
A BILL FOR AN ACT

RELATING TO MORTGAGE LOAN ORIGINATION.

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

1 SECTION 1. Section 412:9-501, Hawaii Revised Statutes, is
2 amended to read as follows:

3 " ~~[+]§412:9-501[+]~~ **Registration of nondepository financial**
4 **services loan companies with ~~[Nationwide Mortgage Licensing~~**
5 **~~System.] NMLS.~~ (a) A nondepository financial services loan**
6 **company licensed under this chapter is not a mortgage loan**
7 **originator company as defined in section 454F-1.**

8 (b) A nondepository financial services loan company shall
9 register with ~~[the Nationwide Mortgage Licensing System]~~ NMLS if
10 any employee of the nondepository financial services loan
11 company acts as a mortgage loan originator as defined in section
12 454F-1 or if the nondepository financial services loan company
13 uses the services of an exclusive independent contractor
14 mortgage loan originator, or loan processor or underwriter, as
15 defined in chapter 454F.

16 (c) This section does not exempt an employee of a
17 nondepository financial services loan company who originates
18 mortgage loans, or an independent contractor providing mortgage



1 loan originating, processing, or underwriting services to a
2 nondepository financial services loan company, from licensure
3 under chapter 454F."

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

6 1. By adding four new definitions to be appropriately
7 inserted and to read:

8 "Loan modification" means a temporary or permanent change
9 to the terms of a borrower's existing loan agreement, mutually
10 agreed to between a borrower and a lender.

11 "Mortgage call report" means a single report of condition
12 that each licensee may be required to submit to NMLS.

13 "NMLS" means a mortgage licensing system developed and
14 maintained by the Conference of State Bank Supervisors and the
15 American Association of Residential Mortgage Regulators for the
16 state licensing and registration of state-licensed loan
17 originators and other financial services providers, or any
18 system provided by the Consumer Financial Protection Bureau.

19 "Principal place of business" means a mortgage loan
20 originator company's main office location in this State that is
21 separate from a branch office unless the branch office is
22 specified as the principal place of business by a mortgage loan



1 originator company headquartered out-of-state and identified by
2 any means to consumers as a location at which the licensee holds
3 itself out as a mortgage loan originator company."

4 2. By amending the definition of "branch manager" to read:
5 "Branch manager" means an individual who is designated and
6 employed by a mortgage loan originator company to be responsible
7 for the activities in the conduct of business of the licensed
8 mortgage loan originator company's branch office~~[-]~~ or principal
9 place of business, in conducting the business of that mortgage
10 loan originator company's branch office~~[-]~~ or principal place of
11 business."

12 3. By amending the definition of "branch office" to read:
13 "Branch office" means any location, separate from the
14 principal place of business of the mortgage loan originator
15 company that is identified by any means to the public or
16 customers as a location at which the licensee holds itself out
17 as a mortgage loan originator company. For mortgage loan
18 originator companies headquartered out-of-state, a branch office
19 may be its principal place of business."

20 4. By amending the definition of "exempt registered
21 mortgage loan originator" to read:

1 "Exempt registered mortgage loan originator" means any
2 individual who:

3 (1) Meets the definition of mortgage loan originator and
4 is an employee of:

5 (A) An insured depository institution;

6 [~~(B) A subsidiary that is:~~

7 ~~(i) Owned and controlled by an insured~~
8 ~~depository institution; and~~

9 ~~(ii) Regulated by a federal banking agency;]~~ or

10 [~~(C)~~] (B) An institution regulated by the Farm Credit
11 Administration; and

12 (2) Is registered with, and maintains a unique identifier
13 through, [~~the Nationwide Mortgage Licensing System~~]
14 NMLS but is not required to be licensed under this
15 chapter."

16 5. By amending the definition of "licensee" to read:

17 "Licensee" means a mortgage loan originator, a mortgage
18 loan originator company, a mortgage servicer company, unless
19 exempt under chapter 454M, or a person who is [~~required to be~~]
20 licensed under this chapter. Licensee does not include an
21 exempt registered mortgage loan originator, or exempt sponsoring



1 mortgage loan originator company or nonprofit organization as
2 defined by this section."

3 6. By amending the definition of "mortgage loan
4 originator" to read:

5 "Mortgage loan originator":

6 (1) Means an individual who for compensation or gain or in
7 the expectation of compensation or gain:

8 (A) Takes a residential mortgage loan application; or

9 (B) Offers or negotiates terms of a residential
10 mortgage loan; [~~and~~]

11 (2) Means any individual who offers or negotiates the
12 terms of a residential mortgage loan secured by a
13 dwelling that served as the individual's residence,
14 including a vacation home, or inherited property that
15 served as the deceased's dwelling; provided that the
16 individual does not act as a mortgage loan originator
17 or provide financing for such sales more than three
18 times in a calendar year; and

19 [~~+2~~] (3) Includes an independent contractor as defined in
20 this section."

21 7. By amending the definition of "mortgage servicer
22 company" to read:



1 "Mortgage servicer company" means a mortgage servicer
2 company licensed under chapter 454M[-] that employs one or more
3 individuals who conduct mortgage loan origination activity."

