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

3           (1) By adding one new definition to be appropriately  
4 inserted and to read as follows:

5           "Executive officer" means a president, chairperson of an  
6 executive committee, senior officer responsible for the subject  
7 entity or organization's business, chief financial officer, or  
8 any other person who performs similar functions related to the  
9 subject entity or organization."

10          (2) By amending the definition of "qualified individual"  
11 to read as follows:

12          "Qualified individual" means an individual who is  
13 responsible for the oversight of mortgage loan originators that  
14 are employed by or contracted to perform work, for a mortgage  
15 loan originator company[-] or an exempt sponsoring mortgage loan  
16 originator company."

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1 SECTION 2. Section 454F-1.6, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§454F-1.6 **Presumption of control.** An individual is  
4 presumed to control a mortgage loan originator company if that  
5 individual is [a]:

6 (1) An executive officer; or

7 (2) A director, general partner, or managing member [or  
8 executive officer] who directly or indirectly has the  
9 right to vote ten per cent or more of a class of  
10 voting securities or has the power to sell or direct  
11 the sale of ten per cent or more of a class of voting  
12 securities of that licensee or applicant."

13 SECTION 3. Section 454F-1.7, Hawaii Revised Statutes, is  
14 amended to read as follows:

15 "§454F-1.7 **Duties of a [mortgage loan originator**  
16 **company's] qualified individual and branch manager.** (a) Every  
17 mortgage loan originator company licensed under this chapter and  
18 every exempt sponsoring mortgage loan originator company  
19 registered with NMLS under this chapter shall designate a  
20 qualified individual to fulfill the duties and responsibilities  
21 set forth in this chapter. A qualified individual shall have  
22 the duty to manage and supervise the mortgage loan origination

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1 activities of [a] the principal office of the licensed mortgage  
2 loan originator [~~company's principal office~~] company or exempt  
3 sponsoring mortgage loan originator company, and the licensed  
4 mortgage loan originators located at or working out of the  
5 principal office and all company branch offices. A qualified  
6 individual for a mortgage loan originator company shall hold a  
7 license as a mortgage loan originator issued pursuant to this  
8 chapter.

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

16 (c) A qualified individual for a mortgage loan originator  
17 company or exempt sponsoring mortgage loan originator company  
18 shall be responsible for:

- 19 (1) Supervising the maintenance and accounting of client  
20 trust accounts and disbursements from those accounts;
- 21 (2) Supervising the maintenance of all records, contracts,  
22 and documents of the mortgage loan originator

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1           company[+] or exempt sponsoring mortgage loan  
2           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[+] or exempt  
8           sponsoring mortgage loan originator company;

9           (4) Supervising all licensed mortgage loan originators who  
10           are employed by or are independent contractors of the  
11           mortgage loan originator company[+] or exempt  
12           sponsoring mortgage loan originator company;

13           (5) Developing and enforcing policies and procedures  
14           relating to the handling of residential mortgage loan  
15           transactions and the professional conduct of the  
16           licensed mortgage loan originators and other staff;

17           (6) Developing and monitoring compliance with a policy on  
18           continuing education requirements for all licensed  
19           mortgage loan originators who are employed by or are  
20           independent contractors of the mortgage loan  
21           originator company or exempt sponsoring mortgage loan

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- 1            originator company pursuant to the requirements of  
2            this chapter and the rules of the commissioner;
- 3            (7) Ensuring that the licenses of all mortgage loan  
4            originators who are employed by or are independent  
5            contractors of the mortgage loan originator company[?] or exempt sponsoring mortgage loan originator company,  
6            and the license of the mortgage loan originator  
7            company are current and active, that the exempt  
8            sponsoring mortgage loan originator company is  
9            registered with NMLS, and that all required fees are  
10           timely paid to the mortgage loan recovery fund;
- 11           (8) Establishing and conducting a training program for all  
12           licensed mortgage loan originators who are employed by  
13           or are independent contractors of the mortgage loan  
14           originator company[?] or exempt sponsoring mortgage  
15           loan originator company;
- 16           (9) Ensuring that all licensed mortgage loan originators  
17           who are employed by or are independent contractors of  
18           the mortgage loan originator company or exempt  
19           sponsoring mortgage loan originator company are  
20           provided adequate information and training on the  
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1 latest amendments to licensing laws and rules and any  
2 other applicable laws and rules;

