

**ACT 194**

**S.B. NO. 1519**

**A Bill for an Act Relating to Mortgage Loan Originators.**

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

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

**“§454F- Exempt sponsoring mortgage loan originator company; registration.** Any person exempt from the licensing provisions of this chapter may register with the Nationwide Mortgage Licensing System for the purpose of sponsoring a mortgage loan originator required to be licensed by this chapter.

**§454F- Sponsorship by mortgage loan origination company or exempt sponsoring mortgage loan originator company.** All mortgage loan originators shall be sponsored by a mortgage loan originator company or by an exempt sponsoring mortgage loan originator company.

**§454F- Decision denying application subject to administrative hearing.** (a) Within fifteen days following receipt of a decision denying an application, an applicant may petition the commissioner for an administrative hearing that shall be held in accordance with chapter 91 and the rules of the department of commerce and consumer affairs. If a petition for an administrative hearing is not filed within the time specified, the commissioner’s decision denying the application shall become a final decision and order denying the application.

(b) Upon the receipt of a petition for an administrative hearing, the commissioner shall assign the petition to a hearings officer for further proceedings pursuant to the rules of the department of commerce and consumer affairs. The commissioner shall issue a written final decision and order, following the hearings officer’s transmittal to the commissioner of the entire record together with the recommended decision, any timely filed exceptions, and any timely filed statements in support of the recommended decision.

**§454F- Abandoned applications.** (a) An application for licensure pursuant to this chapter shall be considered abandoned if an applicant fails to provide evidence of continued efforts to complete the licensing process for six consecutive months. No refund of filing fees shall be provided to an applicant for an abandoned application. The commissioner shall not be required to act on any abandoned application and is not required to retain abandoned applications or supporting documents. The commissioner may withdraw abandoned applications from the Nationwide Mortgage Licensing System.

(b) For purposes of this section, failure to provide evidence of continued efforts to complete the licensing process includes:

- (1) Failure to submit required documents and other information requested by the commissioner within six months from the last date the documents or other information were requested; or
- (2) Failure to provide the commissioner with any written communication indicating that the applicant is attempting to complete the licensing process for a period of six months.

(c) If an application is deemed abandoned by the commissioner, the applicant may reapply for licensure after payment of applicable fees and compliance with the licensing requirements in effect at the time of reapplication.

(d) An applicant may withdraw an application that has been submitted under this chapter at any time; provided that no refund shall be issued. The commissioner shall treat a withdrawn application as an abandoned application according to this section.

**§454F- Duties of qualified individual and branch manager.** (a) A qualified individual shall have the duty to manage and supervise the mortgage loan origination activities of a licensed mortgage loan originator company’s principal office and the licensed mortgage loan originators located at or working out of

that location. A qualified individual shall hold a license as a mortgage loan originator issued pursuant to this chapter.

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

(c) A qualified individual for a mortgage loan originator company and a branch manager for a branch office shall be responsible for:

- (1) Supervising the maintenance and accounting of client trust accounts and disbursements from those accounts;
- (2) Supervising the maintenance of all records, contracts, and documents of the mortgage loan originator company;
- (3) Supervising all mortgage loan originator agreements and mortgage loan documents and the handling of these documents by the licensed mortgage loan originators who are employed by or are independent contractors of the mortgage loan originator company;
- (4) Supervising all licensed mortgage loan originators who are employed by or are independent contractors of the mortgage loan originator company;
- (5) Developing and enforcing policies and procedures relating to the handling of residential mortgage loan transactions and the professional conduct of the licensed mortgage loan originators and other staff;
- (6) Developing and monitoring compliance with a policy on continuing education requirements for all licensed mortgage loan originators who are employed by or are independent contractors of the mortgage loan originator company pursuant to the requirements of this chapter and the rules of the commissioner;
- (7) Ensuring that the licenses of all mortgage loan originators who are employed by or are independent contractors of the mortgage loan originator company, and the license of the mortgage loan originator company are current and active, and that all required fees are timely paid to the mortgage loan recovery fund;
- (8) Establishing and conducting a training program for all licensed mortgage loan originators who are employed by or are independent contractors of the mortgage loan originator company;
- (9) Ensuring that all licensed mortgage loan originators who are employed by or are independent contractors of the mortgage loan originator company are provided adequate information and training on the latest amendments to licensing laws and rules and any other applicable laws and rules;
- (10) Notifying the commissioner of the termination of the employment or independent contractor relationship of licensed mortgage loan originators who were employed by or were independent contractors of the mortgage loan originator company upon the termination of employment or the independent contractor relationship; and
- (11) Ensuring that the records, loan documents, and agreements including mortgage loan originator agreements are retained for seven years on paper or in electronic format by the mortgage loan originator company."