4 8. By amending the definition of "sponsor" to read:

5 "Sponsor" means to:

6 (1) Create a relationship through [~~the Nationwide Mortgage~~
7 ~~Licensing System~~] NMLS; and

8 (2) Appropriately supervise a mortgage loan originator's
9 activities."

10 9. By repealing the definition of "Nationwide Mortgage
11 Licensing System" or "Nationwide Mortgage Licensing System and
12 Registry".

13 [~~"Nationwide Mortgage Licensing System" or "Nationwide~~
14 ~~Mortgage Licensing System and Registry" means a mortgage~~
15 ~~licensing system developed and maintained by the Conference of~~
16 ~~State Bank Supervisors and the American Association of~~
17 ~~Residential Mortgage Regulators for the licensing and~~
18 ~~registration of mortgage loan originators, mortgage loan~~
19 ~~originator companies, exempt registered mortgage loan~~
20 ~~originators, and exempt registered mortgage loan originator~~
21 ~~companies as defined by this chapter."]~~



1 SECTION 3. Section 454F-1.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "~~§454F-1.5 Registration with [Nationwide Mortgage~~
4 ~~Licensing System]~~ NMLS required. (a) All mortgage loan
5 originators, mortgage loan originator companies, exempt
6 sponsoring mortgage loan originator companies, nonprofit
7 organizations, mortgage servicer companies, and every other
8 person in this State that originates a residential mortgage
9 loan, unless exempt under section 454F-2, shall register with
10 [~~the Nationwide Mortgage Licensing System.~~] NMLS.

11 (b) Exempt registered mortgage loan originators, unless
12 exempt under section 454F-2, shall register and maintain a
13 unique identifier through [~~the Nationwide Mortgage Licensing~~
14 ~~System,~~] NMLS, but shall not be required to be licensed under
15 this chapter."

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 or a
20 mortgage servicer company if that individual is a director,
21 general partner, managing member, or executive officer who
22 directly or indirectly has the right to vote ten per cent or



1 more of a class of voting security or has the power to sell or
2 direct the sale of ten per cent or more of a class of voting
3 securities of that mortgage loan originator company[-] or
4 mortgage servicer company."

5 SECTION 5. Section 454F-1.7, Hawaii Revised Statutes, is
6 amended by amending its title to read as follows:

7 "**§454F-1.7 Duties of a mortgage loan originator company's**
8 **qualified individual and branch manager.**"

9 SECTION 6. Section 454F-2.5, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**[+]§454F-2.5[+] Exempt sponsoring mortgage loan**
12 **originator company; registration.** Any person exempt from the
13 licensing provisions of this chapter may register with [~~the~~
14 ~~Nationwide Mortgage Licensing System~~] NMLS for the purpose of
15 sponsoring a mortgage loan originator required to be licensed by
16 this chapter."

17 SECTION 7. Section 454F-3, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§454F-3 Requirement of licensure.** (a) Effective January
20 1, 2011, or such later date approved by the United States
21 Department of Housing and Urban Development pursuant to the
22 authority granted under Public Law 110-289, section 1508(e), 12



1 United States Code section 5107(e), a person, unless
2 specifically exempted from this chapter, shall not engage in the
3 business of a mortgage loan originator or mortgage loan
4 originator company with respect to any dwelling located in this
5 State without first obtaining and maintaining annually, a
6 license under this chapter. Each licensed mortgage loan
7 originator ~~[or]~~, mortgage loan originator company, or mortgage
8 servicer company shall register with and maintain a valid unique
9 identifier issued by ~~[the Nationwide Mortgage Licensing System,]~~
10 NMLS and shall submit to ~~[the Nationwide Mortgage Licensing~~
11 ~~System]~~ NMLS any reports that shall be in a form and contain
12 information as ~~[the Nationwide Mortgage Licensing System]~~ NMLS
13 may require.

14 ~~[A mortgage broker or mortgage solicitor who holds a~~
15 ~~license under chapter 454 that is valid as of December 31, 2010~~
16 ~~and who creates a record and obtains a unique identifying number~~
17 ~~in the Nationwide Mortgage Licensing System by November 30, 2010~~
18 ~~shall be determined to be in compliance with the licensing~~
19 ~~provisions of this chapter until the commissioner makes a final~~
20 ~~determination on the issuance or denial of the individual's~~
21 ~~license.]~~



1 (b) An independent contractor shall not engage in the
2 activities of a loan processor or underwriter without a license
3 pursuant to section 454F-4. Each independent contractor
4 licensed as a mortgage loan originator shall obtain and maintain
5 a valid unique identifier issued by [~~the Nationwide Mortgage~~
6 ~~Licensing System.~~] NMLS. An independent contractor who is not
7 an exclusive agent of a mortgage loan originator company, in
8 addition to obtaining a license as a mortgage loan originator,
9 shall obtain a license as a mortgage loan originator company.

10 (c) A loan processor or underwriter who does not represent
11 to the public, through advertising or other means of
12 communicating or providing information, including through
13 business cards, stationery, brochures, signs, rate lists, or
14 other promotional items, that the individual can or will perform
15 any of the activities of a mortgage loan originator, who does
16 not advertise that the individual can or will perform any of the
17 activities of a mortgage loan originator, and who does not
18 engage in the activities of a mortgage loan originator shall not
19 be required to be licensed under this chapter.