3 (10) Notifying the commissioner of the termination of the  
4 employment or independent contractor relationship of  
5 licensed mortgage loan originators who were employed  
6 by or were independent contractors of the mortgage  
7 loan originator company or exempt sponsoring mortgage  
8 loan originator company upon the termination of  
9 employment or the independent contractor relationship;  
10 and

11 (11) Ensuring that the records, loan documents, and  
12 agreements including mortgage loan originator  
13 agreements are retained for seven years on paper or in  
14 electronic format by the mortgage loan originator  
15 company[-] or exempt sponsoring mortgage loan  
16 originator company.

17 (d) A branch manager for a branch office shall be  
18 responsible for supervising:

19 (1) The maintenance of all records, contracts, and  
20 documents of the mortgage loan originator company  
21 branch office;

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1 (2) All mortgage loan originator agreements and mortgage  
2 loan documents and the handling of these documents by  
3 the licensed mortgage loan originators or independent  
4 contractors located at or working out of the mortgage  
5 loan originator company branch office; and

6 (3) All licensed mortgage loan originators who are  
7 employed by, or are independent contractors of, the  
8 mortgage loan originator company and who are located  
9 at or working out of the mortgage loan originator  
10 company branch office."

11 SECTION 4. Section 454F-4, Hawaii Revised Statutes, is  
12 amended by amending subsection (d) to read as follows:

13 "(d) In connection with an application for a license under  
14 this chapter, the applicant, at a minimum, shall furnish to NMLS  
15 information concerning the applicant's identity, including:

16 (1) Fingerprints of the applicant or, if an applicant is  
17 not an individual, each of the applicant's control  
18 persons, executive officers, directors, general  
19 partners, and managing members for submission to the  
20 Federal Bureau of Investigation and any governmental  
21 agency or entity authorized to receive the  
22 fingerprints for a state, national, and international

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1 criminal history background check[+], accompanied by  
2 the appropriate payment of the applicable fee for each  
3 record check; and

4 (2) Personal history and experience of the applicant or,  
5 if an applicant is not an individual, each of the  
6 applicant's control persons, executive officers,  
7 directors, general partners, and managing members in a  
8 form prescribed by NMLS including the submission of  
9 authorization for NMLS and the commissioner to obtain:

10 (A) An independent credit report obtained from a  
11 consumer reporting agency described in section  
12 603(p) of the Fair Credit Reporting Act, title 15  
13 United States Code section 1681 et seq.; and

14 (B) Information related to any administrative, civil,  
15 or criminal findings by any governmental  
16 jurisdiction;

17 provided that the commissioner may use any information obtained  
18 pursuant to this subsection or through NMLS to determine an  
19 applicant's demonstrated financial responsibility, character,  
20 and general fitness for licensure."

21 SECTION 5. Section 454F-5, Hawaii Revised Statutes, is  
22 amended by amending subsection (b) to read as follows:

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1           "(b) The applicant, or in the case of an applicant that is  
2 not an individual, each of the applicant's control persons,  
3 executive officers, directors, general partners, and [~~managers~~  
4 managing members, shall submit authorization to the commissioner  
5 for the commissioner to conduct background checks to determine  
6 or verify the information in subsection (a) in each state where  
7 the person has conducted mortgage loan origination  
8 activities. Authorization pursuant to this subsection shall  
9 include consent to provide additional fingerprints, if  
10 necessary, to law enforcement or regulatory bodies in other  
11 states."

