

A Bill for an Act Relating to Financial Institutions.

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

SECTION 1. Section 401-14, Hawaii Revised Statutes, is amended to read as follows:

“§401-14 [Bank examiner not to divulge information. Neither the bank examiner, nor his deputies, nor any other person appointed by the bank examiner as provided by law, shall divulge any information acquired by them in the discharge of their official duties, except insofar as the same may be rendered necessary by law, or may be requisite to the execution of the powers vested in and duties required of the bank examiner, or under order of any court, or in any suit or action commenced under any law regulating banks, trust companies, building and loan associations, fiduciary companies, industrial loan and investment companies, or commenced under chapter 409, or in any suit, action, or proceedings in which the director of commerce and consumer affairs¹ or the bank examiner or the deputy bank examiner is a party, or in any criminal action or proceedings; provided, that the bank examiner may furnish reports of condition of banks, trust companies, building and loan associations, industrial loan and investment companies, or licensees under chapter 409 to the Federal Reserve Board, the Federal Home Loan Board or the Federal Home Loan Bank or any of its agencies, or to any other federal agency or to the several states or any officer or agency or instrumentality thereof; and provided further, that the bank examiner may cause to be published in the English language in a paper of general circulation in the State a combined statement of the statements of

conditions of banks, trust companies, building and loan associations, industrial loan and investment companies, and licensees under chapter 409 in such form as he may see fit, using information derived from reports made to him by the respective banks, trust companies, building and loan associations, industrial loan and investment companies, and licensees under chapter 409.]

Confidentiality of information. (a) Except as otherwise provided in this section or as may be specifically authorized under any law regulating the institutions described in this chapter, neither the bank examiner, nor any deputy, nor any other person appointed by the bank examiner as provided by law, shall divulge any of the following information nor will it be made available to any person, if that information is:

- (1) Exempt from disclosure by any federal or state statute;
- (2) Contained in or related to examination, operating, or condition reports prepared by, or on behalf of, or for the use of, the bank examiner, relating to the affairs of any bank, trust company, building and loan association, fiduciary company, industrial loan and investment company, or licensee under chapter 409, or affiliate thereof;
- (3) Privileged or related to the business, personal, or financial affairs of any person and is furnished in confidence;
- (4) Contained in investigatory files compiled for law enforcement purposes, including but not limited to, information relating to matters involving:
 - (A) The issuance of an order under section 401-5;
 - (B) The issuance of an order of suspension, revocation, or removal; and
 - (C) The granting or revocation of any approval, permission, or authority;
- (5) Related solely to the internal personnel rules or other internal practices of the bank examiner;
- (6) Contained in personnel, medical, and similar files (including financial files), the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; or
- (7) Contained in inter-agency and intra-agency memoranda or letters that would not be routinely available by law to a private party in litigation with the bank examiner, including but not limited to memoranda, reports, and other documents prepared by the staff of the bank examiner.

(b) The bank examiner shall furnish a copy of each report of the regular examination of a bank, trust company, building and loan association, industrial loan and investment company, or licensee under chapter 409 to the financial institution examined.

(c) Reports of examination and other information relating to financial institutions may be made available, upon requests, by the bank examiner to:

- (1) Federal governmental agencies having supervision of state-chartered financial institutions;
- (2) State governmental agencies having supervisory authority similar to the bank examiner; and
- (3) Other agencies of the United States or a state for use where necessary to investigate criminal charges in connection with the affairs of any financial institution under the supervision of the bank examiner. All reports or other information made available pursuant to this subsection shall remain the property of the bank examiner, and no person, institution, agency or authority to whom the information is made available, or any officer, director, or employee thereof, shall disclose any of that information, except published statistical material that would not disclose the identity of any individual or corporation.

(d) The bank examiner may cause to be published in the English language in a newspaper of general circulation in the State a combined statement of the statements of conditions of banks, trust companies, building and loan associations, industrial loan and investment companies, and licensees under chapter 409 in such form as the bank examiner may see fit, using information derived from reports made to the bank examiner by the respective banks, trust companies, building and loan associations, industrial loan and investment companies, and licensees under chapter 409.

(e) Any bank examiner, deputy bank examiner, or any other person appointed by the bank examiner as provided by law who violates this section shall be immediately discharged."

