

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

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

SECTION 1. The purpose of this bill is to conform section 408-14 to existing law in chapter 408A, the industrial loan company guaranty act, which accords with the existing use of thrift accounts by industrial loan companies.

SECTION 2. 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 consideration 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 for the purchases; and
- (6) To issue and sell certificates for the payment of money at any time, either fixed or uncertain, including without limitation evidences of thrift accounts as defined in chapter 408A, and to receive [payments therefor] amounts invested therein in installments or otherwise, with or without allowance of interest on [the installments; provided that nothing] such investments. A company may, but need not, require an investor to subscribe to a certain amount of investment in such certificates, subject to minimum or maximum investments required by law or regulation. Nothing herein shall be construed to authorize any industrial loan company to receive deposits or to create any liability due on demand.

The certificates, including the evidence of such thrift accounts, 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 January 1, 1977, maintain and have on hand at all times a reserve composed of cash and other securities in an amount equal to the sum of five per cent of its liabilities on outstanding certificates and debentures with an original term not exceeding one year and five per cent of its liabilities on outstanding certificates and debentures with an original term of one year or more, and after January 1, 1978, maintain and have on hand at all times the above-mentioned reserve in an amount equal to the sum of seven per cent of its liabilities on outstanding certificates and debentures with an original term not exceeding one year and five per cent of its liabilities on outstanding certificates and debentures with an original term of one year or more. Said reserve shall not be pledged.

This reserve shall be determined as of a particular date and shall be based upon the daily average of all outstanding certificates and debentures of the immediate preceding seven calendar days. During a succeeding seven calendar day period, the average daily balance of said reserve shall equal or exceed such reserve amount. At the end of the seven calendar day period, a new reserve amount shall be determined based upon the daily average of the immediate preceding seven calendar days and for the next succeeding seven calendar day period, the average daily balance of said reserve shall equal or exceed such new amount. Determination of reserve requirements shall be made on form approved by the bank examiner and shall be computed within two working days after date of determination. Upon any failure to maintain the reserve requirement for the required seven calendar day period, the industrial loan company shall promptly take action to correct the reserve deficiencies, shall cease making any loans or other advances or extensions or† credit until the reserve deficiency is corrected, and shall notify the bank examiner within two working days after the close of the period. The bank examiner may in writing direct specific directors and officers of any industrial loan company in violation of this section to take actions reasonably necessary to increase its reserve so as to comply with this section.

Cash reserves shall be limited to cash in banks and on hand, bank or savings and loan certificates of deposit, direct United States, state or county government securi-

†So in original. Probably should read "of".

ties, and passbook deposits in banks or savings and loans; and such cash reserve shall at all times equal no less than fifty per cent of the aforementioned reserve that is required by this section.

Other securities shall be limited to direct obligations of the United States government, state, or county, bankers acceptances approved by the bank examiner, irrevocable lines of credit in a form acceptable to the bank examiner, and securities listed on the New York stock exchange or the American stock exchange and no more than twenty-five per cent of the total reserve of cash and other security shall be held in securities listed on the New York stock exchange or the American stock exchange.”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved May 16, 1979.)