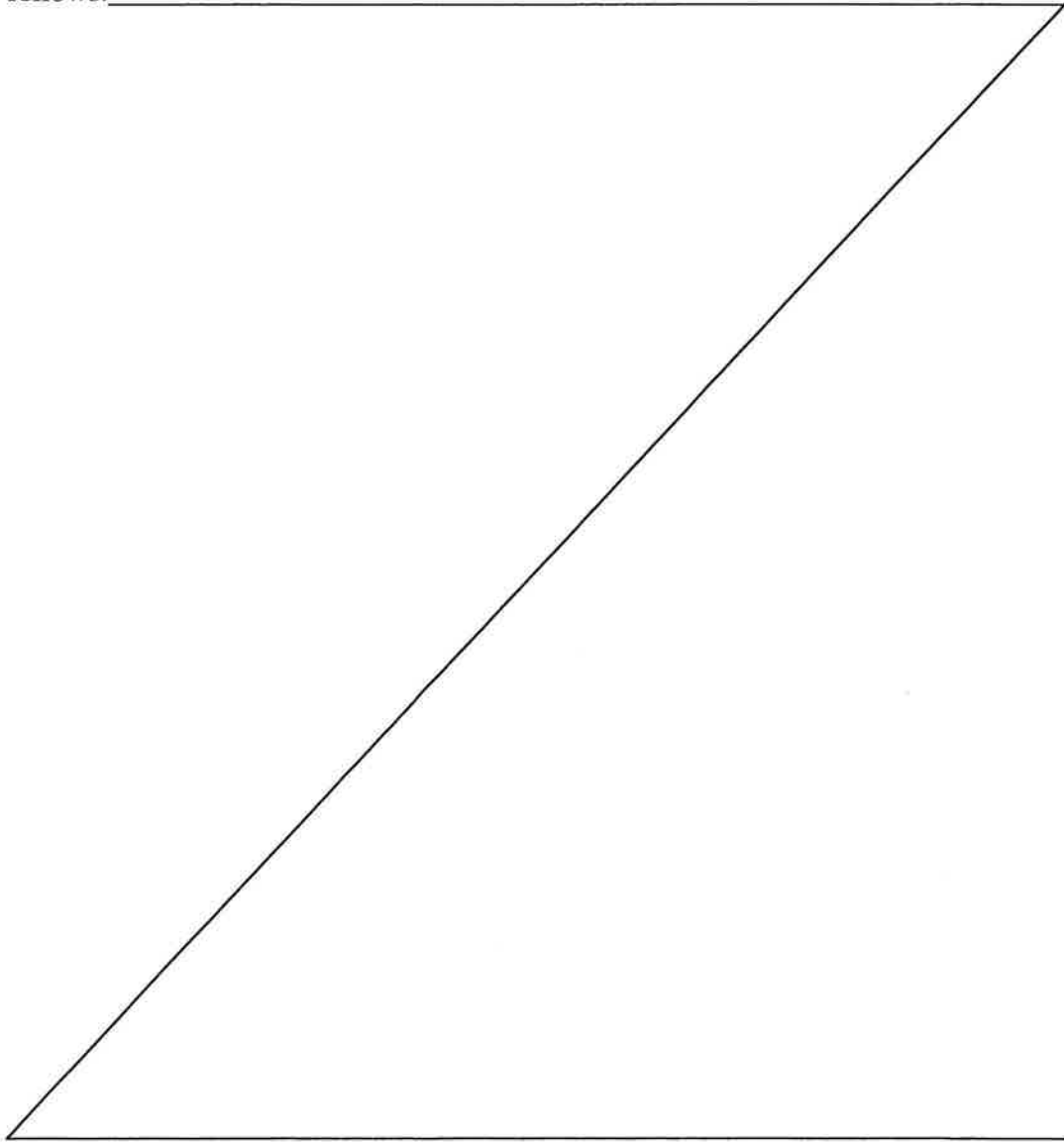


DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

Adoption of Chapter 16-35  
Hawaii Administrative Rules

1. Chapter 16 of Title 35, Hawaii Administrative Rules, entitled "Secure and Fair Enforcement for Mortgage Licensing Act", is adopted to read as follows:



