
A BILL FOR AN ACT

RELATING TO MONEY TRANSMITTERS.

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

1 SECTION 1. Chapter 489D, Hawaii Revised Statutes, is
2 amended by adding two new sections to be appropriately
3 designated and to read as follows:

4 "§489D- Registration with Nationwide Mortgage Licensing
5 System. The commissioner may require all money transmitters to
6 register with the Nationwide Mortgage Licensing System.

7 §489D- Voluntary surrender of license. (a) A money
8 transmitter may voluntarily cease business and surrender its
9 license by giving written notice to the commissioner of its
10 intent to surrender its license. Prior to the surrender date of
11 a money transmitter's license, the money transmitter shall have
12 either completed all money transmissions or assigned each
13 outstanding transmission to another licensed money transmitter.

14 (b) Notice pursuant to this section shall be provided at
15 least thirty days before the surrender of the license and shall
16 include:

17 (1) The date of surrender;



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

7 (3) The reason or reasons for surrender;

8 (4) Total dollar amount of the money transmitter's
9 outstanding payment instruments sold in Hawaii and the
10 individual amounts of each outstanding instrument, and
11 the name, address, and contact phone number of the
12 licensed money transmitter to which each outstanding
13 instrument was assigned;

14 (5) A list of the money transmitter's Hawaii authorized
15 delegates, if any, as of the date of surrender; and

16 (6) Confirmation that the money transmitter has notified
17 each of its Hawaii authorized delegates, if any, that
18 they may no longer conduct money-transmission
19 activities on the money transmitter's behalf.

20 Voluntary surrender of a license shall be effective upon
21 the date of surrender specified on the written notice to the
22 commissioner as required by this subsection; provided that the



1 licensee has met all the requirements of voluntary surrender and
2 has returned the original license issued."

3 SECTION 2. Section 489D-9, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "~~§489D-9 [Application for license.]~~ License and
6 registration; application. (a) To fulfill the purposes of this
7 chapter, the commissioner may establish relationships or
8 contracts with the Nationwide Mortgage Licensing System or other
9 entities designated by the Nationwide Mortgage Licensing System
10 to collect and maintain records and process transaction fees or
11 other fees related to licensees or other persons subject to this
12 chapter.

13 (b) For the purpose of participating and to the extent
14 necessary to participate in the Nationwide Mortgage Licensing
15 System and subject to section 489D-34, the commissioner may
16 waive or modify, in whole or in part, by rule or order, any or
17 all of the requirements of this chapter and establish new
18 requirements as reasonably necessary to participate in the
19 Nationwide Mortgage Licensing System.

20 (c) The commissioner may use the Nationwide Mortgage
21 Licensing System as an agent for:



- 1 (D) A description of the business activities in which
2 the applicant seeks to engage within the State;
- 3 (E) A list identifying the applicant's proposed
4 authorized delegates in the State, if any, at the
5 time of the filing of the license application;
- 6 (F) A sample authorized delegate contract, if
7 applicable;
- 8 (G) A sample form of payment instrument, if
9 applicable;
- 10 (H) The locations where the applicant and its
11 authorized delegates, if any, propose to conduct
12 their licensed activities in the State;
- 13 (I) The name and address of the clearing bank or
14 banks on which the applicant's payment
15 instruments will be drawn or through which
16 payment instruments will be payable;
- 17 (J) Disclosure of any pending or final suspension,
18 revocation, or other enforcement action by any
19 state or governmental authority for the five-year
20 period prior to the date of the application; and
- 21 (K) Any other information the commissioner may
22 require;



- 1 (2) If the applicant is a corporation, the applicant shall
2 also provide:
- 3 (A) The date of the applicant's incorporation and
4 state of incorporation;
- 5 (B) A certificate of good standing from the state in
6 which the applicant was incorporated;
- 7 (C) A description of the corporate structure of the
8 applicant, including the identity of any parent
9 or subsidiary company of the applicant, and the
10 disclosure of whether any parent or subsidiary
11 company is publicly traded on any stock exchange;
- 12 (D) The name, business and residence address, and
13 employment history, for the past five years, of
14 the applicant's executive officers and the
15 officers or managers who will be in charge of the
16 applicant's activities to be licensed under this
17 chapter;
- 18 (E) The name, business and residence address, and
19 employment history of any key shareholder of the
20 applicant, for the period of five years before
21 the date of the application;



