) That is one hundred twenty days after the date on which the state-licensed loan originator submits the application, if the application is listed on NMLS as incomplete.
- (c) With respect to temporary authority authorized by this section:
 - (1) Any person employing an individual who is deemed to have temporary authority to act as a loan originator in this State under this part shall be subject to the requirements of this chapter and to applicable law of this State to the same extent as if that individual was a state-licensed loan originator licensed by this State; and
 - (2) Any individual who is deemed to have temporary authority to act as a loan originator in this State under this part and who engages

in residential mortgage loan origination activities shall be subject to the requirements of this chapter and to applicable law of this State to the same extent as if that individual was a state-licensed loan originator licensed by this State.

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

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

(Approved June 7, 2019.)