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# A BILL FOR AN ACT

RELATING TO PAYDAY LENDING.

**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 from lump sum deferred deposit  
2 transactions to installment-based small dollar loan  
3 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; and  
9 (4) Specifying licensing requirements for small dollar  
10 lenders.

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

14 "CHAPTER

15 SMALL DOLLAR INSTALLMENT LOANS

16 PART I. GENERAL PROVISIONS

17 § -1 Definitions. As used in this chapter, unless the  
18 context otherwise requires:

19 "Actuarial method" means the method of allocating payments  
20 made on a debt between the amount financed and the finance  
21 charge pursuant to which a payment is applied, first to the



1 accumulated finance charge, and any remainder is subtracted  
2 from, or any deficiency is added to, the unpaid balance of the  
3 amount financed.

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

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

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

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

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



1 "Control", in the context of control of an applicant or  
2 licensee, means ownership of, or the power to vote, twenty-five  
3 per cent or more of the outstanding voting securities of a  
4 licensee or controlling person. For purposes of determining the  
5 percentage of an applicant or a licensee controlled by any  
6 person, there shall be aggregated with the controlling person's  
7 interest the interest of any other person controlled by the  
8 person, or by any spouse, parent, or child of the person.

9 "Controlling person" means any person in control of a  
10 licensee or applicant.

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

14 "Department" means the department of commerce and consumer  
15 affairs.

16 "Division" means the division of financial institutions of  
17 the department of commerce and consumer affairs.

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



1 "Finance charges" means the cost of credit or cost of  
2 borrowing, including the interest, monthly maintenance fees, and  
3 other fees authorized by this chapter.

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

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

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

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



1 "Maintenance fee" means a monthly fee paid to a licensee to  
2 maintain a small dollar loan.

3 "NMLS" means a licensing system developed and maintained by  
4 the Conference of State Bank Supervisors and the American  
5 Association of Residential Mortgage Regulators for the state  
6 licensing and registration of state-licensed loan originators  
7 and other financial services providers, or any system provided  
8 by the Consumer Financial Protection Bureau.

9 "Person" means an individual, sole proprietorship,  
10 partnership, corporation, limited liability company, limited  
11 liability partnership, or other association of individuals,  
12 however organized.

13 "Place of business" means a location where small dollar  
14 loans are offered or made and includes each website through  
15 which a consumer may apply for a small dollar loan from a small  
16 dollar lender.

17 "Precomputed interest" means an interest method that uses  
18 the original payment schedule to calculate interest.

19 "Small dollar lender" or "lender" means any person who is  
20 in the business of offering or making a consumer loan, who  
21 arranges a consumer loan for a third party, or who acts as an



1 agent for a third party, regardless of whether the third party  
2 is exempt from licensure under this chapter or whether approval,  
3 acceptance, or ratification by the third party is necessary to  
4 create a legal obligation for the third party, through any  
5 method including mail, telephone, the Internet, or any  
6 electronic means.

7 "Small dollar loan" means a loan made pursuant to this  
8 chapter.

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

12 § -2 Small dollar loans; requirements; payments. (a)  
13 Each small dollar loan transaction and renewal shall meet the  
14 following requirements:

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

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

19 (3) The total monthly payment on the loan shall not exceed  
20 an amount that is five per cent of the borrower's





1 verified gross monthly income or six per cent of the  
2 borrower's verified net income, whichever is greater;

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

7 (5) A monthly maintenance fee of no more than \$25 may be  
8 charged by the lender; provided that the monthly  
9 maintenance fee shall not be added to the loan balance  
10 on which the interest is charged; provided further  
11 that a small dollar lender shall not charge, collect,  
12 or receive a monthly maintenance fee if the borrower  
13 is a person on active duty in the armed forces of the  
14 United States or a dependent of that person;

15 (6) The written agreement required under section -3 may  
16 require multiple installment payments or a single  
17 payment;

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



1 (8) A small dollar lender shall accept prepayment in full  
2 or in part from a consumer prior to the loan due date  
3 and shall not charge the consumer a fee or penalty if  
4 the consumer opts to prepay the loan, regardless of  
5 whether the loan is structured to be repaid as a  
6 single installment loan or in multiple installments;

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

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

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

14 (12) The written agreement required under section -3  
15 shall not require a consumer to purchase add-on  
16 products, such as credit insurance.

17 (b) In a multiple installment small dollar loan, a lender  
18 may contract for a twice-monthly or monthly payment of the  
19 installment due, including the applicable portion of the  
20 interest and earned monthly maintenance fee.



1 (c) For each payment made by a consumer, a lender shall  
2 give the consumer a written receipt with the lender's name and  
3 address, payment date, amount paid, consumer's name, and  
4 sufficient information to identify the account to which the  
5 payment is applied.

6 (d) Upon prepayment in full by the consumer, the lender  
7 shall refund:

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

9 (2) Any unearned monthly maintenance fees.

10 (e) The commissioner may biennially adjust for inflation  
11 the total amount of the small dollar loan permitted under  
12 subsection (a)(2) or the total maintenance fee permitted under  
13 subsection (a)(5); provided that the commissioner's ability to  
14 adjust the total maintenance fee shall be limited to adjusting  
15 the maximum dollar amount of the fee and shall not extend to  
16 adjusting the way the total maintenance fee is calculated;  
17 provided further that any amounts adjusted pursuant to this  
18 subsection shall be published on the division's website. For  
19 purposes of this subsection, "adjust for inflation" means  
20 amending a specified dollar amount to reflect the rate of  
21 inflation from the previous date that the dollar amount was



1 established, as measured by the Consumer Price Index or other  
2 method of measuring the rate of inflation that the commissioner  
3 determines is reliable and generally accepted.

