
A BILL FOR AN ACT

RELATING TO CONSUMER PROTECTION.

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

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PART I

SECTION 1. The legislature finds that there has been a growing trend around the country to provide more consumer protections, which benefit consumers and encourage responsible and transparent lending, for deferred deposit transactions and small dollar installment loans within the payday lending industry. Hawaii has not yet joined in these reform efforts. In 2017, the Consumer Financial Protection Bureau released new rules that, among other things, target loans with a thirty-six per cent yearly interest rate or higher and restrict payday lenders from extracting money from the borrower's account, without explicit consent, if they failed to repay twice in a row. However, the current Presidential administration has indicated that it will modify the rules before they go into effect, indefinitely rolling back many of the intended consumer protections. It is critical the State take action now to address these harmful practices in light of this delay and the



1 weakening of the federal consumer protections for payday and
2 similar loans.

3 The legislature acknowledges that there is a market for
4 small dollar installment loans. However, the legislature
5 concludes that if small dollar installment loans are going to be
6 offered to Hawaii consumers, there must be appropriate consumer
7 protections in place to ensure these loans contain reasonable
8 terms and fees, do not trap borrowers in a cycle of high-
9 interest debt, and do not further contribute to the homelessness
10 crisis.

11 Accordingly, the purpose of this part is to encourage
12 transparency, increase consumer protection in the payday lending
13 industry, and improve the well-being of Hawaii consumers by:

14 (1) Specifying various consumer protection requirements
15 for small dollar loans;

16 (2) Beginning January 1, 2020, requiring licensure for
17 small dollar lenders that offer small dollar loans to
18 consumers, subject to the supervision of the division
19 of financial institutions of the department of
20 commerce and consumer affairs to protect against
21 illegal offshore lending;



- 1 (3) Specifying licensing requirements for small dollar
2 lenders;
- 3 (4) Capping interest at thirty-six per cent per annum and
4 one simple maximum monthly maintenance fee tiered up
5 to \$40;
- 6 (5) Limiting monthly payments to six per cent of the
7 borrower's gross monthly income or seven per cent of
8 the borrower's verified net monthly income, whichever
9 is greater, shielding ninety-three per cent of a
10 borrower's income so that the borrower can more
11 realistically make rent payments, cover utility bills,
12 and buy groceries;
- 13 (6) Amortizing loans in full and renewing the loan while
14 also permitting borrowers to choose to repay the loan
15 without penalty;
- 16 (7) Capping maximum allowable costs at fifty per cent of
17 the principal loan amount, preventing a loan from
18 being either too short or too long in duration;
- 19 (8) Capping the maximum allowable loan size at \$2,500,
20 providing more flexibility for lenders and borrowers
21 than under the current law;



- 1 (9) Requiring lenders to provide clear disclosures of the
- 2 loan terms and total charges;
- 3 (10) Prohibiting a lender from making more than one loan at
- 4 a time to a consumer, preventing incentives for
- 5 lenders to "split" loans and charge higher fees; and
- 6 (11) Authorizing the division of financial institutions to
- 7 establish and hire full-time equivalent permanent
- 8 examiners to carry out the purposes of the small
- 9 dollar installment loan program, funded via an
- 10 increase to the ceiling of the compliance resolution
- 11 fund.

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

15 **"CHAPTER**

16 **SMALL DOLLAR INSTALLMENT LOANS**

17 **PART I. GENERAL PROVISIONS**

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

20 "Annual percentage rate" means an annual percentage rate as
 21 determined pursuant to section 107 of the Truth in Lending Act,



1 title 15 United States Code section 1606. For the purposes of
2 this definition, all fees and charges, including interest and
3 monthly maintenance fees authorized by this chapter, shall be
4 included in the calculation of the annual percentage rate.

5 "Arranger" means a provider of funds in the syndication of
6 a debt.

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

10 "Commissioner" means the commissioner of financial
11 institutions.

12 "Consumer" means a natural person who is the buyer, lessee,
13 or debtor to whom credit is granted in a transaction that is
14 primarily for that natural person's personal, family, or
15 household purposes.

16 "Control", in the context of control of an applicant or
17 licensee, means ownership of, or the power to vote, twenty-five
18 per cent or more of the outstanding voting securities of a
19 licensee or control person. For the purposes of determining the
20 percentage of an applicant or a licensee controlled by any
21 person, there shall be aggregated with the control person's



1 interest the interest of any other person controlled by the
2 person, or by any spouse, parent, or child of the person.

3 "Control person" means any person in control of a licensee
4 or applicant.

5 "Default" means a consumer's failure to repay a small
6 dollar loan in compliance with the terms contained in a small
7 dollar loan agreement.

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

10 "Division" means the division of financial institutions of
11 the department of commerce and consumer affairs.

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

14 "Finance charges" means the cost of credit or cost of
15 borrowing, including the interest, monthly maintenance fees, and
16 other fees authorized by this chapter.

17 "Financial institution" means any bank, savings bank,
18 savings and loan association, financial services loan company,
19 or credit union doing business in the State whose accounts are
20 insured by the Federal Deposit Insurance Corporation, the



1 National Credit Union Administration, or other similar or
2 successor program of federal insurance.

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

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

10 "Loan amount" means the amount financed, as that term is
11 defined in Truth in Lending (Regulation Z), title 12 Code of
12 Federal Regulations, chapter X, part 1026, as amended, or
13 supplemented by this chapter.

14 "Maintenance fee" means a monthly fee paid to a licensee to
15 maintain a small dollar loan.

16 "NMLS" means the Nationwide Multistate Licensing System,
17 which is a licensing system developed and maintained by the
18 Conference of State Bank Supervisors for the state licensing and
19 registration of state-licensed loan originators and other
20 financial services providers, or any system provided by the
21 Consumer Financial Protection Bureau.



1 "Person" means an individual, sole proprietorship,
2 partnership, corporation, limited liability company, limited
3 liability partnership, or other association of individuals,
4 however organized.

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

9 "Precomputed interest" means an interest method that uses
10 the original payment schedule to calculate interest.

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

20 "Small dollar loan" means a loan made pursuant to this
21 chapter.



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

4 "Verified gross income" means evidence from a borrower of
5 one or more paystubs or other written evidence of recurring
6 income before taxes.

7 "Verified net income" means evidence from a borrower of one
8 or more paystubs or other written evidence of recurring income
9 after taxes and deductions.

10 **§ -2 Small dollar loans; requirements; payments. (a)**

11 Each small dollar loan transaction and renewal shall meet the
12 following requirements:

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

15 (2) The total amount of the small dollar loan shall not
16 exceed \$2,500 pursuant to section -5(a);

17 (3) The total monthly payment on the loan shall not exceed
18 an amount that is six per cent of the borrower's
19 verified gross monthly income or seven per cent of the
20 borrower's verified net monthly income, whichever is
21 greater;



- 1 (4) The total amount of fees and charges a small dollar
2 lender may charge, collect, or receive in connection
3 with a small dollar loan shall not exceed fifty per
4 cent of the principal loan amount;
- 5 (5) A monthly maintenance fee may be charged by the
6 lender, not to exceed the following:
- 7 (A) \$20 on a loan of an original principal loan
8 amount up to \$300.00;
- 9 (B) \$30 on a loan of an original principal loan
10 amount of at least \$300.01 and up to \$500.00; and
- 11 (C) \$40 on a loan of an original principal loan
12 amount of at least \$500.01 and up to \$2,500.00;
- 13 provided that the monthly maintenance fee shall not be
14 added to the loan balance on which the interest is
15 charged; and provided further that a small dollar
16 lender shall not charge, collect, or receive a monthly
17 maintenance fee if the borrower is a person on active
18 duty in the armed forces of the United States or a
19 dependent of that person;
- 20 (6) The written agreement required under section -3 may
21 require multiple installment payments;



- 1 (7) All repayment schedule due dates shall be dates on
2 which a small dollar lender is open for business to
3 the public at the place of business where the small
4 dollar loan was made;
- 5 (8) A small dollar lender shall accept prepayment in full
6 or in part from a consumer prior to the loan due date
7 and shall not charge the consumer a fee or penalty if
8 the consumer opts to prepay the loan;
- 9 (9) The loan amount shall be fully amortized over the term
10 of the loan, and maintenance fees shall be applied in
11 arrears on a monthly basis;
- 12 (10) A consumer's repayment obligations shall not be
13 secured by a lien on any real or personal property;
- 14 (11) A small dollar lender shall not charge a consumer any
15 direct or indirect fees for a small dollar loan, other
16 than the fees permitted by this chapter; and
- 17 (12) The written agreement required under section -3
18 shall not require a consumer to purchase add-on
19 products, such as credit insurance.
- 20 (b) In a multiple installment small dollar loan, a lender
21 may contract for a twice-monthly or monthly payment of the loan



1 balance due, including the applicable portion of the interest,
2 and earned monthly maintenance fee.

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

8 (d) Upon prepayment in full by the consumer, the lender
9 shall refund:

10 (1) Any unearned portion of the interest charged; and

11 (2) Any unearned monthly maintenance fees.

12 (e) Upon request from a consumer or a consumer's agent, a
13 small dollar lender shall provide confirmation of the amount
14 required to discharge the small dollar loan obligation in full.
15 When responding to a request under this subsection, the small
16 dollar lender, at a minimum, shall include a statement of the
17 amount required to discharge the consumer's obligation fully as
18 of the date the notice is provided and for each of the next
19 three business days following that date. The small dollar
20 lender shall make the information required under this subsection
21 available verbally and in writing and shall provide it in an



1 expeditious manner, but no later than two business days after
2 receiving the request.

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

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

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



1 (9) The right to rescind the small dollar loan before
2 5:00 p.m. on the next day of business at the location
3 where the loan was originated;

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

7 (11) A description of the methods by which small dollar
8 loan payments may be made, which may include cash,
9 check, or any additional method of loan payment
10 authorized by this chapter or by rule adopted by the
11 commissioner pursuant to chapter 91.

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

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

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21
22

**"MULTIPLE
INSTALLMENT
PAYMENT**



- 1
- 2 Amount Financed
- 3 Finance Charge
- 4 **Amount you will receive**
- 5 Term (months)
- 6
- 7 Authorized 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 interest basis (total of payments) with the
 28 assumption that all payments will be made as scheduled.

29 (e) The written agreement may include a demand feature
 30 that permits the lender or any other person, in the event the



1 consumer fails to meet the repayment terms for any outstanding
2 balance, to terminate the small dollar loan in advance of the
3 original maturity date, but no earlier than ten days after
4 repayment was due, and demand repayment of the entire
5 outstanding balance. If the written agreement includes a demand
6 feature and the demand feature is exercised, the lender shall be
7 entitled to collect only the outstanding balance and a prorated
8 portion of the unpaid interest and fees earned up to the date of
9 termination. For purposes of this subsection, the outstanding
10 balance and prorated portion of the unpaid interest and fees
11 shall be calculated as if the consumer had voluntarily prepaid
12 the loan in full on the date of termination.

