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H.B. NO. 3295

A Bill for an Act Relating to Mortgage Loans.

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

SECTION 1. Section 207-14, Hawaii Revised Statutes, is amended to read as follows:

“§207-14 Filing and effect of statement. (a) Before engaging in this State in any of the activities specified in section 207-13, a foreign lender shall execute and file with the [director of commerce and consumer affairs] commissioner of financial institutions a statement. The statement shall list its name, state of incorporation or organization, and principal place of business, shall certify that its principal activities are conducted outside this State, and shall appoint irrevocably the [director] commissioner and the [director’s] commissioner’s successors its agents upon whom may be served process against it on any proceeding or cause of action arising out of its engaging in this State in any of the activities referred to in section 207-13. Until the statement is filed the immunities provided by this part do not become operative. Upon the filing of the statement and after a determination by the [director] commissioner that the foreign lender qualifies for exemption under this part, the immunities provided by this part shall continue operative until the statement is withdrawn by the foreign lender or canceled by the [director] commissioner pursuant to section 207-15, but no such withdrawal or cancellation shall retroactively affect or impair any of the immunities provided by this part.

(b) The statement filed pursuant to this section shall be accompanied by a registration fee of \$30. The registration fee shall be non-refundable even in the event of a denial. In addition, foreign lenders who are currently registered pursuant to this chapter shall pay an annual renewal fee of \$30 in order to maintain the immunities and privileges granted in this section. The annual renewal fee shall be due on or before June 30, of each calendar year. The failure to submit the annual renewal fee as required shall result in the automatic cancellation of any statements

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filed pursuant to this section but shall not retroactively affect or impair any of the immunities provided by this part. The commissioner may, in his discretion, extend the time period for filing of a renewal fee for an additional 30 days beyond June 30 of each calendar year if good cause exists for such an extension.”

SECTION 2.¹ Section 207-15, Hawaii Revised Statutes, is amended to read as follows:

“§207-15 Cancellation of statement. (a) If after notice and hearing as hereinafter provided, the [director of commerce and consumer affairs] commissioner of financial institutions shall determine that any foreign lender having on file a statement as provided in section 207-14, (1) maintains an office in this State, (2) conducts its principal activities in this State, or (3) is or was formed or availed of by or for the account or benefit, directly or indirectly, of one or more residents of, corporations organized under the laws of, or employee benefit plans organized or having their principal offices in, this State with a view to avoiding the imposition of any taxes imposed by this State, the [director] commissioner shall by order cancel the foreign lender’s statement.

(b) [In giving notice of and conducting hearings, and in making and entering orders, pursuant to subsection (a), the director shall have all of the powers conferred upon the director as the insurance commissioner by, and shall observe and comply with, and the hearings shall be conducted at the time or times and in the manner specified in, and subject in all respects to, sections 431-51, 431-53, 431-60 (exclusive of subsection (c) of section 431-60), and 431-62 to 431-67. Appeals from orders made and entered pursuant to subsection (a) may be taken at the time and in the manner and to the courts provided in, and shall in all respects be subject to sections 431-68 to 431-71, 431-72(a) and (b), and 431-73.] In giving notice of and conducting hearings, and in making and entering orders, pursuant to subsection (a), the commissioner shall comply with the provisions set forth in chapter 91.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4: This Act shall take effect upon its approval.

(Approved May 10, 1988.)

Note

1. Section designation renumbered.