

A Bill for an Act Relating to Collection Agencies.

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

SECTION 1. Section 443-1 (1), Hawaii Revised Statutes, is amended to read as follows:

“(1) ‘Board’ means the collection agency board.”

SECTION 2. Section 443-2, Hawaii Revised Statutes, is amended to read as follows:

“**Section 443-2. Collection agency board, appointment, qualifications.** There shall be a collection agency board in the department of regulatory agencies. The board shall consist of seven members, appointed by the governor in the manner prescribed by section 26-34, two of whom shall be licensees under this chapter. Each of the licensee members of the board must have been a licensed operator of a collection agency for three years prior to the date of his appointment or have had three years experience as an executive of a collection

agency actively engaged in business as such in the State. No licensee member shall have any interest, directly or indirectly, as owner, partner, officer, director, agent, or stockholder of any collection agency in which the other licensee member has such an interest.”

SECTION 3. Section 443-3, Hawaii Revised Statutes, is amended to read as follows:

“**Section 443-3. Organization of board; records, reports; meetings; quorum; effect of vacancy; compensation.** Immediately upon the appointment and qualification of the original members, and annually thereafter, the board shall organize by the election of one member as chairman and one member as vice-chairman. The board shall keep a complete record of all its proceedings and shall present annually to the governor through the director of regulatory agencies a detailed statement of the receipts and disbursements of the board during the preceding year, with a statement of its acts and proceedings and such recommendations as the board may deem proper.

The board shall hold meetings for the transaction of business once or more in each period of two months, in suitable quarters provided by the director of regulatory agencies. A majority of the members of the board shall constitute a quorum for the transaction of any business or for the exercise of any power or for the performance of any duty of the board. A vacancy in the board membership shall not impair the right of the remaining members of the board to exercise any power or to perform any duty of the board, so long as the power is exercised or the duty performed by a quorum of the board.

No member shall receive any compensation for his services, but each shall be reimbursed for his necessary traveling expenses incurred in the performance of his duties.”

SECTION 4. Section 443-4, Hawaii Revised Statutes, is amended to read as follows:

“**Section 443-4. Powers and duties of the board.** In addition to any other powers and duties granted by this chapter the board shall:

- (1) Grant licenses to collection agencies pursuant to this chapter;
- (2) Deny, suspend, or revoke licenses for any cause or violation prescribed by this chapter;
- (3) Make, amend, or repeal such rules and regulations as may be reasonable and necessary for the enforcement of this chapter, and for the examining and licensing of applicants;
- (4) Enforce this chapter and rules and regulations adopted pursuant thereto.”

SECTION 5. Section 443-5, Hawaii Revised Statutes, is repealed.

SECTION 6. Section 443-6, Hawaii Revised Statutes, is amended to read as follows:

“Section 443-6. Executive secretary; other assistants.

(a) Subject to chapters 76 and 77 the director of regulatory agencies may employ and remove such administrative and clerical assistants as the board may require and prescribe their powers and duties;

(b) (1) The department shall employ an executive secretary of the board whose position shall be subject to chapters 76 and 77;

(2) The executive secretary shall, under the supervision of the board, administer this chapter and the rules and regulations and orders established thereunder and perform such other duties as the board may require; he shall attend but not vote at all meetings of the board; he shall be in charge of the offices of the board and responsible to the board for the preparation of reports and the collection and dissemination of data and other public information relating to collection agencies;

(3) The board may, by written order filed in its office, delegate to the executive secretary such of its powers or duties as it deems reasonable and proper for the effective administration of this chapter, except the power to make rules or regulations. The delegated powers and duties may be exercised by the executive secretary in the name of the board.”

SECTION 7. Section 443-7(5), Hawaii Revised Statutes, is amended to read as follows:

“(5) The applicant for a collection agency license, or the renewal thereof, shall apply therefor in writing, under oath, upon blanks furnished by the board, and shall state the full name and residence address of the applicant and the business name and address where he will conduct his collection agency, and in case of a partnership, the full name and residence address of each partner, and in case of a corporation, the full name and residence address of each of its officers and directors with at least one of whom has been a resident of the State for more than one year prior to the date of application.”

SECTION 8. Section 443-10(b), Hawaii Revised Statutes, is amended to read as follows:

“(b) All applications shall either be granted or set for hearing in accordance with chapter 91 within fifteen days after the first meeting of the board following the receipt thereof by the board.”

