

JAN 26 2022

A BILL FOR AN ACT

RELATING TO MONEY TRANSMITTERS.

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

1 SECTION 1. Section 489D-9, Hawaii Revised Statutes, is
2 amended by amending subsection (d) to read as follows:

3 "(d) An application for a license under this chapter shall
4 be made in writing, and in a form prescribed by NMLS or by the
5 commissioner. Each application shall contain the following:

6 (1) For all applicants:

7 (A) The exact name of the applicant, any fictitious
8 or trade name used by the applicant in the
9 conduct of its business, the applicant's
10 principal address, and the location of the
11 applicant's business records;

12 (B) The history of the applicant's material
13 litigation and criminal convictions for the ten-
14 year period prior to the date of the application;

15 (C) A description of the business activities
16 conducted by the applicant and a history of
17 operations;

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- 1 (D) A description of the business activities in which
2 the applicant seeks to engage within the State;
- 3 (E) A list identifying the applicant's proposed
4 authorized delegates in the State, if any, at the
5 time of the filing of the license application;
- 6 (F) A sample authorized delegate contract, if
7 applicable;
- 8 (G) A sample form of payment instrument or instrument
9 upon which stored value is recorded, if
10 applicable;
- 11 (H) The locations where the applicant and its
12 authorized delegates, if any, propose to conduct
13 their licensed activities in the State;
- 14 (I) The name and address of the clearing bank or
15 banks on which the applicant's payment
16 instruments will be drawn or through which
17 payment instruments will be payable;
- 18 (J) Disclosure of any pending or final suspension,
19 revocation, or other enforcement action by any
20 state or governmental authority for the five-year
21 period prior to the date of the application;

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(K) Information concerning any bankruptcy or receivership proceedings affecting the licensee, key individual, person in control of a licensee, or person seeking to acquire control of a licensee; and

(L) Any other information the commissioner may require;

(2) If the applicant is a corporation, the applicant shall also provide:

(A) The date of the applicant's incorporation and state of incorporation;

(B) A certificate of good standing from the state in which the applicant was incorporated;

(C) A description of the corporate structure of the applicant, including the identity of any parent or subsidiary company of the applicant, and the disclosure of whether any parent or subsidiary company is publicly traded on any stock exchange;

(D) The name, business and residence address, and employment history, for the past five years, of the applicant's principals, and each person who,

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1 upon approval of the application, will be a
2 principal of the licensee;

3 (E) For the ten-year period prior to the date of the
4 application, the history of material litigation
5 involving, and criminal convictions of, each
6 principal of the applicant;

7 (F) A copy of the applicant's most recent audited
8 financial statement, including balance sheets,
9 statements of income or loss, statements of
10 changes in shareholder equity and statement of
11 changes in financial position, and, if available,
12 the applicant's audited financial statements for
13 the preceding two-year period or, if the
14 applicant is a wholly owned subsidiary of another
15 corporation, either the parent corporation's
16 consolidated audited financial statements for the
17 current year and for the preceding two-year
18 period, or the parent corporation's Form 10-K
19 reports filed with the United States Securities
20 and Exchange Commission for the prior three years
21 in lieu of the applicant's financial statements,
22 or if the applicant is a wholly owned subsidiary

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1 of a corporation having its principal place of
2 business outside the United States, similar
3 documentation filed with the parent corporation's
4 non-United States regulator;

5 (G) Copies of all filings, if any, made by the
6 applicant with the United States Securities and
7 Exchange Commission, or with a similar regulator
8 in a country other than the United States, within
9 the year preceding the date of filing of the
10 application; and

11 (H) Information necessary to conduct a criminal
12 history record check [~~in accordance with~~] to be
13 conducted by or through NMLS or pursuant to
14 section 846-2.7 of each person who, upon approval
15 of the application, will be a principal of the
16 licensee[7]. The information shall be
17 accompanied by the appropriate payment of the
18 applicable fee for each criminal history record
19 check; and