20 [~~(d) Upon obtaining a licensing determination under this~~
21 ~~chapter, an applicant's license issued under chapter 454 shall~~
22 ~~automatically terminate.~~



1 ~~(e)~~ (d) If this section or any provision of this section
2 conflicts at any time with any federal law, then the federal law
3 shall prevail and this section or the relevant provisions of
4 this section shall become ineffective and invalid. The
5 ineffectiveness or invalidity of this section or any of its
6 provisions shall not affect any other provisions or applications
7 of this chapter which shall be given effect without the invalid
8 provision or application, and to this end, the provisions of
9 this section are severable."

10 SECTION 8. Section 454F-4, Hawaii Revised Statutes is
11 amended by amending subsections (a) to (f) to read as follows:

12 "(a) Applicants for a license shall apply in a form as
13 prescribed by ~~[the Nationwide Mortgage Licensing System]~~ NMLS or
14 by the commissioner.

15 (b) To fulfill the purposes of this chapter, the
16 commissioner ~~[shall establish relationships]~~ may enter into
17 agreements or contracts with ~~[the Nationwide Mortgage Licensing~~
18 ~~System]~~ NMLS or other entities ~~[designated by the Nationwide~~
19 ~~Mortgage Licensing System]~~ to use NMLS to collect and maintain
20 records and process transaction fees or other fees related to
21 licensees or other persons subject to this chapter.



1 (c) For the purpose and the extent necessary to
2 participate in [~~the Nationwide Mortgage Licensing System,~~] NMLS,
3 the commissioner may waive or modify, in whole or in part, by
4 rule or order, any or all of the requirements of this chapter
5 and establish new requirements as reasonably necessary to
6 participate in [~~the Nationwide Mortgage Licensing System,~~] NMLS.

7 (d) In connection with an application for a license under
8 this chapter, the applicant, at a minimum, shall furnish to [~~the~~
9 ~~Nationwide Mortgage Licensing System]~~ NMLS information
10 concerning the applicant's identity, including:

11 (1) Fingerprints of the applicant [~~and,~~] or, if an
12 applicant is not an individual, each of the
13 applicant's control persons, executive officers,
14 directors, general partners, and managing members for
15 submission to the Federal Bureau of Investigation and
16 any governmental agency or entity authorized to
17 receive the fingerprints for a state, national, and
18 international criminal history background check; and

19 (2) Personal history and experience of the applicant
20 [~~and,~~] or, if an applicant is not an individual, each
21 of the applicant's control persons, executive
22 officers, directors, general partners, and managing



1 members in a form prescribed by [~~the Nationwide~~
2 ~~Mortgage Licensing System~~] NMLS including the
3 submission of authorization for [~~the Nationwide~~
4 ~~Mortgage Licensing System~~] NMLS and the commissioner
5 to obtain:

6 (A) An independent credit report obtained from a
7 consumer reporting agency described in section
8 603(p) of the Fair Credit Reporting Act, 15
9 United States Code 1681 et seq.; and

10 (B) Information related to any administrative, civil,
11 or criminal findings by any governmental
12 jurisdiction;

13 provided that the commissioner may use any information obtained
14 pursuant to this subsection or through [~~the Nationwide Mortgage~~
15 ~~Licensing System~~] NMLS to determine an applicant's demonstrated
16 financial responsibility, character, and general fitness for
17 licensure.

18 (e) The commissioner may use [~~the Nationwide Mortgage~~
19 ~~Licensing System~~] NMLS as an agent for requesting information
20 from and distributing information to the Department of Justice
21 or any governmental agency.



1 (f) The commissioner may use [~~the Nationwide Mortgage~~
2 ~~Licensing System~~] NMLS as an agent for requesting and
3 distributing information to and from any source directed by the
4 commissioner."

5 SECTION 9. Section 454F-4.9, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:

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

19 SECTION 10. Section 454F-6, Hawaii Revised Statutes, is
20 amended by amending subsections (a) to (e) to read as follows:

21 "(a) An applicant for licensure as a mortgage loan
22 originator shall complete at least twenty hours of pre-licensing



1 education approved in accordance with subsection (b) that
2 includes:

- 3 (1) Three hours of federal law and regulations[+] and
4 three hours of state law and rules;
5 (2) Three hours of ethics, that shall include instruction
6 on fraud, consumer protection, and fair lending
7 issues; and
8 (3) Two hours of training related to lending standards for
9 the nontraditional mortgage product marketplace.

10 Upon completion of the pre-licensing education, an individual
11 has up to twelve months to submit an application for licensure
12 as a mortgage loan originator. An individual who submits an
13 application after the twelve months have expired will be
14 required to repeat the pre-licensing education requirements.

15 (b) Pre-licensing education courses shall be reviewed and
16 approved by [~~the Nationwide Mortgage Licensing System~~] NMLS
17 based upon reasonable standards. Review and approval of a pre-
18 licensing education course shall include review and approval of
19 the course provider.

20 (c) Nothing in this section shall prohibit the use of any
21 pre-licensing education course approved by [~~the Nationwide~~
22 ~~Mortgage Licensing System~~] NMLS that is provided by the employer



1 of the applicant, an entity that is affiliated with the
2 applicant by an agency contract, or any subsidiary or affiliate
3 of the employer or entity.

