

JAN 25 2017

A BILL FOR AN ACT

RELATING TO MONEY TRANSMITTERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 489D-4, Hawaii Revised Statutes, is
2 amended as follows:
3 (1) By amending the definitions of "outstanding payment
4 instrument", "person", and "principal" to read as follows:
5 "Outstanding payment [instrument] obligation" means [any]:
6 (1) Any payment instrument issued by the licensee that has
7 been sold in the United States:
8 ~~[(1)]~~ (A) Directly by the licensee; or
9 ~~[(2)]~~ (B) By an authorized delegate of the licensee in the
10 United States, which has been reported to the
11 licensee as having been sold,
12 and that has not yet been paid by or for the
13 licensee ~~[-]~~; and
14 (2) All other outstanding money transmission obligations
15 of the licensee issued in the United States.

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1 "Person" means any individual, partnership, limited
2 liability company, association, joint-stock association, trust,
3 ~~[or]~~ corporation~~[-]~~, or other entity, however organized.

4 "Principal" means any person, or group of persons acting in
5 concert, who exercises control over or has a twenty-five per
6 cent ownership interest or more in an applicant or licensee
7 under this chapter. Principal also includes a manager ~~[and~~
8 ~~anyone else who supervises or is in charge of the applicant or~~
9 ~~licensee.]~~ and executive officers."

10 (2) By repealing the definition of "key shareholder".

11 ~~["Key shareholder" means any person, or group of persons~~
12 ~~acting in concert, who is the owner of twenty five per cent or~~
13 ~~more of any voting class of an applicant's stock."]~~

14 SECTION 2. Section 489D-8, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "[~~4~~]§489D-8 [~~4~~] **Permissible investments and statutory**
17 **trust.** (a) A licensee, at all times, shall possess permissible
18 investments having an aggregate market value, calculated in
19 accordance with generally accepted accounting principles, of not
20 less than the aggregate amount of all outstanding payment
21 ~~[instruments issued or sold by the licensee in the United~~
22 ~~States.]~~ obligations. This requirement may be waived by the

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1 commissioner if the dollar volume of a licensee's outstanding
2 payment [~~instruments~~] obligations does not exceed the bond or
3 other security devices posted by the licensee pursuant to
4 section 489D-7.

5 (b) Permissible investments, even if commingled with other
6 assets of the licensee, shall be held in trust for the benefit
7 of the purchasers and holders of the licensee's outstanding
8 payment [~~instruments~~] obligations in the event of the bankruptcy
9 of the licensee."

10 SECTION 3. Section 489D-9, Hawaii Revised Statutes, is
11 amended by amending subsection (d) to read as follows:

12 "(d) An application for a license under this chapter shall
13 be made in writing, and in a form prescribed by NMLS or by the
14 commissioner. Each application shall contain the following:

15 (1) For all applicants:

16 (A) The exact name of the applicant, any fictitious
17 or trade name used by the applicant in the
18 conduct of its business, the applicant's
19 principal address, and the location of the
20 applicant's business records;

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- 1 (B) The history of the applicant's material
2 litigation and criminal convictions for the five-
3 year period prior to the date of the application;
- 4 (C) A description of the business activities
5 conducted by the applicant and a history of
6 operations;
- 7 (D) A description of the business activities in which
8 the applicant seeks to engage within the State;
- 9 (E) A list identifying the applicant's proposed
10 authorized delegates in the State, if any, at the
11 time of the filing of the license application;
- 12 (F) A sample authorized delegate contract, if
13 applicable;
- 14 (G) A sample form of payment instrument, if
15 applicable;
- 16 (H) The locations where the applicant and its
17 authorized delegates, if any, propose to conduct
18 their licensed activities in the State;
- 19 (I) The name and address of the clearing bank or
20 banks on which the applicant's payment
21 instruments will be drawn or through which
22 payment instruments will be payable;

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- 1 (J) Disclosure of any pending or final suspension,
2 revocation, or other enforcement action by any
3 state or governmental authority for the five-year
4 period prior to the date of the application; and
5 (K) Any other information the commissioner may
6 require;
- 7 (2) If the applicant is a corporation, the applicant shall
8 also provide:
- 9 (A) The date of the applicant's incorporation and
10 state of incorporation;
- 11 (B) A certificate of good standing from the state in
12 which the applicant was incorporated;
- 13 (C) A description of the corporate structure of the
14 applicant, including the identity of any parent
15 or subsidiary company of the applicant, and the
16 disclosure of whether any parent or subsidiary
17 company is publicly traded on any stock exchange;
- 18 (D) The name, business and residence address, and
19 employment history, for the past five years, of
20 the applicant's ~~[executive officers, and the~~
21 ~~officers or managers who will be in charge of the~~
22 ~~applicant's activities to be licensed under this~~

