

COMMERCE AND CONSUMER PROTECTION

The purview of this committee includes those programs relating to business regulation, professional and vocational licensing, consumer protection, financial institutions, insurance regulation, public utility regulation, telecommunications regulation, the landlord tenant code, condominium property regimes, and leaseholds.

Highlights

COMMERCE AND CONSUMER PROTECTION

Deferred deposit loans, more commonly referred to as payday loans, are a lending product that can easily trap consumers in unsustainable cycles of debt. According to The Pew Charitable Trusts, the average payday borrower in Hawaii incurs \$529 in fees to borrow \$300 over the course of five months, which is nearly three times higher than what the same lenders charge similarly situated consumers in other states. To address the imperative need for reform and promote responsible and transparent lending, this session, the Legislature passed **HB1192, HD1, SD2, CD1**, which establishes a new framework and important consumer protections for viable installment loan transactions and repeals the statutory authorization for deferred deposit transactions in the State. **HB1192, HD1, SD2, CD1**, among other things, mandates that installment loan transactions meet certain requirements, including written agreements that contain specific disclosures, prohibits loans to exceed \$1,500, caps loan charges at 50 percent of the principal loan amount, and authorizes an interest rate not to exceed 36 percent per year on the portion of the unpaid principal balance of the installment loan.

The current fast-paced nature of money transmission and the increased innovation of financial technologies have grown considerably since the enactment of Hawaii's Money Transmitter Act in 2006. Over the years, regulation of money transmitters has evolved from a single state regulator licensing, supervising, and examining a money transmitter to a network of states working together to license, supervise, and examine trans-global money transmission companies as a multi-state system. In 2019, the Conference of State Bank Supervisors published a draft model law for money services based on the Uniform Money Services Act to address areas in need of standardization and align jurisdictions to protect consumers and facilitate coordination among state agencies. **SB973, SD1, HD2, CD1**, modernizes Hawaii's Money Transmitter Act and incorporates certain provisions of the Model Money Services Business Law to enable the Division of Financial Institutions to license, regulate, and supervise nationally and globally operating money transmission companies and participate in an established multi-state system to share supervisory information with other states to swiftly protect consumers who use money transmission companies.

RESIDENTIAL LANDLORD-TENANT CODE

The coronavirus disease 2019 (COVID-19) pandemic resulted in many residents unable to pay their rent due to unprecedented unemployment across the State. Governor Ige issued proclamations related to the COVID-19 emergency to provide protections for tenants, including an eviction moratorium that prohibits any eviction from a residential dwelling unit

for failure to pay rent, which is currently scheduled to expire on June 30, 2021. Recognizing that a balanced approach will be necessary to help reduce the large number of summary possession cases that are expected to follow the expiration of certain COVID-19 emergency proclamations, the Legislature passed **HB1376, HD2, SD2, CD1**, to encourage communication and facilitate mediation between landlords and tenants. **HB1376, HD2, SD2, CD1**, maintains certain protections for one year following the expiration of the Governor's eviction moratorium, including extending notice periods, requiring landlords to engage in mediation and delay filing an action for summary possession, and restricting when landlords may exercise certain remedies.

PROFESSIONS AND VOCATIONS

Spouses and dependents of military service members in Hawaii can face a number of obstacles in advancing their careers. Many professionally licensed spouses of service members do not seek licensure in the State because service members and their spouses move, on average, every three years, and obtaining a license in every jurisdiction can represent a significant burden. Further, existing state law requires all persons seeking employment with the government to be residents of the State, which has disqualified a number of otherwise qualified civilian military service member dependents from filling critical vacancies. **HB961, HD1, SD2 (ACT 18)**, reflects a product of joint efforts from multiple departments to balance consumer protections with a streamlined process to accelerate the timeline for a military spouse who holds a current, unencumbered license in another jurisdiction of the United States to obtain a Hawaii license by endorsement for certain professions, enumerated in the measure, that have national licensure standards. **HB961, HD1, SD2 (ACT 18)**, also exempts military service members' dependents who are in Hawaii on bona fide military orders from residency requirements for state employment to help increase the pool of qualified candidates, especially in chronically understaffed professions.