12           SECTION 6. Section 454F-10.5, Hawaii Revised Statutes, is  
13 amended by amending subsection (a) to read as follows:

14           "(a) Every mortgage loan originator company licensed under  
15 this chapter and every exempt sponsoring mortgage loan  
16 originator company shall have and maintain a principal place of  
17 business in the State and shall designate a qualified individual  
18 to fulfill the duties and responsibilities of a qualified  
19 individual set forth in section 454F-1.7."

20           SECTION 7. Section 454F-10.7, Hawaii Revised Statutes, is  
21 amended by amending subsection (b) to read as follows:

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1           "(b) The commissioner shall approve a request for change  
2 of control under subsection (a) if, after investigation, the  
3 commissioner determines that the person or group of persons who  
4 will obtain control [~~are licensed pursuant to~~] will be in  
5 compliance with this chapter[+] upon approval of the application  
6 for a proposed change of control of the licensee; have the  
7 competence, experience, character, and general fitness to  
8 control the licensee or person in control of the licensee in a  
9 lawful and proper manner; and that the interests of the public  
10 will not be jeopardized by the change of control."

11           SECTION 8. Section 454F-18, Hawaii Revised Statutes, is  
12 amended by amending subsection (b) to read as follows:

13           "(b) In addition to any other powers provided by law, the  
14 commissioner shall have the authority to:

- 15           (1) Administer and enforce the provisions and requirements  
16               of this chapter;
- 17           (2) Adopt, amend, or repeal rules and issue declaratory  
18               rulings or informal nonbinding interpretations;
- 19           (3) Develop requirements for licensure through rules,  
20               including establishing the content of the written  
21               tests required under section 454F-7;

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- 1 (4) Investigate and conduct hearings regarding any  
2 violation of this chapter or any rule or order of, or  
3 agreement with, the commissioner;
- 4 (5) Create fact-finding committees that may make  
5 recommendations to the commissioner for the  
6 commissioner's deliberations;
- 7 (6) Require an applicant or any of its control persons,  
8 executive officers, directors, [~~employees,~~] general  
9 partners, and managing members [~~, managers, and agents~~]  
10 to disclose their relevant criminal history and  
11 request a criminal history record check in accordance  
12 with chapter 846;
- 13 (7) Contract with or employ qualified persons, including  
14 investigators, examiners, or auditors who may be  
15 exempt from chapter 76 and who shall assist the  
16 commissioner in exercising the commissioner's powers  
17 and duties;
- 18 (8) Require that all fees, fines, and charges collected by  
19 the commissioner under this chapter, except for fees  
20 designated for deposit into the mortgage loan recovery  
21 fund pursuant to section 454F-41, be deposited into

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1 the compliance resolution fund established pursuant to  
2 section 26-9(o);

3 (9) Process and investigate complaints, subpoena witnesses  
4 and documents, administer oaths, and receive  
5 affidavits and oral testimony, including telephonic  
6 communications, and do any and all things necessary or  
7 incidental to the exercise of the commissioner's power  
8 and duties, including the authority to conduct  
9 contested case proceedings under chapter 91; and

10 (10) Require a licensee to comply with any rule, guidance,  
11 guideline, statement, supervisory policy or any  
12 similar proclamation issued or adopted by the Federal  
13 Deposit Insurance Corporation to the same extent and  
14 in the same manner as a bank chartered by the State or  
15 in the alternative, any policy position of the  
16 Conference of State Bank Supervisors."

17 SECTION 9. Section 454F-22, Hawaii Revised Statutes, is  
18 amended by amending subsections (a), (b), and (c) to read as  
19 follows:

20 "(a) Except as provided in subsection (b), a mortgage loan  
21 originator shall pay the following fees to obtain and maintain a  
22 valid mortgage loan originator license:

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- 1 (1) Initial application fee of \$600;
- 2 (2) Annual license renewal fee of \$350;
- 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.] pursuant to section 454F-4.~~

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

- 11 (1) Initial application fee of \$35;
- 12 (2) Annual license renewal fee of \$35;
- 13 (3) Reinstatement fee of \$100;
- 14 (4) Late fee of \$25 per day; and
- 15 (5) Criminal background check fee [~~of \$35, or of an amount~~
- 16 ~~determined by the commissioner by rule pursuant to~~
- 17 ~~chapter 91.] pursuant to section 454F-4.~~