13 § -4 Authorized interest rate. (a) Subject to section
14 -2(a)(4), a small dollar lender may contract for, and receive
15 interest at, a rate not exceeding thirty-six per cent per year
16 on that portion of the unpaid principal balance of the loan. A
17 small dollar lender may contract for and receive interest at the
18 single annual rate that would earn the same total interest at
19 maturity of the small dollar loan, when the loan is paid
20 according to its agreed terms, as would be earned by the



1 application of the graduated rates set forth in this section.

2 Loans shall be precomputed.

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

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

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

18 (e) If a small dollar loan is prepaid in full or renewed
19 prior to the loan's maturity date, the lender shall refund to
20 the consumer a prorated portion of the interest and monthly
21 maintenance fees based on a ratio of the number of days the loan



1 was outstanding and the number of days for which the loan was
2 originally contracted. For the purposes of this section, the
3 monthly maintenance fee shall not be considered to be fully
4 earned at the beginning of a month.

5 (f) If the parties agree in writing, either in the written
6 agreement required under section -3 or in a subsequent
7 agreement, to a deferment of wholly unpaid installments, a
8 lender may grant one deferment; provided that:

9 (1) A deferment shall postpone the scheduled due date of
10 the earliest unpaid installment and all subsequent
11 installments as originally scheduled, or as previously
12 deferred, for a period equal to the deferment period;

13 (2) The deferment period shall be that period during which
14 no installment is scheduled to be paid by reason of
15 the deferment; and

16 (3) The lender shall not charge or collect a deferment
17 fee.

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



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

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

7 § -5 **Maximum loan amount; prohibition against multiple**
8 **loans.** (a) A lender shall not lend an amount greater than
9 \$2,500 nor shall the amount financed exceed \$2,500 by any one
10 lender at any time to a consumer.

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

- 15 (1) The small dollar lender;
- 16 (2) A person related to the small dollar lender by common
17 ownership or control;
- 18 (3) A person in whom the small dollar lender has any
19 financial interest of ten per cent or more; or
- 20 (4) Any employee or agent of the small dollar lender.



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

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

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

18 "RESCINDED BY [lender's name; license number],
19 [date]"

20 and below which the lender's authorized representative shall
21 sign.



1 § -7 Notice to consumers; general requirements; right to
2 prepay; loan limits; right to rescind. A small dollar lender
3 shall provide the following notice on each written agreement for
4 a small dollar loan. The notice shall be in a prominent place
5 and in at least twelve-point type:

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

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

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

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

15 STATE LAW PROHIBITS THIS SMALL DOLLAR LOAN FROM
16 EXCEEDING TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500)
17 IN TOTAL DEBT. EXCEEDING THIS AMOUNT MAY CREATE
18 FINANCIAL HARDSHIPS FOR YOU AND YOUR FAMILY.

19 YOU HAVE THE RIGHT TO RESCIND THIS TRANSACTION BY
20 5:00 P.M. [SPECIFY HERE THE CLOSE OF THE NEXT BUSINESS
21 DAY BY DAY OF WEEK AND DATE]."



1 § -8 **Renewal; new loan requirements; consecutive loans;**
2 **payment plan.** (a) A small dollar loan may be renewed only
3 once. After one renewal, the consumer shall pay the debt in
4 cash or its equivalent.

5 (b) Upon renewal of a small dollar loan, the lender may
6 renew up to \$2,500 of the remaining unpaid principal balance.
7 If the unpaid balance on renewal is more than \$2,500, the
8 consumer may be required to pay the remaining balance; provided
9 that the lender shall not finance any amount over \$2,500. The
10 total amount of fees and charges for the renewed loan shall meet
11 the requirements of section -2. If the small dollar loan is
12 renewed prior to the maturity date, the lender shall refund to
13 the consumer a prorated portion of the finance charge based upon
14 the ratio of time left before maturity to the loan term.

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

20 § -9 **Form of loan proceeds.** A small dollar lender may
21 pay the proceeds from a small dollar loan to the consumer in the



1 form of a monetary instrument, money order, or cash. The lender
2 shall inform the consumer in writing that the lender shall cash
3 the monetary instrument or money order, upon request of the
4 consumer, at no cost to the consumer.

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

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

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



1 loan or threaten to take any legal action against the consumer
2 that is not otherwise permitted by law.

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

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

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



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

3 (3) With the consumer, the consumer's spouse, or the
4 consumer's domestic partner at the consumer's place of
5 residence between the hours of 9:00 p.m. and
6 8:00 a.m.; or

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

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

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

20 (f) For the purposes of this section, "communication"
21 includes any contact with a consumer, initiated by a lender, in



1 person, by telephone, or in writing, including via electronic
2 mail, text message, or other electronic writing; provided that:

3 (1) The term "communication" shall include the time the
4 lender initiates contact with a consumer, regardless
5 of whether the communication is received or accessed
6 by the consumer; and

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

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

11 (B) An unanswered telephone call in which no message,
12 other than a caller identification, is left,
13 unless the telephone call is in violation of
14 subsection (c)(3); or

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

18 § -13 Authorized dishonored instrument charge. (a)

19 Regardless of the number of instruments that are returned
20 unpaid, a small dollar lender may contract for and collect one
21 returned instrument charge for each small dollar loan, not to



1 exceed \$25. The lender shall not collect any other fees as a
2 result of the dishonored presentment.

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

8 § -14 **Posting of license and fees and charges.** Any
9 small dollar lender offering a small dollar loan shall
10 conspicuously and continuously post at any place of business
11 where small dollar loans are made, the license required pursuant
12 to this chapter and a notice of the fees and charges imposed for
13 small dollar loans.

14 § -15 **Internet lending.** (a) A small dollar lender may
15 advertise and accept applications for small dollar loans by any
16 lawful medium, including but not limited to the Internet,
17 subject to subsection (b).

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



1 § -16 **Unique identifier.** The unique identifier of any
2 small dollar lender originating a small dollar loan, except a
3 person who is exempt from licensure under this chapter, shall be
4 clearly shown on all solicitations, including websites, and all
5 other documents, as established by rule or order of the
6 commissioner.

7 § -17 **Notice on assignment or sale of contract.** (a) No
8 licensee may pledge, negotiate, sell, or assign a small dollar
9 loan, except to another licensee or to a bank, savings bank,
10 trust company, financial service loan company, or credit union
11 organized under the laws of Hawaii or the laws of the United
12 States.

13 (b) Prior to sale or assignment of a small dollar loan
14 contract held by the small dollar lender as a result of a small
15 dollar loan, the lender shall place a notice on the small dollar
16 loan contract in at least twelve-point type that reads:

17 "SMALL DOLLAR LOAN

18 No licensee may pledge, negotiate, sell, or
19 assign a small dollar loan, except to another licensee
20 or to a bank, savings bank, trust company, financial



1 service loan company, or credit union organized under
2 the laws of Hawaii or the laws of the United States."

3 § -18 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 other books and records as may be
7 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 a greater or lesser period as the
18 commissioner may prescribe by rule adopted pursuant to chapter
19 91.

20 **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 as defined by section 412:1-
7 109;

8 (2) A nondepository financial service loan company;

9 (3) An "open end credit plan", as defined in the Truth in
10 Lending Act, title 15 United States Code section
11 1602(j); or

12 (4) A tax refund anticipation loan.

13 **§ -33 License; application; issuance.** (a) The
14 commissioner shall require all licensees to register with NMLS.

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

18 (1) The legal name, trade names, and business address of
19 the applicant and, if the applicant is a partnership,
20 association, limited liability company, limited



1 liability partnership, or corporation, of every
2 member, officer, principal, or director thereof;

3 (2) The principal place of business;

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

7 (4) Other data, financial statements, and pertinent
8 information as the commissioner may require with
9 respect to the applicant or, if an applicant is not an
10 individual, each of the applicant's control persons,
11 executive officers, directors, general partners, and
12 managing members.

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

18 (d) For the purpose and to the extent necessary to
19 participate in NMLS, the commissioner may waive or modify, in
20 whole or in part, by rule or order, any or all of the



1 requirements of this chapter and establish new requirements as
2 reasonably necessary to participate in NMLS.

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

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



1 form prescribed by NMLS, including the submission of
2 authorization for NMLS and the commissioner to obtain:

3 (A) An independent credit report obtained from a
4 consumer reporting agency described in section
5 603(p) of the Fair Credit Reporting Act, title 15
6 United States Code section 1681a(p); and

7 (B) Information related to any administrative, civil,
8 or criminal findings by any governmental
9 jurisdiction;

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

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

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

20 (h) An applicant for a license as a small dollar loan
21 lender shall be registered with the business registration



1 division of the department to do business in this State before a
2 license pursuant to this chapter shall be granted.

3 **§ -34 Issuance of license; grounds for denial.** (a) The
4 commissioner shall conduct an investigation of every applicant
5 to determine the financial responsibility, character, and
6 general fitness of the applicant. The commissioner shall issue
7 the applicant a license to engage in the business of making
8 small dollar loans if the commissioner determines that:

9 (1) The applicant or, in the case of an applicant that is
10 not an individual, each of the applicant's control
11 persons, executive officers, directors, general
12 partners, and managing members, has never had a small
13 dollar lender license revoked in any jurisdiction;
14 provided that a subsequent formal vacation of a
15 revocation shall not be deemed a revocation;

16 (2) The applicant or, in the case of an applicant that is
17 not an individual, each of the applicant's control
18 persons, executive officers, directors, general
19 partners, and managing members, has not been convicted
20 of, pled guilty or nolo contendere to, or been granted
21 a deferred acceptance of a guilty plea under federal



1 or state law or under chapter 853 to a felony in a
2 domestic, foreign, or military court:

3 (A) During the seven-year period preceding the date
4 of the application for licensing and
5 registration; or

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

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

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



1 person's financial condition. A determination that a
2 person has shown a disregard in the management of the
3 person's financial condition may be based upon:

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

6 (B) Current outstanding tax liens or other government
7 liens and filings, subject to applicable
8 disclosure laws and administrative rules;

9 (C) Foreclosures within the past three years; and

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

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



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

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

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

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

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

19 (2) Whose license to conduct business in the small dollar
20 loan or payday industry has been revoked by an
21 administrative order issued by the commissioner or the



1 commissioner's designee, or the licensing authority of
2 another state or jurisdiction, for the period
3 specified in the administrative order;

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

6 (4) Who has failed to complete an application for
7 licensure.