1 (F) For the five-year period prior to the date of the
2 application, the history of material litigation
3 involving, and criminal convictions of, every
4 executive officer or key shareholder of the
5 applicant;

6 (G) A copy of the applicant's most recent audited
7 financial statement, including balance sheets,
8 statements of income or loss, statements of
9 changes in shareholder equity and statement of
10 changes in financial position, and, if available,
11 the applicant's audited financial statements for
12 the preceding two-year period or, if the
13 applicant is a wholly owned subsidiary of another
14 corporation, either the parent corporation's
15 consolidated audited financial statements for the
16 current year and for the preceding two-year
17 period, or the parent corporation's Form 10-K
18 reports filed with the United States Securities
19 and Exchange Commission for the prior three years
20 in lieu of the applicant's financial statements,
21 or if the applicant is a wholly owned subsidiary
22 of a corporation having its principal place of



1 business outside the United States, similar
2 documentation filed with the parent corporation's
3 non-United States regulator;

4 (H) Copies of all filings, if any, made by the
5 applicant with the United States Securities and
6 Exchange Commission, or with a similar regulator
7 in a country other than the United States, within
8 the year preceding the date of filing of the
9 application; and

10 (I) Information necessary to conduct a criminal
11 history record check in accordance with section
12 846-2.7 of each of the executive officers, key
13 shareholders, and managers who will be in charge
14 of the applicant's activities, accompanied by the
15 appropriate payment of the applicable fee for
16 each record check; and

17 (3) If the applicant is not a corporation, the applicant
18 shall also provide:

19 (A) The name, business and residence address,
20 personal financial statement, and employment
21 history, for the past five years, of each
22 principal of the applicant;



- 1 (B) The name, business and residence address, and
2 employment history, for the past five years, of
3 any other persons who will be in charge of the
4 applicant's activities to be licensed under this
5 chapter;
- 6 (C) The place and date of the applicant's
7 registration or qualification to do business in
8 this State;
- 9 (D) The history of material litigation and criminal
10 convictions for the five-year period before the
11 date of the application for each individual
12 having any ownership interest in the applicant
13 and each individual who exercises supervisory
14 responsibility over the applicant's activities;
- 15 (E) Copies of the applicant's audited financial
16 statements, including balance sheets, statements
17 of income or loss, and statements of changes in
18 financial position for the current year and, if
19 available, for the preceding two-year period; and
- 20 (F) Information necessary to conduct a criminal
21 history record check in accordance with section
22 846-2.7 of each principal of the applicant,



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

3 ~~[(b)]~~ (e) The commissioner, for good cause, may:

4 (1) Waive any requirement of this section relating to any
5 license application; or

6 (2) Permit an applicant to submit substituted information
7 in its license application in lieu of the information
8 required by this section."

9 SECTION 3. Section 489D-9.5, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "~~[(b)]~~**\$489D-9.5** **Limited exemption for financial**
12 **institutions; financial institutions as authorized delegates.**

13 (a) Banks, bank holding companies, credit unions, building and
14 loan associations, savings and loan associations, savings banks,
15 financial services loan companies, and mutual banks organized
16 under the laws of the United States or any state shall be exempt
17 from the licensing and examination provisions of this chapter.

18 (b) An applicant or licensee may appoint an entity
19 described in subsection (a) as an authorized delegate.

20 (c) When submitting an application for a license pursuant
21 to section 489D-9, or when submitting an annual report pursuant
22 to section 489D-12, an applicant or licensee that appoints an



1 entity described in subsection (a) as an authorized delegate
2 shall include that entity's name and the locations in this State
3 where that entity will conduct its authorized delegate
4 activities.