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1 ~~chapter,~~ principals, and each person who upon
2 approval of the application will be a principal
3 of the licensee;

4 ~~[(E) The name, business and residence address, and~~
5 ~~employment history of any key shareholder of the~~
6 ~~applicant, for the period of five years before~~
7 ~~the date of the application,]~~

8 ~~[(F)]~~ (E) For the five-year period prior to the date
9 of the application, the history of material
10 litigation involving, and criminal convictions
11 of, ~~[every executive officer or key shareholder]~~
12 each principal of the applicant;

13 ~~[(G)]~~ (F) A copy of the applicant's most recent
14 audited financial statement, including balance
15 sheets, statements of income or loss, statements
16 of changes in shareholder equity and statements
17 of changes in financial position, and, if
18 available, the applicant's audited financial
19 statements for the preceding two-year period or,
20 if the applicant is a wholly owned subsidiary of
21 another corporation, either the parent
22 corporation's consolidated audited financial

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1 statements for the current year and for the
2 preceding two-year period, or the parent
3 corporation's Form 10-K reports filed with the
4 United States Securities and Exchange Commission
5 for the prior three years in lieu of the
6 applicant's financial statements, or if the
7 applicant is a wholly owned subsidiary of a
8 corporation having its principal place of
9 business outside the United States, similar
10 documentation filed with the parent corporation's
11 non-United States regulator;

12 [~~(H)~~] (G) Copies of all filings, if any, made by the
13 applicant with the United States Securities and
14 Exchange Commission, or with a similar regulator
15 in a country other than the United States, within
16 the year preceding the date of filing of the
17 application; and

18 [~~(I)~~] (H) Information necessary to conduct a criminal
19 history record check in accordance with section
20 846-2.7 of each [~~of the executive officers, key~~
21 ~~shareholders, and managers who will be in charge~~
22 ~~of the applicant's activities,~~] person who upon

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1 approval of the application will be a principal
2 of the licensee, accompanied by the appropriate
3 payment of the applicable fee for each record
4 check; and

5 (3) If the applicant is not a corporation, the applicant
6 shall also provide:

7 (A) The name, business and residence address,
8 personal financial statement, and employment
9 history, for the past five years, of each
10 principal of the applicant;

11 (B) The name, business and residence address, and
12 employment history, for the past five years, of
13 any other persons who upon approval of the
14 application will be [~~in charge of the applicant's~~
15 ~~activities to be licensed under this chapter;~~] a
16 principal of the licensee;

17 (C) The place and date of the applicant's
18 registration or qualification to do business in
19 this State;

20 (D) The history of material litigation and criminal
21 convictions for the five-year period before the
22 date of the application for each [individual

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1 ~~having any ownership interest in] principal of~~
2 the applicant [~~and each individual who exercises~~
3 ~~supervisory responsibility over the applicant's~~
4 ~~activities]~~;

5 (E) Copies of the applicant's audited financial
6 statements, including balance sheets, statements
7 of income or loss, and statements of changes in
8 financial position for the current year and, if
9 available, for the preceding two-year period; and

10 (F) Information necessary to conduct a criminal
11 history record check in accordance with section
12 846-2.7 of each principal of the applicant,
13 accompanied by the appropriate payment of the
14 applicable fee for each record check."

15 SECTION 4. Section 489D-12, Hawaii Revised Statutes, is
16 amended by amending subsection (b) to read as follows:

17 "(b) The annual license fee shall be accompanied by a report,
18 in a form prescribed by the commissioner, which shall include:

19 (1) A copy of the licensee's most recent audited annual
20 financial statement, including balance sheets,
21 statement of income or loss, statement of changes in
22 shareholder's equity, and statement of cash flows or,

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1 if a licensee is a wholly owned subsidiary of another
2 corporation, the consolidated audited annual financial
3 statement of the parent corporation in lieu of the
4 licensee's audited annual financial statement;

5 (2) For the most recent quarter for which data is
6 available prior to the date of filing the annual
7 report, but in no event more than one hundred twenty
8 days prior to the renewal date, the licensee shall
9 provide the number of money transmissions sold,
10 issued, or received for transmission by the licensee
11 in the State, the dollar amount of those
12 transmissions, and the dollar amounts of outstanding
13 payment [~~instruments currently outstanding;~~]
14 obligations;