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

12 § -35 Fees; bond. (a) A small dollar lender shall pay
13 the following fees to the division to obtain and maintain a
14 valid license under this chapter:

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

16 (2) Processing fee of \$35 for each control person;

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

18 (4) Applicable fee charged by the entities conducting the
19 criminal history background check of each of the
20 applicant's control persons, executive officers,
21 directors, general partners, and managing members for



1 submission to the Federal Bureau of Investigation and
2 any governmental agency or entity authorized to
3 receive the fingerprints for a state, national, and
4 international criminal history background check; and

5 (5) Applicable fee charged by the entities conducting an
6 independent credit report obtained from a consumer
7 reporting agency described in section 603(p) of the
8 Fair Credit Reporting Act, title 15 United States Code
9 section 1681a(p).

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

- 13 (1) Nonrefundable initial application fee of \$600; and
- 14 (2) Annual license renewal fee of \$450.

15 (c) The applicant shall file and maintain a surety bond,
16 approved by the commissioner, executed by the applicant as
17 obligor and by a surety company authorized to operate as a
18 surety in this State, whose liability as a surety does not
19 exceed, in the aggregate, the penal sum of the bond. The penal
20 sum of the bond shall be a minimum of \$30,000 and a maximum of



1 \$250,000, based upon the annual dollar amount of loans
2 originated.

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

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

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

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

19 § -36 **Renewal of license; annual report.** (a) On or
20 before December 31 of each year, each licensee shall pay a
21 renewal fee pursuant to section -35.



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

4 (1) A copy of the licensee's most recent audited annual
5 financial statement, including balance sheets,
6 statement of income or loss, statement of changes in
7 shareholders' equity, and statement of cash flows or,
8 if a licensee is a wholly owned subsidiary of another
9 corporation, the consolidated audited annual financial
10 statement of the parent corporation in lieu of the
11 licensee's audited annual financial statement;

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

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

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

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

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



- 1 (E) Any other information that the commissioner may
2 require;
- 3 (3) Any material changes to any of the information
4 submitted by the licensee on its original application
5 that have not previously been reported to the
6 commissioner on any other report required to be filed
7 under this chapter;
- 8 (4) A list of the principal place of business and branch
9 locations, if any, within this State where business
10 regulated by this chapter is being conducted by the
11 licensee;
- 12 (5) Disclosure of any pending or final suspension,
13 revocation, or other enforcement action by any state
14 or governmental authority; and
- 15 (6) Any other information the commissioner may require.
- 16 (c) A license may be renewed by continuing to meet the
17 licensing requirements of sections -33, -34, and -35,
18 filing a completed renewal statement on a form prescribed by
19 NMLS or by the commissioner, paying a renewal fee, and meeting
20 the requirements of this section.



1 (d) A licensee that has not filed an annual report that
2 has been deemed complete by the commissioner or paid its annual
3 renewal fee by the renewal filing deadline, and has not been
4 granted an extension of time to do so by the commissioner, shall
5 have its license suspended on the renewal date. The licensee
6 shall have thirty days after its license is suspended to file an
7 annual report and pay the annual renewal fee, plus a late filing
8 fee of \$250 for each business day after suspension that the
9 commissioner does not receive the annual report and the annual
10 renewal fee. The commissioner, for good cause, may grant an
11 extension of the renewal date or reduce or suspend the \$250 per
12 day late filing fee.

13 § -37 Enforcement authorities; violations; penalties.

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

18 (1) The applicant or licensee has violated this chapter or
19 any rule or order lawfully made pursuant to this
20 chapter;



- 1 (2) Facts or conditions exist that would clearly have
2 justified the commissioner in denying an application
3 for licensure, had these facts or conditions been
4 known to exist at the time the application was made;
- 5 (3) The applicant or licensee has failed to provide
6 information required by the commissioner within a
7 reasonable time, as specified by the commissioner;
- 8 (4) The applicant or licensee has failed to provide or
9 maintain proof of financial responsibility;
- 10 (5) The applicant or licensee is insolvent;
- 11 (6) The applicant or licensee has made, in any document or
12 statement filed with the commissioner, a false
13 representation of a material fact or has omitted to
14 state a material fact;
- 15 (7) The applicant, licensee, or, if an applicant or
16 licensee is not an individual, each of the applicant's
17 or licensee's control persons, executive officers,
18 directors, general partners, and managing members have
19 been convicted of or entered a plea of guilty or nolo
20 contendere to a crime involving fraud or deceit, or to



- 1 any similar crime under the jurisdiction of any
2 federal court or court of another state;
- 3 (8) The applicant or licensee has failed to make,
4 maintain, or produce records that comply with section
5 -18 or any rule adopted by the commissioner
6 pursuant to chapter 91;
- 7 (9) The applicant or licensee has been the subject of any
8 disciplinary action by any state or federal agency
9 that resulted in revocation of a license;
- 10 (10) A final judgment has been entered against the
11 applicant or licensee for violations of this chapter,
12 any state or federal law concerning small dollar
13 loans, deferred deposit loans, check cashing, payday
14 loans, banking, mortgage loan originators, money
15 transmitters, or any state or federal law prohibiting
16 deceptive or unfair trade or business practices; or
- 17 (11) The applicant or licensee has failed, in a timely
18 manner as specified by the commissioner, to take or
19 provide proof of the corrective action required by the
20 commissioner subsequent to an investigation or
21 examination pursuant to section -43.



1 (b) After a finding of one or more of the conditions under
2 subsection (a), the commissioner may take any or all of the
3 following actions:

- 4 (1) Deny an application for licensure, including an
5 application for a branch office license;
- 6 (2) Revoke the license;
- 7 (3) Suspend the license for a period of time;
- 8 (4) Issue an order to the licensee to cease and desist
9 from engaging in any act specified under subsection
10 (a);
- 11 (5) Order the licensee to make refunds to consumers of
12 excess charges under this chapter;
- 13 (6) Impose penalties of up to a \$1,000 for each violation;
14 or
- 15 (7) Bar a person from applying for or holding a license
16 for a period of five years following revocation of the
17 person's license.

18 (c) The commissioner may issue a temporary cease and
19 desist order if the commissioner makes a finding that the
20 licensee, applicant, or person is engaging, has engaged, or is
21 about to engage in an illegal, unauthorized, unsafe, or unsound



1 practice in violation of this chapter. Whenever the
2 commissioner denies a license application or takes disciplinary
3 action pursuant to this subsection, the commissioner shall enter
4 an order to that effect and notify the licensee, applicant, or
5 person of the denial or disciplinary action. The notification
6 required by this subsection shall be given by personal service
7 or by mail to the last known address of the licensee, applicant,
8 or person as shown on the application, license, or as
9 subsequently furnished in writing to the commissioner.

10 (d) The revocation, suspension, expiration, or surrender
11 of a license shall not affect the licensee's liability for acts
12 previously committed or impair the commissioner's ability to
13 issue a final agency order or impose discipline against the
14 licensee.

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

18 (f) The commissioner may reinstate a license, terminate a
19 suspension, or grant a new license to a person whose license has
20 been revoked or suspended if no fact or condition then exists



1 that clearly would justify the commissioner in revoking,
2 suspending, or refusing to grant a license.

3 (g) The commissioner may impose an administrative fine on
4 a licensee or person subject to this chapter if the commissioner
5 finds on the record after notice and opportunity for hearing
6 that the licensee or person subject to this chapter has violated
7 or failed to comply with any requirement of this chapter or any
8 rule prescribed by the commissioner under this chapter or order
9 issued under the authority of this chapter.

10 (h) Each violation or failure to comply with any directive
11 or order of the commissioner shall be a separate and distinct
12 violation.

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

18 § -38 Voluntary surrender of license. (a) A licensee
19 may voluntarily cease business and surrender its license by
20 giving written notice to the commissioner of its intent to
21 surrender its license. Prior to the surrender date of a



1 license, the licensee shall have either completed all pending
2 small dollar loan transactions or assigned each pending small
3 dollar loan transaction to another licensee.

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

7 (1) The date of surrender;

8 (2) The name, address, telephone number, facsimile number,
9 and electronic mail address of a contact individual
10 with knowledge and authority sufficient to communicate
11 with the commissioner regarding all matters relating
12 to the licensee during the period that it was licensed
13 pursuant to this chapter;

14 (3) The reason or reasons for surrender;

15 (4) Total dollar amount of the licensee's outstanding
16 small dollar loans sold in Hawaii and the individual
17 amounts of each outstanding small dollar loans, and
18 the name, address, and contact telephone number of the
19 licensee to which each outstanding small dollar loan
20 was assigned;



- 1 (5) A list of the licensee's Hawaii authorized branch
- 2 offices, if any, as of the date of surrender;
- 3 (6) Confirmation that the licensee has notified each of
- 4 its Hawaii authorized branch offices, if any, that the
- 5 branch offices may no longer make small dollar loans
- 6 on the licensee's behalf; and
- 7 (7) Confirmation that the licensee has notified each of
- 8 its small dollar consumers, if any, that the small
- 9 dollar loan is being transferred and the name,
- 10 address, telephone number, and any other contact
- 11 information of the licensee to whom the small dollar
- 12 loan was assigned.

13 (c) Voluntary surrender of a license shall be effective
14 upon the date of surrender specified on the written notice to
15 the commissioner as required by this section; provided that the
16 licensee has met all the requirements of voluntary surrender and
17 has returned the original license issued.

18 § -39 Sale or transfer of license; change of control.

- 19 (a) No small dollar loan license shall be transferred, except
- 20 as provided in this section.



1 (b) A person or group of persons requesting approval of a
2 proposed change of control of a licensee shall submit to the
3 commissioner an application requesting approval of a proposed
4 change of control of the licensee, accompanied by a
5 nonrefundable application fee of \$500.

6 (c) After review of a request for approval under
7 subsection (b), the commissioner may require the licensee or
8 person or group of persons requesting approval of a proposed
9 change of control of the licensee, or both, to provide
10 additional information concerning the persons who shall assume
11 control of the licensee. The additional information shall be
12 limited to similar information required of the licensee or
13 persons in control of the licensee as part of its original
14 license or renewal application under sections -33 and -36.
15 The information shall include, for the five-year period prior to
16 the date of the application for change of control of the
17 licensee, a history of material litigation and criminal
18 convictions of each person who, upon approval of the application
19 for change of control, will be a control person, executive,
20 officer, director, general partner, or managing member of the
21 licensee. Authorization shall also be given to conduct criminal



1 history record checks of those persons, accompanied by the
2 appropriate payment of the applicable fee for each record check.

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

11 (e) The following persons shall be exempt from the
12 requirements of subsection (b), but the licensee regardless
13 shall notify the commissioner when a change of control results
14 in the following:

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

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



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

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

7 (f) Subsection (b) shall not apply to public offerings of
8 securities.

9 § -40 Authorized places of business; principal office;
10 branch offices; relocation; closure. (a) Every small dollar
11 lender licensed under this chapter shall have and maintain a
12 principal place of business in the State, regardless of whether
13 the small dollar lender maintains its principal office outside
14 of the State.

