
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 and Registry. The commissioner may require all licensees
6 to register with the Nationwide Mortgage Licensing System and
7 Registry.

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

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



- 1 (1) The date of surrender;
- 2 (2) The name, address, telephone number, facsimile number,
- 3 and electronic-mail address of a contact individual
- 4 with knowledge and authority sufficient to communicate
- 5 with the commissioner regarding all matters relating
- 6 to the licensee during the period that the licensee
- 7 was licensed pursuant to this chapter;
- 8 (3) The reason or reasons for surrender;
- 9 (4) Total dollar amount of the money transmitter's
- 10 outstanding payment instruments sold in Hawaii and the
- 11 individual amounts of each outstanding instrument, and
- 12 the name, address, and contact phone number of the
- 13 licensed money transmitter to which each outstanding
- 14 instrument was assigned;
- 15 (5) A list of the money transmitter's Hawaii authorized
- 16 delegates, if any, as of the date of surrender; and
- 17 (6) Confirmation that the money transmitter has notified
- 18 each of its Hawaii authorized delegates, if any, that
- 19 they may no longer conduct money-transmission
- 20 activities on the money transmitter's behalf.
- 21 Voluntary surrender of a license shall be effective upon
- 22 the date of surrender specified on the written notice to the



1 commissioner as required by this subsection; provided that the
2 licensee has met all the requirements of voluntary surrender and
3 has returned the original license issued."

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

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

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



1 (c) The commissioner may use the Nationwide Mortgage
2 Licensing System and Registry as an agent for:

3 (1) Requesting information from and distributing
4 information to the United States Department of Justice
5 or any governmental agency; and

6 (2) Requesting and distributing information to and from
7 any source directed by the commissioner.

8 [~~a~~] (d) An application for a license under this chapter
9 shall be made in writing, and in a form prescribed by the
10 Nationwide Mortgage Licensing System and Registry or by the
11 commissioner. Each application shall contain the following:

12 (1) For all applicants:

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

18 (B) The history of the applicant's material
19 litigation and criminal convictions for the five-
20 year period prior to the date of the application;



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



1 state or governmental authority for the five-year
2 period prior to the date of the application; and

3 (K) Any other information the commissioner may
4 require;

5 (2) If the applicant is a corporation, the applicant shall
6 also provide:

7 (A) The date of the applicant's incorporation and
8 state of incorporation;

9 (B) A certificate of good standing from the state in
10 which the applicant was incorporated;

11 (C) A description of the corporate structure of the
12 applicant, including the identity of any parent
13 or subsidiary company of the applicant, and the
14 disclosure of whether any parent or subsidiary
15 company is publicly traded on any stock exchange;

16 (D) The name, business and residence address, and
17 employment history, for the past five years, of
18 the applicant's executive officers and the
19 officers or managers who will be in charge of the
20 applicant's activities to be licensed under this
21 chapter;



- 1 (E) The name, business and residence address, and
2 employment history of any key shareholder of the
3 applicant, for the period of five years before
4 the date of the application;
- 5 (F) For the five-year period prior to the date of the
6 application, the history of material litigation
7 involving, and criminal convictions of, every
8 executive officer or key shareholder of the
9 applicant;
- 10 (G) A copy of the applicant's most recent audited
11 financial statement, including balance sheets,
12 statements of income or loss, statements of
13 changes in shareholder equity and statement of
14 changes in financial position, and, if available,
15 the applicant's audited financial statements for
16 the preceding two-year period or, if the
17 applicant is a wholly owned subsidiary of another
18 corporation, either the parent corporation's
19 consolidated audited financial statements for the
20 current year and for the preceding two-year
21 period, or the parent corporation's Form 10-K
22 reports filed with the United States Securities



1 and Exchange Commission for the prior three years
2 in lieu of the applicant's financial statements,
3 or if the applicant is a wholly owned subsidiary
4 of a corporation having its principal place of
5 business outside the United States, similar
6 documentation filed with the parent corporation's
7 non-United States regulator;

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

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

21 (3) If the applicant is not a corporation, the applicant
22 shall also provide:



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



1 financial position for the current year and, if
 2 available, for the preceding two-year period; and
 3 (F) Information necessary to conduct a criminal
 4 history record check in accordance with section
 5 846-2.7 of each principal of the applicant,
 6 accompanied by the appropriate payment of the
 7 applicable fee for each record check.