15 (3) Any material changes to any of the information submitted
16 by the licensee on its original application that have
17 not previously been reported to the commissioner on any
18 other report required to be filed under this chapter;

19 (4) For the most recent quarter for which data is
20 available prior to the date of filing the annual
21 report, but in no event more than one hundred twenty
22 days prior to the renewal date, a list of the

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1 licensee's permissible investments, including the
2 total market value of each type of permissible
3 investment, and the total dollar amount of all
4 outstanding payment [~~instruments issued or sold by the~~
5 ~~licensee in the United States;~~] obligations;

6 (5) A list of the locations, if any, within this State
7 where business regulated by this chapter is being
8 conducted by either the licensee or the licensee's
9 authorized delegates;

10 (6) Disclosure of any pending or final suspension,
11 revocation, or other enforcement action by any state
12 or governmental authority;

13 (7) The licensee's evidence of a valid bond or other security
14 device as required pursuant to section 489D-7; and

15 (8) Any other information the commissioner may require.

16 A license may be renewed by filing a renewal statement on a
17 form prescribed by NMLS or by the commissioner and paying a renewal
18 fee at least four weeks prior to the renewal date for licensure
19 for the following year."

20 SECTION 5. Section 489D-14, Hawaii Revised Statutes, is
21 amended to read as follows:

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1 "§489D-14 Extraordinary reporting requirements. Within
2 fifteen business days of the occurrence of any one of the events
3 listed below, a licensee shall file a written report with the
4 commissioner describing the event and its expected impact on the
5 licensee's activities in this State. These events are:

- 6 (1) Any material change in information provided in a
7 licensee's application or annual report;
- 8 (2) The filing for bankruptcy or reorganization by the
9 licensee;
- 10 (3) Pending or final revocation, suspension, or other
11 enforcement action against the licensee by any state
12 or governmental authority relating to the licensee's
13 money transmission activities;
- 14 (4) Any felony indictment of the licensee or any of its
15 ~~[key shareholders,] principals [, executive officers,~~
16 ~~or officers or managers in charge of the licensee's~~
17 ~~activities,]~~ related to money transmission activities;
- 18 and
- 19 (5) Any felony conviction of the licensee or any of its
20 ~~[key shareholders,] principals [, executive officers,~~
21 ~~or officers or managers in charge of the licensee's~~

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1 ~~activities,~~] related to money transmission
2 activities."

3 SECTION 6. Section 489D-15, Hawaii Revised Statutes, is
4 amended by amending subsection (b) to read as follows:

5 "(b) After review of a request for approval under
6 subsection (a), the commissioner may require the licensee or
7 person or group of persons requesting approval of a proposed
8 change of control of the licensee, or both, to provide
9 additional information concerning the persons who are to assume
10 control of the licensee. The additional information shall be
11 limited to similar information required of the licensee or
12 persons in control of the licensee as part of its original
13 license or renewal application under sections 489D-9 and 489D-
14 12. The information shall include the history of the material
15 litigation and criminal convictions of ~~[the persons who are to~~
16 ~~assume control]~~ each person who upon approval of the application
17 for change of control will be a principal of the licensee, for
18 the five-year period prior to the date of the application for
19 change of control of the licensee, and authorizations necessary
20 to conduct criminal history record checks of such persons ~~[who~~
21 ~~are to assume control of the licensee]~~, accompanied by the

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1 appropriate payment of the applicable fee for each record
2 check."

3 SECTION 7. Section 489D-18, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) Each licensee shall make, keep, preserve, and make
6 available for inspection by the commissioner the following
7 books, accounts, and other records for a period of three years:

- 8 (1) A record or records of each payment instrument;
- 9 (2) A general ledger containing all assets, liability,
10 capital, income, and expense accounts that shall be
11 posted at least monthly;
- 12 (3) Bank statements and bank reconciliation records;
- 13 (4) Records of all outstanding payment [~~instruments,~~
14 obligations;
- 15 (5) Records of each payment instrument paid within the
16 three-year period;
- 17 (6) A list of the names and addresses of all of the
18 licensee's authorized delegates; and
- 19 (7) Any other records the commissioner reasonably requires
20 by rule adopted pursuant to chapter 91."