4 (d) Pre-licensing education may be offered either in a
5 classroom, online, or by any other means approved by [~~the~~
6 ~~Nationwide Mortgage Licensing System.~~] NMLS.

7 (e) The pre-licensing education requirements approved by
8 [~~the Nationwide Mortgage Licensing System~~] NMLS for any state
9 shall be accepted as credit towards completion of pre-licensing
10 education requirements in this State."

11 SECTION 11. Section 454F-7, Hawaii Revised Statutes, is
12 amended as follows:

13 1. By amending subsection (a) to read:

14 "(a) To meet the [~~passing of the~~] written test requirement
15 in section 454F-5, an applicant for licensure as a mortgage loan
16 originator shall pass, in accordance with the standards
17 established under this section, a qualified written test
18 developed by [~~the Nationwide Mortgage Licensing System~~] NMLS and
19 administered by a test provider approved by [~~the Nationwide~~
20 ~~Mortgage Licensing System~~] NMLS based upon reasonable
21 standards."

22 2. By amending subsections (c) and (d) to read:



1 "(c) Nothing in this section shall prohibit a test
2 provider approved by [~~the Nationwide Mortgage Licensing System~~]
3 NMLS from providing a test at the location of the employer of
4 the applicant, the location of any subsidiary or affiliate of
5 the employer of the applicant, or the location of any entity
6 with which the applicant holds an exclusive arrangement to
7 conduct the business of a mortgage loan originator.

8 (d) An individual shall have passed a qualified written
9 test if the individual achieves a test score of seventy-five per
10 cent of the correct answers to questions or better. An
11 individual may [~~retake~~] take a test three [~~consecutive~~] times
12 with each [~~consecutive taking~~] retest occurring at least thirty
13 days after the preceding test. After failing three consecutive
14 tests, an individual shall wait at least six months before
15 taking the test again. A licensed mortgage loan originator who
16 fails to maintain a valid license for a period of five years or
17 longer not taking into account any time during which the
18 individual is an exempt registered mortgage loan originator,
19 shall retake the test."

20 SECTION 12. Section 454F-8, Hawaii Revised Statutes, is
21 amended to read as follows:



1 **"§454F-8 Standards for license renewal.** (a) The minimum
2 standards for license renewal for mortgage loan originators
3 shall include the following:

- 4 (1) The mortgage loan originator continues to meet the
5 minimum standards for licensure under section 454F-5;
- 6 (2) The mortgage loan originator has satisfied the annual
7 continuing education requirements in section 454F-9[7]
8 prior to requesting renewal; and
- 9 (3) The mortgage loan originator has paid all required
10 fees for renewal of the license.

11 (b) The minimum standards for license renewal for mortgage
12 loan originator companies shall include the following:

- 13 (1) The mortgage loan originator company continues to meet
14 the minimum standards for licensure established
15 pursuant to section 454F-5;
- 16 (2) The mortgage loan originator company's qualified
17 individual and every branch manager have satisfied the
18 minimum standards for license renewal; and
- 19 (3) The mortgage loan originator company has paid all
20 required fees for renewal of the license.

21 (c) The minimum standards for license renewal for a
22 mortgage servicer company shall include the following:



1 (1) The mortgage servicer company continues to meet the
2 minimum standards for licensure established pursuant
3 to section 454F-5; and

4 (2) The mortgage servicer company has paid all required
5 fees for renewal of the license.

6 ~~[(e)]~~ (d) The license of a mortgage loan originator ~~[or]~~,
7 mortgage loan originator company, or mortgage servicer company
8 that fails to satisfy the minimum standards for license renewal
9 shall expire. The commissioner may adopt procedures for the
10 reinstatement of expired licenses consistent with section 454F-
11 8.5 and the standards established by ~~[the Nationwide Mortgage~~
12 ~~Licensing System.]~~ NMLS."

13 SECTION 13. Section 454F-9, Hawaii Revised Statutes, is
14 amended as follows:

15 1. By amending subsections (a) to (d) to read:

16 "(a) Each year, a licensed mortgage loan originator shall
17 complete at least eight hours of education approved in
18 accordance with subsection (b) that shall include ~~[at least]~~:

19 (1) Three hours of federal law and regulations;

20 (2) Two hours of ethics that shall include instruction on
21 fraud, consumer protection, and fair lending issues;



- 1 (3) Two hours of training related to lending standards for
2 the nontraditional mortgage product marketplace~~[-]~~;
3 and
4 (4) One hour of state law and rules.

5 (b) For purposes of subsection (a), continuing education
6 courses shall be reviewed and approved by [~~the Nationwide~~
7 ~~Mortgage Licensing System~~] NMLS based upon reasonable standards.
8 Review and approval of a continuing education course shall
9 include review and approval of the course provider.

10 (c) Nothing in this section shall prohibit the use of any
11 education course that is approved by [~~the Nationwide Mortgage~~
12 ~~Licensing System~~] NMLS and provided by the employer of the
13 mortgage loan originator, an entity that is affiliated with the
14 mortgage loan originator by an agency contract, or any
15 subsidiary or affiliate of the employer or entity.