15 (b) If a small dollar lender has more than one place of
16 business, each additional place of business in Hawaii shall be
17 licensed as a branch office with the commissioner. No business
18 shall be conducted at a branch office until the branch office
19 has been licensed by the commissioner.

20 (c) A small dollar lender shall not maintain any branch
21 offices in the State in addition to its principal place of



1 business without the prior written approval of the commissioner.
2 An application to establish a branch office shall be submitted
3 through NMLS with a nonrefundable application fee as required by
4 section -35.

5 (d) A small dollar lender shall not relocate any office in
6 this State without the prior written approval of the
7 commissioner. An application to relocate an office shall be
8 submitted to the commissioner at least thirty days prior to
9 relocating and shall set forth the reasons for the relocation,
10 the street address of the proposed relocated office, and other
11 information that may be required by the commissioner. An
12 application to relocate an office pursuant to this subsection
13 shall be submitted with a nonrefundable fee as required by
14 section -35.

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

- 18 (1) State the intended date of closing; and
19 (2) Specify the reasons for the closing.

20 (f) The principal place of business and each branch office
21 of the small dollar lender shall be identified in NMLS to



1 consumers as a location at which the licensee holds itself out
2 as a small dollar lender.

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

6 § -41 **Payment of fees.** All fees collected pursuant to
7 section -35, administrative fines, and other charges
8 collected pursuant to this chapter shall be deposited into the
9 compliance resolution fund established pursuant to section 26-
10 9(o) and shall be payable through NMLS, to the extent allowed by
11 NMLS. Fees not eligible for payment through NMLS shall be
12 deposited into a separate account within the compliance
13 resolution fund for use by the division.

14 § -42 **Powers of commissioner.** (a) The commissioner may
15 adopt rules pursuant to chapter 91 as the commissioner deems
16 necessary for the administration of this chapter.

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

19 (1) Issue declaratory rulings or informal nonbinding
20 interpretations;



- 1 (2) Investigate and conduct hearings regarding any
2 violation of this chapter or any rule or order of, or
3 agreement with, the commissioner;
- 4 (3) Create fact-finding committees that may make
5 recommendations to the commissioner for the
6 commissioner's deliberations;
- 7 (4) Require an applicant or any of its control persons,
8 executive officers, directors, general partners, and
9 managing members to disclose their relevant criminal
10 history and request a criminal history record check in
11 accordance with chapter 846;
- 12 (5) Contract with or employ qualified persons, including
13 accountants, attorneys, investigators, examiners,
14 auditors, or other professionals who may be exempt
15 from chapter 76 and who shall assist the commissioner
16 in exercising the commissioner's powers and duties;
- 17 (6) Process and investigate complaints, subpoena witnesses
18 and documents, administer oaths, and receive
19 affidavits and oral testimony, including telephonic
20 communications, and do any and all things necessary or
21 incidental to the exercise of the commissioner's power



- 1 and duties, including the authority to conduct
2 contested case proceedings under chapter 91;
- 3 (7) Require a licensee to comply with any rule, guidance,
4 guideline, statement, supervisory policy or any
5 similar proclamation issued or adopted by the Federal
6 Deposit Insurance Corporation to the same extent and
7 in the same manner as a bank chartered by the State
8 or, in the alternative, any policy position of the
9 Conference of State Bank Supervisors;
- 10 (8) Enter into agreements or relationships with other
11 government officials or regulatory associations in
12 order to improve efficiencies and reduce regulatory
13 burden by sharing resources, standardized or uniform
14 methods or procedures, and documents, records,
15 information, or evidence obtained under this chapter;
- 16 (9) Use, hire, contract, or employ public or privately
17 available analytical systems, methods, or software to
18 investigate or examine a licensee or person subject to
19 this chapter;



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

4 (11) 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 the authority granted under section -42(b), 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 books, accounts, records, files, documents, information, or
20 evidence.



1 (b) For the purposes of investigating violations or
2 complaints arising under this chapter, or for the purposes of
3 examination, the commissioner may review, investigate, or
4 examine any licensee or person subject to this chapter as often
5 as necessary to carry out the purposes of this chapter. The
6 commissioner may direct, subpoena, or order the attendance of,
7 and examine under oath, all persons whose testimony may be
8 required about loans or the business or subject matter of any
9 examination or investigation and may direct, subpoena, or order
10 the person to produce books, accounts, records, files,
11 documents, information, or evidence the commission deems
12 relevant to the inquiry.

13 (c) Each licensee or person subject to this chapter shall
14 provide to the commissioner, upon request, the books, accounts,
15 records, files, information, or evidence relating to the
16 operations of the licensee or person subject to this chapter.
17 The commissioner shall have access to the books, accounts,
18 records, files, information, or evidence and shall be permitted
19 to interview the control persons, executive officers, directors,
20 general partners, managing members, principals, managers,
21 employees, independent contractors, agents, and consumers of the



1 licensee or person subject to this chapter concerning their
2 business.

3 (d) Each licensee or person subject to this chapter shall
4 make or compile reports or prepare other information, as
5 directed by the commissioner, to carry out the purposes of this
6 section, including:

7 (1) Accounting compilations;

8 (2) Information lists and data concerning small dollar
9 loan transactions in a format prescribed by the
10 commissioner; or

11 (3) Other information that the commissioner deems
12 necessary.

13 (e) In conducting any investigation or examination
14 authorized by this chapter, the commissioner may control access
15 to any documents and records of the licensee or person under
16 investigation or examination. The commissioner may take
17 possession of the documents and records or place a person in
18 exclusive charge of the documents and records. During the
19 period of control, no person shall remove or attempt to remove
20 any of the documents and records except pursuant to a court
21 order or with the consent of the commissioner. Unless the



1 commissioner has reasonable grounds to believe the documents or
2 records of the licensee or person under investigation or
3 examination have been, or are at risk of being, altered or
4 destroyed for the purposes of concealing a violation of this
5 chapter, the licensee or owner of the documents and records
6 shall have access to the documents or records as necessary to
7 conduct its ordinary business affairs.

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

12 (g) No licensee or person subject to investigation or
13 examination under this section shall knowingly withhold,
14 abstract, remove, mutilate, destroy, or secrete any books,
15 records, computer records, or other information.

16 (h) The commissioner may charge an investigation or
17 examination fee, payable to the commissioner, based upon the
18 cost per hour per examiner for all licensees and persons subject
19 to this chapter investigated or examined by the commissioner or
20 the commissioner's staff. The hourly fee shall be \$60 or an
21 amount as the commissioner shall establish by rule pursuant to



1 chapter 91. In addition to the investigation or examination
2 fee, the commissioner may charge any person who is examined or
3 investigated by the commissioner or the commissioner's staff
4 pursuant to this section additional amounts for travel, per
5 diem, mileage, and other reasonable expenses incurred in
6 connection with the investigation or examination, payable to the
7 commissioner.

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

14 § -44 Confidentiality. (a) Except as otherwise
15 provided in title 12 United States Code section 5111, the
16 requirements under any federal or state law regarding the
17 privacy or confidentiality of any information or material
18 provided to NMLS, and any privilege arising under federal or
19 state law, including the rules of any federal or state court,
20 with respect to the information or material shall continue to
21 apply to the information or material after the information or



1 material has been disclosed to NMLS. The information and
2 material may be shared with all state and federal regulatory
3 officials with oversight authority over transactions subject to
4 this chapter, without the loss of privilege or the loss of
5 confidentiality protections provided by federal or state law.

6 (b) For the purposes of this section, the commissioner is
7 authorized to enter into agreements or sharing arrangements with
8 other governmental agencies, the Conference of State Bank
9 Supervisors, or other associations representing governmental
10 agencies as established by rule or order of the commissioner.

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

13 (1) Disclosure under any federal or state law governing
14 the disclosure to the public of information held by an
15 officer or an agency of the federal government or a
16 state; or

17 (2) Subpoena or discovery, or admission into evidence, in
18 any private civil action or administrative process,
19 unless any privilege is determined by NMLS to be
20 applicable to the information or material.



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

5 (e) In the event of a conflict between this section and
6 any other section of law relating to the disclosure of
7 privileged or confidential information or material, this section
8 shall control.

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

14 § -45 Prohibited practices. (a) It shall be a
15 violation of this chapter for a licensee, its control persons,
16 executive officers, directors, general partners, managing
17 members, employees, or independent contractors, or any other
18 person subject to this chapter to:

19 (1) Engage in any act that limits or restricts the
20 application of this chapter, including making a small
21 dollar loan disguised as a leaseback transaction or a



1 personal property, personal sales, or automobile title
2 loan, or by disguising loan proceeds as cash rebates
3 for the pretextual installment sale of goods and
4 services;

5 (2) Make a secured small dollar loan;

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

8 (4) Charge, collect, or receive, directly or indirectly,
9 credit insurance premiums, charges for negotiating
10 forms of loan proceeds other than cash, charges for
11 brokering or obtaining loans, prepayment fees, or any
12 fees, interest, or charges in connection with a small
13 dollar loan except those explicitly authorized in this
14 chapter;

15 (5) Fail to make disclosures as required by this chapter
16 and any other applicable state or federal law,
17 including rules or regulations adopted pursuant to
18 state or federal law;

19 (6) Directly or indirectly employ any scheme, device, or
20 artifice to defraud or mislead any consumer, any
21 lender, or any person;



- 1 (7) Directly or indirectly engage in unfair or deceptive
2 acts, practices, or advertising in connection with a
3 small dollar loan toward any person;
- 4 (8) Directly or indirectly obtain property by fraud or
5 misrepresentation;
- 6 (9) Make a small dollar loan to any person physically
7 located in the State through the use of the Internet,
8 facsimile, telephone, kiosk, or other means without
9 first obtaining a license under this chapter;
- 10 (10) Make, in any manner, any false or deceptive statement
11 or representation, including with regard to the rates,
12 fees, or other financing terms or conditions for a
13 small dollar loan, or engage in bait and switch
14 advertising;
- 15 (11) Make any false statement or knowingly and wilfully
16 make any omission of material fact in connection with
17 any reports filed with the division by a licensee or
18 in connection with any investigation conducted by the
19 division;
- 20 (12) Advertise any rate of interest without conspicuously
21 disclosing the annual percentage rate implied by that



1 rate of interest or otherwise fail to comply with any
2 requirement of the Truth in Lending Act, or any other
3 applicable state or federal laws or regulations;
4 (13) Make small dollar loans from any unlicensed location;
5 (14) Draft funds from any depository financial institution
6 without written approval of the consumer; provided
7 that nothing in this paragraph shall prohibit the
8 conversion of a negotiable instrument into an
9 electronic form for processing through the Automated
10 Clearing House or similar system;
11 (15) Attempt to collect from a consumer's account after two
12 consecutive attempts have failed, unless the licensee
13 obtains new written authorization from the consumer to
14 transfer or withdraw funds from the account;
15 (16) Make a loan to a consumer that includes a demand
16 feature that was not clearly disclosed in the written
17 agreement pursuant to section -3 or collect or
18 demand repayment of any outstanding balance or unpaid
19 interest or fees except as provided in sections -3
20 and -12;



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

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

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

9 SECTION 3. Section 443B-1, Hawaii Revised Statutes, is
10 amended by amending the definition of "collection agency" to
11 read as follows:

12 "Collection agency" means any person, whether located
13 within or outside this State, who by oneself or through others
14 offers to undertake or holds oneself out as being able to
15 undertake or does undertake to collect for another person,
16 claims or money due on accounts or other forms of indebtedness
17 for a commission, fixed fee, or a portion of the sums so
18 collected.

