

ACT 41

A Bill for an Act Relating to the Amendment of Chapter 176A of the Revised Laws of Hawaii 1955, as Amended.

Be it Enacted by the Legislature of the State of Hawaii:

SECTION 1. Urgency. This bill is hereby declared to be an urgency measure deemed necessary in the public interest within the meaning of section 11 of Article III of the Constitution of the State of Hawaii.

The following is a statement of facts constituting such urgency:

Chapter 176A, Revised Laws of Hawaii 1955, as amended, provides for the promoting, developing and advancing the economic welfare of the State through making long-term loans to any industrial or commercial business for any purpose, including, but not necessarily limited to, construction, improvements, working capital, or clearing indebtedness. The corporation is state-wide in its operations, both in its membership and in its area for making loans. Under the present law, the fact that the Small Business Administration may become a member limits the financial participation to which that agency is allowed by Federal law and regulations to participate. Section 5 of Chapter 176A provides that no member shall be allowed to contribute more than 20 per cent of the then outstanding loans. Yet, the present regulations of the SBA allow that agency to lend to a Business Development Corporation on a dollar

for dollar basis the amount of outstanding loans of the corporation. This means that because of the inclusion of SBA as a member of, as defined in Section 5, any Business Development Corporation which may be formed will be deprived of approximately 30 per cent of any loan in Federal funds which would otherwise be available. The deletion SBA membership in a Business Development Corporation, will insure any corporation so formed shall be allowed to take advantage of any and all assistance, financial and otherwise, which the SBA may provide.

The amendment of chapter 176A to permit greater financial participation by the Small Business Administration would thus serve to facilitate the creation and continuation of business development corporations and thereby achieve the promotion, development and advancement of the prosperity of the economic welfare of the State of Hawaii by providing additional funds which would not otherwise be available. Accordingly, it is urgent that this bill be passed at this session.

SECTION 2. Purpose. The purpose of this bill is to:

(a) Remove the automatic membership of Small Business Administration when it makes a loan to a business development corporation organized under the provisions of chapter 176A and by such removal of automatic membership to lift the maximum loan limitation of 20 per cent of the loan limit to the business development corporation as imposed in Section 176A-6;

(b) Liberalize the eligibility requirements for membership;

(c) Expand the private and public sources from which funds needed by the business development corporation may be borrowed; and

(d) Extend the deadline for the organization of a business development corporation.

SECTION 3. Section 176A-1(c) is hereby amended to read as follows:

“(c) ‘Member’: Any person, corporation, company, association, partnership, foundation or other institution, including any financial institution, which or who shall undertake to lend money to a corporation created under this chapter, upon its call, and in accordance with the provisions of this chapter, but not including the Small Business Administration and any other federal agency.”

SECTION 4. Section 176A-2(c)(2) is hereby amended by deleting the word “only”, from the first phrase thereof and substituting therefor the phrase “and others, including the Small Business Administration and other federal agencies”.

SECTION 5. Section 176A-2(c) is further amended by renumbering “(9)” thereof as “(10)”, and by inserting before the renumbered paragraph “(10)” the following new paragraph:

“(9) To avail itself of any loan or other assistance from non-members, including the Small Business Administration or any other federal agencies.”

SECTION 6. Section 176A-5 is hereby amended by deleting therefrom the phrase “each financial institution which becomes a member” following the words “and (4)”, and substituting therefor the phrase “except as to financial institutions which are to continue to be subject to the limitations contained in (3) herein, each member”.

SECTION 7. Section 176A-6 is hereby amended by:

(a) Deleting the words "financial institution" from the first sentence thereof and substituting therefor the following phrase "person, corporation, company, association, partnership, foundation or other institution, including any financial institution";

(b) Deleting the last period from subsection 3(b) thereof and substituting therefor the following phrase "and other members."

SECTION 8. Section 176A-17 is hereby amended by deleting "1965" and substituting therefor "1967."

SECTION 9. Effective date. This bill shall take effect upon its approval.

(Approved April 28, 1964.) **S.B. 177.**
