

ACT 20

S.B. NO. 769

A Bill for an Act Relating to Industrial Loan Companies.

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

SECTION 1. Section 408-15, Hawaii Revised Statutes, is amended by amending subsection (h) to read as follows:

“(h) Other charges. In addition to the interest, discount, or other charges permitted by this section, an industrial loan company shall also have power to collect in advance or otherwise from the borrower any of the following charges:

- (1) The actual taxes and fees charged by a governmental agency for recording, filing, or entering of record, any bill of sale, assignment, mortgage, chattel mortgage, or other conveyance, or any partial or complete release, discharge, or satisfaction of judgment, mortgage, lien, or other encumbrance, or any of such conveyances or instruments, of or on any real or personal property which constitutes all or a portion of the security on a contract.
- (2) [Appraisal fees, and abstractors'] Abstractors' fees, or title insurance actually paid to third parties, no portion of which fees inures to the benefit of the company.
- (3) Premiums actually paid for insuring real and personal property pledged as security on a contract, and premiums for insurance on the life or disability or both of the borrower[,]; provided the insurance is obtained from insurance companies authorized to do and doing business in the State under the laws thereof; and provided the borrower, if the property is adequately insured for the amount of the loan, shall not be required to substitute other insurance therefor upon the property or to take out additional insurance thereon.
- (4) Attorney's fees, if provided for in the contract, and costs of court, incurred in the collection of any contract in default.
- (5) A charge not exceeding \$10 upon the transfer of any equity under a chattel mortgage or a conditional sale contract, or upon any partial or complete release, discharge, or satisfaction of judgment, mortgage, lien, or other encumbrance, or upon any of such conveyances of any real or personal property which constitutes all or a portion of the security on a contract.
- (6) Loan fees or "points" on all loans primarily secured by an interest in real property where the interest rate is computed in accordance with subsection (j); provided that the total finance charge payable by the borrower in connection with any such loan shall include the amount of any such loan fees or "points" and shall not exceed an annual percentage rate (as defined in the Federal Truth In Lending Act and the regulations of the Federal Reserve Board promulgated thereunder) equal to the maximum rate of interest permissible under subsection (j).
- (7) Any reasonable attorneys' fees incurred for the preparation of any contract, or any promissory note or any obligation evidencing an indebtedness, or any bill of sale, assignment, mortgage, chattel mortgage, or other conveyance, or any partial or complete release, discharge, or satisfaction of judgment, mortgage, lien, or other encumbrance, or any of such conveyances of instruments of or on any real or personal property which constitutes all or a portion of security on a contract, or any other documents relating to a contract.
- (8) Actual charges for credit reports and other credit screening expenses incurred for loans of \$5,000 or more[,]; provided that such charges shall not exceed \$15 per applicant and such charges are paid to third

parties and no portion of such charges inures to the benefit of the company.

- (9) Appraisal fees; provided that the appraisals shall be made by a competent, qualified person connected with the company, designated and approved by the board of directors, or by a competent, qualified, independent appraiser. The bank examiner may require that an appraisal by an independent appraiser be obtained at the expense of the company whenever it deems it necessary."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 30, 1983.)