SECTION 2. Chapter 402, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§402- Circulating untrue statements; criminal liability. (a) Any person who intentionally or knowingly makes, circulates, or transmits to another or others any statement or rumor, written, printed, or by word of mouth, which is untrue in fact and is directly or by inference derogatory to the financial condition or affects the solvency or financial standing of any fiduciary company doing business in this State, or who knowingly counsels, aids, procures, or induces another to start, transmit or circulate any such statement or rumor, shall be guilty of a misdemeanor.

(b) Any person who maliciously or for personal financial gain makes, circulates, or transmits to another or others any statement or rumor, written, printed, or by word of mouth, which is untrue in fact and is directly or by inference derogatory to the financial condition or affects the solvency or

financial standing of any fiduciary company doing business in this State, or who maliciously or for personal financial gain counsels, aids, procures, or induces another to start, transmit or circulate any such statement or rumor, shall be guilty of a class C felony.”

SECTION 3. Section 408-2.1, Hawaii Revised Statutes, is amended to read as follows:

“§408-2.1 Exclusiveness of name. (a) No person, firm, company, association, fiduciary, partnership, or corporation, either domestic or foreign, unless lawfully licensed and authorized to do business in this State under this chapter and actually engaged in carrying on an industrial loan business shall transact any business under any name or title which contains the words [“finance”, “financial”,] “industrial loan”[,], or words of similar import, or use any name or sign or circulate or use any letterhead, billhead, circular, or paper whatever, or advertise or represent in any manner which indicates or reasonably implies that the business is the character or kind of business carried on or transacted by an industrial loan company under this chapter. The bank examiner may examine the accounts, books, and records of any person, company, association, fiduciary, partnership, or corporation to ascertain whether this section has been or is being violated.

(b) Any person violating this section shall forfeit to the State \$100 a day for every day or part thereof during which the violation continues. Upon action brought by the bank examiner or any industrial loan company, the court may issue an injunction restraining any person, firm, company, association, fiduciary, partnership, or corporation or agent from further violating this section or from further acting in any way or manner as to imply or lead the public to believe that its business is of an industrial loan character.

(c) This section shall not apply to any person, firm, company, association, fiduciary, partnership, or corporation registered to do business in the State under the name, or title, or descriptive term which contains the words [“finance”, “financial”, or] “industrial loan”[,], on or before June 12, 1982. Any form or type of advertisement used by such person, firm, company, association, fiduciary, partnership, or corporation shall contain a statement in the same size print as its name, or title, or descriptive term that the company is not an industrial loan company under this chapter.

(d) This section shall not apply to the use of an academic degree or a professional designation given by an accredited institution of higher education to an individual upon completion of the requirements for such degree or designation.”

SECTION 4. Section 408-8, Hawaii Revised Statutes, is amended to read as follows:

“§408-8 Application for license; investigation fee. (a) Any company required or desiring to obtain a license to operate under this chapter shall file an application, in writing, under oath, with the bank examiner, in the form prescribed by the bank examiner, which shall contain:

- (1) The full name and address of the applicant, and, if the applicant is a firm, of every member thereof, or, if the applicant is a corporation, of every officer thereof;
- (2) The county and town with street and number where the business is to be conducted; and
- (3) Such other information as the bank examiner may require.

(b) The applicant shall pay to the [director of regulatory agencies] bank examiner at the time of filing of an application for license an investigation fee of \$1,000, which shall not be refundable. Licensees who apply for the relocation of their present offices shall pay to the [director] bank examiner an investigation fee of \$50, which shall not be refundable.

(c) Upon the filing of the application, if the bank examiner upon investigation finds:

- (1) That the financial responsibility, experience, character, and general fitness of the applicant and of the officers or members thereof are such as to command the confidence of the community and to warrant belief that the business will be operated honestly, fairly, and efficiently within the purposes of this chapter;
- (2) That allowing the applicant to engage in this business will promote the convenience and advantage of the locality or community in which the business of the applicant is to be conducted;
- (3) That the applicant has available for the operation of this business at the specified location capital of at least \$100,000; and
- (4) That allowing the applicant to engage in this business will not substantially lessen competition or tend to create a monopoly or in any other manner be in restraint of trade[,];

then the bank examiner shall [write upon the face of the application the fact that he has approved the same, together with the date, and affix his signature. The application shall then be returned to the applicant who, upon receipt of an approved application, shall transmit it within thirty days to the director who shall file and preserve the application.] approve the application and notify the applicant in writing. The applicant shall commence its industrial loan business within sixty days after receiving the notice of approval; provided, that the bank examiner may, for good cause shown, grant a reasonable extension for commencing business.