16 (d) Continuing education may be offered either in a
17 classroom, online, or by any other means approved by [~~the~~
18 ~~Nationwide Mortgage Licensing System.~~] NMLS."

19 2. By amending subsection (g) to read:

20 "(g) Continuing education courses as described in
21 subsection (a) and approved by [~~the Nationwide Mortgage~~
22 ~~Licensing System~~] NMLS for any state, that are successfully



1 completed by a licensed mortgage loan originator, shall be
2 accepted as credit towards completion of continuing education
3 requirements in this State."

4 SECTION 14. Section 454F-10, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§454F-10 Authority to require license.** In addition to
7 any other duties imposed upon the commissioner, the commissioner
8 shall require mortgage loan originators [~~and~~], mortgage loan
9 originator companies, and mortgage servicer companies to be
10 licensed and registered through [~~the Nationwide Mortgage~~
11 ~~Licensing System.~~] NMLS. The commissioner is authorized to
12 participate in [~~the Nationwide Mortgage Licensing System.~~] NMLS.
13 The commissioner may establish by rule pursuant to chapter 91,
14 requirements for mortgage loan originators [~~and~~], mortgage loan
15 originator companies, and mortgage servicer companies including:

- 16 (1) Background checks of:
- 17 (A) Criminal history through fingerprint or other
18 databases;
- 19 (B) Civil or administrative records;
- 20 (C) Credit history; and
- 21 (D) Any other source deemed necessary by [~~the~~
22 ~~Nationwide Mortgage Licensing System,~~] NMLS;



- 1 (2) Fees to apply for or renew licenses through [~~the~~
2 ~~Nationwide Mortgage Licensing System,~~] NMLS;
- 3 (3) The setting or resetting as necessary of license
4 renewal and reporting dates;
- 5 (4) Requirements for amending or surrendering a license;
6 and
- 7 (5) Any other activity the commissioner deems necessary to
8 participate in [~~the Nationwide Mortgage Licensing~~
9 ~~System.~~] NMLS."

10 SECTION 15. Section 454F-10.5, Hawaii Revised Statutes, is
11 amended to read as follows:

12 **"§454F-10.5 Authorized places of business; designation of**
13 **qualified individuals and branch managers; branch offices; out-**
14 **of-state headquarters; relocation.** (a) Every mortgage loan
15 originator company licensed under this chapter shall have and
16 maintain a principal place of business in the State and shall
17 designate a qualified individual who is licensed as a mortgage
18 loan originator pursuant to this chapter to oversee mortgage
19 loan originators employed or contracted by the company. If the
20 qualified individual is physically located at a branch office,
21 the qualified individual may also be designated as the branch
22 manager.



1 (b) A mortgage loan originator company shall not maintain
2 any branch offices in the State in addition to its principal
3 place of business without the prior written approval of the
4 commissioner. An application to establish a branch office shall
5 be submitted through NMLS with a nonrefundable application fee
6 as required by section 454F-22. A mortgage loan originator
7 company [~~that establishes one or more branch offices pursuant to~~
8 ~~this subsection~~] shall designate a branch manager for each
9 branch office [~~located at~~] who is physically present in the
10 branch office to oversee that branch office. Every branch
11 manager shall be licensed as a mortgage loan originator pursuant
12 to this chapter.

13 (c) A mortgage loan originator company shall not relocate
14 any office in this State without the prior written approval of
15 the commissioner. An application to relocate an office shall be
16 submitted to the commissioner at least thirty days prior to
17 relocating and shall set forth the reasons for the relocation,
18 the street address of the proposed relocated office, and other
19 information that may be required by the commissioner. An
20 application to relocate an office pursuant to this subsection
21 shall be submitted with a nonrefundable fee as required by
22 section 454F-22.



1 (d) A mortgage loan originator company shall give the
2 commissioner notice of its intent to close a branch office at
3 least thirty days prior to the closing. The notice shall:

4 (1) State the intended date of closing; and

5 (2) Specify the reasons for the closing.

6 (e) A mortgage loan originator company that maintains its
7 headquarters outside of the State shall:

8 (1) Designate an office in this State as its principal
9 place of business in this State;

10 (2) Apply for and obtain approval from the commissioner to
11 designate its principal place of business in this
12 State as a branch office pursuant to this section; and

13 (3) Designate a qualified individual who shall hold a
14 license as a mortgage loan originator pursuant to this
15 chapter; provided that the qualified individual may be
16 the same person designated as the branch manager.

17 (f) A mortgage loan originator company that maintains its
18 headquarters in this State shall designate a qualified
19 individual who is physically present in the principal place of
20 business office as its branch manager to oversee and manage that
21 principal place of business office."



1 SECTION 16. Section 454F-11, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§454F-11 [~~Nationwide Mortgage Licensing System~~] NMLS
4 **registry information; challenge process.** The commissioner shall
5 establish a process by rule pursuant to chapter 91 whereby a
6 licensee may challenge information entered into [~~the Nationwide~~
7 ~~Mortgage Licensing System~~] NMLS by the commissioner."

