

ACT 113

S. B. NO. 1823-72

A Bill for an Act Relating to the Specific Provisions of Industrial Loan Companies.

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

SECTION 1. Section 408-14 is amended as follows:

“Sec. 408-14. Specific powers. Every industrial loan company, in addition to the powers exercisable by or conferred upon it under or by the general corporation law of the State, or by any other provision of this chapter, shall possess and may exercise the following powers:

- (1) To borrow money upon its own secured or unsecured notes;
- (2) To lend money upon individual credit or upon the security of co-makers, personal endorsement, or the pledge or mortgage of real or personal property or choses in action, or upon any combination of such credit and security, and to contract for such interest, discount, or other consideration as is permitted by this chapter;
- (3) To discount, purchase, or otherwise acquire notes, installment contracts, warehouse receipts, or other choses in action, notwithstanding section 416-31 to the contrary;
- (4) To establish branches within the State with the prior written approval of the bank examiner;

- (5) To finance purchases for others by taking title to merchandise temporarily and only for the purpose of securing loans entered into the purchases; and
- (6) To issue and sell certificates for the payment of money at any time, either fixed or uncertain, and to receive payments therefor in installments or otherwise, with or without allowance of interest on the installments; provided, that nothing herein shall be construed to authorize any industrial loan company to receive deposits or to create any liability due to demand.

The certificates shall not be issued by any such company without receiving the prior written approval of the bank examiner, and shall bear upon the face of the instrument the words, 'THIS IS NOT A CERTIFICATE OF DEPOSIT.'

No industrial loan company shall have outstanding at any time its certificates and/or its debentures registered under chapter 485 in an aggregate sum in excess of ten times the aggregate amount of its paid-up capital and surplus; provided, that the bank examiner shall have the authority to limit the ratio of certificates and/or debentures to capital and surplus which may be issued by any industrial loan company if he determines that such lower ratio is necessary in the public interest. In determining the ratio to be permitted, the bank examiner shall consider all relevant circumstances, including, without limitation, the following factors:

- (1) The length of time the company has been in operation.
- (2) Ratio of losses to volume of loans made and contracts purchased.
- (3) The creation and maintenance of adequate reserve for losses.
- (4) Charge-off of uncollectable accounts.
- (5) The amount or growth of undivided profits and/or earned surplus.
- (6) Diversification of character and source of loans made and contracts purchased.
- (7) Creation and maintenance of adequate internal controls.
- (8) Sound and efficient management.

Every industrial loan company shall, as of July 1, 1969, maintain and have on hand at all times a cash or other security reserve in an amount equal to three per cent of its liabilities on outstanding certificates, and after December 31, 1969, maintain and have on hand at all times a cash or other security reserve in an amount equal to four per cent of its liabilities on outstanding certificates, which reserve shall not be pledged.

The security reserve shall be limited to direct obligations of the United States government, state, county, and securities listed on the New York stock exchange and the American stock exchange and no more than 25 per cent of the total reserve of cash and other security shall be held in securities listed on the New York stock exchange and the American stock exchange.

SECTION 2. Except as otherwise indicated, new material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

*Edited accordingly.

SECTION 3. This Act shall take effect July 1, 1972.
(Approved May 23, 1972.)