(d) [No application shall be disapproved except after the applicant has had a notice of a hearing on the application and an opportunity to be heard thereon. If the application is denied, the bank examiner, within twenty days

thereafter, shall prepare and keep on file in his office, a written order of denial thereof, which shall contain his findings with respect thereto and the reasons supporting the denial, and forthwith serve upon the applicant a copy of the order of denial.] If the bank examiner is not satisfied that the applicant meets all the criteria set forth in subsection (c), the bank examiner shall hold a hearing on the application, at which time the applicant shall be given an opportunity to be heard. If the application is denied, the bank examiner shall serve upon the applicant a copy of the order of denial, as well as the findings and reasons in support of the denial. Within ten days after the receipt of the [copy] order, the applicant may appeal from the order of denial to a board consisting of the director of commerce and consumer affairs, comptroller, and attorney general by filing with the comptroller a notice of appeal. After notice by mail to the applicant and after a hearing at which the applicant shall be entitled to be present and to be heard, the board shall file with the comptroller its decision in writing either ordering the bank examiner to approve the application or affirming [his action in disapproving the same.] the denial. A copy of the decision or order of the board shall forthwith be served upon the applicant by the bank examiner. The applicant may appeal from an adverse decision of the board to the circuit court of the circuit in which the applicant proposes to establish an office, as provided in chapter 91.”

SECTION 5. Section 408-11.1, Hawaii Revised Statutes, is amended to read as follows:

“§408-11.1 Transfer of licenses[.], voting control. (a) No license issued under this chapter shall be transferred or assigned [without] unless incidental to a bona fide sale of all or substantially all of the ongoing business operations of a licensee, and unless the sale has the prior written approval of the bank examiner.

(b) If the licensee is a corporation, any intended transfer of its voting stock shall be reported in writing to, and shall be subject to the approval of, the bank examiner [within fifteen days after the date of such transfer. Failure or refusal to notify the bank examiner of such transfer shall be cause for the suspension or revocation of the license].

[The bank examiner may, upon determination that the transferee or any other person has gained direct or indirect control of the corporate licensee by such transfer and upon determination that such transferee or other person is unfit or an improper person to hold a license pursuant to section 408-8, limit, modify, suspend or revoke the corporate license.]

(c) The bank examiner:

- (1) Upon determination that any intended transferee fails to meet the criteria required for the approval of a license pursuant to section 408-8; and
- (2) After notice and a hearing as provided in section 408-8(d);

may disapprove such transfer, or limit or modify the license.

(d) Any violation of this section shall be cause to suspend or revoke a license issued under this chapter.”

SECTION 6. Section 408-14, Hawaii Revised Statutes, is amended to read as follows:

“§408-14 Specific powers. (a) Every industrial loan company, in addition to the powers exercisable by or conferred upon it under or by the general corporation law of the State, or by any other provision of this chapter, shall possess and may exercise the following powers:

- (1) To borrow money upon its own secured or unsecured notes;
- (2) To lend money upon individual credit or upon the security of comakers, personal endorsement, or the pledge or mortgage of real or personal property or choses in action, or upon any combination of such credit and security, and to contract for such interest, discount, or other consideration as is permitted by this chapter, and to sell or broker, loans or contracts, in whole or in part, to other lenders, and charge or retain a fee for the originating, selling, brokering, or servicing of such loans or contracts;
- (3) To discount, purchase, or otherwise acquire notes, installment contracts, warehouse receipts, or other choses in action[, notwithstanding section 416-31 to the contrary];
- (4) To establish branches within the State with the prior written approval of the bank examiner;
- (5) To finance purchases for others by taking title to merchandise temporarily and only for the purpose of securing loans entered into for the purchases;
- (6) To issue and sell certificates for the payment of money at any time, either fixed or uncertain, including without limitation evidences of thrift accounts as defined in and subject to chapter 408A, and to receive amounts invested therein in installments or otherwise, with or without allowance of interest on [such] the investments[.]; provided no company may issue the certificates or receive those amounts unless the company is a corporation organized and operating in good standing under the laws of this State. A company may, but need not, require an investor to subscribe to a certain amount of investment in such certificates, subject to minimum or maximum investments required by law or rules. Nothing herein shall be construed to authorize any industrial loan company to receive deposits or to create any liability due on demand; and
- (7) To become the legal or beneficial owner of tangible personal property and other tangible property for the purpose of leasing such

