

ACT 39

S.B. NO. 1368

A Bill for an Act Relating to Foreign Lenders.

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

SECTION 1. Section 207-12, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 207-12 Exemptions and Immunities. A foreign lender which (1) does not maintain a place of business in this State, (2) conducts its principal activities outside this State, and (3) complies with this part, does not by engaging in this State in any or all of the activities specified in the following section violate the laws of this State relating to doing business or doing a banking, trust or insurance business, or become subject to chapter 401, 402, 403, 406, 407, 418 or 431, or become subject to any taxation which would otherwise be imposed for

doing business in or doing a banking, trust, or insurance business in, or having gross income or receipts from sources in, property in, or the conduct of any activity in, this State, or become subject to any taxation under chapters 235, 237 or 241, and no income or receipts of any foreign lender arising out of any of the activities specified in the following section shall constitute income from sources in, property in, or activities conducted in this State for the purposes of any tax imposed by this State; provided that nothing in this part shall be construed to exempt the real property of a foreign lender from taxation to the same extent, according to its value, as other real property is taxed, or to preclude the inclusion of the dividends or other income from foreign lenders in the income of individuals taxable under chapter 235 to the same extent as is included dividends and other income from domestic lenders; and provided further, that if any such foreign lender shall acquire any property in this State in enforcement of the rights of the foreign lender in the event of a default by any borrower, as permitted by section 207-13(4), then commencing one year after title to such property has vested in the foreign lender, the rents or other receipts received by the foreign lender from, and the proceeds of sale by the foreign lender of, such property shall be subject to taxation under chapters 235 and 237 in the same manner and to the same extent as if the rents, other receipts, or proceeds were received by a resident of this State; and provided, further, that if any such foreign lender shall otherwise acquire any property in this State or engage in any business or activities in this State not specified in the following section, then the rents and other receipts received by the foreign lender from such property and the proceeds of sale by the foreign lender of such property and all income and receipts from the foreign lender's business or activities in this State not specified in the following section, shall be subject to taxation under chapter 235 and 237 in the same manner and to the same extent as if such rents, other receipts, proceeds and income were received by a resident of this State, but such other activities and business shall not deprive the foreign lender of the immunities and exemptions from taxation hereinabove stated with respect to the activities specified in the following section."

SECTION 2. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

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

(Approved May 6, 1977.)

*Edited accordingly.