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# A BILL FOR AN ACT

RELATING TO CONSUMER PROTECTION.

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

1       SECTION 1. The legislature finds that deferred deposit  
2 agreements, commonly referred to as payday loans, are small,  
3 short term, unsecured loans that borrowers commit to repay from  
4 their next paycheck or a regular income payment. According to a  
5 study by the Pew Charitable Trusts, the majority of borrowers  
6 use deferred deposit agreements for recurring expenses, rather  
7 than unexpected expenses or emergencies, because they live  
8 paycheck to paycheck. Research has also shown that the  
9 conventional payday loan model is unaffordable for most  
10 borrowers, leads to repeat borrowing, and promotes indebtedness  
11 that is far longer than advertised.

12       The legislature further finds that there has been a shift  
13 in the payday industry toward small dollar installment loans,  
14 which are repayable over time and secured by access to the  
15 borrower's checking account. According to the Pew Charitable  
16 Trusts, national survey data indicates that seventy-nine per  
17 cent of payday borrowers prefer small dollar loans that are due



1 in installments, which only take a small share of each paycheck.  
2 However, in the absence of sensible regulatory safeguards, this  
3 type of lending, as well as the traditional deferred deposit  
4 lending market, can be harmful for consumers.

5 The legislature notes that there has been a growing trend  
6 around the country to provide more consumer protections, which  
7 benefit consumers and encourage responsible and transparent  
8 lending, for deferred deposit transactions and small dollar  
9 installment loans within the payday lending industry. Hawaii  
10 has not yet joined in these reform efforts.

11 The legislature acknowledges that there is a market for  
12 small dollar installment loans. However, the legislature  
13 concludes that if small dollar installment loans are going to be  
14 offered to Hawaii consumers, there must be appropriate consumer  
15 protections in place to ensure these loans contain reasonable  
16 terms and fees and do not trap borrowers in a cycle of high-  
17 interest debt.

18 Accordingly, the purpose of this Act is to encourage  
19 transparency and increase consumer protection in the payday  
20 lending industry by:



- 1 (1) Transitioning the payday lending industry from lump  
2 sum deferred deposit transactions to installment-based  
3 small dollar loan transactions;
- 4 (2) Specifying various consumer protection requirements  
5 for small dollar loans;
- 6 (3) Beginning January 1, 2019, requiring licensure for  
7 small dollar lenders that offer small dollar loans to  
8 consumers;
- 9 (4) Specifying licensing requirements for small dollar  
10 lenders; and
- 11 (5) Authorizing the division of financial institutions to  
12 establish and hire one full-time equivalent permanent  
13 examiner to carry out the purposes of the small dollar  
14 installment loan program, funded via an increase to  
15 the ceiling of the compliance resolution fund.

16 SECTION 2. The Hawaii Revised Statutes is amended by  
17 adding a new chapter to title 25A to be appropriately designated  
18 and to read as follows:

19 "CHAPTER

20 SMALL DOLLAR INSTALLMENT LOANS

21 PART I. GENERAL PROVISIONS



1       §   -1   Definitions.  As used in this chapter, unless the  
2 context otherwise requires:

3       "Annual percentage rate" means an annual percentage rate as  
4 determined pursuant to section 107 of the Truth in Lending Act,  
5 title 15 United States Code section 1606.  For the purposes of  
6 this definition, all fees and charges, including interest and  
7 monthly maintenance fees authorized by this chapter, shall be  
8 included in the calculation of the annual percentage rate.

9       "Arranger" means a provider of funds in the syndication of  
10 a debt.

11       "Branch office" means any location in this State that is  
12 identified by any means to the public or customers as a location  
13 at which the licensee holds itself out as a small dollar lender.

14       "Commissioner" means the commissioner of financial  
15 institutions.

16       "Consumer" means a natural person who is the buyer, lessee,  
17 or debtor to whom credit is granted in a transaction that is  
18 primarily for that natural person's personal, family, or  
19 household purposes.

20       "Control", in the context of control of an applicant or  
21 licensee, means ownership of, or the power to vote, twenty-five



1 per cent or more of the outstanding voting securities of a  
2 licensee or controlling person. For the purposes of determining  
3 the percentage of an applicant or a licensee controlled by any  
4 person, there shall be aggregated with the controlling person's  
5 interest the interest of any other person controlled by the  
6 person, or by any spouse, parent, or child of the person.

7 "Controlling person" means any person in control of a  
8 licensee or applicant.

9 "Default" means a consumer's failure to repay a small  
10 dollar loan in compliance with the terms contained in a small  
11 dollar loan agreement.

12 "Department" means the department of commerce and consumer  
13 affairs.

14 "Division" means the division of financial institutions of  
15 the department of commerce and consumer affairs.

16 "Elder" means a person who is sixty-two years of age or  
17 older.

18 "Finance charges" means the cost of credit or cost of  
19 borrowing, including the interest, monthly maintenance fees, and  
20 other fees authorized by this chapter.



1 "Financial institution" means any bank, savings bank,  
2 savings and loan association, financial services loan company,  
3 or credit union doing business in the State whose accounts are  
4 insured by the Federal Deposit Insurance Corporation, the  
5 National Credit Union Share Insurance Fund, or other similar or  
6 successor program of federal insurance.

7 "Instrument" means a personal check signed by the consumer  
8 and made payable to a person subject to this chapter. The term  
9 "instrument" does not include an electronic fund transfer or  
10 other electronic debit or credit to the consumer's checking  
11 account.

12 "Licensee" means a person who is licensed or required to be  
13 licensed under this chapter.

14 "Loan amount" means the amount financed, as that term is  
15 defined in Regulation Z of the Truth in Lending Act, title 12  
16 Code of Federal Regulations, chapter X, part 1026, as amended,  
17 or supplemented by this chapter.

18 "Maintenance fee" means a monthly fee paid to a licensee to  
19 maintain a small dollar loan.

20 "NMLS" means a licensing system developed and maintained by  
21 the Conference of State Bank Supervisors for the state licensing



1 and registration of state-licensed loan originators and other  
2 financial services providers, or any system provided by the  
3 Consumer Financial Protection Bureau.

4 "Person" means an individual, sole proprietorship,  
5 partnership, corporation, limited liability company, limited  
6 liability partnership, or other association of individuals,  
7 however organized.

8 "Place of business" means a location where small dollar  
9 loans are offered or made and includes each website through  
10 which a consumer may apply for a small dollar loan from a small  
11 dollar lender.

12 "Precomputed interest" means an interest method that uses  
13 the original payment schedule to calculate interest.

14 "Small dollar lender" or "lender" means any person who is  
15 in the business of offering or making a consumer loan, who  
16 arranges a consumer loan for a third party, or who acts as an  
17 agent for a third party, regardless of whether the third party  
18 is exempt from licensure under this chapter or whether approval,  
19 acceptance, or ratification by the third party is necessary to  
20 create a legal obligation for the third party, through any



1 method including mail, telephone, the Internet, or any  
2 electronic means.

3 "Small dollar loan" means a loan made pursuant to this  
4 chapter.

5 "Truth in Lending Act" means the federal Truth in Lending  
6 Act, title 15 United States Code section 1601 et seq., as may be  
7 amended, and regulations adopted thereunder, as may be amended.

8 "Verified gross income" means evidence from a borrower of  
9 one or more paystubs or other written evidence of recurring  
10 income before taxes.

11 "Verified net income" means evidence from a borrower of one  
12 or more paystubs or other written evidence of recurring income  
13 after taxes and deductions.

14 § -2 Small dollar loans; requirements; payments. (a)  
15 Each small dollar loan transaction and renewal shall meet the  
16 following requirements:

17 (1) Any transaction and renewal shall be documented in a  
18 written agreement pursuant to section -3;

19 (2) The total amount of the small dollar loan shall not  
20 exceed \$1,000;





1 (3) The total monthly payment on the loan shall not exceed  
2 an amount that is five per cent of the borrower's  
3 verified gross monthly income or six per cent of the  
4 borrower's verified net monthly income, whichever is  
5 greater;

6 (4) The total amount of fees and charges a small dollar  
7 lender may charge, collect, or receive in connection  
8 with a small dollar loan shall not exceed fifty per  
9 cent of the principal loan amount;

10 (5) A monthly maintenance fee may be charged by the  
11 lender, not to exceed the following:

12 (A) \$10 on a loan of an original principal loan  
13 amount up to \$300.00;

14 (B) \$15 on a loan of an original principal loan  
15 amount of at least \$300.01 and up to \$600.00; and

16 (C) \$25 on a loan of an original principal loan  
17 amount of at least \$600.01 and up to \$1,000.00;

18 provided that the monthly maintenance fee shall not be  
19 added to the loan balance on which the interest is  
20 charged; provided further that a small dollar lender  
21 shall not charge, collect, or receive a monthly



1 maintenance fee if the borrower is a person on active  
2 duty in the armed forces of the United States or a  
3 dependent of that person;

4 (6) The written agreement required under section -3 may  
5 require multiple installment payments;

6 (7) All repayment schedule due dates shall be dates on  
7 which a small dollar lender is open for business to  
8 the public at the place of business where the small  
9 dollar loan was made;

10 (8) A small dollar lender shall accept prepayment in full  
11 or in part from a consumer prior to the loan due date  
12 and shall not charge the consumer a fee or penalty if  
13 the consumer opts to prepay the loan;

14 (9) The loan amount and accrued interest and fees shall be  
15 fully amortized over the term of the loan;

16 (10) A consumer's repayment obligations shall not be  
17 secured by a lien on any real or personal property;

18 (11) A small dollar lender shall not charge a consumer any  
19 direct or indirect fees for a small dollar loan, other  
20 than the fees permitted by this chapter; and



1 (12) The written agreement required under section -3

2 shall not require a consumer to purchase add-on

3 products, such as credit insurance.

4 (b) In a multiple installment small dollar loan, a lender  
5 may contract for a twice-monthly or monthly payment of the loan  
6 balance due, including the applicable portion of the interest,  
7 and earned monthly maintenance fee.

8 (c) For each payment made by a consumer, a lender shall  
9 give the consumer a written receipt with the lender's name and  
10 address, payment date, amount paid, consumer's name, and  
11 sufficient information to identify the account to which the  
12 payment is applied.