property, to obtain an assignment of a lessor's interest in a lease of such property, and to incur obligations incidental to its position as the legal or beneficial owner and lessor of the leased property.

(b) The certificates in subsection (a), including the evidence of the thrift accounts, shall not be issued by any industrial loan company without receiving the prior written approval of the bank examiner, and shall bear upon the face of the instrument the words, "THIS IS NOT A CERTIFICATE OF DEPOSIT."

(c) No industrial loan company shall have outstanding at any time its certificates, debentures, or both registered under chapter 485 in an aggregate sum in excess of ten times the aggregate amount of its paid-up capital and surplus; provided [that] the bank examiner [shall have the authority to] may limit the ratio of certificates, debentures, or both to capital and surplus which may be issued by any industrial loan company if [he] the bank examiner determines that the lower ratio is necessary in the public interest. In determining the ratio to be permitted, the bank examiner shall consider all relevant circumstances, including, without limitation, the following factors:

- (1) The length of time the company has been in operation;
- (2) Ratio of losses to volume of loans made and contracts purchased;
- (3) The creation and maintenance of adequate reserve for losses;
- (4) Charge-off of uncollectible accounts;
- (5) The amount or growth of undivided profits, earned surplus, or both;
- (6) Diversification of character and source of loans made and contracts purchased;
- (7) Creation and maintenance of adequate internal controls; and
- (8) Sound and efficient management.

(d) Every industrial loan company[, as of January 1, 1977,] shall maintain and have on hand at all times a reserve composed of cash and other securities in an amount equal to the sum of [five per cent of its liabilities on outstanding certificates and debentures with an original term not exceeding one year and five per cent of its liabilities on outstanding certificates and debentures with an original term of one year or more, and after January 1, 1978, maintain and have on hand at all times the above-mentioned reserve in an amount equal to the sum of] seven per cent of its liabilities on outstanding certificates and debentures with an original term not exceeding one year and five per cent of its liabilities on outstanding certificates and debentures with an original term of one year or more. The reserve shall not be pledged.

This reserve shall be determined as of a particular date and shall be based upon the daily average of all outstanding certificates and debentures of the immediate preceding seven calendar days. During a succeeding seven calendar day period, the average daily balance of the reserve shall equal or exceed the reserve amount. At the end of the seven calendar day period, a new reserve amount shall be determined based upon the daily average of the immediate

preceding seven calendar days and for the next succeeding seven calendar day period, the average daily balance of the reserve shall equal or exceed such new amount. Determination of reserve requirements shall be made on forms approved by the bank examiner and shall be computed within two working days after the date of determination.

(e) Upon any failure to maintain the ratio required in subsection (c) or the reserve [requirement for the required seven calendar day period] required in subsection (d), the industrial loan company shall:

- (1) Promptly take action to correct the [reserve] deficiencies;
- (2) Cease making any loans or other advances or extensions of credit until the [reserve deficiency is] deficiencies are corrected; and
- (3) Notify the bank examiner immediately, in case of any deficiency in the ratio requirement, and within two working days [after the close of the period.] in case of any deficiency in the reserve requirement.

The bank examiner [may], in writing, may direct specific directors and officers of any industrial loan company in violation of this section to take actions reasonably necessary [to increase its reserve so as] to comply with this section.

[(e)] (f) Cash reserves shall be limited to cash in banks and on hand, bank or savings and loan certificates of deposit, direct United States, [state,] State, or county government securities, and passbook deposits in banks or savings and loans. The cash reserve shall at all times equal [no] not less than fifty per cent of the reserve that is required by this section.

