

ACT 139

A Bill for an Act Relating to the Disclosure of Finance Charges in Connection With Consumer Loans and Credit.

Be it Enacted by the Legislature of the State of Hawaii:

SECTION 1. Amend the Revised Laws of Hawaii 1955, as amended, by adding thereto chapter 191A to be numbered and to read as follows:

**“CHAPTER 191A
DISCLOSURE OF FINANCE COSTS**

Sec. 191A-1. Definitions. As used in this chapter:

‘Credit’ means any loan, residential mortgage, deed of trust, advance or discount; any contract to sell, or sale, or contract of sale of property or services, other than a retail installment sales contract either for present or future delivery, under which part or all of the price is payable subsequent to the making of such a sale or contract; any rental-purchase contract; any contract or arrangement for the hire, bailment, or leasing of property; any option, demand, lien, pledge, or other claim against, or for the delivery of, property or money; any purchase, discount, or other acquisition of, or any credit upon the security of, any obligation or claim arising out of any of the foregoing; and any transaction or series of transactions having a similar purpose or effect.

‘Finance charge’ means interest, fees, service charges, discounts, and such other charges incident to the extension of credit as prescribed by the treasurer.

‘Creditor’ means any person engaged in the business of extending credit, including any person making loans or selling or renting property or services on a time, credit or installment basis, either as principal or as agent, who requires, as an incident to the extension of credit, the payment of a finance charge.

‘Person’ means any individual, corporation, partnership, association or other organized group of persons, or the legal successor or representative of the foregoing, but excludes the United States, or any agency thereof, or the State or any of its political subdivisions, or any agency thereof.

Sec. 191A-2. Disclosure of finance charges. Every creditor shall furnish to each person to whom credit is extended, before the consummation of the transaction, a clear statement in writing setting forth, to the extent applicable and in accordance with rules and regulations prescribed by the treasurer, the following information:

(a) the amount loaned, the cash price or delivered price of the property or services to be acquired;

(b) the amounts, if any, to be credited as downpayment or trade-in, itemizing the amounts paid in money and in goods and containing a

brief description of the goods, if any, traded-in;

(c) the difference between items (a) and (b).;

(d) the charges, individually itemized, which are paid or to be paid by such person in connection with the transaction but which are not incident to the extension of credit; as for example, insurance and other benefits, specifying the coverages and benefits; or fees required by a governmental agency for filing, recording, registering, etc.;

(e) the total amount to be financed;

(f) the finance charge expressed in terms of dollars and cents or the percentage that the finance charge bears to the total amount to be financed expressed as a simple monthly or annual rate.

Sec. 191A-3. Regulations. The treasurer shall prescribe rules and regulations according to the provision of the Hawaii Administrative Procedure Act necessary or proper in carrying out the provisions of this chapter. The treasurer may exempt those credit transactions between business firms when he determines that disclosure requirements of this chapter are not necessary to carry out the purposes of this chapter.

Sec. 191A-4. Action for damages and penalties. (a) Any creditor who in connection with any credit transaction fails to disclose to any person any information in violation of this chapter, or any rule or regulation issued thereunder, shall be liable to such person in the amount of \$1,000, or in an amount equal to triple the finance charge required by such creditor in connection with such transaction, whichever is the lesser. Action to recover such damages may be brought by such person, within one year from the date of the occurrence of the violation, in any court of competent jurisdiction. In any action under this paragraph, the creditor who is in violation of any provision of this chapter shall be liable for reasonable attorney's fees and costs as determined by the court.

(b) Except as specified in paragraph (a) of this section, nothing contained in this chapter or any rule or regulation thereunder shall effect the validity or enforceability of any contract or transaction.

(c) Any person or any officer or agent of a corporation who willfully violates any provision of this chapter or any rule or regulation thereunder in addition to the liability provided for in paragraph (a) of this section shall be fined not more than \$1,000, or imprisoned not more than one year, or both."

SECTION 2. Applicability. Nothing in this chapter shall be construed to repeal, modify or amend any other provision of law relating to disclosure unless specifically set forth herein.

SECTION 3. Effective date. This Act shall take effect on January 1, 1964.

(Approved June 3, 1963.) **H.B. 13.**