



GOV. MSG. NO. 837

EXECUTIVE CHAMBERS  
HONOLULU

LINDA LINGLE  
GOVERNOR

June 19, 2008

The Honorable Colleen Hanabusa, President  
and Members of the Senate  
Twenty-Fourth State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on June 19, 2008, the following bill was signed into law:

SB3009 SD2 HD2 CD1

A BILL FOR AN ACT RELATING TO MONEY  
TRANSMITTERS.  
(ACT 195)

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

Approved by the Governor

on JUN 19 2008

THE SENATE  
TWENTY-FOURTH LEGISLATURE, 2008  
STATE OF HAWAII

**ACT 195**  
**S.B. NO.** 3009  
S.D. 2  
H.D. 2  
C.D. 1

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# A BILL FOR AN ACT

RELATING TO MONEY TRANSMITTERS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Chapter 489D, Hawaii Revised Statutes, is  
2 amended by adding three new sections to be appropriately  
3 designated and to read as follows:  
4           "§489D-     Name change. To change its name, its fictitious  
5 name, or its trade name, a money transmitter shall file an  
6 application with the commissioner and pay a nonrefundable fee of  
7 \$250 or such greater amount as the commissioner shall establish  
8 by rule pursuant to chapter 91. The application shall be  
9 approved if the commissioner is satisfied that the new name  
10 complies with all applicable laws. Any change of name shall not  
11 affect a money transmitter's rights, liabilities, or obligations  
12 existing prior to the effective date thereof, and no documents  
13 of transfer shall be necessary to preserve such rights,  
14 liabilities, or obligations; provided that the commissioner may  
15 require notice to be given to the public and other governmental  
16 agencies.



1        §489D- Fees. Unless otherwise provided by statute, all  
2 fees shall be deposited into the compliance resolution fund  
3 established pursuant to section 26-9(o).

4        §489D- Limited exemption for financial institutions;  
5 financial institutions as authorized delegates. (a) Banks,  
6 bank holding companies, credit unions, building and loan  
7 associations, savings and loan associations, savings banks,  
8 financial services loan companies, and mutual banks organized  
9 under the laws of the United States or any state shall be exempt  
10 from the licensing and examination provisions of this chapter.

11        (b) An applicant or licensee may appoint an entity  
12 described in subsection (a) as an authorized delegate.

13        (c) When submitting an application for a license pursuant  
14 to section 489D-9, or when submitting an annual report pursuant  
15 to section 489D-12, an applicant or licensee that appoints an  
16 entity described in subsection (a) as an authorized delegate  
17 shall include that entity's name and the locations in this state  
18 where that entity will conduct its authorized delegate  
19 activities.

20        (d) When computing the application and license fees  
21 required to be paid pursuant to sections 489D-10 and 489D-12, an  
22 applicant or licensee that appoints an entity described in



1 subsection (a) as an authorized delegate shall exclude all of  
2 the locations in this state where that entity will conduct its  
3 authorized delegate activities."

4 SECTION 2. Section 489D-4, Hawaii Revised Statutes, is  
5 amended by adding a new definition to be appropriately inserted  
6 and to read as follows:

7 "Principal" means any person, or group of persons acting  
8 in concert, who exercises control over or has a twenty-five per  
9 cent ownership interest in an applicant or licensee under this  
10 chapter. Principal also includes a manager and anyone else who  
11 supervises or is in charge of the applicant or licensee."

12 SECTION 3. Section 489D-4, Hawaii Revised Statutes, is  
13 amended by amending the definition of "permissible investments"  
14 to read as follows:

15 "Permissible investments" means:

- 16 (1) Cash;
- 17 (2) Certificates of deposit or other debt obligations of a  
18 financial institution, either domestic or foreign;
- 19 (3) Bills of exchange or time drafts drawn on and accepted  
20 by a commercial bank, known as bankers' acceptances,  
21 that are eligible for purchase by member banks of the  
22 Federal Reserve System;