19 "Collection agency" includes:

20 (1) Any person using any name other than the person's own
21 in collecting the person's own claims with the



1 intention of conveying, or which tends to convey the
2 impression that a third party has been employed;

3 (2) Any person who, in the conduct of the person's
4 business for a fee, regularly repossesses any
5 merchandise or chattels for another; and

6 (3) Any person who regularly accepts the assignment of
7 claims or money due on accounts or other forms of
8 indebtedness and brings suits upon the assigned claims
9 or money due on accounts or other forms of
10 indebtedness in the person's own name; provided that
11 any suits shall be initiated and prosecuted by an
12 attorney who shall have been appointed by the
13 assignee.

14 "Collection agency" does not include licensed attorneys at
15 law acting within the scope of their profession, licensed real
16 estate brokers, and salespersons residing in this State when
17 engaged in the regular practice of their profession, nor banks,
18 trust companies, building and loan associations, savings and
19 loan associations, financial services loan companies, credit
20 unions, companies doing an escrow business, individuals
21 regularly employed on a regular wage or salary in the capacity



1 of credit persons or in other similar capacity for a single
2 employer who is not a collection agency, nor any public officer
3 or any person acting under an order of court[-], nor small
4 dollar lenders authorized by chapter _____."

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

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

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

13 (2) Small dollar loan transaction authorized by, and
14 entered into in accordance with, chapter _____."

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

17 "§478-5 **Usury not recoverable.** If a greater rate of
18 interest than that permitted by law is contracted for with
19 respect to any consumer credit transaction, any home business
20 loan or any credit card agreement, the contract shall not, by
21 reason thereof, be void. But if in any action on the contract



1 proof is made that a greater rate of interest than that
2 permitted by law has been directly or indirectly contracted for,
3 the creditor shall only recover the principal and the debtor
4 shall recover costs. If interest has been paid, judgment shall
5 be for the principal less the amount of interest paid. This
6 section shall not be held to apply [~~to loans~~] to:

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

11 SECTION 6. Section 478-6, Hawaii Revised Statutes, is
12 amended to read as follows:

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



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

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

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

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

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

20 (4) The department of education on employees, prospective
21 employees, and teacher trainees in any public school



- 1 in positions that necessitate close proximity to
2 children as provided by section 302A-601.5;
- 3 (5) The counties on employees and prospective employees
4 who may be in positions that place them in close
5 proximity to children in recreation or child care
6 programs and services;
- 7 (6) The county liquor commissions on applicants for liquor
8 licenses as provided by section 281-53.5;
- 9 (7) The county liquor commissions on employees and
10 prospective employees involved in liquor
11 administration, law enforcement, and liquor control
12 investigations;
- 13 (8) The department of human services on operators and
14 employees of child caring institutions, child placing
15 organizations, and foster boarding homes as provided
16 by section 346-17;
- 17 (9) The department of human services on prospective
18 adoptive parents as established under section
19 346-19.7;
- 20 (10) The department of human services or its designee on
21 applicants to operate child care facilities, household



1 members of the applicant, prospective employees of the
2 applicant, and new employees and household members of
3 the provider after registration or licensure as
4 provided by section 346-154, and persons subject to
5 section 346-152.5;

6 (11) The department of human services on persons exempt
7 pursuant to section 346-152 to be eligible to provide
8 child care and receive child care subsidies as
9 provided by section 346-152.5;

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

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

18 (14) The department of human services on employees,
19 prospective employees, and volunteers of contracted
20 providers and subcontractors in positions that place
21 them in close proximity to youth when providing



- 1 services on behalf of the office or the Hawaii youth
2 correctional facility as provided by section 352D-4.3;
- 3 (15) The judiciary on employees and applicants at detention
4 and shelter facilities as provided by section 571-34;
- 5 (16) The department of public safety on employees and
6 prospective employees who are directly involved with
7 the treatment and care of persons committed to a
8 correctional facility or who possess police powers
9 including the power of arrest as provided by section
10 353C-5;
- 11 (17) The board of private detectives and guards on
12 applicants for private detective or private guard
13 licensure as provided by section 463-9;
- 14 (18) Private schools and designated organizations on
15 employees and prospective employees who may be in
16 positions that necessitate close proximity to
17 children; provided that private schools and designated
18 organizations receive only indications of the states
19 from which the national criminal history record
20 information was provided pursuant to section 302C-1;



1 (19) The public library system on employees and prospective
2 employees whose positions place them in close
3 proximity to children as provided by section
4 302A-601.5;

5 (20) The State or any of its branches, political
6 subdivisions, or agencies on applicants and employees
7 holding a position that has the same type of contact
8 with children, vulnerable adults, or persons committed
9 to a correctional facility as other public employees
10 who hold positions that are authorized by law to
11 require criminal history record checks as a condition
12 of employment as provided by section 78-2.7;

13 (21) The department of health on licensed adult day care
14 center operators, employees, new employees,
15 subcontracted service providers and their employees,
16 and adult volunteers as provided by section 321-15.2;

17 (22) The department of human services on purchase of
18 service contracted and subcontracted service providers
19 and their employees serving clients of the adult
20 protective and community services branch, as provided
21 by section 346-97;



1 (23) The department of human services on foster grandparent
2 program, senior companion program, and respite
3 companion program participants as provided by section
4 346-97;

5 (24) The department of human services on contracted and
6 subcontracted service providers and their current and
7 prospective employees that provide home and community-
8 based services under section 1915(c) of the Social
9 Security Act, title 42 United States Code section
10 1396n(c), or under any other applicable section or
11 sections of the Social Security Act for the purposes
12 of providing home and community-based services, as
13 provided by section 346-97;

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

19 (26) The department of commerce and consumer affairs on
20 proposed directors and executive officers of a



1 nondepository financial services loan company as
2 provided by section 412:3-301;

3 (27) The department of commerce and consumer affairs on the
4 original chartering applicants and proposed executive
5 officers of a credit union as provided by section
6 412:10-103;

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

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

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

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

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

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

21 (30) The Hawaii health systems corporation on:



- 1 (A) Employees;
- 2 (B) Applicants seeking employment;
- 3 (C) Current or prospective members of the corporation
- 4 board or regional system board; or
- 5 (D) Current or prospective volunteers, providers, or
- 6 contractors,
- 7 in any of the corporation's health facilities as
- 8 provided by section 323F-5.5;
- 9 (31) The department of commerce and consumer affairs on:
- 10 (A) An applicant for a mortgage loan originator
- 11 license, or license renewal; and
- 12 (B) Each control person, executive officer, director,
- 13 general partner, and managing member of an
- 14 applicant for a mortgage loan originator company
- 15 license or license renewal,
- 16 as provided by chapter 454F;
- 17 (32) The state public charter school commission or public
- 18 charter schools on employees, teacher trainees,
- 19 prospective employees, and prospective teacher
- 20 trainees in any public charter school for any position



- 1 that places them in close proximity to children, as
2 provided in section 302D-33;
- 3 (33) The counties on prospective employees who work with
4 children, vulnerable adults, or senior citizens in
5 community-based programs;
- 6 (34) The counties on prospective employees for fire
7 department positions which involve contact with
8 children or vulnerable adults;
- 9 (35) The counties on prospective employees for emergency
10 medical services positions which involve contact with
11 children or vulnerable adults;
- 12 (36) The counties on prospective employees for emergency
13 management positions and community volunteers whose
14 responsibilities involve planning and executing
15 homeland security measures including viewing,
16 handling, and engaging in law enforcement or
17 classified meetings and assisting vulnerable citizens
18 during emergencies or crises;
- 19 (37) The State and counties on employees, prospective
20 employees, volunteers, and contractors whose position
21 responsibilities require unescorted access to secured



1 areas and equipment related to a traffic management
2 center;

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

6 (39) The State and counties on current and prospective
7 systems analysts and others involved in an agency's
8 information technology operation whose position
9 responsibilities provide them with access to
10 proprietary, confidential, or sensitive information;

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

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

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

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



- 1 (41) The department of health or its designee on all
2 license applicants, licensees, employees, contractors,
3 and prospective employees of medical cannabis
4 dispensaries, and individuals permitted to enter and
5 remain in medical cannabis dispensary facilities as
6 provided under sections 329D-15(a)(4) and
7 329D-16(a)(3);
- 8 (42) The department of commerce and consumer affairs on
9 applicants for nurse licensure or license renewal,
10 reactivation, or restoration as provided by sections
11 457-7, 457-8, 457-8.5, and 457-9;
- 12 (43) The county police departments on applicants for
13 permits to acquire firearms pursuant to section 134-2
14 and on individuals registering their firearms pursuant
15 to section 134-3;
- 16 (44) The department of commerce and consumer affairs on:
17 (A) Each of the controlling persons of the applicant
18 for licensure as an escrow depository, and each
19 of the officers, directors, and principals who
20 will be in charge of the escrow depository's
21 activities upon licensure; and



1 (B) Each of the controlling persons of an applicant
2 for proposed change in control of an escrow
3 depository licensee, and each of the officers,
4 directors, and principals who will be in charge
5 of the licensee's activities upon approval of
6 such application,

7 as provided by chapter 449;

8 (45) The department of taxation on current or prospective
9 employees or contractors who have access to federal
10 tax information in order to comply with requirements
11 of federal law, regulation, or procedure, as provided
12 by section 231-1.6;

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

18 (47) The department of human services on current or
19 prospective employees or contractors who have access
20 to federal tax information in order to comply with



1 requirements of federal law, regulation, or procedure,
2 as provided by section 346-2.5;

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

8 (49) The department of commerce and consumer affairs on
9 each control person, executive officer, director,
10 general partner, and managing member of a small dollar
11 loan licensee, or an applicant for a small dollar loan
12 license as provided by chapter ; and

13 [~~49~~] (50) Any other organization, entity, or the State,
14 its branches, political subdivisions, or agencies as
15 may be authorized by state law."