This session, the Legislature took steps to combat human trafficking and ensure that state law conforms to recent federal rule changes reflecting Congress' passage of the No Human Trafficking on Our Roads Act. **SB764, SD1, HD1, CD1**, establishes that any person who uses a commercial motor vehicle in the commission of any felony involving severe forms of trafficking in persons shall be permanently disqualified from driving a commercial vehicle for life without the possibility of reinstatement. **SB764, SD1, HD1, CD1**, achieves substantial compliance with federal regulations to ensure the State continues to be eligible to receive allotted monies from the federal Highway Trust Fund.

OTHER NOTABLE MEASURES

In 2017, Alexis ("Lexi") Jenkins, a visitor to Maui, suffered a fatal accident when the rented moped she was riding collided with a truck. She was not wearing a helmet. Data shows that, in the event of a crash, properly worn helmets reduce the risk of death by 42 percent and the risk of a head injury by 69 percent. To mitigate fatalities and traumatic brain injuries on Hawaii roadways, the Legislature passed **SB615, SD1, HD2, CD1**, known as "Lexi's Law", to strengthen helmet safety laws as they relate to rented mopeds and motor scooters (see Transportation Committee).

Climate change continues to pose immediate and long-term threats to the State's economy, sustainability, security, and its residents' way of life. Due to rising sea levels, new interactive mapping tools have been developed to depict projections for future hazard exposure and to assess economic and other vulnerabilities, including impacts on property values. To help protect buyers in real property transactions, **SB474, SD1, HD2, CD1**, requires that, beginning May 1, 2022, mandatory seller disclosures include indications of whether a residential real property lies within the sea level rise exposure area (see Water and Land Committee).

Bills Passed

COMMERCE AND FINANCIAL INSTITUTIONS

Hawaii Taxpayer Protection Act; Tax Return Preparers; Preparer Tax Identification Number; Penalties. (SB320, HD1, CD1) Beginning January 1, 2022, requires tax return preparers to have a valid Preparer Tax Identification Number issued by the Internal Revenue Service, which shall be disclosed on any return or claim for refund prepared for compensation if required by the Department of Taxation. Establishes penalties for noncompliance on a per violation basis. Permits the Director of Taxation to bring a civil action to enjoin a tax return preparer from acting as a preparer or from engaging in certain conduct.

Money Transmitters Modernization Act; Licensure; Commissioner of Financial Institutions. (SB973, SD1, HD2, CD1) Renames the Money Transmitters Act to the Money Transmitters Modernization Act. Incorporates definitions of key terms provided in the Model Money Services Business Law. Updates documentation required to be submitted by an applicant for licensure. Extends the look back period for a license applicant's litigation and criminal conviction history from five years to ten years. Requires an applicant to submit information concerning any bankruptcy or receivership proceedings. Clarifies the authority of the Commissioner of Financial Institutions to examine and investigate licensees and participate in nationwide protocols for licensing cooperation.

Nondepository Trust Companies; Appropriation. (HB943, HD1, SD2, CD1) Establishes a new part in the Hawaii Code of Financial Institutions concerning nondepository trust companies, which specifies, among other things, definitions of key terms, the powers and duties of nondepository trust companies, yearly fee assessment calculations, and paid-in-capital and surplus requirements. Appropriates \$4,000 out of the Compliance Resolution Fund for fiscal years 2021-2022 and 2022-2023 for the Division of Financial Institutions of the Department of Commerce and Consumer Affairs to administer nondepository trust companies.

Real Estate Investment Trusts; Department of Taxation; Reporting; Penalties. (HB286, HD1, SD2) For tax years beginning after December 31, 2021, authorizes the Department of Taxation (Department) to require real estate investment trusts subject to Hawaii's income tax laws to:

- Notify the Department of their presence within the State;
- Report annually their assets and generated revenues; and
- Submit copies of their federal tax returns.

Establishes a penalty of \$50 per day for noncompliance.