- 1 (4) Any investment bearing a rating of one of the three  
2 highest grades as defined by a nationally recognized  
3 organization that rates securities;
- 4 (5) Investment securities that are obligations of the  
5 United States, its agencies, or its instrumentalities,  
6 obligations that are guaranteed fully as to principal  
7 and interest [of] by the United States, or any  
8 obligations of any state, municipality, or any  
9 political subdivision thereof;
- 10 (6) Shares in a money market mutual fund, interest-bearing  
11 bills, notes, or bonds, debentures or stock traded on  
12 any national securities exchange or on a national  
13 over-the-counter market, mutual funds primarily  
14 composed of these securities, or a fund composed of  
15 one or more permissible investments as set forth in  
16 this subsection;
- 17 (7) Any demand borrowing agreement or agreements made with  
18 a corporation or a subsidiary of a corporation whose  
19 capital stock is listed on a national exchange;
- 20 (8) Receivables that are due to a licensee from its  
21 authorized delegates pursuant to a contract under



1 section 489D-21, that are not past due or doubtful of  
2 collection; or

3 (9) Any other investments or security device approved by  
4 the commissioner."

5 SECTION 4. Section 489D-5, Hawaii Revised Statutes, is  
6 amended by amending subsection (a) to read as follows:

7 "(a) This chapter shall not apply to:

8 (1) The United States or any department, agency, or  
9 instrumentality thereof;

10 (2) The United States Postal Service;

11 (3) The State or any political subdivisions thereof;

12 [~~4~~] ~~Banks, bank holding companies, credit unions, building~~  
13 ~~and loan associations, savings and loan associations,~~  
14 ~~savings banks, financial services loan companies, or~~  
15 ~~mutual banks organized under the laws of the United~~  
16 ~~States or any state, even if those entities act as~~  
17 ~~authorized delegates for licensees and provided that~~  
18 ~~they do not issue or sell payment instruments through~~  
19 ~~authorized delegates who are not banks, bank holding~~  
20 ~~companies, credit unions, building and loan~~  
21 ~~associations, savings and loan associations, savings~~



1           ~~banks, financial services loan companies, or mutual~~  
2           ~~banks,~~] and

3           [+5+] (4) The electronic transfer of government benefits  
4           for any federal, state, or county governmental agency  
5           as defined in Federal Reserve Board Regulation E, by a  
6           contractor for, and on behalf of the United States or  
7           any department, agency, or instrumentality thereof, or  
8           any state or any political subdivisions thereof."

9           SECTION 5. Section 489D-9, Hawaii Revised Statutes, is  
10          amended by amending subsection (a) to read as follows:

11          "(a) An application for a license under this chapter shall  
12          be made in writing, and in a form prescribed by the  
13          commissioner. Each application shall contain the following:

14          (1) For all applicants:

15                (A) The exact name of the applicant, any fictitious  
16                or trade name used by the applicant in the  
17                conduct of its business, the applicant's  
18                principal address, and the location of the  
19                applicant's business records;

20                (B) The history of the applicant's material  
21                litigation and criminal convictions for the five-  
22                year period prior to the date of the application;



- 1 (C) A description of the business activities
- 2 conducted by the applicant and a history of
- 3 operations;
- 4 (D) A description of the business activities in which
- 5 the applicant seeks to engage within the [~~State,~~
- 6 state;
- 7 (E) A list identifying the applicant's proposed
- 8 authorized delegates in the [~~State,~~ state, if
- 9 any, at the time of the filing of the license
- 10 application;
- 11 (F) A sample authorized delegate contract, if
- 12 applicable;
- 13 (G) A sample form of payment instrument, if
- 14 applicable;
- 15 (H) The locations where the applicant and its
- 16 authorized delegates, if any, propose to conduct
- 17 their licensed activities in the [~~State, and~~
- 18 state;
- 19 (I) The name and address of the clearing bank or
- 20 banks on which the applicant's payment
- 21 instruments will be drawn or through which
- 22 payment instruments will be payable;