18 (c) A mortgage loan originator company shall pay the  
19 following fees to maintain a valid mortgage loan originator  
20 company license or branch license:

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

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- 1 (A) Initial application fee of \$900;
- 2 (B) Processing fee of \$35 for each control person;
- 3 (C) Annual license renewal fee of \$600;
- 4 (D) Reinstatement fee of \$100;
- 5 (E) Late fee of \$25 per day; and
- 6 (F) Criminal background check fee [~~of \$35, or of an~~
- 7 ~~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] pursuant to section 454F-4.~~
- 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 SECTION 10. Section 454F-25, Hawaii Revised Statutes, is

18 amended to read as follows:

19 "**§454F-25 Nonprofit organizations; mortgage loan**

20 **originators.** (a) An employee who performs mortgage loan

21 originator activities for a nonprofit organization is exempt

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1 from registration and licensure as a mortgage loan originator;  
2 provided that:

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

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

8 (3) The nonprofit organization [~~registers with~~] maintains  
9 a valid registration as a nonprofit organization in  
10 NMLS, and a unique identifier through NMLS.

11 (b) The commissioner shall periodically examine the books  
12 and activities of nonprofit organizations as defined in section  
13 454F-1 and shall revoke an organization's registration as a  
14 nonprofit organization with NMLS if the nonprofit organization  
15 fails to meet the requirements to be a nonprofit organization.

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

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

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

21 (3) Whether the mortgage includes any predatory  
22 characteristics;

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- 1 (4) The borrower's ability to repay the loan; and  
2 (5) The term of the mortgage.  
3 (d) A nonprofit organization shall designate an employee  
4 who shall have the duty to directly manage and supervise the  
5 mortgage loan origination activity of the nonprofit, including:  
6 (1) The maintenance of all records, contracts, and  
7 documents of the nonprofit organization relating to  
8 mortgage loan origination activity;  
9 (2) All mortgage loan originator agreements and mortgage  
10 loan documents and the handling of these documents by  
11 the nonprofit organization's employees, or by  
12 independent contractors located at or working out of  
13 the nonprofit organization; and  
14 (3) All employees of the nonprofit organization, and all  
15 independent contractors of the nonprofit organization  
16 located at or working out of the nonprofit  
17 organization, who are working on or handling mortgage  
18 loan origination activity of the nonprofit  
19 organization."

20 SECTION 11. Section 846-2.7, Hawaii Revised Statutes, is  
21 amended by amending subsection (b) to read as follows:

22 "(b) Criminal history record checks may be conducted by:

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- 1 (1) The department of health or its designee on operators  
2 of adult foster homes for individuals with  
3 developmental disabilities or developmental  
4 disabilities domiciliary homes and their employees, as  
5 provided by section 321-15.2;
- 6 (2) The department of health or its designee on  
7 prospective employees, persons seeking to serve as  
8 providers, or subcontractors in positions that place  
9 them in direct contact with clients when providing  
10 non-witnessed direct mental health or health care  
11 services as provided by section 321-171.5;
- 12 (3) The department of health or its designee on all  
13 applicants for licensure or certification for,  
14 operators for, prospective employees, adult  
15 volunteers, and all adults, except adults in care, at  
16 healthcare facilities as defined in section 321-15.2;
- 17 (4) The department of education on employees, prospective  
18 employees, and teacher trainees in any public school  
19 in positions that necessitate close proximity to  
20 children as provided by section 302A-601.5;
- 21 (5) The counties on employees and prospective employees  
22 who may be in positions that place them in close