4       §   -3 Written agreement; requirements; disclosure. (a)

5 Each small dollar loan transaction and renewal shall be  
6 documented by a written agreement signed by the small dollar  
7 lender and consumer. The written agreement shall contain the  
8 following information:

- 9       (1) The name and address of the consumer and the lender;
- 10       (2) The transaction date;
- 11       (3) The loan amount;
- 12       (4) The annual percentage rate charged;
- 13       (5) A statement of the total amount of finance charges  
14           charged, expressed as a dollar amount and an annual  
15           percentage rate;
- 16       (6) The installment payment schedule setting out the  
17           amount due on specific due dates;
- 18       (7) The name, address, and telephone number of any agent  
19           or arranger involved in the small dollar loan  
20           transaction;



(8) The right to rescind the small dollar loan on or before 5:00 p.m. on the next day of business at the location where the loan was originated;

(9) A notice to the consumer that a returned instrument may result in a dishonored instrument charge, not to exceed \$25; and

(10) A description of the methods by which small dollar loan payments may be made, which may include cash, check, or any additional method of loan payment authorized by this chapter or by rule adopted by the commissioner.

(b) The written agreement shall also comply with the disclosure requirements of the Truth in Lending Act, and any regulation adopted thereunder.

(c) The small dollar lender shall provide to the consumer a printed written disclosure prior to signing the written agreement that accurately discloses the types of information in the chart below, presented in a format substantively similar to the chart below, in at least twelve-point type:

"SINGLE PAYMENT

MULTIPLE  
INSTALLMENT  
PAYMENT



1  
2 Amount Financed  
3 Finance Charge  
4 Amount you will receive  
5 Term (months)  
6  
7 Interest Rate  
8  
9 Monthly Maintenance Fee  
10  
11 Total of All Permitted Charges  
12  
13 Total You Will Pay for This Loan  
14 (Amount Financed,  
15 Interest, and Monthly Maintenance Fee)  
16  
17 ANNUAL PERCENTAGE RATE  
18  
19 Payment Schedule"  
20

21 (d) The consumer shall sign and date each of two copies of  
22 the written disclosure required pursuant to subsection (c), one  
23 of which shall be given to the consumer and the other of which  
24 shall be retained by the lender as part of its records of the  
25 small dollar loan. For purposes of preparing the written  
26 disclosure, the small dollar loan shall be structured on a  
27 precomputed basis (total of payments) with the assumption that  
28 all payments will be made as scheduled.

29 § -4 Authorized interest rate. (a) Notwithstanding any  
30 provision to the contrary, a small dollar lender may contract



1 for and receive interest at a rate not exceeding thirty-six per  
2 cent per year on that portion of the unpaid principal balance of  
3 the loan. A small dollar lender may contract for and receive  
4 interest at the single annual rate that would earn the same  
5 total interest at maturity of the small dollar loan, when the  
6 loan is paid according to its agreed terms, as would be earned  
7 by the application of the graduated rates set forth in this  
8 section. Loans shall be precomputed.

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

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



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

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

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

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

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





(3) The lender shall not charge or collect a deferment 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) A small dollar lender shall only be permitted to enter into one small dollar loan with a borrower at a time. Multiple outstanding small dollar loans between a small dollar lender and a consumer shall be prohibited.

(c) If a consumer obtains a small dollar loan voluntarily and separately from the consumer's spouse and the consumer's



1 action is documented in writing, signed by the consumer, and  
2 retained by the lender, the transaction shall not be considered  
3 a violation of this section.

4       **§ -6 Right of rescission.** (a) A consumer shall have  
5 the right to rescind a small dollar loan, on or before 5:00 p.m.  
6 on the next day of business at the location where the loan was  
7 originated, by returning the principal in cash, the original  
8 check or money order disbursed by the lender, or the other  
9 disbursement of loan proceeds from the lender to fund the loan.  
10 The lender shall not charge the consumer for rescinding the  
11 loan.

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

16               "RESCINDED BY [lender's name; license number] ,  
17       [date] "

18 and below which the lender's authorized representative shall  
19 sign.

20       **§ -7 Notice to consumers; general requirements; right to**  
21 **prepay; loan limits; right to rescind.** A small dollar lender



1 shall provide the following notice on each loan agreement for a  
2 small dollar loan. The notice shall be in a prominent place and  
3 in at least twelve-point type:

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

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

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

10 RENEWING THIS SMALL DOLLAR LOAN RATHER THAN  
11 PAYING THE DEBT IN FULL MAY REQUIRE ADDITIONAL FEES OR  
12 CHARGES.

13 STATE LAW PROHIBITS THIS SMALL DOLLAR LOAN FROM  
14 EXCEEDING ONE THOUSAND DOLLARS (\$1,000) TOTAL DEBT.  
15 EXCEEDING THIS AMOUNT MAY CREATE FINANCIAL HARDSHIPS  
16 FOR YOU AND YOUR FAMILY.

17 YOU HAVE THE RIGHT TO RESCIND THIS TRANSACTION BY  
18 5:00 P.M. [SPECIFY HERE THE CLOSE OF THE NEXT BUSINESS  
19 DAY BY DAY OF WEEK AND DATE] ."

20 § -8 Renewal; new loan requirements; consecutive loans;  
21 payment plan. (a) A small dollar loan may be renewed only



1 once. After one renewal, the consumer shall pay the debt in  
2 cash or its equivalent.

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

13 (c) Once the consumer has paid off the small dollar loan  
14 transaction, the consumer may enter into a new small dollar loan  
15 agreement with the lender; provided that the lender shall not  
16 have more than one outstanding loan with a borrower at any one  
17 time, pursuant to section -5.

18 § -9 Form of loan proceeds. A small dollar lender may  
19 pay the proceeds from a small dollar loan to the consumer in the  
20 form of a monetary instrument, money order, or cash. The lender  
21 shall inform the consumer in writing that the lender will cash



1 the monetary instrument or money order at no cost to the  
2 consumer.

3       §   -10   **Endorsement of instrument.** A small dollar lender  
4 shall not negotiate or present an instrument for payment unless  
5 the instrument is endorsed with the actual business name of the  
6 lender.

