

ACT 221

H.B. NO. 389

A Bill for an Act Relating to Receipts.

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

SECTION 1. Section 408-17, Hawaii Revised Statutes, is amended to read as follows:

**“§408-17 Making and payment of loans; written receipts and statements; chart of rates, etc.** Every licensee shall:

- (1) Deliver to the borrower at the time any contract other than a contract for an open-end loan is made a statement showing clearly and distinctly the terms, the amount, and date of the loan and of its maturity, the nature of the security, if any, the name and address of the borrower and of the licensee, the agreed rates of all charges and the actual effective rate of interest a year on the contract; this statement shall contain such additional information as the bank examiner may require;
- (2) Give to the borrower a plain and complete receipt for all payments of installments made on any loan at the time the payments are made or at the time of sending the borrower the periodic statement (as described in paragraph (5) [of this section]) for the billing cycle in which such payment was made, together with such additional information as the bank examiner may require; provided that any payment made by check or draft as defined in section 490:3-104, shall not require a receipt unless requested by the borrower;
- (3) Upon repayment in full of a loan other than an open-end loan, mark forthwith indelibly every application and security signed or executed by the borrower with respect to such loan (where the security does not also secure any other then existing obligation to the lender) with the

word "paid" or "canceled", and release any mortgage, restore any pledge, cancel and return any note, and cancel and return any assignment given to the licensee by the borrower with respect to the loan (where the security does not also secure any other then existing obligation to the lender);

- (4) Deliver to the borrower at the time any open-end loan account is opened a copy of the open-end agreement and, to the extent the following items are not covered by the loan agreement, a statement showing clearly and distinctly the terms under which the open-end loans are to be made, the nature of the security, if any, the name and address of the borrower and of the licensee, the agreed rates of charges and the actual effective rate of interest under section 408-15, together with such additional information as the bank examiner may require; and
- (5) Except in the case of an open-end loan account which the licensee deems to be uncollectible or with respect to which delinquency collection procedures have been instituted, the licensee shall deliver to the borrower, or any one thereof, at the end of each billing cycle in which there is an outstanding balance of more than \$1 in the open-end loan account or with respect to which a finance charge is imposed, a periodic statement of the dates and amounts of interest and other charges, advances and other debits, and payments and other credits during the billing cycle, the balance of the account at the beginning of the billing cycle and as of the closing date of the billing cycle, and the minimum payment, if any, required on the account for the next billing cycle; together with such additional information as the bank examiner may require.

Every licensee shall during all business hours have prominently displayed in its office, located in such place and manner that all borrowers may be able clearly to read the same, a rate chart which shall set forth in such form as the bank examiner shall prescribe, the effective rate of interest a year charged by the licensee for the borrowing of money.

Every promissory note taken or accepted by a licensee as evidence of a loan made to a borrower shall, before its acceptance by the licensee, have clearly set forth a statement of the effective rate of interest a year charged by the licensee for the loan evidenced by the note.

The provisions of chapter 476 and section 408-15(1)(9) shall not apply to any loan made directly to a borrower, in compliance with this chapter."

SECTION 2. Section 409-17, Hawaii Revised Statutes, is amended to read as follows:

**"§409-17 Making and payment of loans; statements, receipts; advance payments; advertisements.** Every licensee shall:

- (1) Provide, in any loan contract, for repayment of principal and charges in installments, payable at the end of approximately equal intervals of time with not to exceed forty-five days between payment dates, and so arranged that no installment is substantially larger than any other

installment; if the installments are payable at a monthly interval, the first installment is permitted to be payable at any time within forty-five days of the date of the loan;

- (2) Deliver to the borrower at the time any loan is made a statement, upon which there shall be printed a copy of section 409-16, in the English language showing in clear and distinct terms the amount and date of the loan and of its maturity, the nature of the security, if any, for the loan, the name and address of the borrower and of the licensee, and the agreed rate of charge;
- (3) Give to the borrower a plain and complete receipt for all payments made on account of any loan at the time the payments are made, specifying the amount applied to interest and the amount, if any, applied to principal, and stating the unpaid principal balance, if any, of the loan; provided that any payment made by check or draft as defined in section 490:3-104, shall not require a receipt unless requested by the borrower;
- (4) Permit payment to be made in advance in any amount on any contract of loan at any time, but the licensee may apply the payment first to all interest in full at the agreed rate up to the date of the payment;
- (5) Forthwith, upon repayment of the loan in full, mark indelibly every obligation and security signed or executed by the borrower with the word "paid" or "canceled", and release any mortgage, restore any pledge, cancel and return any note, and cancel and return any assignment given to the licensee by the borrower;
- (6) Display prominently in each licensed place of business a full and accurate schedule, to be approved by the bank examiners<sup>1</sup> of the charges to be made and the method of computing the same."

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

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

(Approved June 8, 1983.)

**Note**

1. So in original.