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- 1           proximity to children in recreation or child care  
2           programs and services;
- 3           (6) The county liquor commissions on applicants for liquor  
4           licenses as provided by section 281-53.5;
- 5           (7) The county liquor commissions on employees and  
6           prospective employees involved in liquor  
7           administration, law enforcement, and liquor control  
8           investigations;
- 9           (8) The department of human services on operators and  
10          employees of child caring institutions, child placing  
11          organizations, and foster boarding homes as provided  
12          by section 346-17;
- 13          (9) The department of human services on prospective  
14          adoptive parents as established under section  
15          346-19.7;
- 16          (10) The department of human services or its designee on  
17          applicants to operate child care facilities, household  
18          members of the applicant, prospective employees of the  
19          applicant, and new employees and household members of  
20          the provider after registration or licensure as  
21          provided by section 346-154, and persons subject to  
22          section 346-152.5;

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- 1           (11) The department of human services on persons exempt  
2                   pursuant to section 346-152 to be eligible to provide  
3                   child care and receive child care subsidies as  
4                   provided by section 346-152.5;
- 5           (12) The department of health on operators and employees of  
6                   home and community-based case management agencies and  
7                   operators and other adults, except for adults in care,  
8                   residing in community care foster family homes as  
9                   provided by section 321-15.2;
- 10          (13) The department of human services on staff members of  
11                   the Hawaii youth correctional facility as provided by  
12                   section 352-5.5;
- 13          (14) The department of human services on employees,  
14                   prospective employees, and volunteers of contracted  
15                   providers and subcontractors in positions that place  
16                   them in close proximity to youth when providing  
17                   services on behalf of the office or the Hawaii youth  
18                   correctional facility as provided by section 352D-4.3;
- 19          (15) The judiciary on employees and applicants at detention  
20                   and shelter facilities as provided by section 571-34;
- 21          (16) The department of public safety on employees and  
22                   prospective employees who are directly involved with

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1 the treatment and care of persons committed to a  
2 correctional facility or who possess police powers  
3 including the power of arrest as provided by section  
4 353C-5;

5 (17) The board of private detectives and guards on  
6 applicants for private detective or private guard  
7 licensure as provided by section 463-9;

8 (18) Private schools and designated organizations on  
9 employees and prospective employees who may be in  
10 positions that necessitate close proximity to  
11 children; provided that private schools and designated  
12 organizations receive only indications of the states  
13 from which the national criminal history record  
14 information was provided pursuant to section 302C-1;

15 (19) The public library system on employees and prospective  
16 employees whose positions place them in close  
17 proximity to children as provided by section  
18 302A-601.5;

19 (20) The State or any of its branches, political  
20 subdivisions, or agencies on applicants and employees  
21 holding a position that has the same type of contact  
22 with children, vulnerable adults, or persons committed

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1 to a correctional facility as other public employees  
2 who hold positions that are authorized by law to  
3 require criminal history record checks as a condition  
4 of employment as provided by section 78-2.7;

5 (21) The department of health on licensed adult day care  
6 center operators, employees, new employees,  
7 subcontracted service providers and their employees,  
8 and adult volunteers as provided by section 321-15.2;

9 (22) The department of human services on purchase of service  
10 contracted and subcontracted service providers and  
11 their employees serving clients of the adult  
12 protective and community services branch, as provided  
13 by section 346-97;

14 (23) The department of human services on foster grandparent  
15 program, senior companion program, and respite  
16 companion program participants as provided by section  
17 346-97;

18 (24) The department of human services on contracted and  
19 subcontracted service providers and their current and  
20 prospective employees that provide home and community-  
21 based services under section 1915(c) of the Social  
22 Security Act, title 42 United States Code section

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1 1396n(c), or under any other applicable section or  
2 sections of the Social Security Act for the purposes  
3 of providing home and community-based services, as  
4 provided by section 346-97;

5 (25) The department of commerce and consumer affairs on  
6 proposed directors and executive officers of a bank,  
7 savings bank, savings and loan association, trust  
8 company, and depository financial services loan  
9 company as provided by section 412:3-201;

10 (26) The department of commerce and consumer affairs on  
11 proposed directors and executive officers of a  
12 nondepository financial services loan company as  
13 provided by section 412:3-301;