Uniform Securities Act; Elders; Vulnerable Adults; Financial Exploitation; Governmental Disclosures; Immunity. (HB940, HD2, SD1) Requires qualified persons to promptly notify the Commissioner of Securities if they reasonably believe that financial exploitation of an elder or a vulnerable adult has occurred. Extends immunity from administrative or civil liability for good faith reporting. Authorizes a qualified person to delay a disbursement from, or a transaction in connection with, an account of an elder or vulnerable adult in situations of suspected financial exploitation.

CONDOMINIUMS AND PLANNED COMMUNITY ASSOCIATIONS

Condominium Associations; Planned Community Associations; Remote Meetings; Voting; States of Emergency. (HB599, HD1, SD1, CD1) Clarifies that planned community associations may conduct an annual, regular, or special meeting remotely consistent with certain provisions of the Hawaii Nonprofit Corporations Act. Authorizes condominium associations to conduct electronic meetings and electronic, machine, or mail voting during any period in which a declared state of emergency or local state emergency is in effect in the county in which the condominium is located or for association meetings noticed during a declared state of emergency or local state of emergency and for which the applicable emergency has since expired, provided that the meeting is held within sixty days of the date the notice was first given.

Condominiums; Disposition of Unclaimed Property. (SB329, SD1, HD1, CD1) Reduces the notice period for a condominium association to sell, store, donate, or dispose of personal property when the identity and address of the owner are known from sixty to thirty days. Eliminates the requirement for a condominium association to publish notice of the sale, donation, or disposition of abandoned personal property and permits the condominium association to proceed directly to the disposition of the personal property when the identity or address of the owner is unknown.

CONSUMER PROTECTION

County-Issued cards; Gift Certificates; Exemption. (HB149, HD1, SD1) Beginning January 1, 2022, exempts smart cards issued by a county for the purposes of paying public transit fares, county fees, and other uses from the State's unfair and deceptive practices regulations related to gift certificates, particularly with regard to unspent value and redemption for cash balances, to support the counties' smart card programs.

Payday Lending; Installment Loans; Deferred Deposits. (HB1192, HD1, SD2, CD1) Creates a new chapter governing installment loans, which defines terms, establishes certain requirements and disclosures for installment loan transactions and renewals, and caps installment loan amounts and interest rates. Beginning January 1, 2022, repeals the statutory authorization for deferred deposit transactions in the State and requires licensure for installment lenders that offer installment loans to consumers.

INSURANCE REGULATION

Insurance; Contracts; Limited Lines Licenses; Standards of Conduct; Wellness Programs. (SB1096, SD1, HD1, CD1) Makes various amendments to update and improve the State's Insurance Code, including:

- Establishing certain consumer protections and requirements with regard to contracts between public adjusters and insureds, including specific contractual provisions, disclosures, and the right to rescind;
- Imposing a standard of conduct for limited lines license holders;
- Authorizing the Insurance Commissioner to waive or modify, in whole or in part, certain fees by order and reinstating the right to an administrative hearing and an appeal from an order;
- Updating references to the electronic payment platform developed by the National Association of Insurance Commissioners to facilitate insurers' electronic payment of premium taxes and mandating electronic filing of certain reports and payments to reduce errors and delays;
- Amending the composition of the members of the Hawaii Joint Underwriting Plan Board of Governors;
- Reducing the minimum nonforfeiture interest rate;
- Making the dates for extensions of certificates for risk retention groups consistent with other certificates issued by the Insurance Division of the Department of Commerce and Consumer Affairs; and
- Specifying that a reward under a wellness program established under a health care plan that meets certain requirements does not qualify as a prohibited rebate.

Insurance Data Security; Cybersecurity Events; Nonpublic Information. (SB1100, SD1, HD2, CD1) Adopts the National Association of Insurance Commissioners' Insurance Data Security Model Law to establish insurance data security standards for Hawaii insurance licensees and protect nonpublic consumer information.

Insurance Regulation; Insurance Commissioner; Fees; Electronic Filings. (SB1098 SD1, HD1, CD1) Beginning January 1, 2022, adopts certain provisions of the National Association of Insurance Commissioners' Producer Licensing Model Act, Public Adjuster Licensing Model Act, Reinsurance Intermediary Model Act, and Independent Adjuster Licensing Model Guidelines to:

- Consolidate the licenses, registrations, and fees issued by the Insurance Division of the Department of Commerce and Consumer Affairs;
- Facilitate the Insurance Division's transition to electronic processing of insurance licensing fees, certificates, registrations, and renewals to promote efficiency; and
- Conform penalties to model acts.