8 SECTION 17. Section 454F-14, Hawaii Revised Statutes, is
9 amended as follows:

10 1. By amending its title and subsection (a) to read:

11 "[+]§454F-14[+] **Confidentiality.** (a) Except as otherwise
12 provided in Public Law 110-289, section 1512, the requirements
13 under any federal or state law regarding the privacy or
14 confidentiality of any information or material provided to [~~the~~
15 ~~Nationwide Mortgage Licensing System,~~] NMLS, and any privilege
16 arising under federal or state law, including the rules of any
17 federal or state court, with respect to the information or
18 material shall continue to apply to the information or material
19 after the information or material has been disclosed to [~~the~~
20 ~~Nationwide Mortgage Licensing System.~~] NMLS. The information
21 and material may be shared with all state and federal regulatory
22 officials with mortgage industry oversight authority without the



1 loss of privilege or the loss of confidentiality protections
2 provided by federal or state law."

3 2. By amending subsection (c) to read:

4 "(c) Information or material that is subject to a
5 privilege or confidentiality under subsection (a) shall not be
6 subject to:

7 (1) Disclosure under any federal or state law governing
8 the disclosure to the public of information held by an
9 officer or an agency of the federal government or a
10 state; or

11 (2) Subpoena or discovery, or admission into evidence, in
12 any private civil action or administrative process,
13 unless with respect to any privilege held by [the
14 ~~Nationwide Mortgage Licensing System~~] NMLS applicable
15 to the information or material; provided that the
16 person to whom the information or material pertains
17 waives, in whole or in part, in the discretion of such
18 person, that privilege."

19 3. By amending subsection (f) to read:

20 "(f) This section shall not apply to information or
21 material relating to the employment history of, and publicly
22 adjudicated disciplinary and enforcement actions against,



1 mortgage loan originators that are included in [~~the Nationwide~~
2 ~~Mortgage Licensing System~~] NMLS for access by the public."

3 SECTION 18. Section 454F-15, Hawaii Revised Statutes, is
4 amended by amending subsection (i) to read as follows:

5 "(i) The commissioner may charge an examination or
6 investigation fee, payable to the division, based upon the cost
7 per hour per examiner for all licensees and persons subject to
8 this chapter examined or investigated by the commissioner or the
9 commissioner's staff. The hourly fee shall be [~~\$40~~] \$___ or an
10 amount as the commissioner shall establish by rule pursuant to
11 chapter 91. In addition to the examination or investigation
12 fee, the commissioner may charge any person that is examined or
13 investigated by the commissioner or the commissioner's staff
14 pursuant to this section additional amounts for travel, per
15 diem, mileage, and other reasonable expenses incurred in
16 connection with the examination or investigation, payable to the
17 division."

18 SECTION 19. Section 454F-16, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§454F-16 Mortgage call reports.** Each licensee, as may be
21 required by 12 United States Code sections 5101 to 5116, shall
22 submit quarterly to [~~the Nationwide Mortgage Licensing System~~]



1 NMLS reports of condition, using the form entitled "REPORT OF
2 CONDITION", which shall be in the form and contain the
3 information as [~~the Nationwide Mortgage Licensing System~~] NMLS
4 may require."

5 SECTION 20. Section 454F-17, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§454F-17 Prohibited practices.** It shall be a violation
8 of this chapter for a licensee or person subject to this chapter
9 to:

- 10 (1) Directly or indirectly employ any scheme, device, or
11 artifice to defraud or mislead borrowers or lenders or
12 to defraud any person;
- 13 (2) Engage in any unfair or deceptive practice related to
14 mortgage loan origination activities toward any
15 person;
- 16 (3) Obtain property by fraud or misrepresentation;
- 17 (4) Solicit or enter into any contract with a borrower
18 that provides in substance that the person or
19 individual subject to this chapter may earn a fee or
20 commission through "best efforts" to obtain a loan
21 even though no loan is actually obtained for the
22 borrower;



- 1 (5) Solicit, advertise, or enter into a contract for
2 specific interest rates, points, or other financing
3 terms unless the terms are actually available at the
4 time of soliciting, advertising, or contracting;
- 5 (6) Conduct any business covered by this chapter without
6 holding a valid license as required under this
7 chapter, or assist or aid and abet any person in the
8 conduct of business under this chapter without a valid
9 license as required under this chapter;
- 10 (7) Fail to make disclosures as required by this chapter
11 and any other applicable state or federal law
12 including rules or regulations adopted pursuant to
13 state or federal law;
- 14 (8) Fail to comply with this chapter or any order or rule
15 issued or adopted under the authority of this chapter,
16 or fail to comply with any other state or federal law,
17 including the rules and regulations adopted pursuant
18 to state or federal law applicable to any business
19 authorized or conducted pursuant to this chapter;
- 20 (9) Make, in any manner, any false or deceptive statement
21 or representation, including with regard to the rates,
22 points, or other financing terms or conditions for a