14 (27) The department of commerce and consumer affairs on the  
15 original chartering applicants and proposed executive  
16 officers of a credit union as provided by section  
17 412:10-103;

18 (28) The department of commerce and consumer affairs on:  
19 (A) Each principal of every non-corporate applicant  
20 for a money transmitter license;  
21 (B) The executive officers, key shareholders, and  
22 managers in charge of a money transmitter's

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1 activities of every corporate applicant for a  
2 money transmitter license; and

3 (C) The persons who are to assume control of a money  
4 transmitter licensee in connection with an  
5 application requesting approval of a proposed  
6 change in control of licensee,

7 as provided by sections 489D-9 and 489D-15;

8 (29) The department of commerce and consumer affairs on  
9 applicants for licensure and persons licensed under  
10 title 24;

11 (30) The Hawaii health systems corporation on:

12 (A) Employees;

13 (B) Applicants seeking employment;

14 (C) Current or prospective members of the corporation  
15 board or regional system board; or

16 (D) Current or prospective volunteers, providers, or  
17 contractors,

18 in any of the corporation's health facilities as  
19 provided by section 323F-5.5;

20 (31) The department of commerce and consumer affairs on:

21 (A) An applicant for a mortgage loan originator  
22 license [~~and~~], or license renewal; and

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- 1 (B) Each control person, executive officer, director,  
2 general partner, and [~~manager~~] managing member of  
3 an applicant for a mortgage loan originator  
4 company license[~~r~~] or license renewal,  
5 as provided by chapter 454F;
- 6 (32) The state public charter school commission or public  
7 charter schools on employees, teacher trainees,  
8 prospective employees, and prospective teacher  
9 trainees in any public charter school for any position  
10 that places them in close proximity to children, as  
11 provided in section 302D-33;
- 12 (33) The counties on prospective employees who work with  
13 children, vulnerable adults, or senior citizens in  
14 community-based programs;
- 15 (34) The counties on prospective employees for fire  
16 department positions which involve contact with  
17 children or vulnerable adults;
- 18 (35) The counties on prospective employees for emergency  
19 medical services positions which involve contact with  
20 children or vulnerable adults;
- 21 (36) The counties on prospective employees for emergency  
22 management positions and community volunteers whose

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1           responsibilities involve planning and executing  
2           homeland security measures including viewing,  
3           handling, and engaging in law enforcement or  
4           classified meetings and assisting vulnerable citizens  
5           during emergencies or crises;

6           (37) The State and counties on employees, prospective  
7           employees, volunteers, and contractors whose position  
8           responsibilities require unescorted access to secured  
9           areas and equipment related to a traffic management  
10          center;

11          (38) The State and counties on employees and prospective  
12          employees whose positions involve the handling or use  
13          of firearms for other than law enforcement purposes;

14          (39) The State and counties on current and prospective  
15          systems analysts and others involved in an agency's  
16          information technology operation whose position  
17          responsibilities provide them with access to  
18          proprietary, confidential, or sensitive information;

19          (40) The department of commerce and consumer affairs on  
20          applicants for real estate appraiser licensure or  
21          certification as provided by chapter 466K;

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1 (41) The department of health or its designee on all license  
2 applicants, licensees, employees, contractors, and  
3 prospective employees of medical marijuana  
4 dispensaries, and individuals permitted to enter and  
5 remain in medical marijuana dispensary facilities as  
6 provided under sections 329D-15(a)(4) and  
7 329D-16(a)(3);

8 (42) The department of commerce and consumer affairs on  
9 applicants for nurse licensure or license renewal,  
10 reactivation, or restoration as provided by sections  
11 457-7, 457-8, 457-8.5, and 457-9;

12 [H] (43) [H] The county police departments on applicants for  
13 permits to acquire firearms pursuant to section 134-2  
14 and on individuals registering their firearms pursuant  
15 to section 134-3;

16 [H] (44) [H] The department of commerce and consumer affairs on:  
17 (A) Each of the controlling persons of the applicant  
18 for licensure as an escrow depository, and each of  
19 the officers, directors, and principals who will  
20 be in charge of the escrow depository's activities  
21 upon licensure; and

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1 (B) Each of the controlling persons of an applicant  
2 for proposed change in control of an escrow  
3 depository licensee, and each of the officers,  
4 directors, and principals who will be in charge of  
5 the licensee's activities upon approval of such  
6 application,

7 as provided by chapter 449; and

8 ~~(45)~~ Any other organization, entity, or the State, its  
9 branches, political subdivisions, or agencies as may  
10 be authorized by state law."