16 SECTION 8. There is appropriated out of the compliance
17 resolution fund the sum of \$ or so much thereof as may be
18 necessary for fiscal year 2019-2020 and the same sum or so much
19 thereof as may be necessary for fiscal year 2020-2021 to
20 establish and hire full-time equivalent (FTE) permanent
21 examiners, without regard to chapter 76, Hawaii Revised



1 Statutes, to carry out the purposes of the small dollar
2 installment loan program established by section 2 of this Act;
3 provided that the positions may be added to the position count
4 for the division of financial institutions of the department of
5 commerce and consumer affairs.

6 The sums appropriated shall be expended by the department
7 of commerce and consumer affairs for the purposes of this Act.

8 PART II

9 SECTION 9. Chapter 480F, Hawaii Revised Statutes, is
10 amended as follows:

11 1. By designating sections 480F-1 through 480F-7 as:

12 "PART I. GENERAL PROVISIONS"

13 2. By adding three new sections to part I to be
14 appropriately designated and to read:

15 "§480F- Voluntary payment plans. (a) At the time of
16 origination of a third consecutive deferred deposit transaction
17 made to a customer by a check casher, and at the time of
18 origination of any subsequent consecutive deferred deposit
19 transactions, the check casher shall offer the customer in
20 writing the option to participate in a voluntary payment plan.
21 Should the customer be in financial hardship, a voluntary



1 payment plan may be requested by the customer and arranged by
2 the customer and the check casher at any time.

3 (b) The voluntary payment plan shall be structured to pay
4 the existing debt, both the principal and the fee, in at least
5 six equal payments of no more than five per cent of the
6 customer's monthly pretax paycheck that coincide with the
7 customer's periodic pay dates or the date the customer is
8 scheduled to receive benefits, unless the customer requests
9 different payment due dates. The payments made pursuant to the
10 voluntary payment plan shall be applied directly to the existing
11 debt, and the lender shall not charge the customer any
12 additional fee other than an administration fee not to exceed
13 \$30 for participation in the voluntary payment plan. The
14 administration fee charged for a voluntary payment plan in
15 compliance with this section shall be exempt from chapter 478.

16 (c) The check casher shall provide a written copy of the
17 voluntary payment plan agreement to the customer. The check
18 casher shall be prohibited from engaging in collection
19 activities while the customer continues to make payments in
20 accordance with the payment plan. The check casher is
21 prohibited from making any additional deferred deposit



1 transactions to the customer prior to the completion of the
2 payments under the voluntary payment plan.

3 (d) The check casher may require the customer to provide a
4 post-dated check or electronic authorization for funds
5 transferred for each payment under the voluntary payment plan.
6 If any check or electronic authorization accepted by the check
7 casher as payment for a voluntary payment plan is dishonored,
8 the check casher shall not charge the customer a fee for the
9 dishonored instrument.

10 (e) If the customer fails to make payments in accordance
11 with a voluntary payment plan, the check casher is entitled to
12 take action as otherwise allowed under this chapter to collect
13 the remaining funds due and may charge the customer a one-time
14 default fee of \$30.

15 §480F- Single deferred deposit transaction limitation.

16 A check casher shall take reasonable measures to ensure that no
17 customer has more than one deferred deposit transaction
18 outstanding at a time from all sources. Check cashers shall
19 receive written confirmation from each customer that the
20 customer does not have any outstanding deferred deposit



1 transactions as of the date the customer enters into a deferred
2 deposit transaction with the check casher.

3 §480F- Records and reports. Every check casher shall
4 keep records and make reports with respect to the operation of
5 business as provided in rules adopted by the commissioner
6 pursuant to chapter 91."

7 3. By amending section 480F-1 by adding seven new
8 definitions to be appropriately inserted and to read:

9 "Branch office" means any location in this State that is
10 identified by any means to the public or customers as a location
11 at which the licensee holds itself out as a check casher that
12 enters into agreements for deferred deposit transactions.

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

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

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

19 "Financial hardship" means any hardship from loss of
20 income, reduced work hours, increased living costs, or other



1 hardships outside of the control of the customer at the
2 discretion of the check casher and evidenced with documentation.

3 "NMLS" means the Nationwide Multistate Licensing System,
4 which is a licensing system developed and maintained by the
5 Conference of State Bank Supervisors for the state licensing and
6 registration of state-licensed loan originators and other
7 financial services providers, or any system provided by the
8 Consumer Financial Protection Bureau.

9 "Place of business" means a location where deferred deposit
10 transactions are offered or entered into and includes each
11 website through which a consumer may apply for a deferred
12 deposit transaction."

13 4. By amending section 480F-2 to read:

14 "[+]§480F-2[+] **Posting and notice of fees charged.** Any
15 person who cashes one or more checks for a fee shall:

16 (1) Post in a conspicuous place in every location at which
17 the person does business a notice that sets forth[+]
18 in thirty-eight point type:

19 (A) The fees charged for cashing a check, for selling
20 or issuing a money order, and for the initial



1 issuance of any membership or identification
2 cards; and

3 (B) That consumer complaints about the check cashing
4 business may be filed with the department [~~of~~
5 ~~commerce and consumer affairs~~], and includes and
6 identifies the telephone number and address of
7 the consumer information service of the
8 department [~~of commerce and consumer affairs~~];

9 (2) Provide written notice to each customer [~~of the fees~~
10 ~~charged for cashing checks~~] in twelve-point type that
11 is separate from and in addition to any posted
12 notice[+] the following information:

13 (A) The fees charged for cashing checks; and

14 (B) That consumer complaints about the check cashing
15 business may be filed with the department, and
16 including and identifying the telephone number
17 and address of the consumer information service
18 of the department;

19 (3) Obtain a written acknowledgment from the customer that
20 written notice [~~of the fees charged for cashing~~



1 ~~checks~~] as required by paragraph (2) was provided[+]]
2 to the customer; and

3 (4) Provide each customer a receipt documenting any and
4 all fees charged."

5 5. By amending section 480F-4 to read:

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

9 (b) In addition to the notice required by section 480F-2,
10 a check cashier that defers the deposit of any checks shall post
11 in a conspicuous place in every location at which the check
12 cashier does business a notice that sets forth in thirty-eight
13 point type:

14 (1) The total amount of any fees charged for the deferred
15 deposit, expressed both in United States currency and
16 as an annual percentage rate;

17 (2) That customers have a right to rescind a deferred
18 deposit transaction within twenty-four hours of the
19 transaction;

20 (3) That deferred deposit transactions are not suitable
21 for long-term borrowing;



- 1 (4) That a customer may have no more than one outstanding
2 deferred deposit transaction from all sources;
- 3 (5) Information on available financial education services,
4 including contact information for an approved budget
5 and credit counselor or an approved housing counselor;
6 and
- 7 (6) A copy of the license to enter into an agreement for a
8 deferred deposit transaction as required by part II of
9 this chapter.
- 10 [~~(b)~~] (c) Each deferred deposit shall be made pursuant to
11 a written agreement that has been signed by the customer and the
12 check casher or an authorized representative of the check
13 casher. The written agreement shall contain a statement of the
14 following:
- 15 (1) The total amount of any fees charged for the deferred
16 deposit, expressed both in United States currency and
17 as an annual percentage rate[-];
- 18 (2) Notices stating that:
- 19 (A) The customer has a right to rescind a deferred
20 deposit transaction within twenty-four hours of
21 the transaction;



- 1 (B) The customer may have no more than one
2 outstanding deferred deposit transaction from all
3 sources;
- 4 (C) Deferred deposit transactions are not suitable
5 for long-term borrowing; and
- 6 (D) The customer may enter into a voluntary payment
7 plan if the customer:
- 8 (i) Is experiencing financial hardship; or
9 (ii) Has entered into three or more consecutive
10 transactions with the same check casher; and
- 11 (3) Information on available financial education services,
12 including contact information for an approved budget
13 and credit counselor or an approved housing counselor.

14 The written agreement shall authorize the check casher to defer
15 deposit of the personal check until a specific date not later
16 than thirty-two days from the date the written agreement was
17 signed. The written agreement shall not permit the check casher
18 to accept collateral.

19 ~~[(e)]~~ (d) The face amount of the check shall not exceed
20 \$600 and the deposit of a personal check written by a customer
21 pursuant to a deferred deposit transaction may be deferred for



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

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

12 [~~(e)~~] (f) A check casher who enters into a deferred
13 deposit agreement and accepts a check passed on insufficient
14 funds, or any assignee of that check casher, shall not be
15 entitled to recover damages in any action brought pursuant to or
16 governed by chapter 490. No additional interest may be
17 collected except the ten per cent allowed by law on uncollected
18 judgments. Instead, the check casher may charge and recover a
19 fee for the return of a dishonored check in an amount not
20 greater than [~~\$20.~~] the fee incurred by the check casher from
21 its financial institution.



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

5 (h) For the purposes of this section:

6 "Approved budget and credit counselor" and "approved
7 housing counselor" shall have the same meaning as those terms
8 are defined in section 667-1."

9 6. By amending section 480F-5 to read:

10 "~~[(f)]~~ **§480F-5** ~~[(f)]~~ **Exemptions.** This chapter shall not apply
11 to~~[(f)]~~

12 ~~(1) Any person who is principally engaged in the bona fide~~
13 ~~retail sale of goods or services, and who, either as~~
14 ~~incident to or independent of the retail sale or~~
15 ~~service, from time to time cashes items for a fee or~~
16 ~~other consideration, where not more than \$2, or two~~
17 ~~per cent of the amount of the check, whichever is~~
18 ~~greater, is charged for the service; or~~

19 ~~(2) Any~~ any person authorized to engage in business as a
20 bank, trust company, savings bank, savings and loan
21 association, financial services loan company, or



1 credit union under the laws of the United States, any
2 state or territory of the United States, or the
3 District of Columbia."

4 7. By adding a new part to be appropriately designated and
5 to read:

6 **"PART II. LICENSING**

7 **§480F-A License required; posting of license.** (a) No
8 check casher shall enter into an agreement for a deferred
9 deposit transaction unless the check casher is licensed to do so
10 by the commissioner.

11 (b) A check casher offering to enter into an agreement for
12 a deferred deposit transaction shall conspicuously and
13 continuously post at any place of business where deferred
14 deposit transactions are entered copies of the licenses required
15 pursuant to this part.

16 **§480F-B Registration with NMLS; license; application;**
17 **issuance.** (a) The commissioner shall require all licensees to
18 register with NMLS.

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



- 1 (1) The legal name, trade names, and business address of
2 the applicant and, if the applicant is not an
3 individual, of every controlling person, executive
4 officer, director, general partner, or managing
5 member;
- 6 (2) The principal place of business;
- 7 (3) The complete address of any other branch offices at
8 which the applicant currently proposes to engage in
9 deferred deposit agreements; and
- 10 (4) Other data, financial statements, and pertinent
11 information as the commissioner may require with
12 respect to the applicant or, if an applicant is not an
13 individual, each of the applicant's controlling
14 persons, executive officers, directors, general
15 partners, and managing members.
- 16 (c) To fulfill the purposes of this part, the commissioner
17 may enter into agreements or contracts with NMLS or other
18 entities to use NMLS to collect and maintain records and process
19 transaction fees or other fees related to licensees or other
20 persons subject to this chapter.



