

ACT 198

S.B. NO. 2771

A Bill for an Act Relating to Financial Services Loan Companies.

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

SECTION 1. Section 408-14, Hawaii Revised Statutes, is amended by amending subsection (a)¹ to read as follows:

“§408-14 [Specific powers.] Powers; capital; reserves. (a) [Every financial services loan company, in] In addition to the powers exercisable by or conferred upon [it] licensees under or by the general corporation [law] laws of the State, or by [any other provision of] this chapter, [shall possess and may exercise] every licensee has the following powers:

- (1) To borrow money [upon] on its own secured or unsecured notes;
- (2) To lend money [upon] on individual credit or [upon] on the security of comakers, personal endorsement, or the pledge or mortgage of real or personal property or choses in action, or [upon] on 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 to charge or retain a fee for the originating, selling, brokering, or servicing of [such] the 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] in the State, the Territory of Guam, and the Commonwealth of the Northern Marianas 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, 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 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.] To

receive deposits from customers and issue documents evidencing the accounts, provided that the company is a depository licensee. For purposes of this section "depository licensee" means a financial services loan company licensed by the commissioner whose deposits are insured by the Federal Deposit Insurance Corporation. The licensee must have received the written approval of the commissioner to accept deposits and be a corporation operating in good standing under the laws of this State. The accounts may include, but are not limited to, savings accounts, money market deposit accounts as that term is defined in Regulation D, C.F.R. Section 204.2(d)(2), pass-book accounts, time deposits, certificates of deposit, time certificates of deposits, investment certificates, and individual retirement accounts. Nothing [herein] in this section shall [be construed to] authorize any [financial services loan company] licensee to [receive] have demand 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] to lease the property, to obtain an assignment of a lessor's interest in a lease of [such] the property, and to incur obligations incidental to [its] the licensee's position as the legal or beneficial owner and the lessor of the [leased] property[.];
- (8) To sell fixed rate annuities only if the licensee has deposits insured by the Federal Deposit Insurance Corporation and the written approvals of the commissioner and the insurance commissioner are obtained. The sale must be made by a general agent, subagent or solicitor licensed pursuant to chapter 431. In approving any request pursuant to this paragraph, the commissioner may impose conditions and restrictions that are in the public interest;
- (9) To sell accidental death and dismemberment insurance, whether or not connected with a loan, provided that the purchase of such insurance must be voluntary and not required as a condition of a loan, and to collect in cash the premium(s) for such insurance. The approval of the commissioner must be obtained prior to the sale of these insurance products. In approving any request pursuant to this subsection, the commissioner may impose such conditions and restrictions that are in the public interest;
- (10) To sell auto club memberships and home and automobile security plans, whether or not connected with a loan, provided that the purchase of any such service or product must be voluntary and not required as a condition of a loan, and to collect in cash the payment(s) for such services or products. The approval of the commissioner must be obtained prior to the sale of these products. In approving any request pursuant to this subsection, the commissioner may impose such conditions and restrictions that are in the public interest; and
- (11) To issue letters of credit only if the licensee has deposits insured by the Federal Deposit Insurance Corporation and the written approval of the commissioner is obtained. In approving any request pursuant to this paragraph, the commissioner may impose conditions and restrictions that are in the public interest. In addition, any licensee

issuing stand-by letters of credit shall include those obligations in calculating applicable lending limits.”

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

“(e) Cash reserves shall be limited to cash on hand, cash in banks [and on hand, bank or savings and loan certificates of deposit], cash in other federally insured financial institutions including, but not limited to, financial services loan companies with deposits insured by the Federal Deposit Insurance Corporation, direct United States, [State,] state, or county government securities, and [pass-book deposits in banks or savings and loans.] cash in United States branches of non-United States banks, with the written approval of the commissioner. The cash reserve shall at all times [equal not less than] be at least fifty per cent of the reserve [that is] required by this section.”

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

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

(Approved June 12, 1992.)

Note

1. So in original.