SECTION 9. Section 443-15, Hawaii Revised Statutes, is amended to read as follows:

“Section 443-15. Assignability of licenses; procedure upon change of name or business location. Licenses granted under this chapter are not assignable. Upon change of business name or removal from the location stated in any license issued under this chapter, the licensee shall, within five days thereafter present his license and full information regarding the change to the board, who

shall issue an amended license conforming to the facts and make an appropriate entry in its records.”

SECTION 10. Section 443-20, Hawaii Revised Statutes, is amended to read as follows:

“**Section 443-20. Statements are confidential.** Any statement of any applicant or licensee required by the terms of this chapter to be filed with the board shall be confidential and shall not become a public record, but it may be introduced in evidence in any suit, action, or proceeding in any court or in any proceeding involving the granting or revocation of the license of any licensee.”

SECTION 11. Section 443-21, Hawaii Revised Statutes, is amended to read as follows:

“**Section 443-21. Investigation of complaints.** The board shall upon the sworn complaint in writing of any person specifying in detail the charges against a licensee, investigate the actions of any licensee, alleged to have violated this chapter, and for that purpose only the licensee shall make available to the board, his offices and place of business, books, accounts, records, papers, files, safes, and vaults which are necessary to the investigation of that particular complaint.”

SECTION 12. Section 443-23, Hawaii Revised Statutes, is amended to read as follows:

“**Section 443-23. Fees.** A licensee shall not collect, or attempt to collect, any collection fee or attorney’s fee or commission from any debtor; provided however, attorney’s fee or commission may be collected after filing of a suit against any debtor and such fee or commission shall not be in excess of twenty-five per cent of the unpaid principal balance. All attorney’s fees or commissions collected by a licensee shall be remitted to the attorney and no portion of said collection shall be retained by the licensee.”

SECTION 13. Section 443-26, Hawaii Revised Statutes, is amended to read as follows:

“**Section 443-26. Denial, suspension, or revocation of license; procedure; appeal.** The board shall not deny any application for an original or renewal license or initiate any disciplinary action against any licensee except for probable cause. Before denying, suspending, or revoking any license, the charges against the licensee shall be investigated by the board. If action for denial, suspension, or revocation is determined upon, a hearing shall be held in accordance with chapter 91. The hearing on the charges shall be held at such time and place as the board prescribes. The board may issue subpoenas and bring before it any person or relevant book or writing in this State, swear witnesses and take the testimony of any person by deposition, with the same fees and mileage and in the same manner as prescribed by law in judicial proceedings in courts of record of the State in civil cases. All evidence shall be under oath. Any party to any hearing shall have the right of subpoena to compel the attendance of witnesses and to cause the production of any books and writings in his behalf. If the board determines that any applicant is not qualified to receive a license, a license shall not be granted, and if the board determines that any li-

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censee is guilty of a violation of any of the provisions of this chapter, his license may be suspended or revoked by the board; provided that four members of the board concur in such determination. Any order denying a license, or suspending or revoking a license shall be rendered no later than fifteen days after the conclusion of the hearings. Any person aggrieved thereby may appeal to the circuit court of the county in which the applicant resides, or where the licensee has his principal place of business in the manner provided in chapter 91.”

SECTION 14. The first two sentences of section 443-27, Hawaii Revised Statutes, are amended to read as follows:

“If the board revoked a license or if it determines that a licensee is insolvent, the board may appoint a conservator to take possession of the licensee’s books, accounts, records, papers, files, safes, vaults, property used in connection with the business, and the trust bank account in which customer funds are deposited. If the licensee disagrees with the determination of insolvency made by the board, he may request a hearing in accordance with chapter 91.”

SECTION 15. Section 443-30, Hawaii Revised Statutes, is amended to read as follows:

“**Section 443-30. Disposition of receipts.** All fines and penalties provided for in this chapter shall be paid to the board by checks payable to the State which shall be forwarded to the director of finance, and these monies, together with all license fees and any other fees received from collection agencies, shall be deposited to the credit of the general fund.”

SECTION 16. Chapter 443, Hawaii Revised Statutes, is amended by deleting the phrases “collection agency advisory board”, “commissioner of the collection agencies” or “commissioner” wherever they occur and substituting in lieu thereof the word “board”.

SECTION 17. This Act shall take effect upon its approval.

(Approved June 30, 1970.)