LIQUOR CONTROL

Intoxicating Liquor; Carriers; Reporting. (HB824, HD2, SD2, CD1) Requires any express carrier company, certain common or contract carriers, or any other person who transports liquor from outside the State for delivery in the State to prepare and file a monthly report with the liquor commission or liquor control adjudication board of each county.

Liquor Licenses; Transfer of Licenses; Limited Liability Companies. (HB136, HD1, SD1) Beginning January 5, 2022, applies liquor licensing provisions related to the transfer of licenses and the denial of licenses to limited liability companies. Establishes uniform deadlines and change in ownership reporting thresholds for partnership-type entities and corporation-type entities. Extends special reporting and vetting procedures of transfers from publicly-traded corporations to publicly-traded limited liability companies. Grants temporary licenses or approval of a management agreement to account for certain business transactions where a property closing must occur before a final transfer of a liquor license can be completed.

PROFESSIONAL AND VOCATIONAL REGULATION

Commercial Driver's Licenses; Permanent Disqualification; Felony; Severe Forms of Trafficking in Persons. (SB764, SD1, HD1, CD1) Conforms state law to the final rule issued by the Federal Motor Carrier Safety Administration of the United States Department of Transportation by adding a permanent commercial driver's license disqualification for the holder of a commercial driver's license or commercial learner's permit who is convicted of a felony involving severe forms of trafficking in persons. Prohibits reinstatement.

Military Dependents; Government Employment; Temporary Professional License; Expedited Licensure Process. (HB961, HD1, SD2; ACT 18) Exempts military service members' dependents from the state residency requirement for government employment if the dependents are in the State by virtue of the military service members' orders. Requires spouses of active duty members of the armed forces to be approved for temporary licensure, on an expedited basis, if certain conditions are met and the person holds a current, unencumbered license in another jurisdiction of the United States for certain professions.

Veterinarians; Good Samaritan Protection; Civil Liability Immunity; Dogfighting; Abuse. (HB1086, HD1, SD1) Clarifies that any duly licensed veterinarian who renders emergency care to an animal at large shall not be liable for any civil damages, except for damages resulting from gross negligence. Authorizes duly licensed veterinarians to render emergency care to an animal patient without first establishing a veterinarian-client-patient relationship if conditions do not allow the establishment of the relationship in a timely manner and extends immunity from civil liability in the absence of gross negligence. Requires veterinarians to report events of animal injury, death, or abuse to law enforcement where there is reasonable cause to believe that it relates to dogfighting or animal abuse and grants civil liability for making the reports.

PUBLIC UTILITIES COMMISSION

Public Utilities Commission; Electronic Filing. (HB941, HD1, SD2, CD1) Allows the Public Utilities Commission to use electronic filing processes and similar practices. Requires the Public Utilities Commission to conform its electronic forms and filing processes with the Americans with Disabilities Act and other federal laws and regulations to ensure equal access for individuals with disabilities.

Public Utilities Commission; High-Voltage Electric Transmission Lines. (HB78, HD1, SD1) Eliminates the requirement for a public utility to seek approval from the Public Utilities Commission (Commission) for the underground construction of high-voltage electric transmission lines if the cost of undergrounding is paid for by an entity other than the public utility and certain other conditions are met, including the requirement that the public utility file a report with the Commission. Provides that the Commission has sixty days to take action on the report, or it shall be assumed that the public utility may proceed with the project.

