

Honolulu, Hawaii

MAR 13 , 2020

RE: S.B. No. 2587
S.D. 1
H.D. 1

Honorable Scott K. Saiki
Speaker, House of Representatives
Thirtieth State Legislature
Regular Session of 2020
State of Hawaii

Sir:

Your Committee on Intrastate Commerce, to which was referred
S.B. No. 2587, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO CONSUMER PROTECTION,"

begs leave to report as follows:

The purpose of this measure is to strengthen regulation over
the payday lending industry by:

- (1) Establishing requirements for small dollar installment loans;
- (2) Requiring a person to be licensed in order to act as a small dollar lender;
- (3) Appropriating funds for the Division of Financial Institutions (DFI) of the Department of Commerce and Consumer Affairs to carry out the purposes of the small dollar installment loan program;
- (4) Requiring a person to be registered with the Department of Commerce and Consumer Affairs in order to conduct business as a check casher; and



- (5) Requiring DFI to conduct an analysis of the regulation of payday lenders and deferred deposit agreements.

Your Committee received testimony in support of this measure from Ohana Holdings, LLC. Your Committee received comments on this measure from the Department of Commerce and Consumer Affairs, Dollar Financial Group, and one individual.

Your Committee finds that twenty-one percent of all households in Hawaii use an alternative financial service, such as a check cashing or payday loan service, at least once during the year. Your Committee further finds that because of the State's existing deferred deposit laws, consumers who use payday lending can get trapped in unsustainable cycles of debt. This measure creates a regulatory framework for small dollar lenders that will provide protection to unbanked and underbanked Hawaii residents.

Your Committee has heard testimony from the Department of Commerce and Consumer Affairs that a consumer loan statutory scheme exists in Chapter 421, Article 9 (Article 9), Hawaii Revised Statutes. The existing loan scheme offers many of the protections proposed by this measure, such as precomputed consumer loans, the types of fees that can be charged to consumers, the circumstances under which a prepayment penalty can be charged, and provisions on how refunds are calculated. In their testimony, the Department of Commerce and Consumer Affairs further notes that DFI has been working with small dollar and payday lenders and, because Article 9 provides DFI with the ability to review nondepository financial service loan companies in the same manner that it reviews banks, would therefore prefer to use the existing scheme of Article 9 for the licensing, supervision, and examination of these types of lenders.

Your Committee finds that placing the licensing and regulatory measures for small dollar lenders proposed by this measure in Article 9 will promote further discussion that may lead to identifying and removing duplicative provisions. Your Committee notes that the maximum allowable loan amount proposed by this measure of \$1,500 falls well short of the \$25,000 maximum loan amount authorized by Article 9 and requests that your Committee on Consumer Protection & Commerce consider the application of Article 9 on loans greater than the proposed \$1,500 maximum for small dollar lenders proposed by this measure.



Your Committee has amended this measure by:

- (1) Placing the licensing and regulatory measures for small dollar lenders proposed by this measure in Chapter 421, Article 9, Hawaii Revised Statutes, rather than as a new Chapter in title 25A, Hawaii Revised Statutes;
- (2) Adding a new definition for "renewal";
- (3) Increasing the maximum allowable loan size from \$1,000 to \$1,500;
- (4) Increasing the maximum allowable costs from fifty percent to sixty percent;
- (5) Increasing the tiered maximum monthly maintenance fee from \$25 to \$60;
- (6) Clarifying payment requirements, specifically:
 - (A) Prioritizing payment of all past due interests and fees; and
 - (B) Allowing a lender to contract for payment every two weeks on a multiple installment small dollar loan;
- (7) Increasing the time a small dollar lender has to respond to a request for the amount required to discharge the loan in full from two days to five days;
- (8) Expanding the methods by which a loan payment may be made;
- (9) Allowing for electronic signature of loan documents, if the loan is being made over the Internet;
- (10) Deleting language allowing small dollar lenders to contract for interest at a single annual rate that would result in the same earned interest as the graduated rate;
- (11) Clarifying what information the parties must reduce to a written agreement;



- (12) Allowing for a default charge of \$30;
- (13) Exempting shared phone numbers or electronic accounts from the prohibition on contacting a consumer's spouse or domestic partner;
- (14) Exempting the transfer or pledge of a small dollar loan to affiliated small dollar lenders or financial institutions in connection with asset-backed financing, where such transfers do not result in relinquishing servicing rights on the loan, from the notice requirements;
- (15) Clarifying what types of advertising would prevent a lender from obtaining a license;
- (16) Expanding the entities a licensee may transfer pending small dollar loans to as part of a voluntary surrender of a license;
- (17) Requiring the State Auditor, rather than the Division of Financial Institutions of the Department of Commerce and Consumer Affairs, to conduct an analysis of the regulation of payday lenders and deferred deposit agreements; and
- (18) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Intrastate Commerce that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2587, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2587, S.D. 1, H.D. 1, and be referred to your Committee on Consumer Protection & Commerce.



Respectfully submitted on
behalf of the members of the
Committee on Intrastate
Commerce,



TAKASHI OHNO, Chair



