

## ACT 109

S.B. NO. 819

A Bill for an Act Relating to the Financial Services Loan Industry.

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

SECTION 1. Section 408-2, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Thrift account” includes the principal invested in investment or thrift certificates (including thrift passbook) or debentures, whether on installment bases or fully paid and however evidenced, plus unpaid interest accrued thereon.”

SECTION 2. 408-14, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Every financial services 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;
- (4) To establish branches within the State with the prior written approval of the commissioner;
- (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;
- (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 and subject to chapter 408A], and to receive amounts invested therein in installments or otherwise, with

or without allowance of interest on the investments; provided no company may issue the certificates or receive those amounts [unless] in thrift accounts unless the thrift account obligations are insured by the federal deposit insurance corporation, to the extent provided by law, and the company is a corporation organized and operating in good standing under the laws of this State. 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 rules. Nothing herein shall be construed to authorize any financial services loan company to receive deposits or to create any liability due on demand; and

- (7) To become the legal or beneficial owner of tangible personal property and other tangible property for the purpose of leasing such property, to obtain an assignment of a lessor's interest in a lease of such property, and to incur obligations incidental to its position as the legal or beneficial owner and lessor of the leased property."

SECTION 3. Section 408-27, Hawaii Revised Statutes, is amended to read as follows:

**"§408-27 Not to divulge information.** The commissioner, examiners, and any other person appointed by the commissioner as provided by this chapter, shall not divulge any information acquired by them in the discharge of their duties, except to the extent permitted by section 401-14[; provided any information may be furnished to the board of directors of the Thrift Guaranty Corporation of Hawaii in response to a written request by the board]."

SECTION 4. Chapter 408A, Hawaii Revised Statutes, is repealed.

SECTION 5. This Act does not affect the rights and duties that matured, liabilities that were incurred, privileges and immunities that were conferred and proceedings that were begun, before its effective date. This Act shall not impair or affect the obligation of Thrift Guaranty Corporation of Hawaii on any lawful contract or any other duty or obligation that may have existed prior to the effective date of this Act. Nor shall this Act revive or renew the obligation of members of Thrift Guaranty Corporation of Hawaii to pay annual assessments which was terminated by the commissioner of financial institutions pursuant to Act 187, 1985 Session Laws of Hawaii, prior to the effective date of this Act.

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval.

(Approved May 10, 1991.)