

A Bill for an Act Relating to Usury and Amending Chapter 478, Hawaii Revised Statutes.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. A swelling demand for business capital in recent years has resulted in sharply increased borrowing costs. Institutional lenders have become increasingly selective in making loans. Hence, to inflexibility of a local usury restriction against a background of nation-wide competition for money inevitably leads to the reluctance in many cases of financial institutions to make business loans where there is doubt as to whether the usury prohibition would apply. Money which could otherwise be made available locally for business purposes is thereby diverted for use elsewhere. Nearly half of the other states, including New York and Illinois have exempted corporations or business transactions from the operation of their usury laws. The theory of these laws is that corporate management is deemed sufficiently sophisticated and to have broad enough access to multiple sources of funds that it will not unknowingly become the victim of an unscrupulous lender. It is therefore in the public interest that the usury law be amended so as to provide for a corporate exemption while continuing to accord the protection of the law to individuals, and thereby enhance Hawaii's position as an investment area.

SECTION 2. Chapter 478, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Section 478- . Corporations prohibited from interposing defense of usury.** No corporation shall interpose the defense or state a claim, of usury in any action on a contract or promissory note, the principal amount of which exceeds the sum of \$750,000. The term corporation, as used in this section, shall be construed to include all associations, and joint-stock companies having any of the powers and privileges of corporations not possessed by individuals or partnerships.

The provisions of section 478-6 shall not apply to parties to contracts or holders of promissory notes, made by corporations the principal amount of which exceeds the sum of \$750,000."

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

(Approved July 2, 1970.)