13 (d) Upon prepayment in full by the consumer, the lender  
14 shall refund:

15 (1) Any unearned portion of the interest rate; and

16 (2) Any unearned monthly maintenance fees.

17 (e) Upon request from a consumer or a consumer's agent, a  
18 small dollar lender shall provide confirmation of the amount  
19 required to discharge the small dollar loan obligation in full.  
20 When responding to a request under this subsection, the small  
21 dollar lender shall, at a minimum, include a statement of the



1 amount required to discharge the consumer's obligation fully as  
2 of the date the notice is provided and for each of the next  
3 three business days following that date. The small dollar  
4 lender shall make the information required under this subsection  
5 available verbally and in writing and shall provide it in an  
6 expeditious manner, but no later than two business days after  
7 receiving the request.

8       §   -3 Written agreement; requirements; disclosure. (a)

9 Each small dollar loan transaction and renewal shall be  
10 documented by a written agreement signed by the small dollar  
11 lender and consumer. The written agreement shall contain the  
12 following information:

- 13       (1) The name and address of the consumer and the lender;  
14       (2) The transaction date;  
15       (3) The loan amount;  
16       (4) The annual percentage rate charged;  
17       (5) The authorized interest rate;  
18       (6) A statement of the total amount of finance charges  
19           charged, expressed as a dollar amount and an annual  
20           percentage rate;



- 1 (7) The installment payment schedule setting out the  
2 amount due on specific due dates;
- 3 (8) The name, address, and telephone number of any agent  
4 or arranger involved in the small dollar loan  
5 transaction;
- 6 (9) The right to rescind the small dollar loan on or  
7 before 5:00 p.m. on the next day of business at the  
8 location where the loan was originated;
- 9 (10) A notice to the consumer that a returned instrument  
10 may result in a dishonored instrument charge, not to  
11 exceed \$25; and
- 12 (11) A description of the methods by which small dollar  
13 loan payments may be made, which may include cash,  
14 check, or any additional method of loan payment  
15 authorized by this chapter or by rule adopted by the  
16 commissioner pursuant to chapter 91.
- 17 (b) The written agreement shall also comply with the  
18 disclosure requirements of the Truth in Lending Act and any  
19 regulation adopted thereunder.
- 20 (c) The small dollar lender shall provide to the consumer  
21 a printed written disclosure prior to signing the written



1 agreement that accurately discloses the types of information in  
2 the chart below, presented in a format substantively similar to  
3 the chart below, in at least twelve-point type:

**"MULTIPLE  
INSTALLMENT  
PAYMENT**

4  
5  
6  
7  
8 Amount Financed  
9 Finance Charge  
10 Amount you will receive  
11 Term (months)  
12  
13 Authorized Interest Rate  
14  
15 Monthly Maintenance Fee  
16  
17 Total of All Permitted Charges  
18  
19 Total You Will Pay for This Loan  
20 (Amount Financed,  
21 Interest, and Monthly Maintenance Fee)  
22  
23 ANNUAL PERCENTAGE RATE  
24  
25 Payment Schedule"

26  
27 (d) The consumer shall sign and date each of two copies of  
28 the written disclosure required pursuant to subsection (c), one  
29 of which shall be given to the consumer and the other of which  
30 shall be retained by the lender as part of its records of the  
31 small dollar loan. For purposes of preparing the written



1 disclosure, the small dollar loan shall be structured on a  
2 precomputed basis (total of payments) with the assumption that  
3 all payments will be made as scheduled.

4 (e) The written agreement may include a demand feature  
5 that permits the lender or any other person, in the event the  
6 consumer fails to meet the repayment terms for any outstanding  
7 balance, to terminate the small dollar loan in advance of the  
8 original maturity date, but no earlier than ten days after  
9 repayment was due, and demand repayment of the entire  
10 outstanding balance. If the written agreement includes a demand  
11 feature and the demand feature is exercised, the licensee shall  
12 be entitled to collect only the outstanding balance and a  
13 prorated portion of the unpaid interest and fees earned up to  
14 the date of termination. For purposes of this subsection, the  
15 outstanding balance and prorated portion of the unpaid interest  
16 and fees shall be calculated as if the consumer had voluntarily  
17 prepaid the loan in full on the date of termination.

18 § -4 Authorized interest rate. (a) Subject to section  
19 -2(a)(5), a small dollar lender may contract for, and receive  
20 interest at, a rate not exceeding thirty-six per cent per year  
21 on that portion of the unpaid principal balance of the loan. A



1 small dollar lender may contract for and receive interest at the  
2 single annual rate that would earn the same total interest at  
3 maturity of the small dollar loan, when the loan is paid  
4 according to its agreed terms, as would be earned by the  
5 application of the graduated rates set forth in this section.  
6 Loans shall be precomputed.

7 (b) For the purposes of computing precomputed loans,  
8 including but not limited to calculating interest, a month is  
9 considered one-twelfth of a year and a day is considered one  
10 three hundred sixty-fifth of a year when calculation is made for  
11 a fraction of a month.

12 (c) Loans shall be repayable in substantially equal and  
13 consecutive monthly installments of principal and interest  
14 combined; provided that the first installment period may exceed  
15 one month by not more than fifteen days and the first  
16 installment payment amount may be larger than the remaining  
17 payments by the amount of interest charged for the extra days;  
18 provided further that monthly installment payment dates may be  
19 omitted to accommodate consumers with seasonal income.

20 (d) Payments may be applied to the combined total of  
21 principal and precomputed interest until maturity of the loan.





1 (e) If a small dollar loan is prepaid in full or renewed  
2 prior to the loan's maturity date, the lender shall refund to  
3 the consumer a prorated portion of the interest and monthly  
4 maintenance fees based on a ratio of the number of days the loan  
5 was outstanding and the number of days for which the loan was  
6 originally contracted. For the purposes of this section, the  
7 monthly maintenance fee shall not be considered to be fully  
8 earned at the beginning of a month.

9 (f) If the parties agree in writing, either in the written  
10 agreement or in a subsequent agreement, to a deferment of wholly  
11 unpaid installments, a lender may grant one deferment; provided  
12 that:

13 (1) A deferment shall postpone the scheduled due date of  
14 the earliest unpaid installment and all subsequent  
15 installments as originally scheduled, or as previously  
16 deferred, for a period equal to the deferment period;

17 (2) The deferment period shall be that period during which  
18 no installment is scheduled to be paid by reason of  
19 the deferment; and

20 (3) The lender shall not charge or collect a deferment  
21 fee.



(g) Other than the interest and charges permitted under this section, no further or other amount shall be charged or required by the small dollar lender.

(h) A lender shall not charge or receive loan origination fees.

(i) A lender shall not collect a default charge on any installment not paid in full within ten days after its due date. For this purpose, all installments are considered paid in the order in which they become due.

**§ -5 Maximum loan amount; prohibition against multiple loans.** (a) A lender shall not lend an amount greater than \$1,000 nor shall the amount financed exceed \$1,000 by any one lender at any time to a consumer.

(b) Except as otherwise provided in section -8, no small dollar lender shall make a small dollar loan to a consumer if there exists an outstanding loan between that consumer and any of the following:

(1) The small dollar lender;

(2) A person related to the small dollar lender by common ownership or control;



(3) A person in whom the small dollar lender has any financial interest of ten per cent or more; or

(4) Any employee or agent of the small dollar lender.

(c) If a consumer obtains a small dollar loan voluntarily and separately from the consumer's spouse and the consumer's action is documented in writing, signed by the consumer, and retained by the lender, the transaction shall not be considered a violation of this section.

**§ -6 Right of rescission.** (a) A consumer shall have the right to rescind a small dollar loan, on or before 5:00 p.m. on the next day of business at the location where the loan was originated, by returning the principal in cash, the original check or money order disbursed by the lender, or the other disbursement of loan proceeds from the lender to fund the loan. The lender shall not charge the consumer for rescinding the loan.

(b) At the time of rescission, the lender shall refund any loan fees and interest received and shall return to the consumer the originally signed written agreement, clearly marked across the face:



1 "RESCINDED BY [lender's name; license number],  
2 [date]"  
3 and below which the lender's authorized representative shall  
4 sign.  
5 § -7 Notice to consumers; general requirements; right to  
6 prepay; loan limits; right to rescind. A small dollar lender  
7 shall provide the following notice on each written agreement for  
8 a small dollar loan. The notice shall be in a prominent place  
9 and in at least twelve-point type:

10 "THIS SMALL DOLLAR LOAN IS NOT INTENDED TO MEET  
11 LONG-TERM FINANCIAL NEEDS.

12 THIS SMALL DOLLAR LOAN SHOULD BE USED ONLY TO  
13 MEET SHORT-TERM CASH NEEDS.

14 YOU HAVE THE RIGHT TO PREPAY THIS SMALL DOLLAR  
15 LOAN IN FULL OR IN PART WITHOUT A PENALTY.

16 RENEWING THIS SMALL DOLLAR LOAN RATHER THAN  
17 PAYING THE DEBT IN FULL MAY REQUIRE ADDITIONAL FEES OR  
18 CHARGES.

19 STATE LAW PROHIBITS THIS SMALL DOLLAR LOAN FROM  
20 EXCEEDING ONE THOUSAND DOLLARS (\$1,000) IN TOTAL DEBT.



1 EXCEEDING THIS AMOUNT MAY CREATE FINANCIAL HARDSHIPS  
2 FOR YOU AND YOUR FAMILY.

3 YOU HAVE THE RIGHT TO RESCIND THIS TRANSACTION BY  
4 5:00 P.M. [SPECIFY HERE THE CLOSE OF THE NEXT BUSINESS  
5 DAY BY DAY OF WEEK AND DATE]."

6 § -8 Renewal; new loan requirements; consecutive loans;  
7 payment plan. (a) A small dollar loan may be renewed only  
8 once. After one renewal, the consumer shall pay the debt in  
9 cash or its equivalent.

10 (b) Upon renewal of a small dollar loan, the lender may  
11 renew up to \$1,000 of the remaining unpaid balance. If the  
12 unpaid balance on renewal is more than \$1,000, the consumer may  
13 be required to pay the remaining balance; provided that the  
14 lender shall not finance any amount over \$1,000. The total  
15 amount of fees and charges for the renewed loan shall meet the  
16 requirements of section -2. If the small dollar loan is  
17 renewed prior to the maturity date, the lender shall refund to  
18 the consumer a prorated portion of the finance charge based upon  
19 the ratio of time left before maturity to the loan term.

