

[CHAPTER 477E]
FAIR CREDIT EXTENSION

Section

- 477E-1 Short title
- 477E-2 Definitions
- 477E-3 Prohibited credit discrimination
- 477E-4 Civil remedies
- 477E-5 Unfair or deceptive act or practice
- 477E-6 Inconsistency with federal laws

" **[\$477E-1] Short title.** This chapter may be cited as the Hawaii Fair Credit Extension Act of 1975. [L 1975, c 109, pt of §1]

" **§477E-2 Definitions.** As used in this chapter:

"Applicant" means any person who initially applies to a creditor directly for a loan or credit, or who directly applies to a creditor for an extension, renewal, or continuation of credit, or applies to a creditor indirectly by use of an existing credit plan for an amount exceeding a previously established credit limit.

"Credit" means the loan of money, or the right granted by a creditor to a debtor to defer payment of debt, or to incur debts and defer payment therefor, or to purchase property or services and defer payment therefor.

"Creditor" means any bank; savings and loan association; trust company; financial services loan company; credit union; mortgage loan originator; mortgage loan originator company; pawnbroker; mutual benefit society or fraternal benefit society; debt adjuster; the issuer of a credit card as defined in section 708-800; any person who initiates, extends, renews, or continues loans of money or credit; any person who regularly arranges for the initiation, extension, renewal, or continuation of a loan of money or credit; or any assignee of an original creditor who participates in the decision to grant, extend, renew, or to continue a loan of money or credit.

"Person" means a natural person, a corporation, government or governmental subdivision or agency, a trust, estate, partnership, cooperative, or association. [L 1975, c 109, pt of §1; am L 1987, c 283, §39; am L 1989, c 266, §3; am L 2008, c 19, §3; am L Sp 2009, c 32, §6; am L 2010, c 84, §25]

" **[\$477E-3] Prohibited credit discrimination.** (a) It shall be unlawful for any creditor to discriminate against any applicant on the basis of marital status with respect to any aspect of a credit transaction.

(b) An inquiry of marital status shall not constitute discrimination for the purposes of this chapter if such inquiry is for the purpose of ascertaining the creditor's rights and remedies applicable to the particular extension of credit, and not to discriminate in a determination of creditworthiness.

(c) A request for the signature of both parties to a marriage for the purpose of creating a valid lien, passing clear title, waiving inchoate rights to, or assigning the earnings and profits, in any transaction involving real property shall not be construed to be discrimination under this part; provided that this provision shall not be construed to permit a creditor to

take marital status into account in connection with the evaluation of creditworthiness of any applicant.

(d) Consideration or application of the real property laws directly or indirectly affecting creditworthiness shall not constitute discrimination for any purpose of this chapter.

(e) Whenever either party to a marriage contracts separately for credit or a loan, the contracting party shall be solely responsible for the debt so contracted.

(f) Whenever each party to a marriage separately and voluntarily applies for, and obtains, separate credit accounts or loans with the same creditor, those accounts or loans shall not be aggregated, or otherwise combined, for purposes of determining permissible finance charges, or permissible loan ceilings. [L 1975, c 109, pt of §1]

" **[§477E-4] Civil remedies.** (a) Any creditor who fails to comply with any requirement imposed under this chapter shall be liable to the aggrieved applicant in an amount equal to the sum of any actual damages sustained by such applicant.

(b) Any creditor who fails to comply with any requirement imposed under this chapter shall be liable to the aggrieved applicant for punitive damages in an amount not greater than \$10,000, as determined by the court, in addition to any actual damages provided in subsection (a); provided that in pursuing the recovery allowed under this subsection, the applicant may proceed only in an individual capacity and not as a representative of a class.

(c) Whenever a creditor fails to comply with any requirement imposed under this chapter, an aggrieved applicant may institute a civil action for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other action.

(d) In any successful action to enforce the foregoing liability or preventive action, the costs of the action, together with a reasonable attorney's fee, as determined by the court, shall be added to any damages awarded by the court under subsections (a), (b), and (c) of this section.

(e) Any action under this chapter shall be brought within one year from the last date of the occurrence of any violation, or within one year from the date on which the applicant learned, or should have learned, of the violation. [L 1975, c 109, pt of §1]

" **§477E-5 Unfair or deceptive act or practice.** Any creditor who violates or attempts to violate any provision of this chapter shall be deemed to have engaged in an unfair or deceptive act or practice in the conduct of trade or commerce

within the meaning of section 480-2. [L 1975, c 109, pt of §1; am L 1996, c 59, §2; am L 2008, c 19, §4]

" **[\$477E-6] Inconsistency with federal laws.** No creditor shall be required to comply with any provisions of this chapter that are directly inconsistent with federal laws relating to discrimination in the advancement of credit. A provision of this chapter is not directly inconsistent with federal laws if it provides greater protection to an applicant. [L 1975, c 109, pt of §1]