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

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

“Branch manager” means an individual who is designated and employed by a mortgage loan originator company to be responsible for the activities in the conduct of business of the licensed mortgage loan originator company’s branch office, in conducting the business of that mortgage loan originator company’s branch office.

“Exempt sponsoring mortgage loan originator company” means any person exempt from or not included in the licensing requirements of this chapter who registers with the Nationwide Mortgage Licensing System for purposes of sponsoring a mortgage loan originator.

“Qualified individual” means an individual who is responsible for the oversight of mortgage loan originators that are employed by or contracted to perform work for a mortgage loan originator company.

“Sponsor” means to create a relationship through the Nationwide Mortgage Licensing System for the purpose of appropriately supervising a mortgage loan originator’s activities.”

2. By amending the definitions of “licensee” and “mortgage loan originator company” to read:

“Licensee” means a mortgage loan originator, a mortgage loan originator company, or a person who is required to be licensed under this chapter. Licensee does not include an exempt registered mortgage loan originator or exempt [registered] sponsoring mortgage loan originator company as defined by this section.

“Mortgage loan originator company” means:

- (1) An individual not exempt under section 454F-2 who engages in the business of a mortgage loan originator as a sole proprietorship; or
- (2) A person not exempt under section 454F-2 who employs or [uses the exclusive] contracts for the services of one or more mortgage loan originators licensed or required to be licensed under this chapter.”

3. By deleting the definition of “exempt registered mortgage loan originator company”.

[~~“Exempt registered mortgage loan originator company” means any person, including an insured depository institution, who is required to be licensed by any other state or federal law but is not required to be licensed under this chapter, and has the obligation to register with the Nationwide Mortgage Licensing System because one or more of the person’s employees engage in the business of a mortgage loan originator.”~~]

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

**~~“[§454F-1.5]~~ Registration with Nationwide Mortgage Licensing System required.** (a) All mortgage loan originators, mortgage loan originator companies, exempt sponsoring mortgage loan originator companies, and any other person in this State that [originate] originates a residential mortgage loan, unless exempt under section 454F-2, shall register with the Nationwide Mortgage Licensing System.

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

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

**“§454F-2 Exemptions.** This chapter shall not apply to the following:

- (1) An exempt registered mortgage loan originator, when acting for an insured depository institution, a subsidiary of an insured depository institution regulated by a federal banking agency, or an institution regulated by the Farm Credit Administration;
- (2) Any individual who offers or negotiates terms of a residential mortgage loan with, or on behalf of, an immediate family member of the individual;
- (3) Any individual who offers or negotiates terms of a residential mortgage loan secured by a dwelling that served as the individual's residence;
- (4) A licensed attorney who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client unless the attorney is compensated by a lender, a mortgage loan originator company, or other mortgage loan originator or by an agent of a lender, mortgage loan originator company, or other mortgage loan originator;
- (5) A person or entity that only performs real estate brokerage activities and is licensed or registered by the State unless the person or entity is compensated by a lender, a mortgage loan originator company, or other mortgage loan originator or by an agent of the lender, mortgage loan originator company, or other mortgage loan originator;
- (6) A person or entity solely involved in extensions of credit relating to timeshare plans, as the term is defined in ~~[section]~~ Section 101(53D) of Title 11, United States Code;
- (7) An exempt ~~[registered]~~ sponsoring mortgage loan originator company as defined by this chapter~~;~~ except as otherwise provided by this chapter; or
- (8) An insured depository institution.”

SECTION 5. Section 454F-4, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

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

- (1) Fingerprints of the applicant and, ~~[in the case of]~~ if an applicant ~~[that]~~ is not an individual, each of the applicant's control persons, executive officers, directors, general partners, and managing members for submission to the Federal Bureau of Investigation~~;~~ and any governmental agency or entity authorized to receive the fingerprints for a state, national, and international criminal history background check; and
- (2) Personal history and experience of the applicant and, ~~[in the case of]~~ if an applicant ~~[that]~~ is not an individual, each of the applicant's control persons, executive officers, directors, general partners, and managing members in a form prescribed by the Nationwide Mortgage Licensing System including the submission of authorization for the Nationwide Mortgage Licensing System and the commissioner to obtain:

- (A) An independent credit report obtained from a consumer reporting agency described in section 603(p) of the Fair Credit Reporting Act, 15 United States Code 1681 et seq.; and
- (B) Information related to any administrative, civil, or criminal findings by any governmental jurisdiction[-];

provided that the commissioner may use any information obtained pursuant to this subsection or through the Nationwide Mortgage Licensing System to determine an applicant's demonstrated financial responsibility, character, and general fitness for licensure."

