

ACT 186

H.B. NO. 3096-76

A Bill for an Act Relating to Industrial Loan Companies.

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

SECTION 1. Section 408-14, Hawaii Revised Statutes, is amended to read 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 comakers, 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 con-

sideration as is permitted by this chapter, and to sell or broker, loans or contracts, in whole or in part, to other lenders, and charge or retain a fee for the originating, selling, brokering or servicing of such loans or contracts;

- (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 on 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. Section 408-20, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 408-20 Other restrictions on business.** No industrial loan company shall engage in the banking or trust company or building and loan association business. A licensee shall not charge, contract for, collect, or receive interest, discounts, fees, fines, commissions, charges, or other considerations in excess of the interest or discount, charges, recording and satisfaction fees, or premiums for insurance authorized by this chapter and shall not split or divide any contract so as to obtain charges in excess of those authorized by this chapter. A licensee shall not sell any loan to another person or company doing business in this State whenever such loan provides by contract for a rate of interest greater than would be permissible under section 478-3 unless such person or company has the right to charge, contract for, receive, collect in advance or recover interest, discount and other charges at the same rates and in the same amounts as permitted by law in the case of loans made by industrial loan companies licensed under chapter 408 and such loans are sold without recourse.”

SECTION 3. Statutory 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 4. This Act shall take effect upon its approval.

(Approved June 1, 1976.)

*Edited accordingly.