RESIDENTIAL LANDLORD-TENANT CODE

Landlord-Tenant Code; Failure to Pay Rent; Summary Possession Actions; Mediation; COVID-19 Pandemic; Emergency Rental Assistance; Appropriation. (HB1376, HD2, SD2, CD1) Extends the notice period for termination of a rental agreement from five days to fifteen calendar days. Requires landlords to engage in mediation and delay filing an action for summary possession if a tenant schedules or attempts to schedule a mediation. Requires landlords to provide to tenants specific information in the fifteen-calendar day notice, which shall also be provided to a mediation center that offers free mediation for residential landlord-tenant disputes. Restricts when a landlord may exercise remedies, depending on the number of days that have elapsed following the expiration of the Governor's final eviction moratorium and the amount of the rent due. Appropriates funds out of the federal American Rescue Plan Act of 2021 (ARPA) for fiscal year 2021-2022 to be allocated to the counties to contract for services as permissible by the United States Treasury for emergency rental assistance and to assist other households that do not qualify for ARPA Emergency Rental Assistance, Housing Stability Services funds. Repeals one year after the expiration of the Governor's final eviction moratorium or December 31, 2022, whichever is sooner.

OTHER ISSUES

Board of Public Accountancy; Peer Review Oversight Committee; Membership. (SB1103, HD1, CD1) Grants flexibility to the Board of Public Accountancy in selecting prospective members to the Peer Review Oversight Committee and amends the criteria used to select the members.

Mixed Martial Arts; Contestants; Managers; Cash Payments. (SB1102, HD1, CD1) Allows promoters of mixed martial arts events to pay a contestant or a contestant's manager in cash.

Property Crimes; Pawnbrokers; Secondhand Dealers; Penalties. (HB171, HD1, SD2) Extends penalties to any person who intentionally, knowingly, or recklessly violates certain laws relating to pawnbrokers and secondhand dealers to deter movement of stolen property.

Secondhand Dealers; Automated Recycling Kiosks. (HB352, HD1, SD1) Beginning January 1, 2022, requires secondhand dealers operating automated recycling kiosks to retain previously owned consumer handheld electronic cellular phone devices for thirty calendar days from the date they were received or purchased. Authorizes secondhand dealers operating automated recycling kiosks to store previously owned consumer handheld electronic cellular phone devices at business locations outside the county where the devices were received or purchased. Requires secondhand dealers operating automated recycling kiosks to promptly return any requested devices no later than five business days upon request by law enforcement within the thirty-day retention period, at no cost to law enforcement. Defines "automated recycling kiosk" to mean, in part, those kiosks that accept only handheld electronic cellular phone devices and can be remotely opened upon request by law enforcement during normal business hours.

Resolutions Adopted

Auditor; Impact Assessment Report; Gender Transition Treatments; Mandated Coverage. (SR126, SD1) Requests the Auditor to:

- Conduct an impact assessment report of the social and financial impacts of mandating health insurance coverage of health care services related to gender transition treatments, as proposed by Senate Bill No. 752 (2021), pursuant to the procedural requirements in the Hawaii Revised Statutes for legislation proposing mandatory health insurance coverage; and
- Submit a report on the Auditor's findings and recommendations to the Legislature prior to the Regular Session of 2022.

Congress; Federal Communications Commission; Regulatory Authority; Robocalls. (HCR45, SD1) Urges the United States Congress to grant additional regulatory authority to the Federal Communications Commission to stop unwanted and illegal robocalls.

Department of Business, Economic Development and Tourism; Working Group; Rural Broadband Improvements. (SR54, SD1) Requests the Department of Business, Economic Development and Tourism to establish a working group consisting of certain members to:

- Facilitate the development of funding sources to increase rural broadband infrastructure in unserved and underserved areas;
- Address remaining obstacles to achieving full deployment of broadband infrastructure to all areas throughout the State; and
- Submit a report of its findings and recommendations to the Legislature prior to the Regular Session of 2023.

Public Utilities Commission; Utility-Scale Renewable Energy Projects; Reliability Standards; Interconnection Requirements; Hawaii Electricity Reliability Administrator. (SR207, SD1) Requests the Public Utilities Commission to:

- Develop and adopt reliability standards and interconnection requirements in accordance with existing state law;
- Require electric public utilities to perform certain interconnection procedures within a certain amount of time;
- File certain reports with the Governor and Legislature if an electric public utility fails to meet certain deadlines;
- Contract with a person, business, or organization to serve as the Hawaii Electricity Reliability Administrator; and
- Submit certain reports to the Legislature prior to the Regular Session of 2022.