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

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

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

20 (2) Personal history and experience of the applicant or,
21 if an applicant is not an individual, each of the



1 applicant's controlling persons, executive officers,
2 directors, general partners, and managing members in a
3 form prescribed by NMLS, including the submission of
4 authorization for NMLS and the commissioner to obtain:

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

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

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

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

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



1 (h) An applicant for a license as a deferred deposit
2 transaction check casher shall be registered with the business
3 registration division of the department to do business in this
4 State before a license pursuant to this chapter shall be
5 granted.

6 §480F-C Issuance of license; grounds for denial. (a) The
7 commissioner shall conduct an investigation of every applicant
8 to determine the financial responsibility, character, and
9 general fitness of the applicant. The commissioner shall issue
10 the applicant a license to engage in the business of entering
11 into deferred deposit agreements if the commissioner determines
12 that:

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

20 (2) The applicant, or in the case of an applicant that is
21 not an individual, each of the applicant's controlling



1 persons, executive officers, directors, general
2 partners, and managing members, has not been convicted
3 of, or pled guilty or nolo contendere, or been granted
4 a deferred acceptance of a guilty or nolo contendere
5 plea to a felony under federal law or under chapter
6 853, or in a domestic, foreign, or military court:
7 (A) During the seven-year period preceding the date
8 of the application for licensing; or
9 (B) At any time preceding the date of application, if
10 the felony involved an act of fraud, dishonesty,
11 breach of trust, or money laundering;
12 provided that any pardon of a conviction shall not be
13 deemed a conviction for purposes of this section;
14 (3) The applicant, or in the case of an applicant that is
15 not an individual, each of the applicant's controlling
16 persons, executive officers, directors, general
17 partners, and managing members, has demonstrated
18 financial responsibility, character, and general
19 fitness to command the confidence of the community and
20 to warrant a determination that the applicant shall
21 operate honestly, fairly, and efficiently pursuant to



1 this chapter. For the purpose of this paragraph, a
2 person is not financially responsible when the person
3 has shown a disregard in the management of the
4 person's financial condition. A determination that a
5 person has shown a disregard in the management of the
6 person's financial condition may be based upon:

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

9 (B) Current outstanding tax liens or other government
10 liens and filings, subject to applicable
11 disclosure laws and administrative rules;

12 (C) Foreclosures within the past three years; and

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

15 (4) The applicant, or in the case of an applicant that is
16 not an individual, each of the applicant's controlling
17 persons, executive officers, directors, general
18 partners, and managing members, has not been convicted
19 of, pled guilty or nolo contendere to, or been granted
20 a deferred acceptance of a guilty plea under federal
21 law or chapter 853 to any misdemeanor involving an act



1 of fraud, dishonesty, breach of trust, or money
2 laundering;

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

5 (6) The applicant has the bond required by section 480F-D.

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

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

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



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

7 (3) Who has failed to complete an application for
 8 licensure.

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

13 **§480F-D Fees; bond.** (a) A deferred deposit transaction
 14 check casher shall pay the following fees to the division to
 15 obtain and maintain a valid license under this chapter:

- 16 (1) Initial application fee of \$900;
- 17 (2) Processing fee of \$35 for each controlling person;
- 18 (3) Annual license renewal fee of \$600;
- 19 (4) Applicable fee charged by the entities conducting the
- 20 criminal history background check of the applicant, or
- 21 in the case of an applicant that is not an individual,



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

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

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

16 (1) Nonrefundable initial application fee of \$600; and

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

18 (c) The applicant shall file and maintain a surety bond,
19 approved by the commissioner, executed by the applicant as
20 obligor and by a surety company authorized to operate as a
21 surety in this State, whose liability as a surety does not



1 exceed, in the aggregate, the penal sum of the bond. The penal
2 sum of the bond shall be a minimum of \$30,000 and a maximum of
3 \$250,000, based upon the annual dollar amount of deferred
4 deposit agreements conducted.

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

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

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

18 (e) Each deferred deposit transaction check casher shall
19 pay a nonrefundable fee of \$ to the division for each
20 office that is relocated.



1 **§480F-E Renewal of license; annual report.** (a) On or
2 before December 31 of each year, each licensee shall pay a
3 renewal fee pursuant to section 480F-D.

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

7 (1) A copy of the licensee's most recent audited annual
8 financial statement, including balance sheets,
9 statement of income or loss, statement of changes in
10 shareholders' equity, and statement of cash flows or,
11 if a licensee is a wholly owned subsidiary of another
12 corporation, the consolidated audited annual financial
13 statement of the parent corporation in lieu of the
14 licensee's audited annual financial statement;

15 (2) A report detailing the licensee's activities in this
16 State, including:

17 (A) The number of deferred deposit agreements made;

18 (B) The number of deferred deposit agreements the
19 licensee is servicing;

20 (C) The type and characteristics of deferred deposit
21 agreements serviced in this State;



- 1 (D) The number of deferred deposit agreements in
- 2 default; and
- 3 (E) Any other information that the commissioner may
- 4 require;
- 5 (3) Any material changes to any of the information
- 6 submitted by the licensee on its original application
- 7 that have not previously been reported to the
- 8 commissioner on any other report required to be filed
- 9 under this chapter;
- 10 (4) A list of the principal place of business and branch
- 11 offices, if any, within this State where business
- 12 regulated by this chapter is being conducted by the
- 13 licensee;
- 14 (5) Disclosure of any pending or final suspension,
- 15 revocation of a license, or other enforcement action
- 16 by any state or governmental authority; and
- 17 (6) Any other information the commissioner may require.
- 18 (c) A license may be renewed by continuing to meet the
- 19 licensing requirements of sections 480F-B, 480F-C, and 480F-D,
- 20 filing a completed renewal statement on a form prescribed by



1 NMLS or by the commissioner, paying a renewal fee pursuant to
2 section 480F-E, and meeting the requirements of this section.

3 (d) A licensee that has not filed an annual report that
4 has been deemed complete by the commissioner or paid its annual
5 renewal fee by the renewal filing deadline, and has not been
6 granted an extension of time to do so by the commissioner, shall
7 have its license suspended on the renewal date. The licensee
8 shall have thirty days after its license is suspended to file an
9 annual report and pay the annual renewal fee, plus a late filing
10 fee of \$250 for each business day after suspension that the
11 commissioner does not receive the annual report and the annual
12 renewal fee. The commissioner, for good cause, may grant an
13 extension of the renewal date or reduce or suspend the \$250 per
14 day late filing fee.

15 **§480F-F Enforcement authorities; violations; penalties.**

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



- 1 (1) The applicant or licensee has violated this chapter or
2 any rule or order lawfully made pursuant to this
3 chapter;
- 4 (2) Facts or conditions exist that would clearly have
5 justified the commissioner in denying an application
6 for licensure, had these facts or conditions been
7 known to exist at the time the application was made;
- 8 (3) The applicant or licensee has failed to provide
9 information required by the commissioner within a
10 reasonable time, as specified by the commissioner;
- 11 (4) The applicant or licensee has failed to provide or
12 maintain proof of financial responsibility;
- 13 (5) The applicant or licensee is insolvent;
- 14 (6) The applicant or licensee has made, in any document or
15 statement filed with the commissioner, a false
16 representation of a material fact or has omitted to
17 state a material fact;
- 18 (7) The applicant, licensee, or any of its controlling
19 persons, executive officers, directors, general
20 partners, or managing members have been convicted of
21 or entered a plea of guilty or nolo contendere to a



1 crime involving fraud or deceit, or to any similar
2 crime under the jurisdiction of any federal court or
3 court of another state;

4 (8) The applicant or licensee has failed to make,
5 maintain, or produce records that comply with this
6 chapter or any rule adopted by the commissioner
7 pursuant to chapter 91;

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

11 (10) A final judgment has been entered against the
12 applicant or licensee for violations of this chapter,
13 any state or federal law concerning deferred deposit
14 agreements, deferred deposit loans, check cashing,
15 payday loans, banking, mortgage loan originators,
16 money transmitters, or any state or federal law
17 prohibiting deceptive or unfair trade or business
18 practices; or

19 (11) The applicant or licensee has failed, in a timely
20 manner as specified by the commissioner, to take or
21 provide proof of the corrective action required by the



1 commissioner subsequent to an investigation or
2 examination pursuant to section 480F-L.

3 (b) After a finding of one or more of the conditions under
4 subsection (a), the commissioner may take any or all of the
5 following actions:

6 (1) Deny an application for licensure, including an
7 application for a branch office license;

8 (2) Revoke the license;

9 (3) Suspend the license for a period of time;

10 (4) Issue an order to the licensee to cease and desist
11 from engaging in any act specified under subsection
12 (a);

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

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

17 (7) Bar a person from applying for or holding a license
18 for a period of five years following revocation of the
19 person's license.

20 (c) The commissioner may deny an application, take
21 disciplinary action, or issue a temporary cease and desist order



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

14 (d) The revocation, suspension, expiration, or surrender
15 of a license shall not affect the licensee's liability for acts
16 previously committed or impair the commissioner's ability to
17 issue a final agency order or take disciplinary action against
18 the licensee.

19 (e) No revocation, suspension, or surrender of a license
20 shall impair or affect the obligation of any preexisting lawful
21 contract between the licensee and any customer.



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

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

13 (h) Each violation or failure to comply with any rule,
14 directive, or order of the commissioner shall be a separate and
15 distinct violation.

16 (i) Any violation of this chapter that is directed toward,
17 targets, or injures an elder may be subject to an additional
18 civil penalty not to exceed \$10,000 for each violation in
19 addition to any other fines or penalties assessed for the
20 violation. For the purposes of this subsection, "elder" shall
21 have the same meaning as in section 480-13.5.



1 **§480F-G Voluntary surrender of license.** (a) A licensee
2 may voluntarily cease business and surrender its license by
3 giving written notice to the commissioner of its intent to
4 surrender its license. Prior to the surrender date of a
5 license, the licensee shall have either completed all pending
6 deferred deposit transactions or assigned each pending deferred
7 deposit transaction to another licensee.