7       §   -11   **Redemption of instrument.** Prior to a small dollar  
8 lender negotiating or presenting the instrument, a consumer  
9 shall have the right to redeem any instrument held by the lender  
10 as a result of a small dollar loan if the consumer pays the full  
11 amount of the instrument to the lender.

12       §   -12   **Delinquent small dollar loans; restrictions on**  
13 **collection by lender or third party.** (a) A small dollar lender  
14 shall comply with all applicable state and federal laws when  
15 collecting a delinquent small dollar loan. A lender may take  
16 civil action to collect principal, interest, fees, and costs  
17 allowed under this chapter. A lender may not threaten criminal  
18 prosecution as a method of collecting a delinquent small dollar  
19 loan or threaten to take any legal action against the consumer  
20 that is not otherwise permitted by law.



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

9 (c) A lender shall not communicate with a consumer in a  
10 manner intended to harass, intimidate, abuse, or embarrass a  
11 consumer, including but not limited to communication at an  
12 unreasonable hour, with unreasonable frequency, by threats of  
13 force or violence, or by use of offensive language. A  
14 communication shall be presumed to have been made for the  
15 purposes of harassment if it is initiated by the lender for the  
16 purposes of collection and the communication is made:

17 (1) With the consumer's spouse or the consumer's domestic  
18 partner in any form, manner, or place, more than one  
19 time;

20 (2) With a consumer at the consumer's place of employment  
21 more than one time;



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

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

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

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

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



(1) The term "communication" shall occur at the time the lender initiates contact with a consumer, regardless of whether the communication is received or accessed by the consumer; and

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

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

(B) An unanswered telephone call in which no message, other than a caller identification, is left, unless the telephone call is in violation of 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 such small dollar loans.

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

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

(c) The unique identifier of any small dollar lender originating a small dollar loan, except a person who is exempt from licensure under this chapter, shall be clearly shown on all



1 solicitations, including websites, and all other documents, as  
2 established by rule or order of the commissioner.

3       **§ -16 Maintenance of books and records.** (a) Every  
4 small dollar lender shall keep in a safe and secure place those  
5 books and records that directly relate to any small dollar loan  
6 made within this State, and such other books and records as may  
7 be necessary for the commissioner to ensure full compliance with  
8 the laws of this State.

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

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

16       (d) Every lender shall preserve all of its records for a  
17 minimum of six years or for such greater or lesser period as the  
18 commissioner may prescribe by rule.

19                   **PART II. LICENSING**



1       §   -31   **License required.** No person, unless exempt under  
2 this chapter, shall act as a small dollar lender in this State  
3 unless licensed to do so by the commissioner.

4       §   -32   **Exemptions.** This chapter shall not apply to the  
5 following:

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

8           (2) A nondepository financial service loan company  
9 authorized by the division to do business in the  
10 State.

11       §   -33   **Registration with NMLS; license; application;**  
12 **issuance.** (a) The commissioner may require all licensees to  
13 register with NMLS.

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

17           (1) The legal name, trade names, and business address of  
18 the applicant and, if the applicant is a partnership,  
19 association, limited liability company, limited  
20 liability partnership, or corporation, of every  
21 member, officer, principal, or director thereof;



1 (2) The principal place of business;

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

5 (4) Such other data, financial statements, and pertinent  
6 information as the commissioner may require with  
7 respect to the applicant, its members, principals, or  
8 officers.

9 (c) To fulfill the purposes of this chapter, the  
10 commissioner may enter into agreements or contracts with NMLS or  
11 other entities to use NMLS to collect and maintain records and  
12 process transaction fees or other fees related to licensees or  
13 other persons subject to this chapter.

14 (d) For the purpose and the extent necessary to  
15 participate in NMLS, the commissioner may waive or modify, in  
16 whole or in part, by rule or order, any or all of the  
17 requirements of this chapter and establish new requirements as  
18 reasonably necessary to participate in NMLS.

19 (e) In connection with an application for a license under  
20 this chapter, the applicant, at a minimum, shall furnish to NMLS  
21 information concerning the applicant's identity, including:



1 (1) Fingerprints of the applicant or, if an applicant is  
2 not an individual, each of the applicant's controlling  
3 persons, executive officers, directors, general  
4 partners, and managing members for submission to the  
5 Federal Bureau of Investigation and any governmental  
6 agency or entity authorized to receive the  
7 fingerprints for a state, national, and international  
8 criminal history background check, accompanied by the  
9 applicable fee charged by the entities conducting the  
10 criminal history background check; and

11 (2) Personal history and experience of the applicant or,  
12 if an applicant is not an individual, each of the  
13 applicant's controlling persons, executive officers,  
14 directors, general partners, and managing members in a  
15 form prescribed by NMLS, including the submission of  
16 authorization for NMLS and the commissioner to obtain:

17 (A) An independent credit report obtained from a  
18 consumer reporting agency described in section  
19 603(p) of the Fair Credit Reporting Act, title 15  
20 United States Code section 1681 et seq.; and



1 (B) Information related to any administrative, civil,  
2 or criminal findings by any governmental  
3 jurisdiction;

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

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

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

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

18 § -34 Issuance of license; grounds for denial. (a) The  
19 commissioner shall conduct an investigation of every applicant  
20 to determine the financial responsibility, character, and  
21 general fitness of the applicant. The commissioner shall issue



1 the applicant a license to engage in the business of making  
2 small dollar loans if the commissioner determines that:

3 (1) The applicant, or in the case of an applicant that is  
4 not an individual, each of the applicant's controlling  
5 persons, executive officers, directors, general  
6 partners, and managing members, has never had a small  
7 dollar loan lender license revoked in any  
8 jurisdiction; provided that a subsequent formal  
9 vacation of a revocation shall not be deemed a  
10 revocation;