5 ~~[(d) When computing the application and license fees~~
6 ~~required to be paid pursuant to sections 489D-10 and 489D-12, an~~
7 ~~applicant or licensee that appoints an entity described in~~
8 ~~subsection (a) as an authorized delegate shall exclude all of~~
9 ~~the locations in this State where that entity will conduct its~~
10 ~~authorized delegate activities.]"~~

11 SECTION 4. Section 489D-10, Hawaii Revised Statutes, is
12 amended by amending subsection (a) to read as follows:

13 "(a) Each application shall be accompanied by:

14 (1) A nonrefundable application fee in the amount of
15 ~~[\$2,000 plus \$300 for each additional location in the~~
16 ~~State,]~~ \$5,000; provided that the applicant shall be
17 charged \$60 per employee hour in excess of eighty
18 employee hours for the review of the application and
19 attendant investigations, not to exceed an aggregate
20 fee of ~~[\$15,000,]~~ \$25,000. The hourly fee will be
21 billed and shall be paid prior to preliminary approval
22 of the license; and



1 (2) An initial annual license fee of [~~\$2,000 plus \$300 for~~
 2 ~~each additional location in the State, not to exceed~~
 3 ~~an aggregate fee of \$15,000.] \$5,000."~~

4 SECTION 5. Section 489D-12, Hawaii Revised Statutes, is
 5 amended to read as follows:

6 "**§489D-12 Renewal of license and annual report.** (a) On
 7 or before December 31 of each year, [~~each licensee shall pay to~~
 8 ~~the commissioner an annual license fee of \$2,000, plus \$300 for~~
 9 ~~each additional location in the State, not to exceed an~~
 10 ~~aggregate fee of \$15,000.] each money transmitter shall pay to
 11 the commissioner the following renewal fees based on the number
 12 of annualized money transmissions as follows:~~

13 (1) \$5,000 for money transmitters with fewer than five
 14 thousand money transmissions;

15 (2) \$6,000 for money transmitters with five thousand or
 16 more but fewer than fifty thousand money
 17 transmissions;

18 (3) \$8,000 for money transmitters with fifty thousand or
 19 more but fewer than one hundred thousand money
 20 transmissions;



- 1 (4) \$12,500 for money transmitters with one hundred
2 thousand or more but fewer than two hundred thousand
3 money transmissions; and
4 (5) \$15,000 for money transmitters with two hundred
5 thousand or more money transmissions.

6 For purposes of this subsection, "annualized money
7 transmissions" is the number of money transmissions reported for
8 the quarter on the report required by subsection (b) (2)
9 multiplied by four.

10 (b) The annual license fee shall be accompanied by a
11 report, in a form prescribed by the commissioner, which shall
12 include:

- 13 (1) A copy of the licensee's most recent audited annual
14 financial statement, including balance sheets,
15 statement of income or loss, statement of changes in
16 shareholder's equity, and statement of changes in
17 financial position or, if a licensee is a wholly owned
18 subsidiary of another corporation, the consolidated
19 audited annual financial statement of the parent
20 corporation in lieu of the licensee's audited annual
21 financial statement;



- 1 (2) For the most recent quarter for which data is
2 available prior to the date of filing the annual
3 report, but in no event more than one hundred twenty
4 days prior to the renewal date, the licensee shall
5 provide the number of [~~payment instruments~~] money
6 transmissions sold, issued, or received for
7 transmission by the licensee in the State, the dollar
8 amount of those [~~instruments,~~] transmissions, and the
9 dollar amounts of [~~those~~] payment instruments
10 currently outstanding;
- 11 (3) Any material changes to any of the information
12 submitted by the licensee on its original application
13 that have not previously been reported to the
14 commissioner on any other report required to be filed
15 under this chapter;
- 16 (4) For the most recent quarter for which data is
17 available prior to the date of filing the annual
18 report, but in no event more than one hundred twenty
19 days prior to the renewal date, a list of the
20 licensee's permissible investments, including the
21 total market value of each type of permissible
22 investment, and the total dollar amount of all



1 outstanding payment instruments issued or sold by the
2 licensee in the United States;

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

7 (6) Disclosure of any pending or final suspension,
8 revocation, or other enforcement action by any state
9 or governmental authority; and

10 (7) Any other information the commissioner may require.

