

SB949

Measure Title: RELATING TO MONEY TRANSMITTERS.

Report Title: Money Transmitters; Change in Control; Division of Financial Institutions; Criminal History Record Check; Background Check; Outstanding Payment Instruments

Description: Clarifies chapter 489D, Hawaii Revised Statutes, including requirements for money transmitter license and change in control applications, criminal background checks, security devices, permissible investments, records, and voluntary surrender of license. Amends definitions of "outstanding payment instrument", "person" and "principal". Repeals definition of "key shareholder".

Companion: [HB1083](#)

Package: Governor

Current Referral: CPH, JDL

Introducer(s): KOUCHI (Introduced by request of another party)



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**PRESENTATION OF THE
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

TO THE SENATE COMMITTEE ON
COMMERCE, CONSUMER PROTECTION, AND HEALTH

THE TWENTY-NINTH LEGISLATURE
REGULAR SESSION OF 2017

TUESDAY, FEBRUARY 7, 2017
9:00 a.m.

**TESTIMONY ON S.B. NO. 949
RELATING TO MONEY TRANSMITTERS**

TO THE HONORABLE ROSALYN H. BAKER, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Iris Ikeda, Commissioner of Financial Institutions ("Commissioner") of the Division of Financial Institutions ("DFI"), testifying on behalf of the Department of Commerce and Consumer Affairs, in strong support of this administration bill, S.B. No. 949, Relating to Money Transmitters. One housekeeping amendment is requested as explained in this testimony.

This measure clarifies and strengthens Hawaii's Money Transmitters Act, Chapter 489D, Hawaii Revised Statutes ("HRS"), to provide appropriate supervision of the money transmitter industry. The measure makes the chapter more effective,

improving compliance within the industry, regulatory oversight, and the Commissioner's ability to enforce the chapter.

The measure updates the chapter's permissible investments provision, Section 489D-8, HRS, which a licensee must follow in the interests of safety and soundness. Currently, a licensee must possess permissible investments "of not less than the aggregate amount of all outstanding payment instruments issued or sold by the licensee in the United States. . ." (emphasis added). Today, many money transmitters transmit money electronically. The measure makes it clear that these obligations are also subject to the permissible investments requirement, by changing the term "outstanding payment instruments" to "outstanding payment obligations", and adding language to the latter term to expressly include "[a]ll other outstanding money transmission obligations of the licensee issued in the United States". These updates will enhance consumer protection, and provide the Commissioner with more relevant information on licensee condition for better supervision.

The measure also clarifies the persons associated with a money transmitter applicant, licensee, or applicant for change of control of the licensee, for whom a criminal history record check or other background information must be provided. This is implemented by amending the definitions of "person" and "principal" in Section 489D-4, HRS; repealing the definition of "key shareholders" and chapter references to that term; and tightening language concerning licensure applications, and change of control applications, in Sections 489D-9 and 489D-15, HRS, respectively. These clarifying changes will help applicants and licensees understand and comply with various

background information requirements, and streamline DFI's processing and review of the information.

Finally, the Commissioner requests the addition of a housekeeping amendment to make it clear that the term, "payment instrument", in Section 489D-4, HRS, includes an "electronic instrument". The requested amendment is indicated in Ramseyer format below:

"Payment instrument" means any electronic or written check, draft, money order, traveler's check, or other electronic instrument or written instrument or order for the transmission or payment of money, sold or issued to one or more persons, whether or not the instrument is negotiable. . . .

This will better protect consumers who use stored value cards and other electronic instruments. The term "payment instrument" is integral to the definition of "money transmission", which is a key term in the administration of Chapter 489D, HRS.

This measure will improve licensee compliance with the chapter, and DFI's ability to effectively and efficiently administer it. It will enhance consumer protection by strengthening requirements for background information, and by making the chapter more clearly applicable to new technology and creative payment options.

DFI strongly supports this administration bill, S.B. No. 949, and respectfully requests that it be passed with the amendment requested above.

Thank you for this opportunity to testify. I would be pleased to respond to any questions that you may have.