20 (c) Once the consumer has paid off the small dollar loan  
21 transaction, the consumer may enter into a new small dollar loan



1 agreement with the lender; provided that the lender shall not  
2 have more than one outstanding loan with a borrower at any one  
3 time, pursuant to section -5.

4       **§ -9 Form of loan proceeds.** A small dollar lender may  
5 pay the proceeds from a small dollar loan to the consumer in the  
6 form of a monetary instrument, money order, or cash. The lender  
7 shall inform the consumer in writing that the lender shall cash  
8 the monetary instrument or money order, upon request of the  
9 consumer, at no cost to the consumer.

10       **§ -10 Endorsement of instrument.** A small dollar lender  
11 shall not negotiate or present an instrument for payment unless  
12 the instrument is endorsed with the actual business name of the  
13 lender.

14       **§ -11 Redemption of instrument.** Prior to a small dollar  
15 lender negotiating or presenting the instrument, a consumer  
16 shall have the right to redeem any instrument held by the lender  
17 as a result of a small dollar loan if the consumer pays the full  
18 amount of the instrument to the lender.

19       **§ -12 Delinquent small dollar loans; restrictions on**  
20 **collection by lender or third party.** (a) A small dollar lender  
21 shall comply with all applicable state and federal laws when



1 collecting a delinquent small dollar loan. A lender may take  
2 civil action to collect principal, interest, fees, and costs  
3 allowed under this chapter. A lender may not threaten criminal  
4 prosecution as a method of collecting a delinquent small dollar  
5 loan or threaten to take any legal action against the consumer  
6 that is not otherwise permitted by law.

7 (b) Unless invited by the consumer, a lender shall not  
8 visit a consumer's residence or place of employment for the  
9 purposes of collecting a delinquent small dollar loan. A lender  
10 shall not impersonate a law enforcement officer or make any  
11 statements that might be construed as indicating an official  
12 connection with any federal, state, or county law enforcement  
13 agency or any other governmental agency while engaged in  
14 collecting a small dollar loan.

15 (c) A lender shall not communicate with a consumer in a  
16 manner intended to harass, intimidate, abuse, or embarrass a  
17 consumer, including but not limited to communication at an  
18 unreasonable hour, with unreasonable frequency, by threats of  
19 force or violence, or by use of offensive language. A  
20 communication shall be presumed to have been made for the



1 purposes of harassment if it is initiated by the lender for the  
2 purposes of collection and the communication is made:

3 (1) With the consumer's spouse or the consumer's domestic  
4 partner in any form, manner, or place, more than once;

5 (2) With a consumer at the consumer's place of employment  
6 more than once;

7 (3) With the consumer, the consumer's spouse, or the  
8 consumer's domestic partner at the consumer's place of  
9 residence between the hours of 9:00 p.m. and 8:00  
10 a.m.; or

11 (4) To a party other than the consumer, the consumer's  
12 attorney, the lender's attorney, or a consumer credit  
13 reporting agency if otherwise permitted by law, except  
14 for the purposes of acquiring location or contact  
15 information about the consumer.

16 (d) A lender shall maintain an accurate and complete  
17 communication log of all telephone and written communications  
18 with a consumer initiated by the lender regarding any collection  
19 efforts, including date, time, and the nature of each  
20 communication.





1 (e) For purposes of collecting a dishonored check, this  
2 section shall apply to any employee, agent, or third party  
3 assignee of a lender.

4 (f) For the purposes of this section, "communication"  
5 includes any contact with a consumer, initiated by a lender, in  
6 person, by telephone, or in writing, including via electronic  
7 mail, text message, or other electronic writing; provided that:

8 (1) The term "communication" shall include the time the  
9 lender initiates contact with a consumer, regardless  
10 of whether the communication is received or accessed  
11 by the consumer; and

12 (2) The term "communication" shall not include:

13 (A) Verbal communication with the consumer while the  
14 consumer is physically present in the lender's  
15 place of business;

16 (B) An unanswered telephone call in which no message,  
17 other than a caller identification, is left,  
18 unless the telephone call is in violation of  
19 subsection (c)(3); or



(C) An initial letter to the consumer that includes disclosures under the federal Fair Debt Collection Practices Act.

**§ -13 Authorized dishonored instrument charge. (a)**

Regardless of the number of instruments that are returned unpaid, a small dollar lender may contract for and collect one returned instrument charge for each small dollar loan, not to exceed \$25. The lender shall not collect any other fees as a result of the dishonored presentment.

(b) If the loan proceeds instrument from the small dollar lender is dishonored by the financial institution, the small dollar lender shall cover any fees and charges incurred by the consumer as a direct result of the dishonored loan proceeds instrument.

**§ -14 Posting of license and fees and charges. Any**

small dollar lender offering a small dollar loan shall conspicuously and continuously post at any place of business where small dollar loans are made, the license required pursuant to this chapter and a notice of the fees and charges imposed for small dollar loans.



1           **§   -15   Internet lending.**   (a)   A small dollar lender may  
2   advertise and accept applications for small dollar loans by any  
3   lawful medium, including but not limited to the Internet,  
4   subject to subsection (b).

5           (b)   Small dollar lenders shall be prohibited from  
6   advertising or making small dollar loans via the Internet  
7   without first having obtained a license pursuant to part II of  
8   this chapter.

9           (c)   The unique identifier of any small dollar lender  
10   originating a small dollar loan, except a person who is exempt  
11   from licensure under this chapter, shall be clearly shown on all  
12   solicitations, including websites, and all other documents, as  
13   established by rule or order of the commissioner.

14          **§   -16   Notice on assignment or sale of contract.**   (a)   No  
15   licensee may pledge, negotiate, sell, or assign a small dollar  
16   loan, except to another licensee or to a bank, savings bank,  
17   trust company, savings and loan or building and loan  
18   association, or credit union organized under the laws of Hawaii  
19   or the laws of the United States.

20          (b)   Prior to sale or assignment of a small dollar loan  
21   contract held by the small dollar lender as a result of a small



1 dollar loan, the lender shall place a notice on the small dollar  
2 loan contract in at least twelve-point type that reads:

3 "SMALL DOLLAR LOAN

4 No licensee may pledge, negotiate, sell, or  
5 assign a small dollar loan, except to another licensee  
6 or to a bank, savings bank, trust company, savings and  
7 loan or building and loan association, or credit union  
8 organized under the laws of Hawaii or the laws of the  
9 United States."

10 § -17 Maintenance of books and records. (a) Every  
11 small dollar lender shall keep in a safe and secure place those  
12 books and records that directly relate to any small dollar loan  
13 made within this State, and other books and records as may be  
14 necessary for the commissioner to ensure full compliance with  
15 the laws of this State.

16 (b) All books and records may be maintained as originals  
17 or photocopies, on microfilm or microfiche, on computer disks or  
18 tapes, or similar forms; provided that the books and records are  
19 readily accessible and may be easily examined.



1 (c) All records, statements, and reports required or  
2 authorized by this chapter shall be made in writing in the  
3 English language.

4 (d) Every lender shall preserve all of its records for a  
5 minimum of six years or for a greater or lesser period as the  
6 commissioner may prescribe by rule adopted pursuant to chapter  
7 91.

8 **PART II. LICENSING**

9 **§ -31 License required.** No person, unless exempt under  
10 this chapter, shall act as a small dollar lender in this State  
11 unless licensed to do so by the commissioner.

12 **§ -32 Exemptions.** This chapter shall not apply to the  
13 following:

14 (1) A financial institution that is authorized by the  
15 division to do business in the State; or

16 (2) A nondepository financial service loan company  
17 authorized by the division to do business in the  
18 State.

19 **§ -33 License; application; issuance.** (a) The  
20 commissioner shall require all licensees to register with NMLS.



1 (b) Applicants for a license shall apply in a form as  
2 prescribed by NMLS or by the commissioner. The application  
3 shall contain, at a minimum, the following information:

4 (1) The legal name, trade names, and business address of  
5 the applicant and, if the applicant is a partnership,  
6 association, limited liability company, limited  
7 liability partnership, or corporation, of every  
8 member, officer, principal, or director thereof;

9 (2) The principal place of business;

10 (3) The complete address of any other branch offices at  
11 which the applicant currently proposes to engage in  
12 making small dollar loans; and

13 (4) Other data, financial statements, and pertinent  
14 information as the commissioner may require with  
15 respect to the applicant or, if an applicant is not an  
16 individual, each of the applicant's controlling  
17 persons, executive officers, directors, general  
18 partners, and managing members.

19 (c) To fulfill the purposes of this chapter, the  
20 commissioner may enter into agreements or contracts with NMLS or  
21 other entities to use NMLS to collect and maintain records and



1 process transaction fees or other fees related to licensees or  
2 other persons subject to this chapter.

3 (d) For the purpose and to the extent necessary to  
4 participate in NMLS, the commissioner may waive or modify, in  
5 whole or in part, by rule or order, any or all of the  
6 requirements of this chapter and establish new requirements as  
7 reasonably necessary to participate in NMLS.

8 (e) In connection with an application for a license under  
9 this chapter, the applicant, at a minimum, shall furnish to NMLS  
10 information or material concerning the applicant's identity,  
11 including:

12 (1) Fingerprints of the applicant or, if an applicant is  
13 not an individual, each of the applicant's controlling  
14 persons, executive officers, directors, general  
15 partners, and managing members for submission to the  
16 Federal Bureau of Investigation and any governmental  
17 agency or entity authorized to receive the  
18 fingerprints for a state, national, and international  
19 criminal history background check, accompanied by the  
20 applicable fee charged by the entities conducting the  
21 criminal history background check; and



1       (2) Personal history and experience of the applicant or,  
2       if an applicant is not an individual, each of the  
3       applicant's controlling persons, executive officers,  
4       directors, general partners, and managing members in a  
5       form prescribed by NMLS, including the submission of  
6       authorization for NMLS and the commissioner to obtain:

7       (A) An independent credit report obtained from a  
8       consumer reporting agency described in section  
9       603(p) of the Fair Credit Reporting Act, title 15  
10      United States Code section 1681 et seq.; and

11      (B) Information related to any administrative, civil,  
12      or criminal findings by any governmental  
13      jurisdiction;

14 provided that the commissioner may use any information obtained  
15 pursuant to this subsection or through NMLS to determine an  
16 applicant's demonstrated financial responsibility, character,  
17 and general fitness for licensure.