11 SECTION 12. Statutory material to be repealed is bracketed  
12 and stricken. New statutory material is underscored.

13 SECTION 13. This Act, upon its approval, shall take effect  
14 on September 1, 2017.

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17

INTRODUCED BY:



BY REQUEST

JAN 23 2017

# H.B. NO. 1085

**Report Title:**

Mortgage Loan Originators; Division of Financial Institutions; Chapter 454F; Secure and Fair Enforcement for Mortgage Licensing Act

**Description:**

Clarifies and updates requirements under chapter 454F, Hawaii Revised Statutes, for mortgage loan origination. Clarifies persons subject to criminal history disclosures and criminal history background checks on applications for licensure and change of control of the licensee, and when a person is presumed to control a mortgage loan originator company (MLOC). Clarifies responsibilities of a "qualified individual", amends the definition, and requires an exempt sponsoring MLOC to have a qualified individual and a principal place of business in the State. Clarifies supervisory requirements of nonprofit organizations under chapter 454F, Hawaii Revised Statutes, and when a nonprofit employee is exempt from registration and licensure as a mortgage loan originator. Clarifies the applicable fee for a criminal history background check. Defines "executive officer".

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

JUSTIFICATION SHEET

DEPARTMENT: Commerce and Consumer Affairs

TITLE: A BILL FOR AN ACT RELATING TO MORTGAGE LOAN ORIGINATION.

PURPOSE: The purpose of this bill is to enhance the effectiveness of chapter 454F, Hawaii Revised Statutes (HRS), governing mortgage loan origination, by adding clarity and consistency to various provisions. To add a definition of "executive officer" and amend the definition of "qualified individual". To clarify persons subject to disclosure of their relevant criminal history and criminal history background checks on applications for licensure and change of control of the licensee. To clarify the applicable fee for a criminal history background check. To clarify persons presumed to control a mortgage loan originator company (MLOC) and responsibilities of a qualified individual. To require an exempt sponsoring MLOC to have a qualified individual and a principal place of business in the State. To clarify supervisory requirements of nonprofit organizations under chapter 454F, HRS, and when a nonprofit employee is exempt from registration and licensure as a mortgage loan originator.

MEANS: Amend sections 454F-1, 454F-1.6, 454F-1.7, 454F-4(d), 454F-5(b), 454F-10.5(a), 454F-10.7(b), 454F-18(b), 454F-22(a), (b), and (c), 454F-25, and 846-2.7(b), HRS.

JUSTIFICATION: MLOCs, exempt sponsoring MLOCs, nonprofit organizations and others originate billions of dollars of residential mortgage loans annually. Clarification of which persons will be subject to a criminal background check will improve compliance, regulatory oversight and the ability of the

Commissioner of Financial Institutions  
(Commissioner) to enforce chapter 454F, HRS.

Additionally, the fees collected for the criminal background check are collected for the government agency that conducts the criminal background check and are not retained by the Division of Financial Institutions. This measure would more closely tie the fee for a criminal background check under chapter 454F, HRS, to the agency conducting it.

Impact on the public: This bill will promote consumer protection with respect to the mortgage loan origination industry by providing the appropriate oversight required by federal law.

Impact on the department and other agencies: This measure will improve compliance, regulatory oversight and the Commissioner's ability to enforce chapter 454F, HRS.

GENERAL FUNDS: None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: CCA-104.

OTHER AFFECTED  
AGENCIES: None.

EFFECTIVE DATE: September 1, 2017.