

H.B. NO. 1311

A BILL FOR AN ACT

RELATING TO MONEY TRANSMITTERS.

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

1 SECTION 1. Section 489D-5, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:
3 "(a) This chapter shall not apply to:
4 (1) The United States or any department, agency, or
5 instrumentality thereof;
6 (2) The United States Postal Service;
7 (3) The State or any political subdivisions thereof;
8 (4) Banks, bank holding companies, credit unions, building
9 and loan associations, foreign banks, savings and loan
10 associations, savings banks, financial services loan
11 companies, or mutual banks organized or licensed under
12 the laws of the United States or any state, even if
13 those entities act as authorized delegates for
14 licensees and provided that they do not issue or sell
15 payment instruments through authorized delegates who
16 are not banks, bank holding companies, credit unions,
17 building and loan associations, foreign banks, savings

H.B. NO. 1311

1 and loan associations, savings banks, financial
2 services loan companies, or mutual banks; and
3 (5) The electronic transfer of government benefits for any
4 federal, state, or county governmental agency as
5 defined in Federal Reserve Board Regulation E, by a
6 contractor for, and on behalf of the United States or
7 any department, agency, or instrumentality thereof, or
8 any state or any political subdivisions thereof."

9 SECTION 2. Section 489D-12, Hawaii Revised Statutes, is
10 amended by amending subsection (a) to read as follows:

11 "(a) On or before December 31 of each year, each licensee
12 shall pay to the commissioner an annual license fee of \$500,
13 plus \$100 for each [~~authorized delegate,~~] additional location in
14 the State, not to exceed an aggregate fee of \$2,000."

15 SECTION 3. Section 489D-19, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§489D-19 Confidentiality of records.** (a) The
18 commissioner and all employees, contractors, attorneys
19 contracted or employed by the State, and appointees of the
20 division of financial institutions shall not divulge or furnish
21 any information in their possession or obtained by them in the
22 course of their official duties to persons outside the division,

1 except the director of commerce and consumer affairs, or unless
2 otherwise permitted by this section or any other law regulating
3 licensees or authorized delegates, in which case the disclosure
4 shall not authorize or permit any further disclosure of the
5 information. The disclosures prohibited by this section shall
6 include, without limitation, information that is:

- 7 (1) Privileged or exempt from disclosure under any federal
8 or state law;
- 9 (2) Related to an examination performed by or on behalf of
10 the commissioner or contained in any report of
11 examination;
- 12 (3) Contained in any report submitted to, or for the use
13 of the commissioner, except for the nonproprietary
14 portions of applications;
- 15 (4) Related to the business, personal, or financial
16 affairs of any person and is furnished to, or for the
17 use of, the commissioner in confidence;
- 18 (5) Privileged or confidential and related to trade
19 secrets and commercial or financial information
20 obtained from a person;

H .B. NO. 1311

1 (6) Obtained pursuant to any lawful investigation for the
2 purpose of enforcing the laws regulating licensees or
3 authorized delegates;

4 (7) Related solely to the internal personnel rules or
5 other internal practices of the commissioner;

6 (8) Contained in personnel, medical, and similar files,
7 including financial files, the disclosure of which
8 would constitute a clearly unwarranted invasion of
9 personal privacy; or

10 (9) Contained in inter-agency and intra-agency
11 communications, whether or not contained in written
12 memoranda, letters, tapes, or records, that would not
13 be routinely available by law to a private party,
14 including memoranda, reports, and other documents
15 prepared by the staff of the commissioner.

16 (b) Any information identified in subsection (a) is
17 confidential and not subject to subpoena or other legal process.

18 (c) The commissioner shall furnish a copy of each report
19 of examination to the licensee or authorized delegate examined.
20 The report and its contents shall remain the property of the
21 commissioner and shall not be disclosed to any person who is not
22 an officer, director, employee, authorized auditor, attorney,

1 other consultant, or advisor of the licensee or authorized
2 delegate. Any person who has received the report from the
3 licensee or authorized delegate shall be bound by the
4 confidentiality provisions of this section. The report and its
5 contents shall not be subject to subpoena or other legal process
6 requiring disclosure.

7 (d) The commissioner may furnish reports of examination
8 and other information relating to the examination of a licensee
9 or authorized delegate to:

- 10 (1) The governor, the attorney general, and heads of other
11 state governmental agencies having regulatory
12 authority over the licensee or authorized delegate;
13 (2) Other agencies of the United States or a state for use
14 where necessary to investigate civil or criminal
15 charges in connection with the affairs of any licensee
16 or authorized delegate under the supervision of the
17 commissioner."

18 SECTION 4. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

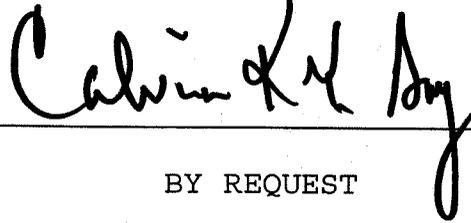
H . B . NO . 1311

1 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY:



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BY REQUEST

JAN 22 2007

JUSTIFICATION SHEET

DEPARTMENT: Commerce and Consumer Affairs

TITLE: A BILL FOR AN ACT RELATING TO MONEY TRANSMITTERS.

PURPOSE: The purpose of this bill is to amend the Money Transmitters Act, chapter 489D, Hawaii Revised Statutes ("HRS"), to address and remedy inadvertent errors or omissions in the statute as originally enacted.

MEANS: Amend sections 489D-5(a), 489D-12(a), and 489D-19, HRS.

JUSTIFICATION: Foreign banks that are licensed under the laws of the United States or any state are already supervised as financial institutions and should, therefore, be included among the financial institutions that are exempt from the provisions of the Money Transmitters Act.

The provision concerning calculation of annual license fees is amended to correct an inadvertent error: license renewal fees should be consistent with and track the initial license fee requirement in section 489D-10, HRS, by providing for an additional \$100 fee per in-State location, rather than per authorized delegate, provided that the total amount of the annual license fee shall not exceed \$2,000.

The records confidentiality provision of the Money Transmitters Act is amended to authorize the Commissioner of Financial Institutions to furnish reports of examination and other information relating to the examination of money transmitters to the Governor, the Attorney General, other Hawaii state agencies that have regulatory authority over a money transmitter, and other agencies of the United States or any

state for use in investigating civil or criminal charges against a money transmitter.

Authority to share such information with other interested regulatory agencies is consistent with the current authority of the Division of Financial Institutions ("DFI") to share similar information regarding the various financial institutions that DFI regulates, and reflects the fact that money transmitters frequently conduct business in more than one state and are thus subject to licensing and supervision in more than one jurisdiction. It is therefore important that the states be able to share exam-related information with each other in regulating this industry. In addition, the federal government has adopted laws to deter terrorists, and to curtail and prosecute financial crimes including, but not limited to money laundering; those laws rely in part on information obtained from state regulatory agencies that license the money transmitter industry.

Impact on the public: The amendments will enhance and strengthen the safe and sound operation of the money transmitter industry, by helping to ensure that these businesses are not used for criminal purposes, while promoting confidence in the State's financial system and protecting the public interest.

Impact on the department and other agencies: The amendment to correct the assessment of annual license fees will ensure that the correct level of fees are collected to operate this regulatory program. There is no immediate impact foreseen for other agencies.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION:

CCA-104.

OTHER AFFECTED
AGENCIES:

Department of the Attorney General, all
state and federal law enforcement agencies,
U.S. Department of the Treasury Financial
Crimes Enforcement Network (FincEN).

EFFECTIVE DATE:

Upon approval.