SECTION 6. Section 454F-4.5, Hawaii Revised Statutes, is amended to read as follows:

**"[§454F-4.5] Automatic secondary review of license application.** ~~[The commissioner shall establish, by rule pursuant to chapter 91, a procedure for the secondary review of]~~ (a) For each application that was determined on initial review to fail to meet the criteria for licensure[-], the commissioner shall provide a secondary level of review of the application which shall include the:

- (1) Overall character and fitness of the applicant, taking into account all relevant circumstances and weighing all mitigating factors appropriately; and
- (2) Assurance that non-discretionary licensing criteria have been applied correctly.
- (b) The commissioner may request that an applicant provide any additional or supplemental information that the commissioner deems necessary for a secondary review of an application."

SECTION 7. Section 454F-5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

~~"(a) The commissioner shall not issue a license pursuant to this chapter unless the commissioner makes at a minimum the following findings:~~

- (1) ~~The applicant, [or in the case of] if an applicant [that] is not an individual, each of the applicant's control persons, executive officers, directors, general partners, and managing members, has never had a mortgage loan originator or a mortgage loan originator company license revoked in any jurisdiction; provided that a subsequent formal vacation of a revocation shall not be deemed a revocation;~~
- (2) ~~The applicant, [or in the case of] if an applicant [that] is not an individual, each of the applicant's control persons, executive officers, directors, general partners, and managing members, has not been convicted of, or pled guilty or nolo contendere, or been granted a deferred acceptance of a guilty plea under federal law or under chapter 853 to a felony in a domestic, foreign, or military court:~~
  - (A) ~~During the seven-year period preceding the date of the application for licensing and registration; or~~
  - (B) ~~At any time preceding the date of application, if the felony involved an act of fraud, dishonesty, breach of trust, or money laundering;~~

~~provided that any pardon of a conviction shall not be deemed a conviction for purposes of this section;~~

- (3) ~~The applicant, [or in the case of] if an applicant [that] is not an individual, each of the applicant's control persons, executive officers, directors, general partners, and managing members, has demonstrated financial responsibility, character, and general fitness to command~~

the confidence of the community and to warrant a determination that the applicant shall operate honestly, fairly, and efficiently pursuant to this chapter. For purposes of this paragraph, a person is not financially responsible when the person has shown a disregard in the management of the person's financial condition. A determination that a person has ~~[not shown financial responsibility]~~ shown a disregard in the management of the person's financial condition may be based on:

- (A) Current outstanding judgments, except judgments solely as a result of medical expenses;
  - (B) Current outstanding tax liens or other government liens and filings;
  - (C) Foreclosures within the past three years; and
  - (D) A pattern of seriously delinquent accounts within the past three years;
- (4) The applicant, ~~[or in the case of]~~ if an applicant ~~[that]~~ is not an individual, each of the applicant's control persons, executive officers, directors, general partners, and managing members, has not been convicted of, plead guilty or nolo contendere to, or been granted a deferred acceptance of a guilty plea under federal law or chapter 853 to any misdemeanor involving an act of fraud, dishonesty, breach of trust, or money laundering;
  - (5) The applicant, ~~[or in the case of]~~ if an applicant ~~[that]~~ is not an individual, each individual mortgage loan originator who is employed by the mortgage loan originator company or who provides exclusive services to the applicant as a mortgage loan originator, has completed the pre-licensing education requirement described in section 454F-6;
  - (6) The applicant, ~~[or in the case of]~~ if an applicant ~~[that]~~ is not an individual, each individual mortgage loan originator who is employed by the mortgage loan originator company or who provides exclusive services to the applicant as a mortgage loan originator, has passed a written test that meets the test requirements in section 454F-7; and
  - (7) The applicant has met the mortgage loan recovery fund requirement as required in section 454F-41."

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

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

- (1) The mortgage loan originator company continues to meet the minimum standards for licensure established pursuant to section 454F-5;
- (2) The mortgage loan originator company's ~~[qualified]~~ branch manager [has] and qualified individual have satisfied the minimum standards for license renewal; and
- (3) The mortgage loan originator company has paid all required fees for renewal of the license."

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

"(g) Continuing education courses as described in subsection (a) and approved by the Nationwide Mortgage Licensing System for any state, that are suc-

cessfully completed by a licensed mortgage loan originator, shall be accepted as credit towards completion of continuing education requirements in this State.”