18      (f) The commissioner may use NMLS as an agent for  
19 requesting information from and distributing information to the  
20 Department of Justice or any governmental agency.





1 (g) The commissioner may use NMLS as an agent for  
2 requesting and distributing information to and from any source  
3 directed by the commissioner.

4 (h) An applicant for a license as a small dollar loan  
5 lender shall be registered with the business registration  
6 division of the department to do business in this State before a  
7 license pursuant to this chapter shall be granted.

8 § -34 Issuance of license; grounds for denial. (a) The  
9 commissioner shall conduct an investigation of every applicant  
10 to determine the financial responsibility, character, and  
11 general fitness of the applicant. The commissioner shall issue  
12 the applicant a license to engage in the business of making  
13 small dollar loans if the commissioner determines that:

14 (1) The applicant, or in the case of an applicant that is  
15 not an individual, each of the applicant's controlling  
16 persons, executive officers, directors, general  
17 partners, and managing members, has never had a small  
18 dollar loan lender license revoked in any  
19 jurisdiction; provided that a subsequent formal  
20 vacation of a revocation shall not be deemed a  
21 revocation;



1       (2) The applicant, or in the case of an applicant that is  
2       not an individual, each of the applicant's controlling  
3       persons, executive officers, directors, general  
4       partners, and managing members, has not been convicted  
5       of, or pled guilty or nolo contendere, or been granted  
6       a deferred acceptance of a guilty plea under federal  
7       law or under chapter 853 to a felony in a domestic,  
8       foreign, or military court:

9       (A) During the seven-year period preceding the date  
10       of the application for licensing and  
11       registration; or

12       (B) At any time preceding the date of application, if  
13       the felony involved an act of fraud, dishonesty,  
14       breach of trust, or money laundering;

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

17       (3) The applicant, or in the case of an applicant that is  
18       not an individual, each of the applicant's controlling  
19       persons, executive officers, directors, general  
20       partners, and managing members, has demonstrated  
21       financial responsibility, character, and general



1 fitness to command the confidence of the community and  
2 to warrant a determination that the applicant shall  
3 operate honestly, fairly, and efficiently pursuant to  
4 this chapter. For the purposes of this paragraph, a  
5 person is not financially responsible when the person  
6 has shown a disregard in the management of the  
7 person's financial condition. A determination that a  
8 person has shown a disregard in the management of the  
9 person's financial condition may be based upon:

- 10 (A) Current outstanding judgments, except judgments  
11 solely as a result of medical expenses;  
12 (B) Current outstanding tax liens or other government  
13 liens and filings, subject to applicable  
14 disclosure laws and administrative rules;  
15 (C) Foreclosures within the past three years; and  
16 (D) A pattern of seriously delinquent accounts within  
17 the past three years;  
18 (4) The applicant, or in the case of an applicant that is  
19 not an individual, each of the applicant's controlling  
20 persons, executive officers, directors, general  
21 partners, and managing members, has not been convicted



1 of, pled guilty or nolo contendere to, or been granted  
2 a deferred acceptance of a guilty plea under federal  
3 law or chapter 853 to any misdemeanor involving an act  
4 of fraud, dishonesty, breach of trust, or money  
5 laundering;

6 (5) The applicant has satisfied the licensing requirements  
7 of this chapter; and

8 (6) The applicant has the bond required by section -35.

9 (b) The applicant, or in the case of an applicant that is  
10 not an individual, each of the applicant's controlling persons,  
11 executive officers, directors, general partners, and managers,  
12 shall submit authorization to the commissioner for the  
13 commissioner to conduct background checks to determine or verify  
14 the information in subsection (a) in each state where the person  
15 has conducted small dollar loan lending. Authorization pursuant  
16 to this subsection shall include consent to provide additional  
17 fingerprints, if necessary, to law enforcement or regulatory  
18 bodies in other states.

19 (c) A license shall not be issued to an applicant:

20 (1) Whose license to conduct business under this chapter,  
21 or any similar statute in any other jurisdiction, has



1           been suspended or revoked within five years of the  
2           filing of the present application;

3           (2) Whose license to conduct business in the small dollar  
4           loan or payday industry has been revoked by an  
5           administrative order issued by the commissioner or the  
6           commissioner's designee, or the licensing authority of  
7           another state or jurisdiction, for the period  
8           specified in the administrative order;

9           (3) Who has advertised or made internet loans in violation  
10          of this chapter; or

11          (4) Who has failed to complete an application for  
12          licensure.

13          (d) A license issued in accordance with this chapter  
14          remains in force and effect until surrendered, suspended, or  
15          revoked, or until the license expires as a result of nonpayment  
16          of the annual license renewal fee as required by this chapter.

17          §   -35   **Fees; bond.** (a) A small dollar lender shall pay  
18          the following fees to the division to obtain and maintain a  
19          valid license under this chapter:

20          (1) Initial application fee of \$900;

21          (2) Processing fee of \$35 for each controlling person;



1 (3) Annual license renewal fee of \$600;

2 (4) Applicable fee charged by the entities conducting the  
3 criminal history background check of each of the  
4 applicant's controlling persons, executive officers,  
5 directors, general partners, and managing members for  
6 submission to the Federal Bureau of Investigation and  
7 any governmental agency or entity authorized to  
8 receive the fingerprints for a state, national, and  
9 international criminal history background check;

10 (5) Applicable fee charged by the entities conducting an  
11 independent credit report obtained from a consumer  
12 reporting agency described in section 603(p) of the  
13 Fair Credit Reporting Act, title 15 United States Code  
14 section 1681 et seq.; and

15 (6) Information related to any administrative, civil, or  
16 criminal findings by any governmental jurisdiction;

17 provided that the commissioner may use any information obtained  
18 pursuant to this subsection or through NMLS to determine an  
19 applicant's demonstrated financial responsibility, character,  
20 and general fitness for licensure.



(b) Each branch office shall pay the following fees to the division to obtain and maintain a valid license under this chapter:

(1) Initial application fee of \$600; and

(2) Annual license renewal fee of \$450.

(c) The applicant shall file and maintain a surety bond, approved by the commissioner, executed by the applicant as obligor and by a surety company authorized to operate as a surety in this State, whose liability as a surety does not exceed, in the aggregate, the penal sum of the bond. The penal sum of the bond shall be a minimum of \$30,000 and a maximum of \$250,000, based upon the annual dollar amount of loans originated.

(d) The bond required by subsection (c) shall run to the State of Hawaii as obligee for the use and benefit of the State and of any person or persons who may have a cause of action against the licensee as obligor under this chapter. The bond shall be conditioned that:

(1) The licensee as obligor will faithfully conform to and abide by this chapter and all the rules adopted under this chapter; and



(2) The bond shall pay to the State and any person or persons having a cause of action against the licensee as obligor all moneys that may become due and owing to the State and those persons under and by virtue of this chapter.

(e) Each small dollar lender shall pay a nonrefundable fee of \$ to the division for each office that is relocated.

**§ -36 Renewal of license; annual report.** (a) On or before December 31 of each year, each licensee shall pay a renewal fee pursuant to section -35.

(b) The annual renewal fee shall be accompanied by a report, in a form prescribed by the commissioner, which shall include:

(1) A copy of the licensee's most recent audited annual financial statement, including balance sheets, statement of income or loss, statement of changes in shareholders' equity, and statement of cash flows or, if a licensee is a wholly owned subsidiary of another corporation, the consolidated audited annual financial





1 statement of the parent corporation in lieu of the  
2 licensee's audited annual financial statement;

3 (2) A report detailing the small dollar lender's  
4 activities in this State, including:

5 (A) The number of small dollar loans made;

6 (B) The number of small dollar loans the lender is  
7 servicing;

8 (C) The type and characteristics of loans serviced in  
9 this State;

10 (D) The number of small dollar serviced loans in  
11 default; and

12 (E) Any other information that the commissioner may  
13 require;

14 (3) Any material changes to any of the information  
15 submitted by the licensee on its original application  
16 that have not previously been reported to the  
17 commissioner on any other report required to be filed  
18 under this chapter;

19 (4) A list of the principal place of business and branch  
20 locations, if any, within this State where business



1 regulated by this chapter is being conducted by the  
2 licensee;

3 (5) Disclosure of any pending or final suspension,  
4 revocation, or other enforcement action by any state  
5 or governmental authority; and

6 (6) Any other information the commissioner may require.

7 (c) A license may be renewed by continuing to meet the  
8 licensing requirements of sections -33, -34, and -35,  
9 filing a completed renewal statement on a form prescribed by  
10 NMLS or by the commissioner, paying a renewal fee, and meeting  
11 the requirements of this section.

12 (d) A licensee that has not filed an annual report that  
13 has been deemed complete by the commissioner or paid its annual  
14 renewal fee by the renewal filing deadline, and has not been  
15 granted an extension of time to do so by the commissioner, shall  
16 have its license suspended on the renewal date. The licensee  
17 shall have thirty days after its license is suspended to file an  
18 annual report and pay the annual renewal fee, plus a late filing  
19 fee of \$250 for each business day after suspension that the  
20 commissioner does not receive the annual report and the annual  
21 renewal fee. The commissioner, for good cause, may grant an



1 extension of the renewal date or reduce or suspend the \$250 per  
2 day late filing fee.