11 (2) The applicant, or in the case of an applicant that is  
12 not an individual, each of the applicant's controlling  
13 persons, executive officers, directors, general  
14 partners, and managing members, has not been convicted  
15 of, or pled guilty or nolo contendere, or been granted  
16 a deferred acceptance of a guilty plea under federal  
17 law or under chapter 853 to a felony in a domestic,  
18 foreign, or military court:

19 (A) During the seven-year period preceding the date  
20 of the application for licensing and  
21 registration; or



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

4 provided that any pardon of a conviction shall not be  
5 deemed a conviction for purposes of this section;

6 (3) The applicant, or in the case of an applicant that is  
7 not an individual, each of the applicant's controlling  
8 persons, executive officers, directors, general  
9 partners, and managing members, has demonstrated  
10 financial responsibility, character, and general  
11 fitness to command the confidence of the community and  
12 to warrant a determination that the applicant shall  
13 operate honestly, fairly, and efficiently pursuant to  
14 this chapter. For purposes of this paragraph, a  
15 person is not financially responsible when the person  
16 has shown a disregard in the management of the  
17 person's financial condition. A determination that a  
18 person has shown a disregard in the management of the  
19 person's financial condition may be based on:

20 (A) Current outstanding judgments, except judgments  
21 solely as a result of medical expenses;





(B) Current outstanding tax liens or other government  
liens and filings;

(C) Foreclosures within the past three years; and

(D) A pattern of seriously delinquent accounts within  
the past three years;

(4) The applicant, or in the case of an applicant that is  
not an individual, each of the applicant's controlling  
persons, executive officers, directors, general  
partners, and managing members, has not been convicted  
of, pled guilty or nolo contendere to, or been granted  
a deferred acceptance of a guilty plea under federal  
law or chapter 853 to any misdemeanor involving an act  
of fraud, dishonesty, breach of trust, or money  
laundering;

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

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

(b) The applicant, or in the case of an applicant that is  
not an individual, each of the applicant's controlling persons,  
executive officers, directors, general partners, and managers,  
shall submit authorization to the commissioner for the



1 commissioner to conduct background checks to determine or verify  
2 the information in subsection (a) in each state where the person  
3 has conducted small dollar loan lending. Authorization pursuant  
4 to this subsection shall include consent to provide additional  
5 fingerprints, if necessary, to law enforcement or regulatory  
6 bodies in other states.

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

8 (1) Whose license to conduct business under this chapter,  
9 or any similar statute in any other jurisdiction, has  
10 been suspended or revoked within five years of the  
11 filing of the present application;

12 (2) Who has been banned from the industry by an  
13 administrative order issued by the commissioner or the  
14 commissioner's designee, for the period specified in  
15 the administrative order; or

16 (3) Who has advertised or made internet loans in violation  
17 of this chapter.

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



1       §   -35   **Fees; bond.**   (a)   A small dollar lender shall pay  
2   the following fees to the division to obtain and maintain a  
3   valid license under this chapter:

- 4       (1)   Initial application fee of \$900;  
5       (2)   Processing fee of \$35 for each controlling person;  
6       (3)   Annual license renewal fee of \$600;  
7       (4)   Applicable fee charged by the entities conducting the  
8           criminal history background check of the each of the  
9           applicant's controlling persons, executive officers,  
10          directors, general partners, and managing members for  
11          submission to the Federal Bureau of Investigation and  
12          any governmental agency or entity authorized to  
13          receive the fingerprints for a state, national, and  
14          international criminal history background check;  
15       (5)   Applicable fee charged by the entities conducting an  
16          independent credit report obtained from a consumer  
17          reporting agency described in section 603(p) of the  
18          Fair Credit Reporting Act, title 15 United States Code  
19          section 1681 et seq.; and  
20       (6)   Information related to any administrative, civil, or  
21          criminal findings by any governmental jurisdiction;



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

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

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

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

10 (c) The applicant shall file and maintain a surety bond,  
11 approved by the commissioner, executed by the applicant as  
12 obligor and by a surety company authorized to do a surety  
13 business in this State as surety, whose liability as a surety  
14 does not exceed, in the aggregate, the penal sum of the bond.  
15 The penal sum of the bond shall be a minimum of \$30,000 and a  
16 maximum of \$250,000, based on the annual dollar amount of loans  
17 originated.

18 (d) The bond required by subsection (c) shall run to the  
19 State of Hawaii as obligee for the use and benefit of the State  
20 and of any person or persons who may have a cause of action



1 against the obligor under this chapter. The bond shall be  
2 conditioned that:

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

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

10 § -36 **Renewal of license; annual report.** (a) On or  
11 before December 31 of each year, each licensee shall pay a  
12 renewal fee pursuant to section -35.

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

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



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

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

(A) The number of small dollar loans made;

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

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

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

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

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

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



regulated by this chapter is being conducted by the licensee;

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

(6) Any other information the commissioner may require.

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

(d) A licensee that has not filed an annual report that has been deemed complete by the commissioner nor paid its annual renewal fee by the renewal filing deadline, and has not been granted an extension of time to do so by the commissioner, shall have its license suspended on the renewal date. The licensee shall have thirty days after its license is suspended to file an annual report and pay the annual renewal fee, plus a late filing fee of \$250 for each business day after suspension that the commissioner does not receive the annual report and the annual 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 has failed to complete an application  
16               for licensure;

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

20          (5) The applicant or licensee has failed to provide or  
21               maintain proof of financial responsibility;





- 1       (6)   The applicant or licensee is insolvent;
- 2       (7)   The applicant or licensee has made, in any document or  
3       statement filed with the commissioner, a false  
4       representation of a material fact or has omitted to  
5       state a material fact;
- 6       (8)   The applicant, licensee, or any of its owners,  
7       members, managers, partners, officers, or directors  
8       have been convicted of or entered a plea of guilty or  
9       nolo contendere to a crime involving fraud or deceit,  
10      or to any similar crime under the jurisdiction of any  
11      federal court or court of another state;
- 12      (9)   The applicant or licensee has failed to make,  
13      maintain, or produce records that comply with section  
14      -16 or any rule adopted by the commissioner;
- 15      (10)   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      (11)   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 (12) 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 such acts;

18 (5) Order the licensee to make refunds to consumers of  
19 excess charges under this chapter;

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



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

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

17          (d) The revocation, suspension, expiration, or surrender  
18          of a license shall not affect the licensee's liability for acts  
19          previously committed nor impair the commissioner's ability to  
20          issue a final agency order or impose discipline against the  
21          licensee.