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

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

(b) A mortgage loan originator company shall not maintain any branch offices in the State in addition to its principal place of business without the prior written approval of the commissioner. An application to establish a branch office shall be submitted with a nonrefundable application fee as required by section 454F-22. A mortgage loan originator company that [established a] establishes one or more branch [office] offices pursuant to this subsection shall designate a branch manager for each branch office located at [each] the branch office to oversee that branch office. Every branch manager shall be licensed as a mortgage loan originator pursuant to this chapter.

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

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

- (1) State the intended date of closing; and
- (2) Specify the reasons for the closing.

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

- (1) Designate an office in this State as its principal place of business in this State;
- (2) Apply for and obtain approval from the commissioner to designate its principal place of business in this State as a branch office pursuant to this section; and
- (3) Designate a qualified individual who shall hold a license as a mortgage loan originator pursuant to this chapter; provided that the qualified individual may be the same person designated as the branch manager.”

SECTION 11. Section 454F-10.7, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The commissioner shall approve a request for change of control under subsection (a) if, after investigation, the commissioner determines that the person or group of persons [requesting approval has] who will obtain control are licensed pursuant to this chapter; have the competence, experience, character, and general fitness to control the licensee or person in control of the licensee in



a lawful and proper manner~~];~~ and that the interests of the public will not be jeopardized by the change of control.”

SECTION 12. Section 454F-17, Hawaii Revised Statutes, is amended to read as follows:

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

- (1) Directly or indirectly employ any scheme, device, or artifice to defraud or mislead borrowers or lenders or to defraud any person;
- (2) Engage in any unfair or deceptive practice related to mortgage loan origination activities toward any person;
- (3) Obtain property by fraud or misrepresentation;
- (4) Solicit or enter into any contract with a borrower that provides in substance that the person or individual subject to this chapter may earn a fee or commission through “best efforts” to obtain a loan even though no loan is actually obtained for the borrower;
- (5) Solicit, advertise, or enter into a contract for specific interest rates, points, or other financing terms unless the terms are actually available at the time of soliciting, advertising, or contracting;
- (6) Conduct any business covered by this chapter without holding a valid license as required under this chapter, or assist or aid and abet any person in the conduct of business under this chapter without a valid license as required under this chapter;
- (7) Fail to make disclosures as required by this chapter and any other applicable state or federal law including rules or regulations ~~[thereunder;]~~ adopted pursuant to state or federal law;
- (8) Fail to comply with this chapter or any order or rule issued or adopted under the authority of this chapter, or fail to comply with any other state or federal law, including the rules and regulations adopted ~~[thereunder;]~~ pursuant to state or federal law applicable to any business authorized or conducted pursuant to this chapter;
- (9) Make, in any manner, any false or deceptive statement or representation, including with regard to the rates, points, or other financing terms or conditions for a residential mortgage loan, or engage in bait and switch advertising;
- (10) Negligently or knowingly make any false statement or provide any misleading information or knowingly and wilfully make any omission of material fact in connection with any information or reports filed with a governmental agency or the Nationwide Mortgage Licensing System, including an application for a license under this chapter, or in connection with any examination or investigation conducted by the commissioner or another government agency;
- (11) Make any payment, threat, or promise, directly or indirectly, to any person for the purposes of influencing the independent judgment of the person in connection with a residential mortgage loan, or make any payment, threat, or promise, directly or indirectly, to any appraiser of a property for the purpose of influencing the independent judgment of the appraiser with respect to the value of a property;
- ~~[(12) Collect, charge, attempt to collect or charge, or use or propose any agreement purporting to collect or charge any fee prohibited by this chapter;~~

- (13)] (12) Cause or require a borrower to obtain property insurance coverage in an amount that exceeds the replacement cost of the improvements as established by the property insurer;
- [(14)] (13) Fail to truthfully account for moneys belonging to a party to a residential mortgage loan transaction; ~~or~~
- (15)] (14) Deliver a misleading or deceptive communication or advertisement, whether written, electronic, or oral, when marketing or soliciting a residential mortgage loan~~[- A]; provided that:~~
  - (A) A communication or advertisement that uses the name or trademark of a financial institution as defined in section 412:1-109 or its affiliates or subsidiaries, or infers that the communication or advertisement is from, endorsed by, is related to, or is the responsibility of the financial institution is a misleading or deceptive communication[- Advertising];
  - (B) Advertising that a specific interest rate, points, or financial terms are available when the rates, points, or financial terms are not actually available is a misleading or deceptive communication[-];
- (15) Fill in or complete any blank on a final residential mortgage loan application that requests material information including financial information without adequate supporting documentation provided by the borrower;
- (16) Fill in or complete any blank on any mortgage or note evidencing or securing the residential mortgage loan which relates to the amount, interest rate, term, or monthly payment of the residential mortgage loan;
- (17) Originate a residential mortgage loan based primarily on the current market value of the borrower's collateral rather than on the borrower's ability to repay the loan according to its terms; provided that the sale of the property is made to a bona fide buyer; and provided further that this paragraph shall not apply to a reverse mortgage as defined under Title 12 Code of Federal Regulations Section 226.33;
- (18) Advertise terms of a residential mortgage loan in violation of section 226.16 or 226.24 of Regulation Z of the Board of Governors of the Federal Reserve System; or
- (19) Encourage a borrower to misrepresent, inflate, or fabricate the source or amount of a borrower's actual income or assets in the application or underwriting process for a residential mortgage loan."