3       **§   -37   Enforcement authorities; violations; penalties.**

4       (a) To ensure the effective supervision and enforcement of this  
5 chapter, the commissioner may, pursuant to chapter 91, take any  
6 disciplinary action as specified in subsection (b) against an  
7 applicant or licensee if the commissioner finds that:

8           (1) The applicant or licensee has violated this chapter or  
9               any rule or order lawfully made pursuant to this  
10              chapter;

11          (2) Facts or conditions exist that would clearly have  
12               justified the commissioner in denying an application  
13               for licensure, had these facts or conditions been  
14               known to exist at the time the application was made;

15          (3) The applicant or licensee has failed to provide  
16               information required by the commissioner within a  
17               reasonable time, as specified by the commissioner;

18          (4) The applicant or licensee has failed to provide or  
19               maintain proof of financial responsibility;

20          (5) The applicant or licensee is insolvent;



1 (6) The applicant or licensee has made, in any document or  
2 statement filed with the commissioner, a false  
3 representation of a material fact or has omitted to  
4 state a material fact;

5 (7) The applicant, licensee, or any of its owners,  
6 members, managers, partners, officers, or directors  
7 have been convicted of or entered a plea of guilty or  
8 nolo contendere to a crime involving fraud or deceit,  
9 or to any similar crime under the jurisdiction of any  
10 federal court or court of another state;

11 (8) The applicant or licensee has failed to make,  
12 maintain, or produce records that comply with section  
13 -17 or any rule adopted by the commissioner  
14 pursuant to chapter 91;

15 (9) The applicant or licensee has been the subject of any  
16 disciplinary action by any state or federal agency  
17 which resulted in revocation of a license;

18 (10) A final judgment has been entered against the  
19 applicant or licensee for violations of this chapter,  
20 any state or federal law concerning small dollar  
21 loans, deferred deposit loans, check cashing, payday



1 loans, banking, mortgage loan originators, money  
2 transmitters, or any state or federal law prohibiting  
3 deceptive or unfair trade or business practices; or  
4 (11) The applicant or licensee has failed to, in a timely  
5 manner as specified by the commissioner, take or  
6 provide proof of the corrective action required by the  
7 commissioner subsequent to an investigation or  
8 examination pursuant to section -43.

9 (b) After a finding of one or more of the conditions under  
10 subsection (a), the commissioner may take any or all of the  
11 following actions:

- 12 (1) Deny an application for licensure, including an  
13 application for a branch office license;  
14 (2) Revoke the license;  
15 (3) Suspend the license for a period of time;  
16 (4) Issue an order to the licensee to cease and desist  
17 from engaging in any act specified under subsection  
18 (a);  
19 (5) Order the licensee to make refunds to consumers of  
20 excess charges under this chapter;



1           (6)   Impose penalties of up to a \$1,000 for each violation;  
2                   or

3           (7)   Bar a person from applying for or holding a license  
4                   for a period of five years following revocation of the  
5                   person's license.

6           (c)   The commissioner may issue a temporary cease and  
7   desist order if the commissioner makes a finding that the  
8   licensee, applicant, or person is engaging, has engaged, or is  
9   about to engage in an illegal, unauthorized, unsafe, or unsound  
10   practice in violation of this chapter. Whenever the  
11   commissioner denies a license application or takes disciplinary  
12   action pursuant to this subsection, the commissioner shall enter  
13   an order to that effect and notify the licensee, applicant, or  
14   person of the denial or disciplinary action. The notification  
15   required by this subsection shall be given by personal service  
16   or by mail to the last known address of the licensee or  
17   applicant as shown on the application, license, or as  
18   subsequently furnished in writing to the commissioner.

19           (d)   The revocation, suspension, expiration, or surrender  
20   of a license shall not affect the licensee's liability for acts  
21   previously committed or impair the commissioner's ability to



1 issue a final agency order or impose discipline against the  
2 licensee.

3 (e) No revocation, suspension, or surrender of a license  
4 shall impair or affect the obligation of any preexisting lawful  
5 contract between the licensee and any consumer.

6 (f) The commissioner may reinstate a license, terminate a  
7 suspension, or grant a new license to a person whose license has  
8 been revoked or suspended if no fact or condition then exists  
9 that clearly would justify the commissioner in revoking,  
10 suspending, or refusing to grant a license.

11 (g) The commissioner may impose an administrative fine on  
12 a licensee or person subject to this chapter if the commissioner  
13 finds on the record after notice and opportunity for hearing  
14 that the licensee or person subject to this chapter has violated  
15 or failed to comply with any requirement of this chapter or any  
16 rule prescribed by the commissioner under this chapter or order  
17 issued under the authority of this chapter.

18 (h) Each violation or failure to comply with any directive  
19 or order of the commissioner shall be a separate and distinct  
20 violation.



(i) Any violation of this chapter that is directed toward, targets, or injures an elder may be subject to an additional civil penalty not to exceed \$10,000 for each violation in addition to any other fines or penalties assessed for the violation.

**§ -38 Voluntary surrender of license.** (a) A licensee may voluntarily cease business and surrender its license by giving written notice to the commissioner of its intent to surrender its license. Prior to the surrender date of a license, the licensee shall have either completed all pending small dollar loan transactions or assigned each pending small dollar loan transaction to another licensee.

(b) Notice pursuant to this section shall be provided at least thirty days before the surrender of the license and shall include:

- (1) The date of surrender;
- (2) The name, address, telephone number, facsimile number, and electronic mail address of a contact individual with knowledge and authority sufficient to communicate with the commissioner regarding all matters relating





1 to the licensee during the period that it was licensed  
2 pursuant to this chapter;

3 (3) The reason or reasons for surrender;

4 (4) Total dollar amount of the licensee's outstanding  
5 small dollar loans sold in Hawaii and the individual  
6 amounts of each outstanding small dollar loans, and  
7 the name, address, and contact telephone number of the  
8 licensee to which each outstanding small dollar loan  
9 was assigned;

10 (5) A list of the licensee's Hawaii authorized branch  
11 offices, if any, as of the date of surrender;

12 (6) Confirmation that the licensee has notified each of  
13 its Hawaii authorized branch offices, if any, that the  
14 branch offices may no longer make small dollar loans  
15 on the licensee's behalf; and

16 (7) Confirmation that the licensee has notified each of  
17 its small dollar consumers, if any, that the small  
18 dollar loan is being transferred and the name,  
19 address, telephone number, and any other contact  
20 information of the licensee to whom the small dollar  
21 loan was assigned.



1 (c) Voluntary surrender of a license shall be effective  
2 upon the date of surrender specified on the written notice to  
3 the commissioner as required by this section; provided that the  
4 licensee has met all the requirements of voluntary surrender and  
5 has returned the original license issued.

6 § -39 Sale or transfer of license; change of control.

7 (a) No small dollar loan license shall be transferred, except  
8 as provided in this section.

9 (b) A person or group of persons requesting approval of a  
10 proposed change of control of a licensee shall submit to the  
11 commissioner an application requesting approval of a proposed  
12 change of control of the licensee, accompanied by a  
13 nonrefundable application fee of \$500.

14 (c) After review of a request for approval under  
15 subsection (b), the commissioner may require the licensee or  
16 person or group of persons requesting approval of a proposed  
17 change of control of the licensee, or both, to provide  
18 additional information concerning the persons who shall assume  
19 control of the licensee. The additional information shall be  
20 limited to similar information required of the licensee or  
21 persons in control of the licensee as part of its original



1 license or renewal application under sections -34 and -36.  
2 The information shall include, for the five-year period prior to  
3 the date of the application for change of control of the  
4 licensee, a history of material litigation and criminal  
5 convictions of each person who upon approval of the application  
6 for change of control will be a principal of the licensee.  
7 Authorization shall also be given to conduct criminal history  
8 record checks of those persons, accompanied by the appropriate  
9 payment of the applicable fee for each record check.

10 (d) The commissioner shall approve a request for change of  
11 control under subsection (b) if, after investigation, the  
12 commissioner determines that the person or group of persons  
13 requesting approval has the competence, experience, character,  
14 and general fitness to control the licensee or person in control  
15 of the licensee in a lawful and proper manner, and that the  
16 interests of the public will not be jeopardized by the change of  
17 control.

18 (e) The following persons shall be exempt from the  
19 requirements of subsection (b), but the licensee regardless  
20 shall notify the commissioner when a change of control results  
21 in the following:



1 (1) A person who acts as a proxy for the sole purpose of  
2 voting at a designated meeting of the security holders  
3 or holders of voting interests of a licensee or person  
4 in control of a licensee;

5 (2) A person who acquires control of a licensee by devise  
6 or descent;

7 (3) A person who acquires control as a personal  
8 representative, custodian, guardian, conservator,  
9 trustee, or as an officer appointed by a court of  
10 competent jurisdiction or by operation of law; or

11 (4) A person who the commissioner, by rule or order,  
12 exempts in the public interest.

13 (f) Before filing a request for approval for a change of  
14 control, a person may request in writing a determination from  
15 the commissioner as to whether the person would be considered a  
16 person in control of a licensee upon consummation of a proposed  
17 transaction. If the commissioner determines that the person  
18 would not be a person in control of a licensee, the commissioner  
19 shall enter an order to that effect and the proposed person and  
20 transaction shall not be subject to subsections (b) through (d).



1 (g) Subsection (b) shall not apply to public offerings of  
2 securities.

3 § -40 Authorized places of business; principal office;  
4 branch offices; relocation; closure. (a) Every small dollar  
5 lender licensed under this chapter shall have and maintain a  
6 principal place of business in the State, regardless of whether  
7 the small dollar lender maintains its principal office outside  
8 of the State.

9 (b) If a small dollar lender has more than one place of  
10 business, each additional place of business in Hawaii shall be  
11 licensed as a branch office with the commissioner. No business  
12 shall be conducted at a branch office until the branch office  
13 has been licensed by the commissioner.

14 (c) A small dollar lender shall not maintain any branch  
15 offices in the State in addition to its principal place of  
16 business without the prior written approval of the commissioner.  
17 An application to establish a branch office shall be submitted  
18 through NMLS with a nonrefundable application fee as required by  
19 section -35.

20 (d) A small dollar lender shall not relocate any office in  
21 this State without the prior written approval of the



1 commissioner. An application to relocate an office shall be  
2 submitted to the commissioner at least thirty days prior to  
3 relocating and shall set forth the reasons for the relocation,  
4 the street address of the proposed relocated office, and other  
5 information that may be required by the commissioner. An  
6 application to relocate an office pursuant to this subsection  
7 shall be submitted with a nonrefundable fee as required by  
8 section -35.

9 (e) A small dollar lender shall give the commissioner  
10 notice of its intent to close a branch office at least thirty  
11 days prior to the closing. The notice shall:

12 (1) State the intended date of closing; and

13 (2) Specify the reasons for the closing.