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

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

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

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

19 (i) Notwithstanding section 480-13.5, any violation of  
20 this chapter that is directed toward, targets, or injures an  
21 elder may be subject to an additional civil penalty not to



1 exceed \$10,000 for each violation in addition to any other fines  
2 or penalties assessed for the violation.

3       §   -38 Voluntary surrender of license. (a) A licensee  
4 may voluntarily cease business and surrender its license by  
5 giving written notice to the commissioner of its intent to  
6 surrender its license. Prior to the surrender date of a  
7 license, the licensee shall have either completed all pending  
8 small dollar loan transactions or assigned each pending small  
9 dollar loan transaction to another licensee.

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

13       (1) The date of surrender;

14       (2) The name, address, telephone number, facsimile number,  
15 and electronic mail address of a contact individual  
16 with knowledge and authority sufficient to communicate  
17 with the commissioner regarding all matters relating  
18 to the licensee during the period that it was licensed  
19 pursuant to this chapter;

20       (3) The reason or reasons for surrender;



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

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

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

13 (7) Confirmation that the licensee has notified each of  
14 its small dollar consumers, if any, that the small  
15 dollar loan is being transferred and the name,  
16 address, telephone number, and any other contact  
17 information of the new small dollar lender.

18 (c) Voluntary surrender of a license shall be effective  
19 upon the date of surrender specified on the written notice to  
20 the commissioner as required by this section; provided that the



1 licensee has met all the requirements of voluntary surrender and  
2 has returned the original license issued.

3       **§   -39   Sale or transfer of license; change of control.**

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

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

11       (c) After review of a request for approval under  
12 subsection (b), the commissioner may require the licensee or  
13 person or group of persons requesting approval of a proposed  
14 change of control of the licensee, or both, to provide  
15 additional information concerning the persons who are to assume  
16 control of the licensee. The additional information shall be  
17 limited to similar information required of the licensee or  
18 persons in control of the licensee as part of its original  
19 license or renewal application under sections       -34 and       -36.  
20 The information shall include the history of the material  
21 litigation and criminal convictions of each person who upon



1 approval of the application for change of control will be a  
2 principal of the licensee, for the five-year period prior to the  
3 date of the application for change of control of the licensee,  
4 and authorizations necessary to conduct criminal history record  
5 checks of such persons, accompanied by the appropriate payment  
6 of the applicable fee for each record check.

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

15 (e) The following persons are exempt from the requirements  
16 of subsection (b), but the licensee regardless shall notify the  
17 commissioner when a change of control results in the following:

- 18 (1) A person who acts as a proxy for the sole purpose of  
19 voting at a designated meeting of the security holders  
20 or holders of voting interests of a licensee or person  
21 in control of a licensee;





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

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

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

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

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

**§ -40 Authorized places of business; principal office; branch offices; relocation.** (a) Every small dollar lender



1 licensed under this chapter shall have and maintain a principal  
2 place of business in the State.

3 (b) If a small dollar lender has more than one place of  
4 business, it shall license each additional place of business in  
5 Hawaii as a branch office with the commissioner. No business  
6 shall be conducted at a branch office until the branch office  
7 has been licensed by the commissioner.

8 (c) A small dollar lender shall not maintain any branch  
9 offices in the State in addition to its principal place of  
10 business without the prior written approval of the commissioner.  
11 An application to establish a branch office shall be submitted  
12 through NMLS with a nonrefundable application fee as required by  
13 section -35.

14 (d) A small dollar lender shall not relocate any office in  
15 this State without the prior written approval of the  
16 commissioner. An application to relocate an office shall be  
17 submitted to the commissioner at least thirty days prior to  
18 relocating and shall set forth the reasons for the relocation,  
19 the street address of the proposed relocated office, and other  
20 information that may be required by the commissioner. An  
21 application to relocate an office pursuant to this subsection



1 shall be submitted with a nonrefundable fee as required by  
2 section -35.

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

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

7 (2) Specify the reasons for the closing.

8 (f) A small dollar lender that maintains its principal  
9 office outside of the State shall:

10 (1) Designate a branch office in this State as its  
11 principal place of business in this State; and

12 (2) Apply for and obtain approval from the commissioner to  
13 designate a branch office as its principal place of  
14 business in this State pursuant to this section.

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

19 (h) A license issued under this chapter shall be  
20 prominently displayed in the principal place of business and  
21 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) Administer and enforce the provisions and requirements  
15           of this chapter;

16       (2) Adopt, amend, or repeal rules and issue declaratory  
17           rulings or informal nonbinding interpretations;

18       (3) Investigate and conduct hearings regarding any  
19           violation of this chapter or any rule or order of, or  
20           agreement with, the commissioner;



- 1           (4)    Create fact-finding committees that may make  
2                recommendations to the commissioner for the  
3                commissioner's deliberations;
- 4           (5)    Require an applicant or any of its controlling  
5                persons, officers, directors, partners, members,  
6                managers, and agents to disclose their relevant  
7                criminal history and request a criminal history record  
8                check in accordance with chapter 846;
- 9           (6)    Contract with or employ qualified persons, including  
10                accountants, attorneys, investigators, examiners,  
11                auditors, or other professionals who may be exempt  
12                from chapter 76 and who shall assist the commissioner  
13                in exercising the commissioner's powers and duties;
- 14          (7)    Require that all fees, fines, and charges collected by  
15                the commissioner under this chapter be deposited into  
16                the compliance resolution fund established pursuant to  
17                section 26-9(o);
- 18          (8)    Process and investigate complaints, subpoena witnesses  
19                and documents, administer oaths, and receive  
20                affidavits and oral testimony, including telephonic  
21                communications, and do any and all things necessary or