- 1           (J) Disclosure of any pending or final suspension,
- 2           revocation, or other enforcement action by any
- 3           state or governmental authority for the five-year
- 4           period prior to the date of the application; and
- 5           (K) Any other information the commissioner may
- 6           require;
- 7           (2) If the applicant is a corporation, the applicant shall
- 8           also provide:
- 9           (A) The date of the applicant's incorporation and
- 10           state of incorporation;
- 11           (B) A certificate of good standing from the state in
- 12           which the applicant was incorporated;
- 13           (C) A description of the corporate structure of the
- 14           applicant, including the identity of any parent
- 15           or subsidiary company of the applicant, and the
- 16           disclosure of whether any parent or subsidiary
- 17           company is publicly traded on any stock exchange;
- 18           (D) The name, business and residence address, and
- 19           employment history, for the past five years, of
- 20           the applicant's executive officers and the
- 21           officers or managers who will be in charge of the



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applicant's activities to be licensed under this chapter;

(E) The name, business and residence address, and employment history of any key shareholder of the applicant, for the period of five years before the date of the application;

(F) For the five-year period prior to the date of the application, the history of material litigation involving, and criminal convictions of, every executive officer or key shareholder of the applicant;

(G) 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 statement 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

1 period, or the parent corporation's Form 10-K  
2 reports filed with the United States Securities  
3 and Exchange Commission for the prior three years  
4 in lieu of the applicant's financial statements,  
5 or if the applicant is a wholly owned subsidiary  
6 of a corporation having its principal place of  
7 business outside the United States, similar  
8 documentation filed with the parent corporation's  
9 non-United States regulator; [~~and~~]

10 (H) Copies of all filings, if any, made by the  
11 applicant with the United States Securities and  
12 Exchange Commission, or with a similar regulator  
13 in a country other than the United States, within  
14 the year preceding the date of filing of the  
15 application; and

16 (I) Information necessary to conduct a criminal  
17 history record check in accordance with section  
18 846-2.7 of each of the executive officers, key  
19 shareholders, and managers who will be in charge  
20 of the applicant's activities, accompanied by the  
21 appropriate payment of the applicable fee for  
22 each record check;

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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 will be in charge of the applicant's activities to be licensed under this chapter;

(C) The place and date of the applicant's registration or qualification to do business in this [~~State,~~] state;

(D) The history of material litigation and criminal convictions for the five-year period before the date of the application for each individual having any ownership interest in the applicant and each individual who exercises supervisory responsibility over the applicant's activities;

[and]

1 (E) Copies of the applicant's audited financial  
2 statements, including balance sheets, statements  
3 of income or loss, and statements of changes in  
4 financial position for the current year and, if  
5 available, for the preceding two-year period[-];  
6 and

7 (F) Information necessary to conduct a criminal  
8 history record check in accordance with section  
9 846-2.7 of each principal of the applicant,  
10 accompanied by the appropriate payment of the  
11 applicable fee for each record check."

12 SECTION 6. Section 489D-10, Hawaii Revised Statutes, is  
13 amended by amending subsection (a) to read as follows:

14 "(a) Each application shall be accompanied by:

15 (1) A [~~non-refundable~~] nonrefundable application fee in  
16 the amount of [~~\$1,000~~] \$2,000 plus [~~\$100~~] \$300 for  
17 each additional location in the [~~State,~~] state, not to  
18 exceed [~~a maximum~~] an aggregate fee of [~~\$4,000,~~]  
19 \$15,000; and

20 (2) [A] An annual license fee of [~~\$500~~] \$2,000 plus [~~\$100~~]  
21 \$300 for each additional location in the [~~State,~~]



1           state, not to exceed [~~a maximum~~] an aggregate fee of  
2           ~~[\$2,000.]~~ \$15,000."

3           SECTION 7. Section 489D-11, Hawaii Revised Statutes, is  
4 amended to read as follows:

5           "~~[+]§489D-11[+]~~ **Issuance of license[-]; grounds for**  
6 **denial.** (a) Upon the filing of a complete application, the  
7 commissioner shall investigate the financial condition and  
8 responsibility, financial and business experience, character,  
9 and general fitness of the applicant. The commissioner may  
10 conduct an on-site investigation of the applicant, the  
11 reasonable cost of which shall be borne by the applicant.