20 (3) If the applicant is not a corporation, the applicant
21 shall also provide:

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- 1 (A) The name, business and residence address,
2 personal financial statement, and employment
3 history, for the past five years, of each
4 principal of the applicant;
- 5 (B) The name, business and residence address, and
6 employment history, for the past five years, of
7 any other persons who, upon approval of the
8 application, will be a principal of the licensee;
- 9 (C) The place and date of the applicant's
10 registration or qualification to do business in
11 this State;
- 12 (D) The history of material litigation and criminal
13 convictions for the ten-year period before the
14 date of the application for each principal of the
15 applicant;
- 16 (E) Copies of the applicant's audited financial
17 statements, including balance sheets, statements
18 of income or loss, and statements of changes in
19 financial position for the current year and, if
20 available, for the preceding two-year period; and
- 21 (F) Information necessary to conduct a criminal
22 history record check [~~in accordance with~~] to be

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1 conducted by or through NMLS or pursuant to
2 section 846-2.7 of each principal of the
3 applicant, accompanied by the appropriate payment
4 of the applicable fee for each criminal history
5 record check."

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

8 "**§489D-34 Powers of the commissioner.** In addition to any
9 other powers provided by law, the commissioner may:

- 10 (1) Adopt rules pursuant to chapter 91 to implement this
11 chapter;
- 12 (2) Administer and enforce the provisions and requirements
13 of this chapter;
- 14 (3) Issue declaratory rulings and informal nonbinding
15 interpretations;
- 16 (4) Develop requirements for licensure;
- 17 (5) Process and investigate complaints, subpoena witnesses
18 and documents, administer oaths, and receive
19 affidavits and oral testimony, including telephonic
20 communications;
- 21 (6) Investigate and conduct hearings, including contested
22 case proceedings under chapter 91, regarding any

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violation of this chapter, or any rule or order of, or
agreement with, the commissioner;

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

(8) Require disclosure of relevant criminal history in
accordance with this chapter and conduct criminal
history record checks [~~in accordance with~~] conducted
by or through NMLS or pursuant to chapter 846;

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

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

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

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1 (12) Report any violation of this chapter or violation of
2 federal or state law to the Consumer Financial
3 Protection Bureau or other federal agency having
4 jurisdiction over the licensee;

5 (13) Participate in nationwide protocols for licensing
6 cooperation and coordination among state regulators;
7 and

8 (14) Do any and all things necessary or incidental to the
9 exercise of the commissioner's power and duties."

10 SECTION 3. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 4. This Act, upon its approval, shall take effect
13 on July 1, 2022.

14

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INTRODUCED BY:



16

BY REQUEST

S.B. NO. 3001

Report Title:

Money Transmitters; Application; Criminal History Record Check;
Chapter 489D

Description:

Minimizes regulatory burden and eliminates redundancy for money transmitter applicants of the duplicative criminal background checks in the state and federal systems.

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

JUSTIFICATION SHEET

DEPARTMENT: Commerce and Consumer Affairs

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

PURPOSE: To remove redundant criminal history check requirements in the money transmitter license application process.

MEANS: Amend sections 489D-9(d) and 489D-34, Hawaii Revised Statutes (HRS).

JUSTIFICATION: Applicants for money transmitter licenses are required to obtain a federal criminal background check as well as a state-level background check.

This bill will allow for a federal or state-level background check. The State is a reporter to the national federal criminal history background system.

Impact on the public: None.

Impact on the department and other agencies:
The bill would improve efficiency in processing applications for money transmitter applicants. The bill would also allow Hawaii to join the majority of states that only use the national federal database to review criminal history background for applicants.

GENERAL FUNDS: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: CCA-104.

OTHER AFFECTED AGENCIES: Attorney General, Hawaii Criminal Justice Data Center.

EFFECTIVE DATE: July 1, 2022.