

**S.B. NO. 2772**

JAN 24 2018

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**A BILL FOR AN ACT**

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RELATING TO MONEY TRANSMITTERS.

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

1       SECTION 1. Section 489D-7, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:

3       "(b) The security device shall be in a form satisfactory  
4 to the commissioner and shall run to the State for the benefit  
5 of any claimants against the licensee to secure the faithful  
6 performance of the obligations of the licensee relating to the  
7 receipt, handling, transmission, and payment of money or  
8 monetary value in connection with [~~the sale and issuance of~~  
9 ~~payment instruments or transmission of~~] money[~~-~~] transmissions.

10 In the case of a bond, the aggregate liability of the surety  
11 shall not exceed the principal sum of the bond. Claimants  
12 against the licensee may bring suit directly on the security  
13 device or the commissioner may bring suit on behalf of the  
14 claimants, either in one action or in successive actions."

15       SECTION 2. Section 489D-34, Hawaii Revised Statutes, is  
16 amended to read as follows:

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1       "~~[f]S489D-34[] Rules. The commissioner may adopt]~~ Powers  
2 of the commissioner. In addition to any other powers provided  
3 by law, the commissioner may:

4       (1) Adopt rules pursuant to chapter 91 to implement this  
5       chapter~~[-]~~;

6       (2) Administer and enforce the provisions and requirements  
7       of this chapter;

8       (3) Issue declaratory rulings and informal nonbinding  
9       interpretations;

10      (4) Develop requirements for licensure;

11      (5) Process and investigate complaints, subpoena witnesses  
12      and documents, administer oaths, and receive  
13      affidavits and oral testimony, including telephonic  
14      communications;

15      (6) Investigate and conduct hearings, including contested  
16      proceedings under chapter 91, regarding any violation  
17      of this chapter, rule adopted, or order of or  
18      agreement with the commissioner;

19      (7) Create fact-finding committees that may make  
20      recommendations to the commissioner for the  
21      commissioner's deliberations;

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1       (8) Require disclosure of relevant criminal history in  
2       accordance with this chapter, and conduct criminal  
3       history record checks in accordance with chapter 846;

4       (9) Contract with or employ qualified persons who may be  
5       exempt from chapter 76 including investigators,  
6       examiners, auditors, and attorneys, to assist the  
7       commissioner in exercising the commissioner's powers  
8       and duties;

9       (10) Require that all revenues, fees, and fines collected  
10       by the commissioner under this chapter be deposited  
11       into the compliance resolution fund established  
12       pursuant to section 26-9(o);

13       (11) Revoke, suspend, or otherwise limit the license of any  
14       money transmitter for any violation of this chapter,  
15       rule adopted, or order of or agreement with the  
16       commissioner;

17       (12) Report any violation of this chapter or violation of  
18       federal or state law to the Consumer Financial  
19       Protection Bureau or other federal agency having  
20       jurisdiction over the licensee; and

21       (13) Do any and all things necessary or incidental to the  
22       exercise of the commissioner's power and duties."

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1       SECTION 3. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3       SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: 

6

BY REQUEST

## S.B. NO. 2772

**Report Title:**

Money Transmitters; Commissioner of Financial Institutions;  
Powers; Bond; Security Device.

**Description:**

Amends bond provisions for consistency with terms used in chapter 489D, Hawaii Revised Statutes. Clarifies the commissioner's powers, including authority to administer and enforce chapter 489D, Hawaii Revised Statutes, issue declaratory rulings and informal interpretations, investigate complaints, subpoena witnesses, conduct hearings, require disclosures and criminal history record checks, hire qualified professionals for assistance, deposit revenues, fees and fines into the compliance resolution fund, revoke or limit licenses for violation, and report licensee violations to an appropriate federal agency.

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

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## JUSTIFICATION SHEET

DEPARTMENT: Commerce and Consumer Affairs

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

PURPOSE: Chapter 489D, Hawaii Revised Statutes, requires that the division of financial institutions (DFI) regulate, supervise, and license transmitters, and carry out chapter provisions. To support this mandate, this proposal specifically enumerates the powers of the Commissioner of Financial Institutions (Commissioner).

MEANS: Amend sections 489D-7(b) and 489D-34, Hawaii Revised Statutes.

JUSTIFICATION: Chapter 489D gives DFI the general power to regulate, supervise, and license money transmitters, and gives the Commissioner the power to adopt rules to implement the chapter. This proposal adds specificity to the Commissioner's powers, to make them clear and to avoid confusion. The powers are similar to those that the Commissioner has under chapter 454F with respect to the regulation of mortgage servicers. This proposal also amends bond provisions for clarity and consistency with terms used in chapter 489D to avoid issues concerning bond coverage.

Impact on the public: Persons subject to chapter 489D will have a clearer understanding of the Commissioner's powers. Consumer protection will be enhanced.

Impact on the department and other agencies: The Commissioner's ability to administer chapter 489D will be enhanced, and confusion will be avoided.

GENERAL FUNDS: None.

OTHER FUNDS: None.

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PPBS PROGRAM  
DESIGNATION:

CCA-104.

OTHER AFFECTED  
AGENCIES:

None.

EFFECTIVE DATE:

Upon approval.