14 (f) The principal place of business and each branch office  
15 of the small dollar lender shall be identified in NMLS to  
16 consumers as a location at which the licensee holds itself out  
17 as a small dollar lender.

18 (g) A license issued under this chapter shall be  
19 prominently displayed in the principal place of business and  
20 each branch office.



1       **§ -41 Payment of fees.** All fees collected pursuant to  
2 section -35, administrative fines, and other charges  
3 collected pursuant to this chapter shall be deposited into the  
4 compliance resolution fund established pursuant to section 26-  
5 9(o) and shall be payable through NMLS, to the extent allowed by  
6 NMLS. Fees not eligible for payment through NMLS shall be  
7 deposited into a separate account within the compliance  
8 resolution fund for use by the division.

9       **§ -42 Powers of commissioner.** (a) The commissioner may  
10 adopt rules pursuant to chapter 91 as the commissioner deems  
11 necessary for the administration of this chapter.

12       (b) In addition to any other powers provided by law, the  
13 commissioner shall have the authority to:

- 14       (1) Issue declaratory rulings or informal nonbinding  
15           interpretations;  
16       (2) Investigate and conduct hearings regarding any  
17           violation of this chapter or any rule or order of, or  
18           agreement with, the commissioner;  
19       (3) Create fact-finding committees that may make  
20           recommendations to the commissioner for the  
21           commissioner's deliberations;



- 1       (4)   Require an applicant or any of its controlling  
2           persons, officers, directors, partners, members,  
3           managers, and agents to disclose their relevant  
4           criminal history and request a criminal history record  
5           check in accordance with chapter 846;
- 6       (5)   Contract with or employ qualified persons, including  
7           accountants, attorneys, investigators, examiners,  
8           auditors, or other professionals who may be exempt  
9           from chapter 76 and who shall assist the commissioner  
10          in exercising the commissioner's powers and duties;
- 11      (6)   Process and investigate complaints, subpoena witnesses  
12          and documents, administer oaths, and receive  
13          affidavits and oral testimony, including telephonic  
14          communications, and do any and all things necessary or  
15          incidental to the exercise of the commissioner's power  
16          and duties, including the authority to conduct  
17          contested case proceedings under chapter 91;
- 18      (7)   Require a licensee to comply with any rule, guidance,  
19          guideline, statement, supervisory policy or any  
20          similar proclamation issued or adopted by the Federal  
21          Deposit Insurance Corporation to the same extent and





1 in the same manner as a bank chartered by the State or  
2 in the alternative, any policy position of the  
3 Conference of State Bank Supervisors;

4 (8) Enter into agreements or relationships with other  
5 government officials or regulatory associations in  
6 order to improve efficiencies and reduce regulatory  
7 burden by sharing resources, standardized or uniform  
8 methods or procedures, and documents, records,  
9 information, or evidence obtained under this chapter;

10 (9) Use, hire, contract, or employ public or privately  
11 available analytical systems, methods, or software to  
12 investigate or examine a licensee or person subject to  
13 this chapter;

14 (10) Accept and rely on investigation or examination  
15 reports made by other government officials, within or  
16 without this State; and

17 (11) Accept audit reports made by an independent certified  
18 public accountant for the licensee or person subject  
19 to this chapter in the course of that part of the  
20 examination covering the same general subject matter  
21 as the audit and may incorporate the audit report in



1 the report of the examination, report of  
2 investigation, or other writing of the commissioner.

3 § -43 Investigation and examination authority. (a) In  
4 addition to the authority granted under section -42(b), the  
5 commissioner shall have the authority to conduct investigations  
6 and examinations in accordance with this section. The  
7 commissioner may access, receive, and use any books, accounts,  
8 records, files, documents, information, or evidence that the  
9 commissioner deems relevant to the investigation or examination,  
10 regardless of the location, possession, control, or custody of  
11 the documents, information, or evidence.

12 (b) For the purposes of investigating violations or  
13 complaints arising under this chapter, or for the purposes of  
14 examination, the commissioner may review, investigate, or  
15 examine any licensee or person subject to this chapter as often  
16 as necessary to carry out the purposes of this chapter. The  
17 commissioner may direct, subpoena, or order the attendance of,  
18 and examine under oath, all persons whose testimony may be  
19 required about loans or the business or subject matter of any  
20 examination or investigation and may direct, subpoena, or order



1 the person to produce books, accounts, records, files, and any  
2 other documents the commissioner deems relevant to the inquiry.

3 (c) Each licensee or person subject to this chapter shall  
4 provide to the commissioner upon request the books and records  
5 relating to the operations of the licensee or person subject to  
6 this chapter. The commissioner shall have access to the books  
7 and records and shall be permitted to interview the officers,  
8 principals, managers, employees, independent contractors,  
9 agents, and consumers of the licensee or person subject to this  
10 chapter concerning their business.

11 (d) Each licensee or person subject to this chapter shall  
12 make or compile reports or prepare other information as directed  
13 by the commissioner to carry out the purposes of this section,  
14 including:

- 15 (1) Accounting compilations;
- 16 (2) Information lists and data concerning loan  
17 transactions in a format prescribed by the  
18 commissioner; or
- 19 (3) Other information that the commissioner deems  
20 necessary.



1 (e) In conducting any investigation or examination  
2 authorized by this chapter, the commissioner may control access  
3 to any documents and records of the licensee or person under  
4 investigation or examination. The commissioner may take  
5 possession of the documents and records or place a person in  
6 exclusive charge of the documents and records. During the  
7 period of control, no person shall remove or attempt to remove  
8 any of the documents and records except pursuant to a court  
9 order or with the consent of the commissioner. Unless the  
10 commissioner has reasonable grounds to believe the documents or  
11 records of the licensee or person under investigation or  
12 examination have been, or are at risk of being, altered or  
13 destroyed for the purposes of concealing a violation of this  
14 chapter, the licensee or owner of the documents and records  
15 shall have access to the documents or records as necessary to  
16 conduct its ordinary business affairs.

17 (f) The authority of this section shall remain in effect,  
18 whether a licensee or person subject to this chapter acts or  
19 claims to act under any licensing or registration law of this  
20 State, or claims to act without such authority.



1 (g) No licensee or person subject to investigation or  
2 examination under this section may knowingly withhold, abstract,  
3 remove, mutilate, destroy, or secrete any books, records,  
4 computer records, or other information.

5 (h) The commissioner may charge an investigation or  
6 examination fee, payable to the commissioner, based upon the  
7 cost per hour per examiner for all licensees and persons subject  
8 to this chapter investigated or examined by the commissioner or  
9 the commissioner's staff. The hourly fee shall be \$60 or an  
10 amount as the commissioner shall establish by rule pursuant to  
11 chapter 91. In addition to the investigation or examination  
12 fee, the commissioner may charge any person who is examined or  
13 investigated by the commissioner or the commissioner's staff  
14 pursuant to this section additional amounts for travel, per  
15 diem, mileage, and other reasonable expenses incurred in  
16 connection with the investigation or examination, payable to the  
17 commissioner.

18 (i) Any person having reason to believe that this chapter  
19 or the rules adopted under this chapter have been violated, or  
20 that a license issued under this chapter should be suspended or  
21 revoked, may file a written complaint with the commissioner



1 setting forth the details of the alleged violation or grounds  
2 for suspension or revocation.

3       **§ -44 Confidentiality.** (a) Except as otherwise  
4 provided in Public Law 110-289, section 1512, the requirements  
5 under any federal or state law regarding the privacy or  
6 confidentiality of any information or material provided to NMLS,  
7 and any privilege arising under federal or state law, including  
8 the rules of any federal or state court, with respect to the  
9 information or material shall continue to apply to the  
10 information or material after the information or material has  
11 been disclosed to NMLS. The information and material may be  
12 shared with all state and federal regulatory officials with  
13 oversight authority over transactions subject to this chapter,  
14 without the loss of privilege or the loss of confidentiality  
15 protections provided by federal or state law.

16       (b) For the purposes of this section, the commissioner is  
17 authorized to enter into agreements or sharing arrangements with  
18 other governmental agencies, the Conference of State Bank  
19 Supervisors, or other associations representing governmental  
20 agencies as established by rule or order of the commissioner.



1 (c) Information or material that is subject to a privilege  
2 or confidentiality under subsection (a) shall not be subject to:

3 (1) Disclosure under any federal or state law governing  
4 the disclosure to the public of information held by an  
5 officer or an agency of the federal government or a  
6 state; or

7 (2) Subpoena or discovery, or admission into evidence, in  
8 any private civil action or administrative process,  
9 unless any privilege is determined by NMLS to be  
10 applicable to the information or material; provided  
11 that the person to whom the information or material  
12 pertains waives, in whole or in part, in the  
13 discretion of such person, that privilege.

14 (d) Notwithstanding chapter 92F, the examination process  
15 and related information and documents, including the reports of  
16 examination, shall be confidential and shall not be subject to  
17 discovery or disclosure in civil or criminal lawsuits.

18 (e) Any provision of state law to the contrary relating to  
19 the disclosure of confidential supervisory information or any  
20 information or material described in subsection (a) that is



1 inconsistent with this section shall be superseded by the  
2 requirements of this section.

3 (f) This section shall not apply to information or  
4 material relating to the employment history of, and publicly  
5 adjudicated disciplinary and enforcement actions against,  
6 mortgage servicers that are included in NMLS for access by the  
7 public.