- 1 residential mortgage loan, or engage in bait and
2 switch advertising;
- 3 (10) Negligently or knowingly make any false statement or
4 provide any misleading information or knowingly and
5 wilfully make any omission of material fact in
6 connection with any information or reports filed with
7 a governmental agency or [~~the Nationwide Mortgage~~
8 ~~Licensing System,~~] NMLS, including an application for
9 a license under this chapter, or in connection with
10 any examination or investigation conducted by the
11 commissioner or another government agency;
- 12 (11) Make any payment, threat, or promise, directly or
13 indirectly, to any person for the purposes of
14 influencing the independent judgment of the person in
15 connection with a residential mortgage loan, or make
16 any payment, threat, or promise, directly or
17 indirectly, to any appraiser of a property for the
18 purpose of influencing the independent judgment of the
19 appraiser with respect to the value of a property;
- 20 (12) Cause or require a borrower to obtain property
21 insurance coverage in an amount that exceeds the



1 replacement cost of the improvements as established by
2 the property insurer;

3 (13) Fail to truthfully account for moneys belonging to a
4 party to a residential mortgage loan transaction;

5 (14) Deliver a misleading or deceptive communication or
6 advertisement, whether written, electronic, or oral,
7 when marketing or soliciting a residential mortgage
8 loan; provided that:

9 (A) A communication or advertisement that uses the
10 name or trademark of a financial institution as
11 defined in section 412:1-109 or its affiliates or
12 subsidiaries, or infers that the communication or
13 advertisement is from, endorsed by, is related
14 to, or is the responsibility of the financial
15 institution is a misleading or deceptive
16 communication; and

17 (B) Advertising that a specific interest rate,
18 points, or financial terms are available when the
19 rates, points, or financial terms are not
20 actually available is a misleading or deceptive
21 communication;



- 1 (15) Fill in or complete any blank on a final residential
2 mortgage loan application that requests material
3 information including financial information without
4 adequate supporting documentation provided by the
5 borrower;
- 6 (16) Fill in or complete any blank on any mortgage or note
7 evidencing or securing the residential mortgage loan
8 which relates to the amount, interest rate, term, or
9 monthly payment of the residential mortgage loan;
- 10 (17) Originate a residential mortgage loan based primarily
11 on the current market value of the borrower's
12 collateral rather than on the borrower's ability to
13 repay the loan according to its terms; provided that
14 the sale of the property is made to a bona fide buyer;
15 and provided further that this paragraph shall not
16 apply to a reverse mortgage as defined under Title 12
17 Code of Federal Regulations section 226.33;
- 18 (18) Advertise terms of a residential mortgage loan in
19 violation of section 226.16 or 226.24 of Regulation Z
20 of the Board of Governors of the Federal Reserve
21 System; or



1 (19) Encourage a borrower to misrepresent, inflate, or
2 fabricate the source or amount of a borrower's actual
3 income or assets in the application or underwriting
4 process for a residential mortgage loan."

5 SECTION 21. Section 454F-20, Hawaii Revised Statutes, is
6 amended to read as follows:

7 " ~~[+]§454F-20[+]~~ **Report to [~~Nationwide Mortgage Licensing~~**
8 **~~System-]~~ NMLS. Notwithstanding any other law to the contrary,
9 the commissioner is required to regularly report violations of
10 this chapter, as well as enforcement actions and other relevant
11 information, to [~~the Nationwide Mortgage Licensing System]~~ NMLS
12 subject to the confidentiality provisions contained in section
13 454F-14."**

14 SECTION 22. Section 454F-22, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§454F-22 Mortgage loan originator, mortgage loan**
17 **originator company, mortgage servicer company, and exempt**
18 **sponsoring mortgage loan originator company fees. (a) [A]**
19 **Except as provided in subsection (b), a mortgage loan originator**
20 **shall pay the following fees to obtain and maintain a valid**
21 **mortgage loan originator license:**

22 (1) Initial application fee of [~~\$500+~~] \$ _____ ;



1 (2) Annual license renewal fee of [~~\$300~~] \$ _____ ;

2 (3) Reinstatement fee of \$100;

3 (4) Late fee of \$25 per day; and

4 (5) Criminal background check fee of \$35, or of an amount
5 determined by the commissioner by rule pursuant to
6 chapter 91.

7 (b) A sole proprietor mortgage loan originator shall pay
8 the following fees to obtain and maintain a valid sole
9 proprietor mortgage loan originator license:

10 (1) Initial application fee of \$ _____ ;

11 (2) Annual license renewal fee of \$ _____ ;

12 (3) Reinstatement fee of \$ _____ ;

13 (4) Late fee of \$ _____ per day; and

14 (5) Criminal background check fee of \$ _____ , or of an
15 amount determined by the commissioner by rule pursuant
16 to chapter 91.

17 [~~(b)~~] (c) A mortgage loan originator company shall pay the
18 following fees to maintain a valid mortgage loan originator
19 company license or branch license:

20 (1) Fees payable for a principal office of a mortgage loan
21 originator company:

22 (A) Initial application fee of \$900;



1 (B) Processing fee of \$ _____ for each control
2 person;

3 [~~(B)~~] (C) Annual license renewal fee of \$600;

4 [~~(C)~~] (D) Reinstatement fee of \$100;

5 [~~(D)~~] (E) Late fee of \$25 per day; and

6 [~~(E)~~] (F) Criminal background check fee of \$35, or of
7 an amount determined by the commissioner by rule
8 pursuant to chapter 91, for each control person,
9 executive officer, director, general partner, and
10 manager; and