21 SECTION 8. Section 489D-22.5, Hawaii Revised Statutes, is
22 amended by amending subsection (b) to read as follows:

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1 "(b) Notice pursuant to this section shall be provided at
2 least thirty days before the surrender of the license and shall
3 include:

4 (1) The date of surrender;

5 (2) The name, address, telephone number, facsimile number,
6 and electronic address of a contact individual with
7 knowledge and authority sufficient to communicate with
8 the commissioner regarding all matters relating to the
9 licensee during the period that it was licensed
10 pursuant to this chapter;

11 (3) The reason or reasons for surrender;

12 (4) Total dollar amount of the licensee's outstanding
13 payment [~~instruments~~] obligations sold in Hawaii and
14 the individual amounts of each outstanding
15 [~~instrument,~~] payment obligation, and the name,
16 address, and contact phone number of the licensee to
17 which each outstanding [~~instrument~~] payment obligation
18 was assigned;

19 (5) A list of the licensee's Hawaii authorized delegates,
20 if any, as of the date of surrender; and

21 (6) Confirmation that the licensee has notified each of
22 its Hawaii authorized delegates, if any, that they may

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1 no longer conduct money transmissions on the
2 licensee's behalf.

3 Voluntary surrender of a license shall be effective upon
4 the date of surrender specified on the written notice to the
5 commissioner as required by this section; provided that the
6 licensee has met all the requirements of voluntary surrender and
7 has returned the original license issued."

8 SECTION 9. Section 846-2.7, Hawaii Revised Statutes, is
9 amended by amending subsection (b) to read as follows:

10 "(b) Criminal history record checks may be conducted by:

11 (1) The department of health or its designee on operators
12 of adult foster homes for individuals with
13 developmental disabilities or developmental
14 disabilities domiciliary homes and their employees, as
15 provided by section 321-15.2;

16 (2) The department of health or its designee on
17 prospective employees, persons seeking to serve as
18 providers, or subcontractors in positions that place
19 them in direct contact with clients when providing
20 non-witnessed direct mental health or health care
21 services as provided by section 321-171.5;

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- 1 (3) The department of health or its designee on all
2 applicants for licensure or certification for,
3 operators for, prospective employees, adult
4 volunteers, and all adults, except adults in care, at
5 healthcare facilities as defined in section 321-15.2;
- 6 (4) The department of education on employees, prospective
7 employees, and teacher trainees in any public school
8 in positions that necessitate close proximity to
9 children as provided by section 302A-601.5;
- 10 (5) The counties on employees and prospective employees
11 who may be in positions that place them in close
12 proximity to children in recreation or child care
13 programs and services;
- 14 (6) The county liquor commissions on applicants for liquor
15 licenses as provided by section 281-53.5;
- 16 (7) The county liquor commissions on employees and
17 prospective employees involved in liquor
18 administration, law enforcement, and liquor control
19 investigations;
- 20 (8) The department of human services on operators and
21 employees of child caring institutions, child placing

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- 1 organizations, and foster boarding homes as provided
2 by section 346-17;
- 3 (9) The department of human services on prospective
4 adoptive parents as established under section
5 346-19.7;
- 6 (10) The department of human services or its designee on
7 applicants to operate child care facilities, household
8 members of the applicant, prospective employees of the
9 applicant, and new employees and household members of
10 the provider after registration or licensure as
11 provided by section 346-154, and persons subject to
12 section 346-152.5;
- 13 (11) The department of human services on persons exempt
14 pursuant to section 346-152 to be eligible to provide
15 child care and receive child care subsidies as
16 provided by section 346-152.5;
- 17 (12) The department of health on operators and employees of
18 home and community-based case management agencies and
19 operators and other adults, except for adults in care,
20 residing in community care foster family homes as
21 provided by section 321-15.2;

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- 1 (13) The department of human services on staff members of
2 the Hawaii youth correctional facility as provided by
3 section 352-5.5;
- 4 (14) The department of human services on employees,
5 prospective employees, and volunteers of contracted
6 providers and subcontractors in positions that place
7 them in close proximity to youth when providing
8 services on behalf of the office or the Hawaii youth
9 correctional facility as provided by section 352D-4.3;
- 10 (15) The judiciary on employees and applicants at detention
11 and shelter facilities as provided by section 571-34;
- 12 (16) The department of public safety on employees and
13 prospective employees who are directly involved with
14 the treatment and care of persons committed to a
15 correctional facility or who possess police powers
16 including the power of arrest as provided by section
17 353C-5;
- 18 (17) The board of private detectives and guards on
19 applicants for private detective or private guard
20 licensure as provided by section 463-9;
- 21 (18) Private schools and designated organizations on
22 employees and prospective employees who may be in