8 § -45 Prohibited practices. (a) It shall be a  
9 violation of this chapter for a licensee, its officers,  
10 directors, employees, or independent contractors, or any other  
11 person subject to this chapter to:

12 (1) Engage in any act that limits or restricts the  
13 application of this chapter, including making a small  
14 dollar loan disguised as a leaseback transaction or a  
15 personal property, personal sales, or automobile title  
16 loan, or by disguising loan proceeds as cash rebates  
17 for the pretextual installment sale of goods and  
18 services;

19 (2) Make a secured small dollar loan;

20 (3) Use a consumer's account number to prepare, issue, or  
21 create a check on behalf of the consumer;





- 1 (4) Charge, collect, or receive, directly or indirectly,  
2 credit insurance premiums, charges for negotiating  
3 forms of loan proceeds other than cash, charges for  
4 brokering or obtaining loans, prepayment fees, or any  
5 fees, interest, or charges in connection with a small  
6 dollar loan except those explicitly authorized in this  
7 chapter;
- 8 (5) Fail to make disclosures as required by this chapter  
9 and any other applicable state or federal law,  
10 including rules or regulations adopted pursuant to  
11 state or federal law;
- 12 (6) Directly or indirectly employ any scheme, device, or  
13 artifice to defraud or mislead any consumer, any  
14 lender, or any person;
- 15 (7) Directly or indirectly engage in unfair or deceptive  
16 acts, practices, or advertising in connection with a  
17 small dollar loan toward any person;
- 18 (8) Directly or indirectly obtain property by fraud or  
19 misrepresentation;
- 20 (9) Make a small dollar loan to any person physically  
21 located in the State through the use of the Internet,



1 facsimile, telephone, kiosk, or other means without  
2 first obtaining a license under this chapter;

3 (10) Make, in any manner, any false or deceptive statement  
4 or representation, including with regard to the rates,  
5 points, or other financing terms or conditions for a  
6 small dollar loan, or engage in bait and switch  
7 advertising;

8 (11) Make any false statement or knowingly and wilfully  
9 make any omission of material fact in connection with  
10 any reports filed with the division by a licensee or  
11 in connection with any investigation conducted by the  
12 division;

13 (12) Advertise any rate of interest without conspicuously  
14 disclosing the annual percentage rate implied by that  
15 rate of interest or otherwise fail to comply with any  
16 requirement of the Truth in Lending Act, or any other  
17 applicable state or federal laws or regulations;

18 (13) Make small dollar loans from any unlicensed location;

19 (14) Draft funds from any depository financial institution  
20 without written approval of the consumer; provided  
21 that nothing in this paragraph shall prohibit the



1 conversion of a negotiable instrument into an  
2 electronic form for processing through the Automated  
3 Clearing House or similar system;

4 (15) Attempt to collect from a consumer's account after two  
5 consecutive attempts have failed, unless the licensee  
6 obtains new written authorization from the consumer to  
7 transfer or withdraw funds from the account;

8 (16) Make a loan to a consumer that includes a demand  
9 feature that was not clearly disclosed in the written  
10 agreement pursuant to section -3 or collect or  
11 demand repayment of any outstanding balance or unpaid  
12 interest or fees except as provided in section -3;

13 (17) Fail to comply with all applicable state and federal  
14 laws relating to the activities governed by this  
15 chapter; or

16 (18) Fail to pay any fee, assessment, or moneys due to the  
17 department.

18 (b) In addition to any other penalties provided for under  
19 this chapter, any small dollar loan transaction in violation of  
20 subsection (a) shall be uncollectable and unenforceable."



1 SECTION 3. Section 478-4, Hawaii Revised Statutes, is  
2 amended by amending subsection (d) to read as follows:

3 "(d) The rate limitations contained in subsections (a) and  
4 (b) of this section and section 478-11.5 shall not apply to any  
5 ~~[credit]~~ \_:

6 (1) Credit transaction authorized by, and entered into in  
7 accordance with the provisions of, articles 9 and 10  
8 of chapter 412 or chapter 476 [-]; or

9 (2) Small dollar loan transaction authorized by, and  
10 entered into in accordance with, chapter ."

11 SECTION 4. Section 478-5, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 **"§478-5 Usury not recoverable.** If a greater rate of  
14 interest than that permitted by law is contracted for with  
15 respect to any consumer credit transaction, any home business  
16 loan or any credit card agreement, the contract shall not, by  
17 reason thereof, be void. But if in any action on the contract  
18 proof is made that a greater rate of interest than that  
19 permitted by law has been directly or indirectly contracted for,  
20 the creditor shall only recover the principal and the debtor  
21 shall recover costs. If interest has been paid, judgment shall



1 be for the principal less the amount of interest paid. This  
2 section shall not be held to apply[~~, to loans~~] to:

- 3       (1) Loans made by financial services loan companies and  
4               credit unions at the rates authorized under and  
5               pursuant to articles 9 and 10 of chapter 412 ~~[-]~~; or  
6       (2) Any small dollar loan regulated under chapter ."

7       SECTION 5. Section 478-6, Hawaii Revised Statutes, is  
8 amended to read as follows:

9       "**§478-6 Usury; penalty.** Any person who directly or  
10 indirectly receives any interest or finance charge at a rate  
11 greater than that permitted by law or who, by any method or  
12 device whatsoever, receives or arranges for the receipt of  
13 interest or finance charge at a greater rate than that permitted  
14 by law on any credit transaction shall be guilty of usury and  
15 shall be fined not more than \$250, unless a greater amount is  
16 allowed by law, or imprisoned not more than one year, or both."

17       SECTION 6. Section 480F-1, Hawaii Revised Statutes, is  
18 amended by deleting the definition of "deferred deposit".

19       ~~["Deferred deposit" means a transaction in which a check~~  
20 ~~casher refrains from depositing a personal check written by a~~



1 ~~customer until a date after the transaction date, pursuant to a~~  
2 ~~written agreement."]~~

3 SECTION 7. Section 480F-3, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "[~~+~~]**\$480F-3**[~~+~~] **Authorized fees.** [~~Except as provided in~~  
6 ~~section 480F-4, no~~] No check casher shall charge fees in excess  
7 of the following amounts:

- 8 (1) Five per cent of the face amount of the check or \$5,  
9 whichever is greater;
- 10 (2) Three per cent of the face amount of the check or \$5,  
11 whichever is greater, if the check is the payment of  
12 any kind of state public assistance or federal social  
13 security benefit payable to the bearer of the check;
- 14 (3) Ten per cent of the face amount of a personal check or  
15 money order, or \$5, whichever is greater; or
- 16 (4) No more than \$10 to set up an initial account and  
17 issue an optional membership or identification card,  
18 and no more than \$5 for a replacement optional  
19 identification card.



1 The fees allowed in this section shall not be assessed in any  
2 transaction or agreement in which the check casher defers  
3 deposit of the check."

4 SECTION 8. Section 480F-6, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "§480F-6 Penalties. (a) Any person who violates this  
7 chapter shall be deemed to have engaged in an unfair or  
8 deceptive act or practice in the conduct of any trade or  
9 commerce within the meaning of section 480-2(a). Aggrieved  
10 consumers may seek those remedies set forth in section  
11 480-13(b).

12 (b) Any person who is not a consumer and is injured by a  
13 wilful violation of this chapter may bring an action for the  
14 recovery of damages, a proceeding to restrain and enjoin those  
15 violations, or both. If judgment is for the plaintiff, the  
16 plaintiff shall be awarded a sum not less than \$1,000 or  
17 threefold damages, whichever sum is greater, and reasonable  
18 attorneys' fees together with the costs of suit.

19 (c) A wilful violation of this chapter shall be punishable  
20 by a fine of up to \$500 and up to thirty days imprisonment.



1       ~~[(d) A customer who enters into a written deferred deposit~~  
2 ~~agreement and offers a personal check to a check casher pursuant~~  
3 ~~to that agreement shall not be subject to any criminal penalty~~  
4 ~~for failure to comply with the terms of that agreement unless~~  
5 ~~the check is dishonored because the customer closed the account~~  
6 ~~or stopped payment on the check.] "~~

7       SECTION 9. Section 846-2.7, Hawaii Revised Statutes, is  
8 amended by amending subsection (b) to read as follows:

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

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

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





- 1       (3) The department of health or its designee on all  
2       applicants for licensure or certification for,  
3       operators for, prospective employees, adult  
4       volunteers, and all adults, except adults in care, at  
5       healthcare facilities as defined in section 321-15.2;
- 6       (4) The department of education on employees, prospective  
7       employees, and teacher trainees in any public school  
8       in positions that necessitate close proximity to  
9       children as provided by section 302A-601.5;
- 10      (5) The counties on employees and prospective employees  
11      who may be in positions that place them in close  
12      proximity to children in recreation or child care  
13      programs and services;
- 14      (6) The county liquor commissions on applicants for liquor  
15      licenses as provided by section 281-53.5;
- 16      (7) The county liquor commissions on employees and  
17      prospective employees involved in liquor  
18      administration, law enforcement, and liquor control  
19      investigations;
- 20      (8) The department of human services on operators and  
21      employees of child caring institutions, child placing



1 organizations, and foster boarding homes as provided  
2 by section 346-17;

3 (9) The department of human services on prospective  
4 adoptive parents as established under section  
5 346-19.7;

6 (10) The department of human services or its designee on  
7 applicants to operate child care facilities, household  
8 members of the applicant, prospective employees of the  
9 applicant, and new employees and household members of  
10 the provider after registration or licensure as  
11 provided by section 346-154, and persons subject to  
12 section 346-152.5;

13 (11) The department of human services on persons exempt  
14 pursuant to section 346-152 to be eligible to provide  
15 child care and receive child care subsidies as  
16 provided by section 346-152.5;

17 (12) The department of health on operators and employees of  
18 home and community-based case management agencies and  
19 operators and other adults, except for adults in care,  
20 residing in community care foster family homes as  
21 provided by section 321-15.2;



1 (13) The department of human services on staff members of  
2 the Hawaii youth correctional facility as provided by  
3 section 352-5.5;

4 (14) The department of human services on employees,  
5 prospective employees, and volunteers of contracted  
6 providers and subcontractors in positions that place  
7 them in close proximity to youth when providing  
8 services on behalf of the office or the Hawaii youth  
9 correctional facility as provided by section 352D-4.3;

10 (15) The judiciary on employees and applicants at detention  
11 and shelter facilities as provided by section 571-34;

12 (16) The department of public safety on employees and  
13 prospective employees who are directly involved with  
14 the treatment and care of persons committed to a  
15 correctional facility or who possess police powers  
16 including the power of arrest as provided by section  
17 353C-5;

18 (17) The board of private detectives and guards on  
19 applicants for private detective or private guard  
20 licensure as provided by section 463-9;