[(f)] (g) Other securities shall be limited to direct obligations of the United States government, [state,] State, or county, bankers acceptances approved by the bank examiner, irrevocable lines of credit in a form acceptable to the bank examiner, and securities listed on the New York stock exchange or the American stock exchange. Not more than twenty-five per cent of the total reserve of cash and other security shall be held in securities listed on the New York stock exchange or the American stock exchange."

SECTION 7. Section 408-14.5, Hawaii Revised Statutes, is amended to read as follows:

"[[§408-14.5[]] Transactions involving affiliates, officers, directors and certain shareholders; limitations. (a) No industrial loan company that issues certificates as provided for in section 408-14, or has outstanding any debentures registered under chapter 485 shall:

- (1) Invest any of its funds in the capital stock, bonds, debentures, or obligations, other than for secured loans as provided [for] in paragraphs (3) and (4) [of this section], in any of its affiliates if thereby the aggregate amount of all such investments in all affiliates will exceed [the following percentages of its paid-up capital and surplus during the calendar years hereafter indicated: ninety-five

- per cent from July 1, 1977 through December 31, 1977; ninety per cent from January 1, 1978 through December 31, 1978; eighty per cent from January 1, 1979 through December 31, 1979; seventy per cent from January 1, 1980 through December 31, 1980; sixty per cent from January 1, 1981 through December 31, 1981; and fifty per cent from January 1, 1982 through December 31, 1982 and thereafter.] fifty per cent of its paid-up capital and surplus.
- (2) [After May 13, 1976, invest] Invest any of its funds in any affiliate unless it shall have obtained the prior written approval of the bank examiner. The bank examiner may withhold or refuse any [such] approval if [he] the bank examiner finds that the activity engaged in by the affiliate company is substantially unrelated to those activities authorized by section 408-14.
 - (3) Make any unsecured or partially secured loan, advance, or extension of credit to any of its affiliates if thereby the aggregate amount of all unsecured or partially secured loans, advances, or extensions to all of its affiliates will exceed five per cent of the paid-up capital and surplus of the industrial loan company.
 - (4) Make any secured loan, advance, or extension of credit, as described in section 408-14.7, to any of its affiliates if thereby the aggregate amount of all [such] those secured loans, advances, or extensions of credit to all affiliates will exceed [the following percentages of its paid-up capital and surplus during the calendar years hereafter indicated: ninety-five per cent from July 1, 1977 through December 31, 1977; ninety per cent from January 1, 1978 through December 31, 1978; eighty per cent from January 1, 1979 through December 31, 1979; seventy per cent from January 1, 1980 through December 31, 1980; sixty per cent from January 1, 1981 through December 31, 1981; and fifty per cent from January 1, 1982 through December 31, 1982 and thereafter.] fifty per cent of its paid-up capital and surplus.
 - (5) Accept as collateral the capital stock of itself or of any of its affiliates.
 - (6) Without the prior written approval of its board of directors, directly or indirectly, make any loan, advance or extension of credit to, or purchase a contract or chose in action from:
 - (A) A person who is an officer, director, or beneficial owner of ten per cent or more of the shares of the industrial loan company or of any of its affiliates.
 - (B) A person who directly or indirectly acquires such contract through intervening assignments from a person described in subparagraph (A) [hereof]; provided[, however, that] no

[such] prior approval shall be required on any loan made to [such] persons in subparagraph (A) and [(B) herein] this subparagraph which is secured by investment certificates or debentures issued to [such] those persons by the industrial loan company.

(b) All industrial loan companies that issue certificates as provided for in section 408-14, or have outstanding any debenture registered under chapter 485, shall submit to the bank examiner, at [his] the bank examiner's request, an annual financial report, prepared by an independent certified public accountant, for any affiliate to which they have loaned or invested their funds."

SECTION 8. Section 408-21, Hawaii Revised Statutes, is amended to read as follows:

"§408-21 Books of account; reports to bank examiner, forms and statements; penalty. (a) Each company shall keep and use in its business [such], and shall maintain at its principal office in this State, all books, accounts, and records [as will enable] relevant to the transaction of its business in this State, so that the bank examiner [to] may determine whether the company is complying with this chapter and with the rules [and regulations] lawfully [made] adopted by the bank examiner [hereunder]. The bank examiner may adopt rules that provide for alternate locations at which such books, accounts, and records may be kept and maintained, or that provide for alternate methods and procedures for the retention and maintenance of such books, accounts, and records.