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

- 11 (1) The date of surrender;
- 12 (2) The name, address, telephone number, facsimile number,
13 and electronic mail address of a contact individual
14 with knowledge and authority sufficient to communicate
15 with the commissioner regarding all matters relating
16 to the licensee during the period that it was licensed
17 pursuant to this chapter;
- 18 (3) The reason or reasons for surrender;
- 19 (4) Total dollar amount of the licensee's outstanding
20 deferred deposit transactions in the State and the
21 individual amounts of each outstanding deferred



1 deposit transaction, and the name, address, and
2 contact telephone number of the licensee to which each
3 outstanding deferred deposit transaction was assigned;

4 (5) A list of the licensee's authorized branch offices in
5 the State, if any, as of the date of surrender;

6 (6) Confirmation that the licensee has notified each of
7 its authorized branch offices in the State, if any,
8 that the branch offices may no longer conduct deferred
9 deposit transactions on the licensee's behalf; and

10 (7) Confirmation that the licensee has notified each of
11 its deferred deposit customers, if any, that the
12 deferred deposit transaction is being transferred and
13 the name, address, telephone number, and any other
14 contact information of the licensee to whom the
15 deferred deposit transaction was assigned.

16 (c) Voluntary surrender of a license shall be effective
17 upon the date of surrender specified on the written notice to
18 the commissioner as required by this section; provided that the
19 licensee has met all the requirements of voluntary surrender and
20 has returned the original license issued.



1 **§480F-H Sale or transfer of license; change of control.**

2 (a) No license shall be transferred, except as provided in this
3 section.

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

9 (c) After review of a request for approval under
10 subsection (b), the commissioner may require the licensee or
11 person or group of persons requesting approval of a proposed
12 change of control of the licensee, or both, to provide
13 additional information concerning the persons who shall assume
14 control of the licensee. The additional information shall be
15 limited to similar information required of the licensee or
16 persons in control of the licensee as part of its original
17 license or renewal application under sections 480F-C and 480F-E.
18 The information shall include, for the five-year period prior to
19 the date of the application for change of control of the
20 licensee, a history of material litigation and criminal
21 convictions of each person who, upon approval of the application



1 for change of control, will be a principal of the licensee.
2 Authorization shall also be given to conduct criminal history
3 record checks of those persons, accompanied by the appropriate
4 payment of the applicable fee for each record check.

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

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

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



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

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

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

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

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

19 **§480F-I Authorized places of business; principal office;**
20 **branch offices; relocation; closure.** (a) Every deferred
21 deposit transaction check casher licensed under this chapter



1 shall have and maintain a principal place of business in the
2 State, regardless of whether the deferred deposit transaction
3 check casher maintains its principal office outside of the
4 State.

5 (b) If a deferred deposit transaction check casher has
6 more than one place of business, each additional place of
7 business in the State shall be licensed as a branch office with
8 the commissioner. No business shall be conducted at a branch
9 office until the branch office has been licensed by the
10 commissioner.

11 (c) A deferred deposit transaction check casher shall not
12 maintain any branch offices in the State in addition to its
13 principal place of business without the prior written approval
14 of the commissioner. An application to establish a branch
15 office shall be submitted through NMLS with a nonrefundable
16 application fee as required by section 480F-D.

17 (d) A deferred deposit transaction check casher shall not
18 relocate any office in the State without the prior written
19 approval of the commissioner. An application to relocate an
20 office shall be submitted to the commissioner at least thirty
21 days prior to relocating and shall set forth the reasons for the



1 relocation, the street address of the proposed relocated office,
2 and other information that may be required by the commissioner.
3 An application to relocate an office pursuant to this subsection
4 shall be submitted with a nonrefundable fee as required by
5 section 480F-D.

6 (e) A deferred deposit transaction check casher shall give
7 the commissioner notice of its intent to close a branch office
8 at least thirty days prior to the closing. The notice shall:

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

10 (2) Specify the reasons for the closing.

11 (f) The principal place of business and each branch office
12 of the deferred deposit transaction check casher shall be
13 identified in NMLS to customers as a location at which the
14 licensee holds itself out as a deferred deposit transaction
15 check casher.

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

19 **§480F-J Payment of fees.** All fees collected pursuant to
20 section 480F-D, administrative fines, and other charges
21 collected pursuant to this chapter shall be deposited into the



1 compliance resolution fund established pursuant to section 26-
2 9(o) and shall be payable through NMLS, to the extent allowed by
3 NMLS. Fees not eligible for payment through NMLS shall be
4 deposited into a separate account within the compliance
5 resolution fund for use by the division.

6 **§480F-K Powers of commissioner.** (a) The commissioner may
7 adopt rules pursuant to chapter 91 as the commissioner deems
8 necessary for the administration of this chapter.

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

- 11 (1) Grant, deny, renew, refuse to renew, restore,
12 terminate, reinstate, condition, restrict, suspend, or
13 revoke a license issued pursuant to this part;
- 14 (2) Require an applicant or any of its controlling
15 persons, executive officers, directors, general
16 partners, or managing members to disclose their
17 relevant criminal history and request a criminal
18 history record check in accordance with chapter 846;
- 19 (3) Contract with or employ qualified persons, including
20 accountants, attorneys, investigators, examiners,
21 auditors, or other professionals who may be exempt



- 1 from chapter 76 and who shall assist the commissioner
2 in exercising the commissioner's powers and duties;
- 3 (4) Require a licensee to comply with any rule, guidance,
4 guideline, statement, supervisory policy, or any
5 similar proclamation issued or adopted by the Federal
6 Deposit Insurance Corporation to the same extent and
7 in the same manner as a bank chartered by the State
8 or, in the alternative, any policy position of the
9 Conference of State Bank Supervisors;
- 10 (5) Enter into agreements or relationships with other
11 government officials or regulatory associations in
12 order to improve efficiencies and reduce regulatory
13 burden by sharing resources, standardized or uniform
14 methods or procedures, and documents, records,
15 information, or evidence obtained under this chapter;
- 16 (6) Use, hire, contract, or employ public or privately
17 available analytical systems, methods, or software to
18 investigate or examine a licensee or person subject to
19 this chapter;



- 1 (7) Accept and rely on investigation or examination
2 reports made by other government officials, within or
3 without this State; and
- 4 (8) 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 **§480F-L Confidentiality.** (a) Except as otherwise
12 provided in the Housing and Economic Recovery Act of 2008, P.L.
13 110-289, section 1512, the requirements under any federal or
14 state law regarding the privacy or confidentiality of any
15 information or material provided to NMLS, and any privilege
16 arising under federal or state law, including the rules of any
17 federal or state court, with respect to the information or
18 material shall continue to apply to the information or material
19 after the information or material has been disclosed to NMLS.
20 The information and material may be shared with all state and
21 federal regulatory officials with oversight authority over



1 transactions subject to this part, without the loss of privilege
2 or the loss of confidentiality protections provided by federal
3 or state law.

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

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

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

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



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

5 (e) In the event of a conflict between this section and
6 any other section of law relating to the disclosure of
7 privileged or confidential information or material, this section
8 shall control.

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

14 SECTION 10. Section 846-2.7, Hawaii Revised Statutes, is
15 amended by amending subsection (b) to read as follows:

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

- 17 (1) The department of health or its designee on operators
18 of adult foster homes for individuals with
19 developmental disabilities or developmental
20 disabilities domiciliary homes and their employees, as
21 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;



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

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

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

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

12 (30) The Hawaii health systems corporation on:

13 (A) Employees;

14 (B) Applicants seeking employment;

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

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

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

21 (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



1 responsibilities provide them with access to
2 proprietary, confidential, or sensitive information;
3 (40) The department of commerce and consumer affairs on:
4 (A) Applicants for real estate appraiser licensure or
5 certification as provided by chapter 466K;
6 (B) Each person who owns more than ten per cent of an
7 appraisal management company who is applying for
8 registration as an appraisal management company,
9 as provided by section 466L-7; and
10 (C) Each of the controlling persons of an applicant
11 for registration as an appraisal management
12 company, as provided by section 466L-7;
13 (41) The department of health or its designee on all
14 license applicants, licensees, employees, contractors,
15 and prospective employees of medical cannabis
16 dispensaries, and individuals permitted to enter and
17 remain in medical cannabis dispensary facilities as
18 provided under sections 329D-15(a)(4) and
19 329D-16(a)(3);
20 (42) The department of commerce and consumer affairs on
21 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, and managing member of a deferred



1 deposit transaction check casher license, or an
 2 applicant for a deferred deposit transaction check
 3 casher license as provided by chapter 480F; and

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

7 SECTION 11. There is appropriated out of the compliance
 8 resolution fund the sum of \$ or so much thereof as may
 9 be necessary for fiscal year 2019-2020 and the same sum or so
 10 much thereof as may be necessary for fiscal year 2020-2021 to
 11 establish and hire full-time equivalent (FTE)
 12 permanent examiners, without regard to chapter 76, Hawaii
 13 Revised Statutes, to carry out the purposes of the deferred
 14 deposit check casher licensing and enforcement system
 15 established by section 9 of this Act; provided that the
 16 positions may be added to the position count for the division of
 17 financial institutions of the department of commerce and
 18 consumer affairs.

19 The sums appropriated shall be expended by the department
 20 of commerce and consumer affairs for the purposes of this Act.

21 PART III



1 SECTION 12. (a) The state auditor shall conduct a sunrise
2 analysis of the regulation of payday lenders and deferred
3 deposit transactions and its impact on consumer protection in
4 the State.

5 (b) In conducting the analysis, the state auditor shall
6 examine the following:

- 7 (1) The increasing impact of out-of-state internet lenders
8 who operate in the State;
- 9 (2) Data regarding consumer complaints;
- 10 (3) The impact of chapter 480F, Hawaii Revised Statutes,
11 on consumers within the State over the past fifteen
12 years; and
- 13 (4) Any further measures necessary for increased consumer
14 protection in the State.

15 (c) The auditor shall submit a report of findings and
16 recommendations, including any proposed legislation, to the
17 legislature no later than twenty days prior to the convening of
18 the regular session of 2020.

19 SECTION 13. This Act does not affect rights and duties
20 that matured, penalties that were incurred, and proceedings that
21 were begun before its effective date.



1 SECTION 14. In codifying the new sections added by section
2 9 of this Act, the revisor of statutes shall substitute
3 appropriate section numbers for the letters used in designating
4 the new sections in this Act.

5 SECTION 15. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 16. This Act shall take effect on July 1, 3000.



Report Title:

Payday Lending; Small Dollar Loans; Small Dollar Lenders; Check Cashers; Voluntary Payment Plans; Licensure

Description:

Establishes installment-based small dollar loan transactions. Specifies various consumer protection requirements for small dollar loans. Beginning 1/1/2020, requires licensure for small dollar lenders that offer small dollar loans to consumers. Specifies licensing requirements for small dollar lenders. Establishes licensing and operational requirements for check cashers that offer deferred deposit transactions, also known as payday loans. Requires that check cashers offer specified voluntary payment plans, establishes notice requirements, and establishes investigatory and enforcement authority of the Commission of Financial Institutions. Requires registration with NMLS. Requires an Auditor's study. Appropriates funds. (SB537 HD1)

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