

## ACT 59

H.B. NO. 2113

A Bill for an Act Relating to Money Transmitters.

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

SECTION 1. Section 489D-9, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) An application for a license under this chapter shall be made in writing, and in a form prescribed by NMLS or by the commissioner. Each application shall contain the following:

- (1) For all applicants:
  - (A) The exact name of the applicant, any fictitious or trade name used by the applicant in the conduct of its business, the applicant’s principal address, and the location of the applicant’s business records;
  - (B) The history of the applicant’s material litigation and criminal convictions for the ten-year period ~~[prior to]~~ before the date of the application;
  - (C) A description of the business activities conducted by the applicant and a history of operations;
  - (D) A description of the business activities in which the applicant seeks to engage within the State;
  - (E) A list identifying the applicant’s proposed authorized delegates in the State, if any, at the time of the filing of the license application;
  - (F) A sample authorized delegate contract, if applicable;
  - (G) A sample form of payment instrument or instrument upon which stored value is recorded, if applicable;
  - (H) The locations where the applicant and its authorized delegates, if any, propose to conduct their licensed activities in the State;

- (I) The name and address of the clearing bank or banks on which the applicant's payment instruments will be drawn or through which payment instruments will be payable;
  - (J) Disclosure of any pending or final suspension, revocation, or other enforcement action by any state or governmental authority for the five-year period ~~[prior to]~~ before the date of the application;
  - (K) Information concerning any bankruptcy or receivership proceedings affecting the licensee, key individual, person in control of a licensee, or person seeking to acquire control of a licensee; and
  - (L) Any other information the commissioner may require;
- (2) If the applicant is a corporation, the applicant shall also provide:
- (A) The date of the applicant's incorporation and state of incorporation;
  - (B) A certificate of good standing from the state in which the applicant was incorporated;
  - (C) A description of the corporate structure of the applicant, including the identity of any parent or subsidiary company of the applicant, and the disclosure of whether any parent or subsidiary company is publicly traded on any stock exchange;
  - (D) The name, business and residence address, and employment history, for the past five years, of the applicant's principals, and each person who, upon approval of the application, will be a principal of the licensee;
  - (E) For the ten-year period ~~[prior to]~~ before the date of the application, the history of material litigation involving, and criminal convictions of, each principal of the applicant;
  - (F) A copy of the applicant's most recent audited financial statement, including balance sheets, statements of income or loss, statements of changes in shareholder equity and statements of changes in financial position, and, if available, the applicant's audited financial statements for the preceding two-year period or, if the applicant is a wholly owned subsidiary of another corporation, either the parent corporation's consolidated audited financial statements for the current year and for the preceding two-year period, or the parent corporation's Form 10-K reports filed with the United States Securities and Exchange Commission for the prior three years in lieu of the applicant's financial statements, or if the applicant is a wholly owned subsidiary of a corporation having its principal place of business outside the United States, similar documentation filed with the parent corporation's non-United States regulator;
  - (G) Copies of all filings, if any, made by the applicant with the United States Securities and Exchange Commission, or with a similar regulator in a country other than the United States, within the year preceding the date of filing of the application; and
  - (H) Information necessary to conduct a criminal history record check ~~[in accordance with]~~ to be conducted by or through NMLS or pursuant to section 846-2.7 of each person who, upon approval of the application, will be a principal of the licensee[;]. The information shall be accompanied by the ap-

- appropriate payment of the applicable fee for each criminal history record check; and
- (3) If the applicant is not a corporation, the applicant shall also provide:
    - (A) The name, business and residence address, personal financial statement, and employment history, for the past five years, of each principal of the applicant;
    - (B) The name, business and residence address, and employment history, for the past five years, of any other persons who, upon approval of the application, will be a principal of the licensee;
    - (C) The place and date of the applicant's registration or qualification to do business in this State;
    - (D) The history of material litigation and criminal convictions for the ten-year period before the date of the application for each principal of the applicant;
    - (E) Copies of the applicant's audited financial statements, including balance sheets, statements of income or loss, and statements of changes in financial position for the current year and, if available, for the preceding two-year period; and
    - (F) Information necessary to conduct a criminal history record check ~~[in accordance with]~~ to be conducted by or through NMLS or pursuant to section 846-2.7 of each principal of the applicant[;]. The information shall be accompanied by the appropriate payment of the applicable fee for each criminal history record check.

SECTION 2. Section 489D-34, Hawaii Revised Statutes, is amended to read as follows:

**“§489D-34 Powers of the commissioner.** In addition to any other powers provided by law, the commissioner may:

- (1) Adopt rules pursuant to chapter 91 to implement this chapter;
- (2) Administer and enforce the provisions and requirements of this chapter;
- (3) Issue declaratory rulings and informal nonbinding interpretations;
- (4) Develop requirements for licensure;
- (5) Process and investigate complaints, subpoena witnesses and documents, administer oaths, and receive affidavits and oral testimony, including telephonic communications;
- (6) Investigate and conduct hearings, including contested case proceedings under chapter 91, regarding any violation of this chapter, or any rule or order of, or agreement with, the commissioner;
- (7) Create fact-finding committees that may make recommendations to the commissioner for the commissioner's deliberations;
- (8) Require disclosure of relevant criminal history in accordance with this chapter and conduct criminal history record checks ~~[in accordance with]~~ conducted by or through NMLS or pursuant to chapter 846;
- (9) Contract with or employ qualified persons who may be exempt from chapter 76, including investigators, examiners, auditors, and attorneys, to assist the commissioner in exercising the commissioner's powers and duties;
- (10) Require that all revenues, fees, and fines collected by the commissioner under this chapter be deposited into the compliance resolution fund established pursuant to section 26-9(o);

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- (11) Revoke, suspend, or otherwise limit the license of any money transmitter for any violation of this chapter, or any rule or order of, or agreement with, the commissioner;
- (12) Report any violation of this chapter or violation of federal or state law to the Consumer Financial Protection Bureau or other federal agency having jurisdiction over the licensee;
- (13) Participate in nationwide protocols for licensing cooperation and coordination among state regulators; and
- (14) Do any and all things necessary or incidental to the exercise of the commissioner's power and duties."

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

SECTION 4. This Act shall take effect on July 1, 2022.

(Approved June 17, 2022.)