- 12           (b) If the commissioner finds that:
- 13           (1) The applicant's business will be conducted honestly,  
14           fairly, and in a manner commanding the confidence and  
15           trust of the community;
  - 16           (2) The applicant has fulfilled the requirements imposed  
17           by this chapter; and

18           (3) The applicant has paid the required license fee,  
19 the commissioner shall issue a license to the applicant  
20 authorizing the applicant to engage in the licensed activities  
21 in the [State] state for a term [~~of one year.~~ ~~If these~~  
22 ~~requirements have not been met, the commissioner shall deny the~~



1 ~~application in writing setting forth the reasons for the~~  
2 ~~denial.]~~ expiring on December 31 of the calendar year in which  
3 the license is issued.

4 (c) If the commissioner is not satisfied that the  
5 applicant meets all the criteria set forth for approval, the  
6 commissioner shall issue a written decision denying the  
7 application.

8 ~~[(e)]~~ (d) Any applicant aggrieved by a denial issued by  
9 the commissioner under this chapter may submit a request for a  
10 contested case hearing in accordance with chapter 91."

11 SECTION 8. Section 489D-12, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 "~~[(f)]~~**\$489D-12** **Renewal of license and annual report.** (a)  
14 On or before December 31 of each year, each licensee shall pay  
15 to the commissioner an annual license fee of ~~[\$500,]~~ \$2,000,  
16 plus ~~[\$100]~~ \$300 for each ~~[authorized delegate,]~~ additional  
17 location in the state, not to exceed an aggregate fee of  
18 ~~[\$2,000.]~~ \$15,000.

19 (b) The annual license fee shall be accompanied by a  
20 report, in a form prescribed by the commissioner, which shall  
21 include:



- 1 (1) A copy of the licensee's most recent audited annual  
2 financial statement, including balance sheets,  
3 statement of income or loss, statement of changes in  
4 shareholder's equity, and statement of changes in  
5 financial position or, if a licensee is a wholly owned  
6 subsidiary of another corporation, the consolidated  
7 audited annual financial statement of the parent  
8 corporation in lieu of the licensee's audited annual  
9 financial statement;
- 10 (2) For the most recent quarter for which data is  
11 available prior to the date of ~~[the]~~ filing ~~[of]~~ the  
12 ~~[renewal application,]~~ annual report, but in no event  
13 more than one hundred twenty days prior to the renewal  
14 date, the licensee shall provide the number of payment  
15 instruments sold by the licensee in the ~~[State,]~~  
16 state, the dollar amount of those instruments, and the  
17 dollar amounts of those instruments currently  
18 outstanding;
- 19 (3) Any material changes to any of the information  
20 submitted by the licensee on its original application  
21 that have not previously been reported to the





1 commissioner on any other report required to be filed  
2 under this chapter;

3 (4) ~~[A list of the licensee's permissible investments,~~  
4 ~~and] For the most recent quarter for which data is  
5 available prior to the date of filing the annual  
6 report, but in no event more than one hundred twenty  
7 days prior to the renewal date, a list of the  
8 licensee's permissible investments, including the  
9 total market value of each type of permissible  
10 investment, and the total dollar amount of all  
11 outstanding payment instruments issued or sold by the  
12 licensee in the United States;~~

13 (5) A list of the locations, if any, within this ~~[State]~~  
14 state where business regulated by this chapter is  
15 being conducted by either the licensee or the  
16 licensee's authorized delegates~~[-]~~;

17 (6) Disclosure of any pending or final suspension,  
18 revocation, or other enforcement action by any state  
19 or governmental authority; and

20 (7) Any other information the commissioner may require.

21 (c) A licensee that has not filed ~~[a renewal]~~ an annual  
22 report that has been deemed complete by the commissioner or paid



1 its annual license fee by the renewal filing deadline, and has  
 2 not been granted an extension of time to do so by the  
 3 commissioner, shall have its license suspended on the renewal  
 4 date. The licensee has thirty days after its license is  
 5 suspended to file [~~a renewal~~] an annual report and pay the  
 6 annual license fee, plus a late filing fee of \$100 for each  
 7 business day after suspension that the commissioner does not  
 8 receive the [~~renewal~~] annual report and the annual license fee.  
 9 The commissioner, for good cause, may grant an extension of the  
 10 renewal date or reduce or suspend the \$100 per day late filing  
 11 fee."