- 1 (18) Private schools and designated organizations on  
2 employees and prospective employees who may be in  
3 positions that necessitate close proximity to  
4 children; provided that private schools and designated  
5 organizations receive only indications of the states  
6 from which the national criminal history record  
7 information was provided pursuant to section 302C-1;
- 8 (19) The public library system on employees and prospective  
9 employees whose positions place them in close  
10 proximity to children as provided by section  
11 302A-601.5;
- 12 (20) The State or any of its branches, political  
13 subdivisions, or agencies on applicants and employees  
14 holding a position that has the same type of contact  
15 with children, vulnerable adults, or persons committed  
16 to a correctional facility as other public employees  
17 who hold positions that are authorized by law to  
18 require criminal history record checks as a condition  
19 of employment as provided by section 78-2.7;
- 20 (21) The department of health on licensed adult day care  
21 center operators, employees, new employees,



1 subcontracted service providers and their employees,  
2 and adult volunteers as provided by section 321-15.2;

3 (22) The department of human services on purchase of  
4 service contracted and subcontracted service providers  
5 and their employees serving clients of the adult  
6 protective and community services branch, as provided  
7 by section 346-97;

8 (23) The department of human services on foster grandparent  
9 program, senior companion program, and respite  
10 companion program participants as provided by section  
11 346-97;

12 (24) The department of human services on contracted and  
13 subcontracted service providers and their current and  
14 prospective employees that provide home and community-  
15 based services under section 1915(c) of the Social  
16 Security Act, title 42 United States Code section  
17 1396n(c), or under any other applicable section or  
18 sections of the Social Security Act for the purposes  
19 of providing home and community-based services, as  
20 provided by section 346-97;



1 (25) The department of commerce and consumer affairs on  
2 proposed directors and executive officers of a bank,  
3 savings bank, savings and loan association, trust  
4 company, and depository financial services loan  
5 company as provided by section 412:3-201;

6 (26) The department of commerce and consumer affairs on  
7 proposed directors and executive officers of a  
8 nondepository financial services loan company as  
9 provided by section 412:3-301;

10 (27) The department of commerce and consumer affairs on the  
11 original chartering applicants and proposed executive  
12 officers of a credit union as provided by section  
13 412:10-103;

14 (28) The department of commerce and consumer affairs on:

15 (A) Each principal of every non-corporate applicant  
16 for a money transmitter license;

17 (B) Each person who upon approval of an application  
18 by a corporate applicant for a money transmitter  
19 license will be a principal of the licensee; and

20 (C) Each person who upon approval of an application  
21 requesting approval of a proposed change in



1 control of licensee will be a principal of the  
2 licensee,

3 as provided by sections 489D-9 and 489D-15;

4 (29) The department of commerce and consumer affairs on  
5 applicants for licensure and persons licensed under  
6 title 24;

7 (30) The Hawaii health systems corporation on:

8 (A) Employees;

9 (B) Applicants seeking employment;

10 (C) Current or prospective members of the corporation  
11 board or regional system board; or

12 (D) Current or prospective volunteers, providers, or  
13 contractors,

14 in any of the corporation's health facilities as  
15 provided by section 323F-5.5;

16 (31) The department of commerce and consumer affairs on:

17 (A) An applicant for a mortgage loan originator  
18 license, or license renewal; and

19 (B) Each control person, executive officer, director,  
20 general partner, and managing member of an



1 applicant for a mortgage loan originator company  
2 license or license renewal,  
3 as provided by chapter 454F;

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

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

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

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

19 (36) The counties on prospective employees for emergency  
20 management positions and community volunteers whose  
21 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 (A) Applicants for real estate appraiser licensure or  
20 certification as provided by chapter 466K;



1 (B) Each person who owns more than ten per cent of an  
2 appraisal management company who is applying for  
3 registration as an appraisal management company,  
4 as provided by section 466L-7; and

5 (C) Each of the controlling persons of an applicant  
6 for registration as an appraisal management  
7 company, as provided by section 466L-7;

8 (41) The department of health or its designee on all  
9 license applicants, licensees, employees, contractors,  
10 and prospective employees of medical cannabis  
11 dispensaries, and individuals permitted to enter and  
12 remain in medical cannabis dispensary facilities as  
13 provided under sections 329D-15(a)(4) and  
14 329D-16(a)(3);

15 (42) The department of commerce and consumer affairs on  
16 applicants for nurse licensure or license renewal,  
17 reactivation, or restoration as provided by sections  
18 457-7, 457-8, 457-8.5, and 457-9;

19 (43) The county police departments on applicants for  
20 permits to acquire firearms pursuant to section 134-2



1 and on individuals registering their firearms pursuant  
2 to section 134-3;

3 (44) The department of commerce and consumer affairs on:

4 (A) Each of the controlling persons of the applicant  
5 for licensure as an escrow depository, and each  
6 of the officers, directors, and principals who  
7 will be in charge of the escrow depository's  
8 activities upon licensure; and

9 (B) Each of the controlling persons of an applicant  
10 for proposed change in control of an escrow  
11 depository licensee, and each of the officers,  
12 directors, and principals who will be in charge  
13 of the licensee's activities upon approval of  
14 such application,

15 as provided by chapter 449;

16 (45) The department of taxation on current or prospective  
17 employees or contractors who have access to federal  
18 tax information in order to comply with requirements  
19 of federal law, regulation, or procedure, as provided  
20 by section 231-1.6;



1 (46) The department of labor and industrial relations on  
2 current or prospective employees or contractors who  
3 have access to federal tax information in order to  
4 comply with requirements of federal law, regulation,  
5 or procedure, as provided by section 383-110;

6 (47) The department of human services on current or  
7 prospective employees or contractors who have access  
8 to federal tax information in order to comply with  
9 requirements of federal law, regulation, or procedure,  
10 as provided by section 346-2.5;

11 (48) The child support enforcement agency on current or  
12 prospective employees, or contractors who have access  
13 to federal tax information in order to comply with  
14 federal law, regulation, or procedure, as provided by  
15 section 576D-11.5; [and]

16 (49) The department of commerce and consumer affairs on  
17 each controlling person, executive officer, director,  
18 general partner, member, and manager of a small dollar  
19 loan licensee, or an applicant for a small dollar loan  
20 license as provided by chapter ; and



1       ~~[(49)]~~ (50) Any other organization, entity, or the State,  
2               its branches, political subdivisions, or agencies as  
3               may be authorized by state law."

4       SECTION 10. Section 480F-4, Hawaii Revised Statutes, is  
5       repealed.

6       ~~["§480F-4 Deferred deposits, when allowed. (a) No check~~  
7 ~~casher may defer the deposit of a check except as provided in~~  
8 ~~this section.~~

9       ~~(b) Each deferred deposit shall be made pursuant to a~~  
10 ~~written agreement that has been signed by the customer and the~~  
11 ~~check casher or an authorized representative of the check~~  
12 ~~casher. The written agreement shall contain a statement of the~~  
13 ~~total amount of any fees charged for the deferred deposit,~~  
14 ~~expressed both in United States currency and as an annual~~  
15 ~~percentage rate. The written agreement shall authorize the~~  
16 ~~check casher to defer deposit of the personal check until a~~  
17 ~~specific date not later than thirty two days from the date the~~  
18 ~~written agreement was signed. The written agreement shall not~~  
19 ~~permit the check casher to accept collateral.~~

20       ~~(c) The face amount of the check shall not exceed \$600 and~~  
21 ~~the deposit of a personal check written by a customer pursuant~~



~~1 to a deferred deposit transaction may be deferred for no more~~  
~~2 than thirty two days. A check casher may charge a fee for~~  
~~3 deferred deposit of a personal check in an amount not to exceed~~  
~~4 fifteen per cent of the face amount of the check. Any fees~~  
~~5 charged for deferred deposit of a personal check in compliance~~  
~~6 with this section shall be exempt from chapter 478.~~

~~7 (d) A check casher shall not enter into an agreement for~~  
~~8 deferred deposit with a customer during the period of time that~~  
~~9 an earlier agreement for a deferred deposit for the same~~  
~~10 customer is in effect. A deferred deposit transaction shall not~~  
~~11 be repaid, refinanced, or consolidated by or with the proceeds~~  
~~12 of another deferred deposit transaction.~~

~~13 (e) A check casher who enters into a deferred deposit~~  
~~14 agreement and accepts a check passed on insufficient funds, or~~  
~~15 any assignee of that check casher, shall not be entitled to~~  
~~16 recover damages in any action brought pursuant to or governed by~~  
~~17 chapter 490. Instead, the check casher may charge and recover a~~  
~~18 fee for the return of a dishonored check in an amount not~~  
~~19 greater than \$20.~~

~~20 (f) No amount in excess of the amounts authorized by this~~  
~~21 section and no collateral products such as insurance shall be~~



~~1 directly or indirectly charged by a check casher pursuant or~~  
~~2 incident to a deferred deposit agreement."]~~

3       SECTION 11. There is appropriated out of the compliance  
4 resolution fund the sum of \$107,271 or so much thereof as may be  
5 necessary for fiscal year 2018-2019 to establish and hire one  
6 full-time equivalent (1.0 FTE) permanent examiner, without  
7 regard to chapter 76, Hawaii Revised Statutes, to carry out the  
8 purposes of the small dollar installment loan program  
9 established by section 2 of this Act; provided that the position  
10 may be added to the position count for the division of financial  
11 institutions of the department of commerce and consumer affairs.

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

14       SECTION 12. This Act does not affect rights and duties  
15 that matured, penalties that were incurred, and proceedings that  
16 were begun before its effective date.

17       SECTION 13. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19       SECTION 14. This Act shall take effect on July 1, 2018;  
20 provided that the licensing requirements for small dollar



1 lenders established by section 2 of this Act shall take effect  
2 on January 1, 2019.





**Report Title:**

Payday Lending; Small Dollar Loans; Small Dollar Lenders;  
Licensure; Requirements; Appropriation

**Description:**

Transitions from lump sum deferred deposit transactions to installment-based small dollar loan transactions. Specifies various consumer protection requirements for small dollar loans. Beginning January 1, 2019, requires licensure for small dollar lenders that offer small dollar loans to consumers. Specifies licensing requirements for small dollar lenders. Authorizes the division of financial institutions to appoint 1.0 FTE examiner position, funded via the compliance resolution fund, to carry out the purposes of the small dollar installment loan program. (SD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