(b) On or before January 31 and July 31 of each year, each company shall file with the bank examiner a report, upon a form to be prescribed and furnished by the bank examiner, of its condition, affairs, and operation for the six months ending December 31 and June 30, respectively, last preceding. The report shall be verified under oath, and contain such information as the bank examiner [shall request] requests in the forms [so] furnished. [The foregoing provisions of this paragraph shall not be applicable to foreign corporations, but the foreign corporations shall file semiannual reports with the bank examiner upon such forms, and within such time as he shall prescribe.]

(c) Every company shall furnish to the bank examiner any special or supplementary reports, covering all or any items or matters or classes thereof which are or might be required to be covered by a semiannual report, in such form, at such time or times, and within such reasonable period or periods after request therefor, as the bank examiner shall deem necessary or expedient in the interest of the public. The report or reports shall be in writing under oath.

[Penalty.] (d) If any officer or any person in charge of any company [wilfully and] knowingly fails to file the report or if any report is [wilfully and] knowingly delayed or withheld beyond the day when it should be so filed the officer or the person shall be liable to forfeiture of the sum of [\$10] \$100 for

every day the report is so withheld or delayed or not completed, and any shareholder of any incorporated industrial loan company or any party in interest may maintain an action in [his] the shareholder's own name to enforce the penalty and the same shall be paid to the [director of regulatory agencies] bank examiner.”

SECTION 9. Section 408-21.5, Hawaii Revised Statutes, is amended to read as follows:

“[[]§408-21.5[]] **Audited statements.** (a) Each industrial loan company issuing investment certificates under this chapter or debentures registered under chapter 485, shall at its own expense submit to the bank examiner within ninety days after the close of its books on a fiscal or calendar year, [a certified audit of its books and records made by an independent certified public accountant; provided, that the] its financial statements prepared in accordance with generally accepted accounting principles and audited by an independent certified public accountant. The bank examiner [may], for good cause shown, may grant a reasonable extension of not more than forty-five days for submitting [such report.] the financial statements and report or opinion.

(b) The examination of the financial statements by the certified public accountant shall be performed in accordance with generally accepted auditing standards. The audit shall include, among other things, a direct verification of the installment investment certificate accounts, investment certificate accounts and debenture accounts [by the independent certified public accountant in accordance with generally accepted accounting principles and practices]. The [certification made] report or opinion rendered by the independent certified public accountant shall include a statement as to the extent of the verification of the accounts.

If consolidated financial statements are used, there shall also be within the audit separate financial statements for the industrial loan company and for each of its wholly owned subsidiaries.

Failure to comply with this section shall be grounds for the suspension or revocation of the industrial loan license.”

SECTION 10. Section 408-22, Hawaii Revised Statutes, is amended to read as follows:

“§408-22 **Examination by bank examiner; perjury; penalty for refusal to give information, etc.** (a) The bank examiner [shall, at least once in each year,] not less than once every eighteen months, without previous notice, in person or by [any person by him appointed,] an appointee, shall examine into the business and affairs of every industrial loan company for the purpose of ascertaining whether or not all matters of law pertaining to industrial loan companies and particularly as to interest and other charges are being complied with.

For the purpose of the examination, the bank examiner, [and his assistant] or any other person authorized by [him] the bank examiner to make the examination shall have free access to all books and papers of the industrial loan company, and may summon witnesses and administer oaths or affirmations, in the examination of the directors, officers, agents, or employees of the company or any other person in relation to its affairs, transactions, and conditions. [He] The bank examiner may require and compel the production of records, books, papers, contracts, or other documents by court action, if necessary.