12 SECTION 9. Section 489D-14, Hawaii Revised Statutes, is  
 13 amended to read as follows:

14 "~~[+]§489D-14[+]~~ **Extraordinary reporting requirements.**

15 Within fifteen business days of the occurrence of any one of the  
 16 events listed below, a licensee shall file a written report with  
 17 the commissioner describing the event and its expected impact on  
 18 the licensee's activities in this [~~State.~~] state. These events  
 19 are:

- 20 (1) Any material [~~changes~~] change in information provided
- 21 in a licensee's application or [~~renewal~~] annual
- 22 report;



- 1 (2) The filing for bankruptcy or reorganization by the
- 2 licensee;
- 3 (3) ~~[Revocation or suspension proceedings]~~ Pending or
- 4 final revocation, suspension, or other enforcement
- 5 action against the licensee by any state or
- 6 governmental authority relating to the licensee's
- 7 money transmission activities;
- 8 (4) Any felony indictment of the licensee or any of its
- 9 key shareholders, principals, executive officers [~~or~~
- 10 ~~directors~~], or officers or managers in charge of the
- 11 licensee's activities, related to money transmission
- 12 activities; [~~or~~] and
- 13 (5) Any felony conviction of the licensee or any of its
- 14 key shareholders, principals, executive officers [~~or~~
- 15 ~~directors~~], or officers or managers in charge of the
- 16 licensee's activities, related to money transmission
- 17 activities."

18 SECTION 10. Section 489D-15, Hawaii Revised Statutes, is  
19 amended by amending subsection (a) to read as follows:

20 "(a) A licensee shall [~~give~~] submit to the commissioner  
21 [~~written notice~~] an application requesting approval of a  
22 proposed change of control [~~and request approval of the~~

1 ~~proposal.]~~ of the licensee, accompanied by a nonrefundable  
2 application fee of \$2,000."

3 SECTION 11. Section 489D-17, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 " ~~[+]§489D-17[+]~~ **Examinations.** (a) The commissioner may  
6 conduct an annual on site examination of a licensee upon sixty  
7 days written notice to the licensee. The commissioner may  
8 examine a licensee without prior notice if the commissioner has  
9 a reasonable basis to believe that the licensee is not in  
10 compliance with this chapter. ~~[When the commissioner concludes~~  
11 ~~that an on site examination of a licensee is necessary, the~~  
12 ~~licensee shall pay all reasonably incurred costs of the~~  
13 ~~examination.]~~ The on site examination may be conducted in  
14 conjunction with examinations performed by representatives of  
15 agencies of the federal government, or of another state or  
16 states. The commissioner, in lieu of an on site examination,  
17 may accept the examination report of the federal government, an  
18 agency of another state, or an independent accounting firm.  
19 Accepted reports are considered, for all purposes, an official  
20 report of the commissioner. The licensee shall bear the cost of  
21 reasonable expenses incurred by the division, agencies of



1 another state, or an independent licensed or certified public  
2 accountant in conducting an examination or making a report.

3 (b) The commissioner may request financial data from a  
4 licensee in addition to that required under section 489D-12, or  
5 conduct an on site examination of any authorized delegate or  
6 location of a licensee within the [~~State~~] state without prior  
7 notice to the authorized delegate or licensee only if the  
8 commissioner has a reasonable basis to believe that the licensee  
9 or authorized delegate is not in compliance with this chapter.

10 When the commissioner examines an authorized delegate's  
11 operations, the authorized delegate shall pay all reasonably  
12 incurred costs of the examination. When the commissioner  
13 examines a licensee's location within the [~~State,~~] state, the  
14 licensee shall pay all reasonably incurred costs of the  
15 examination.

