

Honolulu, Hawaii

FEB 15 2013

RE: S.B. No. 1068

S.D. 1

Honorable Donna Mercado Kim  
President of the Senate  
Twenty-Seventh State Legislature  
Regular Session of 2013  
State of Hawaii

Madam:

Your Committees on Commerce and Consumer Protection and  
Judiciary and Labor, to which was referred S.B. No. 1068 entitled:

"A BILL FOR AN ACT RELATING TO MONEY TRANSMITTERS,"

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Authorize the Commissioner of Financial Institutions of the Department of Commerce and Consumer Affairs to require money transmitters to register with NMLS;
- (2) Establish procedures for a licensed money transmitter to surrender its license; and
- (3) Amend the bond requirement, fee structure for services provided by the Division of Financial Institutions of the Department of Commerce and Consumer Affairs for the regulation of money transmitters, and the fine for violations of money transmitter regulations.

Your Committees received testimony in support of this measure from the Division of Financial Institutions of the Department of Commerce and Consumer Affairs.

Your Committees find that the Money Transmitter Act, codified as chapter 489D, Hawaii Revised Statutes, was originally enacted in 2006 to protect consumers of money transmission services and prevent money transmission from being used to facilitate illegal



activities. This measure will enable the Commissioner of Financial Institutions of the Department of Commerce and Consumer Affairs to more effectively enforce the money transmitters law and more appropriately supervise, regulate, and examine licensees.

Your Committees further find that money transmitters in Hawaii post an initial surety bond, letter of credit, or similar security device in the amount of \$1,000. Hawaii's security device level is the lowest in the country. This measure increases the required security device to \$10,000 for the first twelve months of licensure, which realistically reflects the risk associated with new money transmitter companies and is consistent with levels required by other states.

Your Committees additionally find that the Division of Financial Institutions regulates forty-two money transmitters in the State. The Division of Financial Institutions has indicated that examinations on all money transmitters have not yet been completed because of the need for additional funding and staff. The Division has also indicated that the fee changes proposed by this measure are based on the Division's need to appropriately carry out its mission. The Division is responsible for the licensure, examination, and supervision of state-chartered and licensed banks, trust companies, savings and loan associations, financial services loan companies, credit unions, escrow depositories, money transmitters, mortgage servicers, mortgage loan originators, and mortgage loan originator companies. It is the only entity that monitors the regulatory compliance, safety, and soundness of these industries; the federal government does not provide this oversight.

The Division of Financial Institutions has further indicated that a guiding principle of the Division is to ensure that revenues from each program are sufficient to cover the Division's costs of operating that program. Unfortunately, the money transmitter program ran a deficit of \$66,675 in fiscal year 2011. The program had a surplus of \$18,941 in fiscal year 2012, which when applied to the fiscal year 2011 deficit, resulted in a two-year shortfall of \$47,734. It is therefore clear that the money transmitter program is fiscally unsustainable under the existing fee schedules set by chapter 489D, Hawaii Revised Statutes.

Your Committees conclude that the fee changes proposed by this measure are necessary and appropriate and will enable the



Division of Financial Institutions to continue to carry out its legislatively mandated duties.

Your Committees have amended this measure by making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Commerce and Consumer Protection and Judiciary and Labor that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 1068, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1068, S.D. 1, and be referred to the Committee on Ways and Means.

Respectfully submitted on  
behalf of the members of the  
Committees on Commerce and  
Consumer Protection and  
Judiciary and Labor,

  
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CLAYTON HEE, Chair

  
\_\_\_\_\_  
ROSALYN H. BAKER, Chair





The Senate  
 Twenty-Seventh Legislature  
 State of Hawai'i

**Record of Votes**  
**Committee on Judiciary and Labor**  
**JDL**

Bill / Resolution No.:* <b>SB 1068</b>	Committee Referral: <b>CPN/JDL, WAM</b>	Date: <b>02.12.2013</b>		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
HEE, Clayton (C)	✓			
SHIMABUKURO, Maile S.L. (VC)	✓			
GABBARD, Mike	✓			
IHARA, Jr., Les	✓			
SLOM, Sam				✓
<b>TOTAL</b>	<b>4</b>			<b>1</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
<b>Distribution:</b> Original     Yellow     Pink     Goldenrod File with Committee Report     Clerk's Office     Drafting Agency     Committee File Copy				

\*Only one measure per Record of Votes