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

- 9 (1) Waive any requirement of this section relating to any
- 10 license application; or
- 11 (2) Permit an applicant to submit substituted information
- 12 in its license application in lieu of the information
- 13 required by this section."

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

16 "~~+~~§489D-9.5~~+~~ **Limited exemption for financial**
 17 **institutions; financial institutions as authorized delegates.**

18 (a) Banks, bank holding companies, credit unions, building and
 19 loan associations, savings and loan associations, savings banks,
 20 financial services loan companies, and mutual banks organized
 21 under the laws of the United States or any state shall be exempt
 22 from the licensing and examination provisions of this chapter.



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

3 (c) When submitting an application for a license pursuant
4 to section 489D-9, or when submitting an annual report pursuant
5 to section 489D-12, an applicant or licensee that appoints an
6 entity described in subsection (a) as an authorized delegate
7 shall include that entity's name and the locations in this State
8 where that entity will conduct its authorized delegate
9 activities.

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

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

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

19 (1) A nonrefundable application fee in the amount of
20 ~~[\$2,000 plus \$300 for each additional location in the~~
21 ~~State,]~~ \$ _____ ; provided that the applicant shall
22 be charged \$ _____ per employee hour in excess of



1 eighty employee hours for the review of the
2 application and attendant investigations not to exceed
3 an aggregate fee of [~~\$15,000,~~] \$ _____. The hourly
4 fee will be billed and shall be paid prior to
5 preliminary approval of the license; and

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

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

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

18 (1) \$ _____ for money transmitters with fewer than five
19 thousand money transmissions;

20 (2) \$ _____ for money transmitters with five thousand or
21 more but fewer than fifty thousand money
22 transmissions;



1 (3) \$ _____ for money transmitters with fifty thousand
2 or more but fewer than one hundred thousand money
3 transmissions;

4 (4) \$ _____ for money transmitters with one hundred
5 thousand or more but fewer than two hundred thousand
6 money transmissions; and

7 (5) \$ _____ for money transmitters with two hundred
8 thousand or more money transmissions.

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

13 (b) The annual license fee shall be accompanied by a
14 report, in a form prescribed by the commissioner, which shall
15 include:

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



1 corporation in lieu of the licensee's audited annual
2 financial statement;

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

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

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



1 total market value of each type of permissible
2 investment, and the total dollar amount of all
3 outstanding payment instruments issued or sold by the
4 licensee in the United States;

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

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

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

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



1 extension of the renewal date or reduce or suspend the [~~\$100~~]
2 \$ _____ per day late filing fee."

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

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

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

12 "~~[+]§489D-14.5[+]~~ **Name change.** To change its name, its
13 fictitious name, or its trade name, a [~~money transmitter~~]
14 licensee shall file an application with the commissioner and pay
15 a nonrefundable fee of [~~\$250~~] \$ _____ [~~or such greater amount~~
16 ~~as the commissioner shall establish by rule pursuant to chapter~~
17 ~~94~~]. The application shall be approved if the commissioner is
18 satisfied that the new name complies with all applicable laws.
19 Any change of name shall not affect a money transmitter's
20 rights, liabilities, or obligations existing prior to the
21 effective date thereof, and no documents of transfer shall be
22 necessary to preserve such rights, liabilities, or obligations;



1 provided that the commissioner may require notice to be given to
2 the public and other governmental agencies."

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

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

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

16 "(c) The commissioner shall charge an examination fee to
17 each licensed money transmitter and authorized delegate examined
18 or investigated by the commissioner or the commissioner's staff,
19 based upon the cost per hour per examiner. [~~Effective July 1,~~
20 ~~2008, the] The hourly fee [~~shall be] is \$60."~~~~

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



1 "**§489D-28 Civil penalties.** [~~(a)~~] The commissioner may
 2 assess a fine against a person who violates this chapter or a
 3 rule adopted or an order issued under this chapter in an amount
 4 not to exceed [~~\$500~~] \$_____ per day for each day the violation
 5 is outstanding, plus the State's costs and expenses for the
 6 investigation and prosecution of the matter, including
 7 reasonable [~~attorneys'~~] attorney's fees.

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

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

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

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

20 SECTION 12. Statutory material to be repealed is bracketed
 21 and stricken. New statutory material is underscored.

22 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 and Registry. 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. (SB2762 HD1)

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