[Penalties.] (b) Any person knowingly [or wilfully] testifying falsely in reference to any matter material to the examination shall be deemed guilty of perjury and punished as provided in section [756-5 provided,] 710-1060, and any person who wilfully refuses or fails to attend, answer, or produce books or papers, or who refuses to give the bank examiner or [his assistant or] the person authorized by [him] the bank examiner, full and truthful information and answer in writing to any inquiry or question made in writing [by the bank examiner or assistant or the person authorized by him,] in regard to the business carried on by the company, or other matters under investigation, or who refuses or [wilfully] fails to appear and testify under oath before the bank examiner[, his assistant,] or the person authorized by [him,] the bank examiner, shall be fined not more than \$500, or imprisoned not more than three months, or both.”

SECTION 11. Section 408-23, Hawaii Revised Statutes, is amended to read as follows:

“§408-23 Report of examination. As soon as possible after the completion of an examination the bank examiner shall report in writing [his] all findings to the director of commerce and consumer affairs¹. A copy of the report may be provided to the licensee examined, but the report or other information made available to the licensee shall remain the property of the bank examiner. The licensee, or any officer, director, or employee thereof, shall not disclose any of the information. If the report or other information provided by the bank examiner is subpoenaed, the licensee shall immediately advise the bank examiner of the service and of all relevant facts, including the documents and information requested.”

SECTION 12. Section 408-25, Hawaii Revised Statutes, is amended to read as follows:

“§408-25 Suspension, revocation or surrender of license. (a) The bank examiner [may], upon at least twenty days written notice to the licensee stating the contemplated action and grounds, and upon reasonable opportunity to be heard, may revoke any license issued hereunder if [he] the bank examiner finds that [any]:

- (1) Any fact or condition exists which would clearly have warranted the bank examiner in refusing originally to issue the license[.]; or
- (2) The company has ceased to engage actively in the industrial loan business for a period of six months or more.

(b) If the bank examiner finds that cause for revocation of any license exists and that the enforcement of the chapter requires immediate suspension of the license pending investigation, [he may,] the bank examiner, upon five days written notice and a hearing, may suspend the license for a period not exceeding thirty days.

The bank examiner may revoke or suspend only the particular license with respect to which grounds for revocation or suspension may occur or exist, or, if [he] the bank examiner finds that the grounds for revocation or suspension are of general application to all licensed places of business, or to more than one licensed place of business, operated by the licensee, [he] the bank examiner shall revoke or suspend all of the licenses issued to the licensee or such licenses as such grounds apply to, as the case may be.

(c) Any licensee may surrender any license by delivering to the bank examiner written notice that [he] the licensee thereby surrenders [his] the license, but the surrender shall not affect the licensee's civil or criminal liability for acts committed before the surrender.

No revocation or suspension or surrender of any license shall impair or affect the obligation of any preexisting lawful contract between the licensee and any borrower.

(d) Every license issued under this chapter shall remain in force and effect until it is surrendered, revoked, or suspended in accordance with this chapter. The bank examiner, [may] on [his] the bank examiner's own initiative, may reinstate suspended licenses or issue new licenses to a licensee whose license or licenses have been revoked if no fact or condition then exists which would have warranted the bank examiner in refusing originally to issue the license under this chapter.

(e) The party affected by an order revoking or suspending a license may appeal to the circuit court of the circuit in which the applicant maintains [his or] its principal place of business, as provided in chapter 91. After hearing, the court may order the bank examiner to reverse [his] the decision as to revocation or suspension, or may affirm the action of the bank examiner."

SECTION 13. Section 408-27, Hawaii Revised Statutes, is amended to read as follows:

"§408-27 Not to divulge information. The bank examiner, assistant bank examiners, and any other person appointed by the bank examiner as provided by this chapter, shall not divulge any information acquired by them in the discharge of their duties, except to the extent permitted by section 401-14

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[insofar as the same may be rendered necessary by this chapter or any other law or under order of court in the action involving the bank examiner or in any criminal actions or proceedings]; provided [that] any [such] information may be furnished to the board of directors of the Thrift Guaranty Corporation of Hawaii in response to a written request by the board.”

SECTION 14. Section 407-111, Hawaii Revised Statutes, is repealed.

SECTION 15. This Act does not affect rights and duties which matured, penalties which were incurred, or proceedings which were begun prior to its effective date.

SECTION 16. Statutory material to be repealed is bracketed. New material is underscored.²

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

(Approved May 31, 1984.)

Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.