SECTION 13. Section 454F-22, Hawaii Revised Statutes, is amended to read as follows:

**"[§454F-22]] Mortgage loan originator [and], mortgage loan originator company, and exempt sponsoring mortgage loan originator company fees.** (a) A mortgage loan originator shall pay the following fees to obtain and maintain a valid mortgage loan originator license:

- (1) Initial application fee of \$500;
- (2) Annual license renewal fee of \$300;
- (3) Reinstatement fee of \$100;
- (4) Late fee of \$25 per day; and
- (5) Criminal background check fee of \$35, or of an amount determined by the commissioner by rule pursuant to chapter 91.

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

- (1) Fees payable for a principal office of a mortgage loan originator company:
  - (A) Initial application fee of \$900;
  - (B) Annual license renewal fee of \$600;
  - (C) Reinstatement fee of \$100;
  - (D) Late fee of \$25 per day; and
  - (E) Criminal background check fee of \$35, or of an amount determined by the commissioner by rule pursuant to chapter 91, for each control person, executive officer, director, general partner, and manager; and
- (2) Fees payable for each branch office of a mortgage loan originator company:
  - (A) Initial application fee of \$250;
  - (B) Annual license renewal fee of \$100;
  - (C) Reinstatement fee of \$100; and
  - (D) Late fee of \$25 per day.

(c) An exempt sponsoring mortgage loan originator company shall pay the following fees to maintain a valid registration in the Nationwide Mortgage Licensing System:

- (1) Initial registration fee of \$200;
- (2) Annual registration renewal fee of \$150; and
- (3) Late fee of \$25 per day.

[(e)] (d) In addition to fees charged by the Nationwide Mortgage Licensing System, a licensee shall pay to the commissioner a fee of \$50 for each of the following amendments to information provided to the Nationwide Mortgage Licensing System that require the review of the commissioner:

- (1) Change of physical location, including address change for branch office or principal place of business;
- (2) Addition or deletion of a "d/b/a" assignment;
- (3) Change of manager; or
- (4) Change of legal name.

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

~~[(d)] (e)~~ The fees established by this section are nonrefundable and are in addition to any fees established and charged by the Nationwide Mortgage Licensing System, an approved educational course provider, an approved educational testing provider, a law enforcement agency for fingerprints and background checks, or a credit reporting agency used by the Nationwide Mortgage Licensing System.

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

SECTION 14. Section 454F-42, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The court shall proceed upon an application to recover from the mortgage loan recovery fund in a summary manner and, at hearing, the aggrieved person shall be required to show:

- (1) The person is not a spouse of the judgment debtor or the personal representative of a spouse of the judgment debtor;
- (2) The person has complied with all the requirements of this section;
- (3) The person has obtained a judgment ~~[or settlement]~~ pursuant to section 454F-41(a) that states the amount of the judgment

and the amount owed on the judgment debt as of the date of the application;

- (4) The person has made all reasonable searches and inquiries to ascertain whether the judgment debtor is possessed of real or personal property or other assets liable to be sold or applied in satisfaction of the judgment; and
  - (A) The search has uncovered no personal or real property or other assets liable to be sold or applied; or
  - (B) The search has uncovered personal or real property or other assets liable to be sold or applied, the person has taken all necessary action and completed all necessary proceedings for the realization thereof, and the amount realized was insufficient to satisfy the judgment; provided that the person shall state the amount realized and the balance remaining due on the judgment after application of the amount realized; and
- (5) That where the licensee is a judgment debtor in a bankruptcy proceeding, the aggrieved person has obtained an order from the bankruptcy court declaring the judgment against the licensee to be non-dischargeable.”

SECTION 15. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

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

(Approved July 6, 2011.)

**Note**

- 1. Edited pursuant to HRS §23G-16.5.