1 incidental to the exercise of the commissioner's power  
2 and duties, including the authority to conduct  
3 contested case proceedings under chapter 91;

4 (9) Require a licensee to comply with any rule, guidance,  
5 guideline, statement, supervisory policy or any  
6 similar proclamation issued or adopted by the Federal  
7 Deposit Insurance Corporation to the same extent and  
8 in the same manner as a bank chartered by the State or  
9 in the alternative, any policy position of the  
10 Conference of State Bank Supervisors;

11 (10) Enter into agreements or relationships with other  
12 government officials or regulatory associations in  
13 order to improve efficiencies and reduce regulatory  
14 burden by sharing resources, standardized or uniform  
15 methods or procedures, and documents, records,  
16 information, or evidence obtained under this chapter;

17 (11) Use, hire, contract, or employ public or privately  
18 available analytical systems, methods, or software to  
19 investigate or examine a licensee or person subject to  
20 this chapter;



1       (12)   Accept and rely on investigation or examination  
2               reports made by other government officials, within or  
3               without this State; and

4       (13)   Accept audit reports made by an independent certified  
5               public accountant for the licensee or person subject  
6               to this chapter in the course of that part of the  
7               examination covering the same general subject matter  
8               as the audit and may incorporate the audit report in  
9               the report of the examination, report of  
10              investigation, or other writing of the commissioner.

11       §   -43   Investigation and examination authority. (a) In  
12       addition to any other authority under this chapter, the  
13       commissioner shall have the authority to conduct investigations  
14       and examinations in accordance with this section. The  
15       commissioner may access, receive, and use any books, accounts,  
16       records, files, documents, information, or evidence that the  
17       commissioner deems relevant to the investigation or examination,  
18       regardless of the location, possession, control, or custody of  
19       the documents, information, or evidence.

20       (b)   For the purposes of investigating violations or  
21       complaints arising under this chapter, or for the purposes of



1 examination, the commissioner may review, investigate, or  
2 examine any licensee or person subject to this chapter as often  
3 as necessary to carry out the purposes of this chapter. The  
4 commissioner may direct, subpoena, or order the attendance of,  
5 and examine under oath, all persons whose testimony may be  
6 required about loans or the business or subject matter of any  
7 examination or investigation and may direct, subpoena, or order  
8 the person to produce books, accounts, records, files, and any  
9 other documents the commissioner deems relevant to the inquiry.

10 (c) Each licensee or person subject to this chapter shall  
11 provide to the commissioner upon request the books and records  
12 relating to the operations of the licensee or person subject to  
13 this chapter. The commissioner shall have access to the books  
14 and records and shall be permitted to interview the officers,  
15 principals, managers, employees, independent contractors,  
16 agents, and consumers of the licensee or person subject to this  
17 chapter concerning their business.

18 (d) Each licensee or person subject to this chapter shall  
19 make or compile reports or prepare other information as directed  
20 by the commissioner to carry out the purposes of this section,  
21 including:





1 (1) Accounting compilations;

2 (2) Information lists and data concerning loan  
3 transactions in a format prescribed by the  
4 commissioner; or

5 (3) Other information that the commissioner deems  
6 necessary.

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



1 shall have access to the documents or records as necessary to  
2 conduct its ordinary business affairs.

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

7 (g) No licensee or person subject to investigation or  
8 examination under this section may knowingly withhold, abstract,  
9 remove, mutilate, destroy, or secrete any books, records,  
10 computer records, or other information.

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



1 connection with the investigation or examination, payable to the  
2 commissioner.

3 (i) Any person having reason to believe that this chapter  
4 or the rules adopted under this chapter have been violated, or  
5 that a license issued under this chapter should be suspended or  
6 revoked, may file a written complaint with the commissioner  
7 setting forth the details of the alleged violation or grounds  
8 for suspension or revocation.

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



1 (b) For purposes of this section, the commissioner is  
2 authorized to enter into agreements or sharing arrangements with  
3 other governmental agencies, the Conference of State Bank  
4 Supervisors, or other associations representing governmental  
5 agencies as established by rule or order of the commissioner.

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

8 (1) Disclosure under any federal or state law governing  
9 the disclosure to the public of information held by an  
10 officer or an agency of the federal government or a  
11 state; or

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

19 (d) Notwithstanding chapter 92F, the examination process  
20 and related information and documents, including the reports of



1 examination, shall be confidential and shall not be subject to  
2 discovery or disclosure in civil or criminal lawsuits.

3 (e) Notwithstanding any law to the contrary, the  
4 disclosure of confidential supervisory information or any  
5 information or material described in subsection (a) that is  
6 inconsistent with subsection (a) shall be superseded by the  
7 requirements of this section.

8 (f) This section shall not apply to information or  
9 material relating to the employment history of, and publicly  
10 adjudicated disciplinary and enforcement actions against,  
11 mortgage servicers that are included in NMLS for access by the  
12 public.

