

## ACT 69

S. B. NO. 446

A Bill for an Act Relating to Charges on Loans Made by Industrial Loan Companies.

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

SECTION 1. Section 408-15, Hawaii Revised Statutes, is amended to read:

**“Sec. 408-15 Interest rates; other charges; refunds.** (a) No industrial loan company shall directly or indirectly charge, contract for, collect, or receive any interest, discount, fees, charges, or other consideration on any loan made by it except as provided by this section.

(b) Advance interest or discount. An industrial loan company may charge, contract for, receive, or collect in advance interest or discount at any rate which does not exceed the following maximum rate for the particular period and type of contract hereinafter set forth, computed in the manner set forth in section 408-3, at the inception of the contract, to wit:

(1) Where interest is paid or deducted in advance for a period of not more than eighteen months upon any contract (whether the principal amount of the contract is payable in one payment at the end of the maturity period thereof or in installments), it shall not exceed twelve per cent a year computed in the manner set forth in section 408-3 at the inception of the contract.

(2) Where interest is payable or deducted in advance upon a contract payable in a period of more than eighteen months, it shall not exceed an amount computed in the manner set forth in section 408-3, as follows: twelve per cent a year for the first eighteen months, plus nine per cent a year for the next twelve months (or portion thereof), plus six per cent a year for the next twelve months (or portion thereof), plus three per cent a year for the next six months (or portion thereof), of such period, as the case may be.

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Interest shall not be deductible in advance for more than four years.

(For example: upon a contract, the principal amount of which is \$120, payable in twenty-four months, in monthly installments of \$5, the maximum amount of interest which may be deducted in advance under this section is computed as follows:

12 per cent a year of \$120 for first 18 months .....	\$21.60
9 per cent a year of \$120 for next 6 months .....	<u>5.40</u>
Total interest deductible in advance from principal amount of the contract .....	\$27.00)

(3) Installments, acceleration of. In addition to collecting or deducting interest in advance, as aforesaid, the company may require and receive repayment of the principal amount of the contract in uniform weekly, monthly, or other periodic installments with the privilege to the company (subject to the interest refund provisions of this section where applicable) to declare the entire unpaid balance due and payable in the event of default in the payment of any installment.

(4) Interest on delinquent installments. In addition to requiring and collecting interest in the manner and at the rates hereinbefore provided for, the company may also require and receive the payment of interest at not to exceed twelve per cent a year from the date of delinquency on any principal installment or portion thereof which remains unpaid on the date of maturity, of the installment where there has been no extension or deferment by mutual agreement, or where the amount extended or deferred is not paid on the due date agreed upon.

(c) Fraction of a month. In computing interest for any of the purposes of this section, or interest refunds under subsection (f), for any period, any fraction of a month shall be considered as a whole month.

(d) Where not an installment contract. Nothing in this chapter shall be deemed to prohibit an industrial loan company from lending money upon a contract to repay the principal amount at the end of the maturity period, instead of in installments, under which contract interest is either deductible in advance, or is payable in weekly, monthly, or other periodic installments, or at the end of such period, provided the interest payable or paid is not in excess of the maximum prescribed by this section for loans repayable in installments of principal.

(e) Application, licensees only. No person, firm, or corporation (not holding a license issued under this chapter) shall charge, contract for, collect, or receive interest, discounts, fees, charges, or other consideration on any loan in the amount or in the manner provided in this section unless permitted so to do by other state law.

(f) Refunds; prepayment. On a contract which has been discounted or on which interest has been collected in advance, and which is then paid or refinanced or on which judgment is then obtained before maturity, the industrial loan company involved shall refund to the borrower on account of unearned discount or interest an amount computed, on that portion of

the principal amount which has not yet matured, at the same rate of discount or interest as was charged at the time the contract was made, for the term of the contract remaining after the date of the payment or after the date of the judgment; provided, that no refund less than 25 cents need be made; and provided further, that checks issued to refund interest which are not presented for payment within three years from the date of issue may be declared canceled and the sum thereof retained as earnings of the licensee. Each company shall permit any borrower from it to pay partially or wholly any contract or installment on a contract before the due date, if the contract has been in effect for a period of at least three months. The company shall not be required to refund any portion of the unearned discount or interest which results in a minimum discount or interest retained on the contract of less than \$15.

(g) Deferred payments, interest, etc. Any payment on account of the principal amount of a contract, which is due on a particular date, may be extended or deferred to a later date by mutual agreement, and, upon the amount of the principal payment so extended or deferred, interest, not exceeding that permitted upon an original loan by this section, for the actual period of the extension or deferment, may be charged and may be collected in advance at the commencement of the period of extension or deferment, provided that the term and conditions of the extension or deferment, including the principal amount so extended or deferred, and the period of, and the charge for, the extension or deferment, shall be set forth in writing and signed in duplicate by the borrower and the company, one copy of the same to be kept on file with the contract and the other copy to be given to the borrower.

(h) Other charges. In addition to the interest, discount, or other charges permitted by this section, an industrial loan company shall also have power to collect in advance or otherwise from the borrower any of the following charges:

- (1) The actual taxes and fees charged by a governmental agency for recording, filing, or entering of record, any bill of sale, assignment, mortgage, chattel mortgage, or other conveyance, or any partial or complete release, discharge, or satisfaction of judgment, mortgage, lien, or other encumbrance, or any of such conveyances or instruments, of or on any real or personal property which constitutes all or a portion of the security on a contract;
- (2) Appraisal fees, and abstractors' fees, actually paid to third parties, no portion of which fees inures to the benefit of the company;
- (3) Premiums actually paid for insuring real and personal property pledged as security on a contract, and insurance premiums on the life of the borrower, provided the insurance is obtained from insurance companies authorized to do and doing business in the State under the laws thereof and provided the borrower, if the property is adequately insured for the amount of the loan, shall not be required to substitute other insurance therefor upon the property or to take out additional insurance thereon; and

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- (4) Attorney's fees, if provided for in the contract, and costs of court, incurred in the collection of any contract in default;
- (5) A charge not exceeding \$10 upon the transfer of any equity under a chattel mortgage or a conditional sale contract.
- (i) Minimum discount or interest on conditional sale. When the discount or interest on a conditional sale contract of \$100 or more is less than \$15, a charge for discount or interest of \$15 shall be allowed.
- (j) As an alternative to the interest authorized by subsection (b), an industrial loan company may contract for and receive interest at a rate not exceeding one and one-half per cent per month on the unpaid principal balance of a loan, for a loan period of no longer than three years.

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.  
(Approved May 20, 1971.)

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\* Edited accordingly.