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- 1 positions that necessitate close proximity to
2 children; provided that private schools and designated
3 organizations receive only indications of the states
4 from which the national criminal history record
5 information was provided pursuant to section 302C-1;
- 6 (19) The public library system on employees and prospective
7 employees whose positions place them in close
8 proximity to children as provided by section
9 302A-601.5;
- 10 (20) The State or any of its branches, political
11 subdivisions, or agencies on applicants and employees
12 holding a position that has the same type of contact
13 with children, vulnerable adults, or persons committed
14 to a correctional facility as other public employees
15 who hold positions that are authorized by law to
16 require criminal history record checks as a condition
17 of employment as provided by section 78-2.7;
- 18 (21) The department of health on licensed adult day care
19 center operators, employees, new employees,
20 subcontracted service providers and their employees,
21 and adult volunteers as provided by section 321-15.2;

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- 1 (22) The department of human services on purchase of service
2 contracted and subcontracted service providers and
3 their employees serving clients of the adult
4 protective and community services branch, as provided
5 by section 346-97;
- 6 (23) The department of human services on foster grandparent
7 program, senior companion program, and respite
8 companion program participants as provided by section
9 346-97;
- 10 (24) The department of human services on contracted and
11 subcontracted service providers and their current and
12 prospective employees that provide home and community-
13 based services under section 1915(c) of the Social
14 Security Act, title 42 United States Code section
15 1396n(c), or under any other applicable section or
16 sections of the Social Security Act for the purposes
17 of providing home and community-based services, as
18 provided by section 346-97;
- 19 (25) The department of commerce and consumer affairs on
20 proposed directors and executive officers of a bank,
21 savings bank, savings and loan association, trust

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1 company, and depository financial services loan
2 company as provided by section 412:3-201;

3 (26) The department of commerce and consumer affairs on
4 proposed directors and executive officers of a
5 nondepository financial services loan company as
6 provided by section 412:3-301;

7 (27) The department of commerce and consumer affairs on the
8 original chartering applicants and proposed executive
9 officers of a credit union as provided by section
10 412:10-103;

11 (28) The department of commerce and consumer affairs on:
12 (A) Each principal of every non-corporate applicant
13 for a money transmitter license;

14 (B) ~~[The executive officers, key shareholders, and~~
15 ~~managers in charge of a money transmitter's~~
16 ~~activities of every]~~ Each person who will be a
17 principal of the licensee upon approval of an
18 application by a corporate applicant for a money
19 transmitter license; and

20 (C) ~~[The persons who are to assume control of a money~~
21 ~~transmitter licensee in connection with]~~ Each
22 person who upon approval of an application

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1 requesting approval of a proposed change in
2 control of licensee [7] will be a principal of the
3 licensee,

4 as provided by sections 489D-9 and 489D-15;

5 (29) The department of commerce and consumer affairs on
6 applicants for licensure and persons licensed under
7 title 24;

8 (30) The Hawaii health systems corporation on:

9 (A) Employees;

10 (B) Applicants seeking employment;

11 (C) Current or prospective members of the corporation
12 board or regional system board; or

13 (D) Current or prospective volunteers, providers, or
14 contractors,

15 in any of the corporation's health facilities as
16 provided by section 323F-5.5;

17 (31) The department of commerce and consumer affairs on:

18 (A) An applicant for a mortgage loan originator
19 license; and

20 (B) Each control person, executive officer, director,
21 general partner, and manager of an applicant for
22 a mortgage loan originator company license,

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- 1 as provided by chapter 454F;
- 2 (32) The state public charter school commission or public
3 charter schools on employees, teacher trainees,
4 prospective employees, and prospective teacher
5 trainees in any public charter school for any position
6 that places them in close proximity to children, as
7 provided in section 302D-33;
- 8 (33) The counties on prospective employees who work with
9 children, vulnerable adults, or senior citizens in
10 community-based programs;
- 11 (34) The counties on prospective employees for fire
12 department positions which involve contact with
13 children or vulnerable adults;
- 14 (35) The counties on prospective employees for emergency
15 medical services positions which involve contact with
16 children or vulnerable adults;
- 17 (36) The counties on prospective employees for emergency
18 management positions and community volunteers whose
19 responsibilities involve planning and executing
20 homeland security measures including viewing,
21 handling, and engaging in law enforcement or

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1 classified meetings and assisting vulnerable citizens
2 during emergencies or crises;

