
A BILL FOR AN ACT

RELATING TO DEFERRED DEPOSIT LENDING.

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

1 SECTION 1. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

4 "CHAPTER

5 DEFERRED DEPOSIT LENDING DATABASE PROGRAM

6 § -1 Definitions. As used in this chapter:

7 "Department" means the department of commerce and consumer
8 affairs.

9 § -2 Ineligibility to obtain a deferred deposit loan.

10 (a) On and after July 1, 2018, a person is ineligible to obtain
11 a deferred deposit loan if the person:

12 (1) After the extension of the deferred deposit loan, owes
13 more in the aggregate than twenty-five per cent of the
14 person's gross monthly income in principal for one or
15 more deferred deposit loans subject to this chapter;



(2) Has two deferred deposit loans subject to this chapter that are not closed at the time the person applies for a new deferred deposit loan; or

(3) Is listed on the database as having a fraud alert.

(b) To establish a fraud alert, the department of commerce and consumer affairs shall establish by rule a process for a person to contact the deferred deposit database provider to prevent the extension of a deferred deposit loan subject to this chapter under that person's name.

§ -3 Deferred deposit lending database program. (a)

There is created the deferred deposit lending database program in the department to establish a deferred deposit lending database to verify whether, under section -2, a person is ineligible to obtain a deferred deposit loan.

(b) The program shall be implemented by the department by July 1, 2018, and shall feature a common database with real-time access by deferred deposit lenders through an internet connection or other electronic means.

(c) The database shall be accessible to the department and a deferred deposit lender to verify:



1 (1) The aggregate amount owed on deferred deposit loans
2 outstanding for a particular person;

3 (2) The number of deferred deposit loans outstanding for a
4 particular person; and

5 (3) Whether there exists a fraud alert for the person
6 seeking the deferred deposit loan.

7 (d) The department may contract with a third party to
8 establish and maintain the database for the purpose of
9 determining whether under section -2, a person is ineligible
10 to obtain a deferred deposit loan. If the department contracts
11 with a third party, the department shall:

12 (1) Ensure that the third party provider selected as the
13 database provider operates the database pursuant to
14 this chapter;

15 (2) Consider cost of service and ability to meet the
16 requirements of this chapter; and

17 (3) Ensure that the third party provider can provide
18 accurate and secure receipt, transmission, and storage
19 of data.



1 (e) The contract may not obligate the department to pay a
2 third party database provider more money than is paid in fees
3 collected by the provider pursuant to section -5(b).

4 (f) A third party database provider under contract
5 pursuant to this section shall be the department's designated
6 agent for purposes of administering the database, and shall
7 develop and maintain the database from the information provided
8 by deferred deposit lenders.

9 (g) A designated agent shall use the data collected under
10 this chapter only as prescribed in this chapter and the contract
11 with the department and for no other purpose.

12 (h) The department shall establish guidelines to be
13 followed by the designated agent so that:

14 (1) A deferred deposit lender can efficiently report
15 information to, and access, the database; and

16 (2) The designated agent can comply with any applicable
17 federal and state laws to prevent identity theft.

18 (i) If the department contracts with a third party
19 provider, the department:



(1) May maintain access to data in the database for examination, investigation, or legislative or policy review; and

(2) May not obtain or access a social security number, driver license number, or other state-issued identification number in the database except as provided in this chapter.

§ -4 Termination of deferred deposit loan offerings.

(a) A deferred deposit lender shall notify the database provider if the deferred deposit lender stops extending deferred deposit loans.

(b) If a deferred deposit lender stops providing deferred deposit loans, the database provider shall designate all open transactions with that deferred deposit lender closed in the database sixty days after the date the deferred deposit lender stops offering deferred deposit loans, unless the deferred deposit lender reports to the database provider before the expiration of the sixty-day period which of its transactions remain open and the specific reason each transaction remains open.



1 (c) A deferred deposit lender that no longer extends
2 deferred deposit loans shall provide to the department a
3 reasonably acceptable plan that outlines how the deferred
4 deposit lender shall continue to update the database after it
5 stops offering deferred deposit loans. The department shall
6 promptly approve or disapprove the plan and immediately notify
7 the deferred deposit lender of the decision. If the plan is
8 disapproved, the deferred deposit lender may submit a new plan
9 or may submit a modified plan for the deferred deposit lender to
10 follow.

11 (d) If at any time the department reasonably determines
12 that a deferred deposit lender that has stopped offering
13 deferred deposit loans is not updating the database in
14 accordance with its approved plan, the department shall instruct
15 the database provider to immediately close all remaining open
16 transactions of that deferred deposit lender.

17 (e) A transaction closed under this section is closed only
18 for purposes of the database and the closure does not impair the
19 deferred deposit lender from continuing to collect on the
20 deferred deposit loan.



1 § -5 Query to database. (a) On and after July 1, 2018,
2 before extending a deferred deposit loan, a deferred deposit
3 lender shall query the database to determine if the person
4 seeking the deferred deposit loan is ineligible.

5 (b) The database provider may collect a fee from a
6 deferred deposit lender that is established by the department
7 and that does not exceed \$1 for a query to the database that
8 results in the making of a deferred deposit loan.

9 (c) In response to a query by a deferred deposit lender,
10 the database shall state whether a person is ineligible.

11 (d) If in response to a query by a deferred deposit
12 lender, the database states that a person is ineligible, the
13 deferred deposit lender shall:

14 (1) Inform the person that the person is ineligible; and

15 (2) Explain that the person may ask the database provider
16 or department, at the department's discretion,
17 regarding the specific details of why the person is
18 ineligible.

19 (e) Only a person found ineligible to obtain a deferred
20 deposit loan may make a direct inquiry to request a more



1 detailed explanation of a particular transaction that was the
2 basis for the ineligibility determination.

3 (f) If a deferred deposit lender accurately and promptly
4 submits data to the database, a deferred deposit lender may rely
5 on the database, and may not be held liable if the information
6 in the database is inaccurate."

7 SECTION 2. There is appropriated out of the general
8 revenues of the State of Hawaii the sum of \$ or so
9 much thereof as may be necessary for fiscal year 2016-2017 for
10 establishing and managing the deferred deposit lending database
11 program.

12 The sum appropriated shall be expended by the department of
13 commerce and consumer affairs for the purposes of this Act.

14 SECTION 3. This Act shall take effect on July 1, 2016.

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INTRODUCED BY:

JAN 27 2016



H.B. NO. 2615

Report Title:

Deferred Deposit Lending; Database; Appropriation

Description:

Creates a deferred deposit lending database program in DCCA to assist a deferred deposit lender in determining the eligibility of a potential borrower of a deferred deposit loan. Makes an appropriation.

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