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

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

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

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

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

17 [~~(e)~~] (d) An exempt sponsoring mortgage loan originator
18 company shall pay the following fees to maintain a valid
19 registration in [~~the Nationwide Mortgage Licensing System and~~
20 ~~Registry~~]; NMLS:

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

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



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

2 [~~(d)~~] (e) A nonprofit organization shall pay the following
3 fees to maintain a valid registration as a nonprofit
4 organization in [~~the Nationwide Mortgage Licensing System and~~
5 ~~Registry~~:] NMLS:

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

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

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

9 (f) A mortgage servicer company shall pay the following
10 fees to maintain a valid mortgage loan originator company
11 license:

12 (1) Fees payable for a principal office of a mortgage
13 servicer company:

14 (A) Initial application fee of \$ _____ ;

15 (B) Annual license renewal fee of \$ _____ ;

16 (C) Reinstatement fee of \$ _____ ;

17 (D) Late fee of \$ _____ per day; and

18 (E) Criminal background check fee of \$ _____ , or of
19 an amount determined by the commissioner by rule
20 pursuant to chapter 91, for each control person,
21 executive officer, director, general partner, and
22 managing member.



1 [~~e~~] (g) In addition to fees charged by [~~the Nationwide~~
 2 ~~Mortgage Licensing System,~~] NMLS, a licensee shall pay to the
 3 commissioner a fee of [~~\$50~~] \$ _____ for each of the following
 4 amendments to information provided to [~~the Nationwide Mortgage~~
 5 ~~Licensing System~~] NMLS that require the review of the
 6 commissioner:

- 7 (1) Change of physical location or mailing address for
- 8 branch office or principal place of business;
- 9 (2) Addition or deletion of a "d/b/a" assignment;
- 10 (3) Change of mortgage loan originator's sponsor;
- 11 (4) Change of qualified individual;
- 12 (5) Change of branch manager; and
- 13 (6) Change of mortgage loan originator company's legal
- 14 name.

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

17 [~~f~~] (h) The fees established by this section are
 18 nonrefundable and are in addition to any fees established and
 19 charged by [~~the Nationwide Mortgage Licensing System,~~] NMLS, an
 20 approved educational course provider, an approved educational
 21 testing provider, a law enforcement agency for fingerprints and



1 background checks, or a credit reporting agency used by [~~the~~
2 ~~Nationwide Mortgage Licensing System.~~] NMLS.

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

6 SECTION 23. Section 454F-23, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "~~[(1)§454F-23 [(1)]]~~ **Payment of fees.** All fees collected
9 pursuant to section 454F-22, administrative fines, and other
10 charges collected pursuant to this chapter, except fees
11 designated for deposit into the mortgage loan recovery fund
12 shall be deposited into the compliance resolution fund
13 established pursuant to section 26-9(o) and shall be payable
14 through [~~the Nationwide Mortgage Licensing System,~~] NMLS, to the
15 extent allowed by [~~the Nationwide Mortgage Licensing System.~~]
16 NMLS. Fees not eligible for payment through [~~the Nationwide~~
17 ~~Mortgage Licensing System]~~ NMLS shall be deposited into a
18 separate account within the compliance resolution fund for use
19 by the division."

20 SECTION 24. Section 454F-41, Hawaii Revised Statutes, is
21 amended as follows:



1 1. By amending its title to read:
2 " ~~[+]§454F-41[+]~~ **Mortgage loan recovery fund; use of fund;**
3 **fees."**

4 2. By amending subsections (b) and (c) to read:
5 "(b) In addition to application fees and any fees required
6 by ~~[the Nationwide Mortgage Licensing System,]~~ NMLS, a licensee
7 shall pay to the division a mortgage loan recovery fund fee as
8 follows for deposit in the mortgage loan recovery fund:

9 (1) The sum of \$300 for each principal office location of
10 a mortgage loan originator company~~[+]~~ or mortgage
11 servicer company;

12 (2) The sum of \$250 for each branch office location of a
13 mortgage loan originator company; and

14 (3) The sum of \$200 for each mortgage loan originator.

15 (c) Upon application for renewal of a license under this
16 chapter, a licensee shall pay, in addition to the licensee's
17 license renewal fee and fees required by ~~[the Nationwide~~
18 ~~Mortgage Licensing System,]~~ NMLS, a mortgage loan recovery fund
19 fee as follows for deposit in the mortgage loan recovery fund:

20 (1) The sum of \$200 for each principal office location of
21 a mortgage loan originator company~~[+]~~ or a mortgage
22 servicer company;



1 (2) The sum of \$100 for each branch office location of a
2 mortgage loan originator company; and

3 (3) The sum of \$100 for each mortgage loan originator.
4 Mortgage loan recovery fees collected pursuant to this
5 subsection shall be refundable upon the denial of a license
6 renewal by the commissioner."

7 SECTION 25. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 26. This Act shall take effect on July 1, 2112.



Report Title:

Mortgage Servicers; Registration; Fees; NMLS

Description:

Changes application and renewal fees to an unspecified amount for mortgage loan originators, mortgage loan originator companies, and exempt sponsoring mortgage loan originator companies; and establishes unspecified fees for mortgage servicer companies that conduct mortgage loan origination activities. Effective July 1, 2112. (HB838 HD1)

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