3 (37) The State and counties on employees, prospective
4 employees, volunteers, and contractors whose position
5 responsibilities require unescorted access to secured
6 areas and equipment related to a traffic management
7 center;

8 (38) The State and counties on employees and prospective
9 employees whose positions involve the handling or use
10 of firearms for other than law enforcement purposes;

11 (39) The State and counties on current and prospective
12 systems analysts and others involved in an agency's
13 information technology operation whose position
14 responsibilities provide them with access to
15 proprietary, confidential, or sensitive information;

16 (40) The department of commerce and consumer affairs on
17 applicants for real estate appraiser licensure or
18 certification as provided by chapter 466K;

19 (41) The department of health or its designee on all license
20 applicants, licensees, employees, contractors, and
21 prospective employees of medical marijuana
22 dispensaries, and individuals permitted to enter and

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1 remain in medical marijuana dispensary facilities as
2 provided under sections 329D-15(a)(4) and
3 329D-16(a)(3);

4 (42) The department of commerce and consumer affairs on
5 applicants for nurse licensure or license renewal,
6 reactivation, or restoration as provided by sections
7 457-7, 457-8, 457-8.5, and 457-9;

8 [+](43) [+] The county police departments on applicants for
9 permits to acquire firearms pursuant to section 134-2
10 and on individuals registering their firearms pursuant
11 to section 134-3;

12 [+](44) [+] The department of commerce and consumer affairs on:

13 (A) Each of the controlling persons of the applicant
14 for licensure as an escrow depository, and each
15 of the officers, directors, and principals who
16 will be in charge of the escrow depository's
17 activities upon licensure; and

18 (B) Each of the controlling persons of an applicant
19 for proposed change in control of an escrow
20 depository licensee, and each of the officers,
21 directors, and principals who will be in charge

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1 of the licensee's activities upon approval of
2 such application,
3 as provided by chapter 449; and
4 [+] (45) [+] Any other organization, entity, or the State, its
5 branches, political subdivisions, or agencies as may
6 be authorized by state law."

7 SECTION 10. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 11. This Act, upon its approval, shall take effect
10 on September 1, 2017; provided that for all licensees that are
11 licensed under chapter 489D, Hawaii Revised Statutes, as of July
12 1, 2017, section 4 shall take effect on November 1, 2017.

13

14

INTRODUCED BY: *Kevin M.*

15

BY REQUEST

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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".

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

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JUSTIFICATION SHEET

DEPARTMENT: Commerce and Consumer Affairs

TITLE: A BILL FOR AN ACT RELATING TO MONEY TRANSMITTERS.

PURPOSE: This measure updates chapter 489D, Hawaii Revised Statutes (HRS), relating to money transmitters. Today, many money transmitters transmit funds electronically, rather than by issuing a physical payment instrument. Recognizing this, the bill changes the term, "outstanding payment instrument" to "outstanding payment obligation", which more accurately reflects the obligations of a money transmitter. This change impacts provisions on permissible investments, annual reports, record keeping, and license surrender. To require accountability of relevant persons, this measure amends the definitions of "person" and "principal", and deletes the definition of and references to "key shareholders". This change impacts provisions on applications, extraordinary reporting requirements, change of control of the licensee, and criminal history record checks. To enhance screening requirements for a person who controls the operations of a money transmitter company or "change in control", this measure amends the list of persons subject to criminal history record checks, and to litigation and criminal history disclosure requirements.

MEANS: Amend sections 489D-4, 489D-8, 489D-9(d), 489D-12(b), 489D-14, 489D-15(b), 489D-18(a), 489D-22.5(b), and 846-2.7(b), HRS.

JUSTIFICATION: Money transmitters are responsible for transmitting billions of dollars for consumers to locations around the world. Improper practices can result in loss of consumer funds, and movement of

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money promoting or derived from unlawful activity. This bill will enhance consumer protection by strengthening requirements for background information and criminal background checks, applications, reporting and recordkeeping, persons in control of licensee, and permissible investments. It will also make chapter provisions more clearly applicable to new technology and creative payment options.

Impact on the public: Licensees and applicants will have a clearer understanding of the chapter's applicability. Consumer protection will be enhanced.

Impact on the department and other agencies: These amendments improve the readability of chapter 489D, HRS, which will also improve administrative efficiency, and reduce confusion in implementing and complying with Hawaii's money transmitter laws.

GENERAL FUNDS: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: CCA-104.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: September 1, 2017, provided that section 4 is effective November 1, 2017 for all licensees that are licensed as of July 1, 2017.