

ACT 9

S.B. NO. 2521

A Bill for an Act Relating to Financial Services Loan Companies.

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

SECTION 1. Section 412:9-201, Hawaii Revised Statutes, is amended to read as follows:

“§412:9-201 Powers that require regulatory approval. (a) A financial services loan company may sell or refer the following products and services and collect premiums or fees for the sale or referral thereof only after obtaining the approval of the commissioner:

- (1) Accidental death and dismemberment insurance, whether or not connected with a loan, provided that the purchase of [such] this insurance must be voluntary and not required as a condition of a loan. The approval of the insurance commissioner must also be obtained prior to the sale of any insurance product; and
- (2) Auto club memberships and home and automobile security plans, whether or not connected with a loan and extension of credit, provided that the purchase of any such service or product must be voluntary and not required as a condition of a loan.

(b) In approving any request to sell or refer the products and services in subsection (a), the commissioner may impose such conditions and restrictions that are in the public interest.

(c) A financial services loan company may issue standby letters of credit only after obtaining the written approval of the commissioner. In approving any request to issue standby letters of credit pursuant to this subsection, the commissioner may impose conditions and restrictions that are in the public interest. Any depository financial services loan company issuing standby letters of credit shall include those standby letters of credit with all other loans and extensions of credit for the purpose of calculating the limit on loans and extensions of credit to one borrower under section 412:9-404. Any nondepository financial services loan company issuing standby letters of credit shall report the aggregate amount of their standby letters of credit outstanding under MEMORANDA - Total Standby Letters of Credit Outstanding, on their financial statements submitted to the commissioner pursuant to section 412:3-112. The aggregate amount of the standby letters of credit outstanding shall not exceed twenty per cent of a nondepository financial services loan company's capital and surplus. Standby letters of credit issued by a nondepository financial services loan company shall not be used for consumer loan transactions. The issuing nondepository financial services loan company shall identify itself as a nondepository financial services loan company in the standby letter of credit.”

SECTION 2. Section 421:9-400,¹ Hawaii Revised Statutes, is amended to read as follows:

“§412:9-400 Special powers of a depository financial services loan company. In addition to the powers granted in parts II and III of this article, depository financial services loan companies, but not nondepository financial services loan companies, shall have the right, power, and privilege to:

- (1) Solicit, accept, and hold deposits from any person, whether or not a resident of or domiciled in this State, and issue documents evidencing the accounts[. Provided];² provided that a depository financial services loan company shall not solicit, accept, or hold demand deposits or authorize a depositor to make transfers by check, draft, debit card, negotiable order of withdrawal, or similar order, payable to third parties;
- (2) Sell fixed rate annuities and collect premiums and fees for the sale or referral of those fixed rate annuities, if the written approval of the commissioner is first obtained. The depository financial services loan company shall comply with all applicable requirements of chapter 431. Sales shall be made by a general agent, subagent, or solicitor licensed pursuant to chapter 431. In approving any request to sell or refer fixed

rate annuities pursuant to this paragraph, the commissioner may impose conditions and restrictions that are in the public interest;

- [(3)] Issue standby letters of credit, if the written approval of the commissioner is obtained. In approving any request to issue standby letters of credit pursuant to this paragraph, the commissioner may impose conditions and restrictions that are in the public interest. Any depository financial services loan company issuing standby letters of credit shall include those obligations in computing the total loans and extensions of credit to a person outstanding at any one time which are subject to the limitations in section 412:9-404;] and
- [(4)] (3) Offer gifts, premiums, other considerations, or promotional items to solicit deposits. Premiums may be offered in lieu of all or part of the interest on deposits.”

SECTION 3. Section 412:9-500, Hawaii Revised Statutes, is amended to read as follows:

“**§412:9-500 Prohibitions.** Except as otherwise expressly authorized by this chapter or other law, a nondepository financial services loan company shall not[:

- (1) Solicit,] solicit, accept, or hold deposits, investment certificates, thrift certificates, or other accounts or instruments identical or similar to a deposit account, nor shall it borrow money in the form of, or issue, promissory notes, debentures, bonds, or other obligations to the public; provided[, however,] that a nondepository financial services loan company may borrow funds from, and issue its notes, debentures, bonds, or other obligations to financial institutions and other institutional lenders and not more than twenty-five institution-affiliated parties at any one time[; or
- (2) Issue standby letters of credit].”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved April 12, 1996.)

Notes

- 1. So in original.
- 2. Should be underscored.