11 (c) A licensee that has not filed an annual report that
12 has been deemed complete by the commissioner or paid its annual
13 license fee by the renewal filing deadline, and has not been
14 granted an extension of time to do so by the commissioner, shall
15 have its license suspended on the renewal date. The licensee
16 has thirty days after its license is suspended to file an annual
17 report and pay the annual license fee, plus a late filing fee of
18 [~~\$100~~] \$250 for each business day after suspension that the
19 commissioner does not receive the annual report and the annual
20 license fee. The commissioner, for good cause, may grant an
21 extension of the renewal date or reduce or suspend the [~~\$100~~]
22 \$250 per day late filing fee."



1 SECTION 6. Section 489D-12.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[~~§~~489D-12.5~~§~~] **Fees.** Unless otherwise provided by
4 statute, all fees, administrative penalties, and other charges
5 assessed under this chapter shall be deposited into the
6 compliance resolution fund established pursuant to section 26-
7 9(o)."

8 SECTION 7. Section 489D-14.5, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "[~~§~~489D-14.5~~§~~] **Name change.** To change its name, its
11 fictitious name, or its trade name, a money transmitter shall
12 file an application with the commissioner and pay a
13 nonrefundable fee of [~~\$250~~] \$1,000 [~~or such greater amount as~~
14 ~~the commissioner shall establish by rule pursuant to chapter~~
15 ~~91~~]. The application shall be approved if the commissioner is
16 satisfied that the new name complies with all applicable laws.
17 Any change of name shall not affect a money transmitter's
18 rights, liabilities, or obligations existing prior to the
19 effective date thereof, and no documents of transfer shall be
20 necessary to preserve such rights, liabilities, or obligations;
21 provided that the commissioner may require notice to be given to
22 the public and other governmental agencies."



1 SECTION 8. Section 489D-15, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) A licensee shall submit to the commissioner an
4 application requesting approval of a proposed change of control
5 of the licensee, accompanied by a nonrefundable application fee
6 of [~~\$2,000.~~] \$2,500; provided that the applicant shall be
7 charged \$60 per employee hour expended in excess of forty
8 employee hours for the review of the proposed change in control
9 and attendant investigations not to exceed an aggregate fee of
10 \$10,000. The hourly fee will be billed and shall be paid prior
11 to approval of the change in control."

12 SECTION 9. Section 489D-17, Hawaii Revised Statutes, is
13 amended by amending subsection (c) to read as follows:

14 "(c) The commissioner shall charge an examination fee to
15 each licensed money transmitter and authorized delegate examined
16 or investigated by the commissioner or the commissioner's staff,
17 based upon the cost per hour per examiner. [~~Effective July 1,~~
18 ~~2008, the] The hourly fee [shall be] is \$60."~~

19 SECTION 10. Section 489D-28, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "**§489D-28 Civil penalties.** [~~(a)~~] The commissioner may
22 assess a fine against a person who violates this chapter or a



1 rule adopted or an order issued under this chapter in an amount
2 not to exceed [~~\$500~~] \$1,000 per day for each day the violation
3 is outstanding, plus the State's costs and expenses for the
4 investigation and prosecution of the matter, including
5 reasonable [~~attorneys'~~] attorney's fees.

6 [~~(b) All administrative fines collected under authority of
7 this chapter shall be deposited into the compliance resolution
8 fund established pursuant to section 26-9(e).~~]"

9 SECTION 11. Section 489D-34, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "~~[+]§489D-34[+]~~ **Rules.** The commissioner may adopt such
12 rules pursuant to chapter 91 [~~to implement this chapter.~~] as
13 the commissioner deems necessary for the administration and
14 enforcement of this chapter; provided that the commissioner
15 shall not:

- 16 (1) Adjust any fee by rule; or
17 (2) Establish any new fee by rule."

18 SECTION 12. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 13. This Act shall take effect on July 1, 3000.



Report Title:

Money Transmitters; Fees

Description:

Authorizes the Commissioner of Financial Institutions to require money transmitters to register with the Nationwide Mortgage Licensing System; amends the fee structure for services provided by the Division of Financial Institutions for the regulation of money transmitters; amends the fine for violations of money transmitter regulations. Prohibits the Commissioner from establishing or adjusting fees by rule. Effective July 1, 3000.
(HB2500 HD1)

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

