

JAN 27 2016

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; and
- 8 (4) The electronic transfer of government benefits for any
9 federal, state, or county governmental agency as
10 defined in ~~[Federal Reserve Board]~~ Consumer Financial
11 Protection Bureau Regulation E, by a contractor for,
12 and on behalf of the United States or any department,
13 agency, or instrumentality thereof, or any state or
14 any political subdivisions thereof."

15 SECTION 2. Section 489D-15, Hawaii Revised Statutes, is
16 amended by amending subsections (a) and (b) to read as follows:

17 "(a) A person or group of persons requesting approval of a
18 proposed change of control of a licensee shall submit to the

1 commissioner an application requesting approval of a proposed
2 change of control of the licensee, accompanied by a
3 nonrefundable application fee of \$2,500.

4 (b) After review of a request for approval under
5 subsection (a), the commissioner may require the licensee or
6 person or group of persons requesting approval of a proposed
7 change of control of the licensee, or both, to provide
8 additional information concerning the persons who are to assume
9 control of the licensee. The additional information shall be
10 limited to similar information required of the licensee or
11 persons in control of the licensee as part of its original
12 license or renewal application under sections 489D-9 and 489D-12
13 ~~[and]~~. The information shall include the history of the
14 ~~[applicant's]~~ material litigation and criminal convictions of
15 the persons who are to assume control of the licensee for the
16 five-year period prior to the date of the application for change
17 of control of the licensee[-], and authorizations necessary to
18 conduct criminal history record checks of the persons who are to
19 assume control of the licensee accompanied by the appropriate
20 payment of the applicable fee for each record check."

21 SECTION 3. Section 846-2.7, Hawaii Revised Statutes, is
22 amended by amending subsection (b) to read as follows:

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

(1) The department of health or its designee on operators of adult foster homes for individuals with developmental disabilities or developmental disabilities domiciliary homes and their employees, as provided by section 321-15.2;

(2) The department of health or its designee on prospective employees, persons seeking to serve as providers, or subcontractors in positions that place them in direct contact with clients when providing non-witnessed direct mental health or health care services as provided by section 321-171.5;

(3) The department of health or its designee on all applicants for licensure or certification for, operators for, prospective employees, adult volunteers, and all adults, except adults in care, at health care facilities as defined in section 321-15.2;

(4) The department of education on employees, prospective employees, and teacher trainees in any public school in positions that necessitate close proximity to children as provided by section 302A-601.5;

(5) The counties on employees and prospective employees who may be in positions that place them in close proximity to children in recreation or child care programs and services;

(6) The county liquor commissions on applicants for liquor licenses as provided by section 281-53.5;

(7) The county liquor commissions on employees and prospective employees involved in liquor administration, law enforcement, and liquor control investigations;

(8) The department of human services on operators and employees of child caring institutions, child placing organizations, and foster boarding homes as provided by section 346-17;

(9) The department of human services on prospective adoptive parents as established under section 346-19.7;

(10) The department of human services on applicants to operate child care facilities, prospective employees of the applicant, and new employees of the provider after registration or licensure as provided by section 346-154;

- 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

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

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
10 service contracted and subcontracted service providers
11 and 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

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; ~~and~~

21 (B) The executive officers, key shareholders, and
22 managers in charge of a money transmitter's

1 activities of every corporate applicant for a
2 money transmitter license[7]; 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

1 (B) Each control person, executive officer, director,
2 general partner, and manager of an applicant for
3 a mortgage loan originator company license,
4 as provided by chapter 454F;

5 (32) The state public charter school commission or public
6 charter schools on employees, teacher trainees,
7 prospective employees, and prospective teacher
8 trainees in any public charter school for any position
9 that places them in close proximity to children, as
10 provided in section 302D-33;

11 (33) The counties on prospective employees who work with
12 children, vulnerable adults, or senior citizens in
13 community-based programs;

14 (34) The counties on prospective employees for fire
15 department positions which involve contact with
16 children or vulnerable adults;

17 (35) The counties on prospective employees for emergency
18 medical services positions which involve contact with
19 children or vulnerable adults;

20 (36) The counties on prospective employees for emergency
21 management positions and community volunteers whose
22 responsibilities involve planning and executing

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

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

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

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

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

21 (41) The department of health or its designee on all
22 license applicants, licensees, employees, contractors,

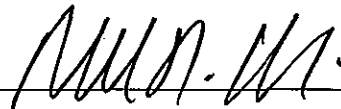
1 and prospective employees of medical marijuana
2 dispensaries, and individuals permitted to enter and
3 remain in medical marijuana dispensary facilities as
4 provided under sections 329D-15(a)(4) and
5 329D-16(a)(3); and

6 (42) Any other organization, entity, or the State, its
7 branches, political subdivisions, or agencies as may
8 be authorized by state law."

9 SECTION 4. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

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

12
13 INTRODUCED BY: _____



14 BY REQUEST

S.B. NO. 2848

Report Title:

Money Transmitters; Change in Control; Division of Financial Institutions

Description:

Clarifies chapter 489D, Hawaii Revised Statutes, requirements for money transmitter licensee change in control application, including requirement for criminal background check of persons who will assume control of the licensee. Updates reference to federal Regulation E.

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 MONEY TRANSMITTERS.

PURPOSE: To broaden the class of persons who may submit an application for approval of a change in control of a licensee, and to require criminal background checks of the persons who are applying to assume control of the licensee. To update the reference to the federal agency that administers Regulation E, from the Federal Reserve Board, to the Consumer Financial Protection Bureau.

MEANS: Amend sections 489D-5(a), 489D-15(a) and (b), and 846-2.7(b), Hawaii Revised Statutes.

JUSTIFICATION: Currently, a "licensee" is the only party authorized to submit an application for a proposed change in control of a money transmitter licensee to the Commissioner of Financial Institutions (Commissioner) for approval. In a hostile takeover, the licensee may be unwilling to submit the application, and the Commissioner will have no information about the proposed change in control. This measure would authorize the application to be submitted by those seeking approval for the change in control of a licensee. Criminal background checks of the persons who are to assume control of the licensee would provide the Commissioner important information for evaluation of the change in control application. This measure also updates the reference to the federal regulator overseeing Regulation E.

Impact on the public: This measure would facilitate the Commissioner's review of applications requesting change in control of

a licensee, particularly in hostile takeover situations. It would enhance consumer protection by requiring criminal background checks in connection with an application for a proposed change of control of a licensee. This measure helps eliminate confusion by updating the reference to the federal agency that oversees Regulation E.

Impact on the department and other agencies:
This measure would reduce questions concerning the steps to obtain approval of a proposed change in control application in a hostile takeover situation. The criminal background check requirement would increase the work of the Division of Financial Institutions, however applications for a proposed change of control of the licensee are submitted fairly infrequently.

GENERAL FUNDS:	None.
OTHER FUNDS:	None.
PPBS PROGRAM DESIGNATION:	CCA-104.
OTHER AFFECTED AGENCIES:	None.
EFFECTIVE DATE:	Upon approval.