13 § -45 Prohibited practices. (a) It shall be a  
14 violation of this chapter for a licensee, its officers,  
15 directors, employees, or independent contractors, or any other  
16 person subject to this chapter to:

- 17 (1) Engage in any act that limits or restricts the  
18 application of this chapter, including making a small  
19 dollar loan disguised as a personal property, personal  
20 sales, leaseback transaction, or automobile title  
21 loan, or by disguising loan proceeds as cash rebates



1 for the pretextual installment sale of goods and  
2 services;

3 (2) Make a secured small dollar loan;

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

6 (4) Charge a prepayment fee to any consumer;

7 (5) Require a consumer to purchase add-on products, such  
8 as credit insurance;

9 (6) Charge any additional interest, fees, or charges,  
10 except those authorized by this chapter;

11 (7) Fail to make disclosures as required by this chapter  
12 and any other applicable state or federal law,  
13 including rules or regulations adopted pursuant to  
14 state or federal law;

15 (8) Directly or indirectly employ any scheme, device, or  
16 artifice to defraud or mislead any consumer, any  
17 lender, or any person;

18 (9) Directly or indirectly engage in unfair or deceptive  
19 acts, practices, or advertising in connection with a  
20 small dollar loan toward any person;



1 (10) Directly or indirectly obtain property by fraud or  
2 misrepresentation;

3 (11) Make a small dollar loan to any person physically  
4 located in Hawaii through the use of the Internet,  
5 facsimile, telephone, kiosk, or other means without  
6 first obtaining a license under this chapter;

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

12 (13) Make any false statement or knowingly and wilfully  
13 make any omission of material fact in connection with  
14 any reports filed with the division by a licensee or  
15 in connection with any investigation conducted by the  
16 division;

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



1 (15) Make small dollar loans from any unlicensed location;

2 (16) Fail to comply with all applicable state and federal  
3 laws relating to the activities governed by this  
4 chapter; or

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

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

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

12 "(d) The rate limitations contained in subsections (a) and  
13 (b) of this section and section 478-11.5 shall not apply to any  
14 [~~credit~~]:

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

18 (2) Small dollar loan transaction authorized by, and  
19 entered into in accordance with, chapter \_\_\_\_\_."

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





1       "**§478-5 Usury not recoverable.** If a greater rate of  
2 interest than that permitted by law is contracted for with  
3 respect to any consumer credit transaction, any home business  
4 loan or any credit card agreement, the contract shall not, by  
5 reason thereof, be void. But if in any action on the contract  
6 proof is made that a greater rate of interest than that  
7 permitted by law has been directly or indirectly contracted for,  
8 the creditor shall only recover the principal and the debtor  
9 shall recover costs. If interest has been paid, judgment shall  
10 be for the principal less the amount of interest paid. This  
11 section shall not be held to apply[~~, to loans~~] to:

- 12       (1) Loans made by financial services loan companies and  
13 credit unions at the rates authorized under and  
14 pursuant to articles 9 and 10 of chapter 412[~~-~~]; or  
15       (2) Any small dollar loan as defined under chapter \_\_\_\_\_."

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

18       "**§478-6 Usury; penalty.** Any person who directly or  
19 indirectly receives any interest or finance charge at a rate  
20 greater than that permitted by law or who, by any method or  
21 device whatsoever, receives or arranges for the receipt of



1 interest or finance charge at a greater rate than that permitted  
2 by law on any credit transaction shall be guilty of usury and  
3 shall be fined not more than \$250, unless a greater amount is  
4 allowed by law, or imprisoned not more than one year, or both."

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

7 [~~"Deferred deposit" means a transaction in which a check~~  
8 ~~cashier refrains from depositing a personal check written by a~~  
9 ~~customer until a date after the transaction date, pursuant to a~~  
10 ~~written agreement."~~]

11 SECTION 7. Section 480F-6, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 "**§480F-6 Penalties.** (a) Any person who violates this  
14 chapter shall be deemed to have engaged in an unfair or  
15 deceptive act or practice in the conduct of any trade or  
16 commerce within the meaning of section 480-2(a). Aggrieved  
17 consumers may seek those remedies set forth in section 480-  
18 13(b).

19 (b) Any person who is not a consumer and is injured by a  
20 wilful violation of this chapter may bring an action for the  
21 recovery of damages, a proceeding to restrain and enjoin those



1 violations, or both. If judgment is for the plaintiff, the  
2 plaintiff shall be awarded a sum not less than \$1,000 or  
3 threefold damages, whichever sum is greater, and reasonable  
4 attorneys' fees together with the costs of suit.

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

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

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

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

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



- 1           (2)   The department of health or its designee on  
2               prospective employees, persons seeking to serve as  
3               providers, or subcontractors in positions that place  
4               them in direct contact with clients when providing  
5               non-witnessed direct mental health or health care  
6               services as provided by section 321-171.5;
- 7           (3)   The department of health or its designee on all  
8               applicants for licensure or certification for,  
9               operators for, prospective employees, adult  
10              volunteers, and all adults, except adults in care, at  
11              healthcare facilities as defined in section 321-15.2;
- 12          (4)   The department of education on employees, prospective  
13               employees, and teacher trainees in any public school  
14               in positions that necessitate close proximity to  
15               children as provided by section 302A-601.5;
- 16          (5)   The counties on employees and prospective employees  
17               who may be in positions that place them in close  
18               proximity to children in recreation or child care  
19               programs and services;
- 20          (6)   The county liquor commissions on applicants for liquor  
21               licenses as provided by section 281-53.5;



- 1           (7)   The county liquor commissions on employees and  
2           prospective employees involved in liquor  
3           administration, law enforcement, and liquor control  
4           investigations;
- 5           (8)   The department of human services on operators and  
6           employees of child caring institutions, child placing  
7           organizations, and foster boarding homes as provided  
8           by section 346-17;
- 9           (9)   The department of human services on prospective  
10          adoptive parents as established under section  
11          346-19.7;
- 12          (10)  The department of human services or its designee on  
13          applicants to operate child care facilities, household  
14          members of the applicant, prospective employees of the  
15          applicant, and new employees and household members of  
16          the provider after registration or licensure as  
17          provided by section 346-154, and persons subject to  
18          section 346-152.5;
- 19          (11)  The department of human services on persons exempt  
20          pursuant to section 346-152 to be eligible to provide



1 child care and receive child care subsidies as  
2 provided by section 346-152.5;

3 (12) The department of health on operators and employees of  
4 home and community-based case management agencies and  
5 operators and other adults, except for adults in care,  
6 residing in community care foster family homes as  
7 provided by section 321-15.2;