"HAWAII ADMINISTRATIVE RULES

TITLE 16

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

CHAPTER 35

SECURE AND FAIR ENFORCEMENT FOR MORTGAGE  
LICENSING ACT

Subchapter 1 General Provisions

- §16-35-1 Objectives
- §16-35-2 Definitions

Subchapter 2 Mortgage Loan Recovery Fund

- §16-35-3 Scope
- §16-35-4 Collection of fees

SUBCHAPTER 1

GENERAL PROVISIONS

§16-35-1 Objectives. The objectives of this chapter are to implement the requirements of chapter 454F, HRS, and set forth procedures regarding the business of mortgage loan origination. [Eff. \_\_\_\_\_] (Auth: HRS §454F-18) (Imp: HRS §454F-18)

§16-35-2 Definitions. (a) The definitions in section 454F-1, HRS, are incorporated herein by reference, unless the context or subject matter otherwise requires.

(b) As used in this chapter:

"Chapter 454F, HRS" means the Secure and Fair Enforcement for Mortgage Licensing Act.

"Licensing cycle" means the period for which a license is initially issued, or is renewed, under chapter 454F, HRS.

“Recovery fund” means the mortgage loan recovery fund established in section 454F-41, HRS.

“Recovery fund fee” means the mortgage loan recovery fund fee that a licensee is required to pay pursuant to section 454F-41, HRS. [Eff. ] (Auth: HRS §§454F-18, 454F-41) (Imp: HRS §454F-18)

## SUBCHAPTER 2

### MORTGAGE LOAN RECOVERY FUND

§16-35-3 Scope. This subchapter applies to the recovery fund. [Eff. ] (Auth: HRS §§454F-18, 454F-41) (Imp: HRS §§454F-18, 454F-41)

§16-35-4 Collection of fees. (a) In each year that the recovery fund attains a funding level of \$750,000, the commissioner shall make a determination whether to adjust the recovery fund fee generated by renewals, or to cease recovery fund fee payments made by renewing licensees for the next licensing cycle. If the recovery fund funding level falls below \$250,000 after the first five years of the establishment of the recovery fund, the commissioner may adjust the fees to a reasonable level for the purpose of attaining a funding level of \$750,000.

(b) To make the determinations in subsection (a), the commissioner shall consider factors including, but not limited to, the recovery fund balance, orders directing payment from the recovery fund, applications for recovery from the recovery fund, notices of claims that may result in orders for collection from the recovery fund, pending and anticipated expenditures that may be chargeable to the recovery fund, subrogated claims and assigned rights that may result in deposits to the recovery fund, projected recovery fund income from applicants for initial licensure under chapter 454F, HRS, extraordinary circumstances, statutory limits and restrictions on payment from the recovery fund, and a reasonable reserve amount for the recovery fund.

(c) Before suspending collection of the recovery fund fee or reducing the amount of the recovery fund fee for the next licensing cycle, the commissioner shall make a finding that collection of the entire fee in the next licensing cycle is not reasonably needed in order for the recovery fund to pay its debts and obligations as they become due. In the absence of such a finding, licensee payment of the recovery fund fee shall continue for the next licensing cycle."

[Eff. \_\_\_\_\_ ] (Auth: HRS §§454F-18, 454F-41) (Imp: HRS §§454F-18, 454F-41)

2. These rules shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules drafted in the Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on \_\_\_\_\_ and filed with the Office of the Lieutenant Governor.

---

CATHERINE P. AWAKUNI COLÓN, Director  
Department of Commerce and Consumer Affairs

APPROVED AS TO FORM:

---

Deputy Attorney General