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

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

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

19 (16) The department of public safety on employees and  
20 prospective employees who are directly involved with  
21 the treatment and care of persons committed to a



1           correctional facility or who possess police powers  
2           including the power of arrest as provided by section  
3           353C-5;

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

7       (18) Private schools and designated organizations on  
8           employees and prospective employees who may be in  
9           positions that necessitate close proximity to  
10          children; provided that private schools and designated  
11          organizations receive only indications of the states  
12          from which the national criminal history record  
13          information was provided pursuant to section 302C-1;

14       (19) The public library system on employees and prospective  
15          employees whose positions place them in close  
16          proximity to children as provided by section  
17          302A-601.5;

18       (20) The State or any of its branches, political  
19          subdivisions, or agencies on applicants and employees  
20          holding a position that has the same type of contact  
21          with children, vulnerable adults, or persons committed



1 to a correctional facility as other public employees  
2 who hold positions that are authorized by law to  
3 require criminal history record checks as a condition  
4 of employment as provided by section 78-2.7;

5 (21) The department of health on licensed adult day care  
6 center operators, employees, new employees,  
7 subcontracted service providers and their employees,  
8 and adult volunteers as provided by section 321-15.2;

9 (22) The department of human services on purchase of  
10 service contracted and subcontracted service providers  
11 and their employees serving clients of the adult  
12 protective and community services branch, as provided  
13 by section 346-97;

14 (23) The department of human services on foster grandparent  
15 program, senior companion program, and respite  
16 companion program participants as provided by section  
17 346-97;

18 (24) The department of human services on contracted and  
19 subcontracted service providers and their current and  
20 prospective employees that provide home and community-  
21 based services under section 1915(c) of the Social





1 Security Act, title 42 United States Code section  
2 1396n(c), or under any other applicable section or  
3 sections of the Social Security Act for the purposes  
4 of providing home and community-based services, as  
5 provided by section 346-97;

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

11 (26) The department of commerce and consumer affairs on  
12 proposed directors and executive officers of a  
13 nondepository financial services loan company as  
14 provided by section 412:3-301;

15 (27) The department of commerce and consumer affairs on the  
16 original chartering applicants and proposed executive  
17 officers of a credit union as provided by section  
18 412:10-103;

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

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



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

(C) Each person who upon approval of an application requesting approval of a proposed change in control of licensee will be a principal of the licensee,

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

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

(30) The Hawaii health systems corporation on:

(A) Employees;

(B) Applicants seeking employment;

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

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

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

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



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

3 (B) Each control person, executive officer, director,  
4 general partner, and managing member of an  
5 applicant for a mortgage loan originator company  
6 license or license renewal,  
7 as provided by chapter 454F;

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

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

17 (34) The counties on prospective employees for fire  
18 department positions which involve contact with  
19 children or vulnerable adults;



1 (35) The counties on prospective employees for emergency  
2 medical services positions which involve contact with  
3 children or vulnerable adults;

4 (36) The counties on prospective employees for emergency  
5 management positions and community volunteers whose  
6 responsibilities involve planning and executing  
7 homeland security measures including viewing,  
8 handling, and engaging in law enforcement or  
9 classified meetings and assisting vulnerable citizens  
10 during emergencies or crises;

11 (37) The State and counties on employees, prospective  
12 employees, volunteers, and contractors whose position  
13 responsibilities require unescorted access to secured  
14 areas and equipment related to a traffic management  
15 center;

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

19 (39) The State and counties on current and prospective  
20 systems analysts and others involved in an agency's  
21 information technology operation whose position



responsibilities provide them with access to  
proprietary, confidential, or sensitive information;

(40) The department of commerce and consumer affairs on:

(A) Applicants for real estate appraiser licensure or  
certification as provided by chapter 466K;

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

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

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

(42) The department of commerce and consumer affairs on  
applicants for nurse licensure or license renewal,



1 reactivation, or restoration as provided by sections  
2 457-7, 457-8, 457-8.5, and 457-9;

3 (43) The county police departments on applicants for  
4 permits to acquire firearms pursuant to section 134-2  
5 and on individuals registering their firearms pursuant  
6 to section 134-3;

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

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

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

19 as provided by chapter 449;

20 (45) The department of taxation on current or prospective  
21 employees or contractors who have access to federal



1 tax information in order to comply with requirements  
2 of federal law, regulation, or procedure, as provided  
3 by section 231-1.6;

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

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

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

19 (49) The department of commerce and consumer affairs on  
20 each controlling person, executive officer, director,  
21 general partner, member, and manager of a small dollar



1           loan licensee, or an applicant for a small dollar loan  
2           license as provided by chapter       ; and

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

6       SECTION 9. Section 480F-4, Hawaii Revised Statutes, is  
7       repealed.

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

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





~~(c) The face amount of the check shall not exceed \$600 and the deposit of a personal check written by a customer pursuant to a deferred deposit transaction may be deferred for no more than thirty two days. A check casher may charge a fee for deferred deposit of a personal check in an amount not to exceed fifteen per cent of the face amount of the check. Any fees charged for deferred deposit of a personal check in compliance with this section shall be exempt from chapter 478.~~

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

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



1       ~~(f) No amount in excess of the amounts authorized by this~~  
2       ~~section and no collateral products such as insurance shall be~~  
3       ~~directly or indirectly charged by a check casher pursuant or~~  
4       ~~incident to a deferred deposit agreement."]~~

5       SECTION 10. This Act does not affect rights and duties  
6       that matured, penalties that were incurred, and proceedings that  
7       were begun before its effective date.

8       SECTION 11. Statutory material to be repealed is bracketed  
9       and stricken. New statutory material is underscored.

10       SECTION 12. This Act shall take effect on July 1, 2018;  
11       provided that the licensing requirements for small dollar  
12       lenders established by section 2 of this Act shall take effect  
13       on January 1, 2019.



**Report Title:**

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

**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. (SD1)

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