16 (c) The commissioner shall charge an examination fee to  
17 each licensed money transmitter and authorized delegate examined  
18 or investigated by the commissioner or the commissioner's staff,  
19 based upon the cost per hour per examiner. Effective July 1,  
20 2008, the hourly fee shall be \$60.

21 (d) In addition to the examination fee, the commissioner  
22 shall charge any money transmitter or authorized delegate



1 examined or investigated by the commissioner or the  
2 commissioner's staff, additional amounts for travel, per diem,  
3 mileage, and other reasonable expenses incurred in connection  
4 with the examination."

5 SECTION 12. Section 489D-19, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 "[+]§489D-19[+] **Confidentiality of records.** (a) The  
8 commissioner and all employees, contractors, attorneys  
9 contracted or employed by the State, and appointees of the  
10 division of financial institutions shall not divulge or furnish  
11 any information in their possession or obtained by them in the  
12 course of their official duties to persons outside the division,  
13 except to the director of commerce and consumer affairs, or  
14 unless otherwise permitted by this section or any other law  
15 regulating licensees or authorized delegates, in which case the  
16 disclosure shall not authorize or permit any further disclosure  
17 of the information. The disclosures prohibited by this section  
18 shall include, without limitation, information that is:

- 19 (1) Privileged or exempt from disclosure under any federal  
20 or state law;



- 1           (2) Related to an examination performed by or on behalf of  
2           the commissioner or contained in any report of  
3           examination;
- 4           (3) Contained in any report or application submitted to,  
5           or for the use of the commissioner, except for the  
6           nonproprietary portions of reports and  
7           applications[+], as determined by the commissioner  
8           pursuant to rule;
- 9           (4) Related to the business, personal, or financial  
10          affairs of any person and is furnished to, or for the  
11          use of, the commissioner in confidence;
- 12          (5) Privileged or confidential and related to trade  
13          secrets and commercial or financial information  
14          obtained from a person;
- 15          (6) Obtained pursuant to any lawful investigation for the  
16          purpose of enforcing the laws regulating licensees or  
17          authorized delegates;
- 18          (7) Related solely to the internal personnel rules or  
19          other internal practices of the commissioner;
- 20          (8) Contained in personnel, medical, and similar files,  
21          including financial files, the disclosure of which

1           would constitute a clearly unwarranted invasion of  
2           personal privacy; or

3           (9) Contained in inter-agency and intra-agency  
4           communications, whether or not contained in written  
5           memoranda, letters, tapes, or records, that would not  
6           be routinely available by law to a private party,  
7           including memoranda, reports, and other documents  
8           prepared by the staff of the commissioner.

9           (b) Any information identified in subsection (a) is  
10          confidential and not subject to subpoena or other legal process.

11          (c) The commissioner shall furnish a copy of each report  
12          of examination to the licensee [~~or~~] and to any authorized  
13          delegate examined. The report and its contents shall remain the  
14          property of the commissioner and shall not be disclosed to any  
15          person who is not an officer, director, employee, authorized  
16          auditor, attorney, other consultant, or advisor of the licensee  
17          or authorized delegate. Any person who has received the report  
18          from the licensee or authorized delegate shall be bound by the  
19          confidentiality provisions of this section. The report and its  
20          contents shall not be subject to subpoena or other legal process  
21          requiring disclosure.





1        (d) The commissioner may furnish reports of examination  
2 and other information relating to the examination of a licensee  
3 or authorized delegate to:

4        (1) The governor, the attorney general, and heads of other  
5 state governmental agencies with regulatory authority  
6 over the licensee or authorized delegate;

7        (2) Federal, state, or foreign regulatory agencies if the  
8 requesting agency agrees to use the information only  
9 for functions directly related to the exercise of its  
10 appropriate supervisory authority; and

11        (3) Other agencies of the United States or a state for use  
12 where necessary to investigate regulatory, civil, or  
13 criminal charges in connection with the affairs of any  
14 licensee or authorized delegate under the supervision  
15 of the commissioner."

16        SECTION 13. Section 489D-22, Hawaii Revised Statutes, is  
17 amended by amending subsection (b) to read as follows:

18        "(b) All money transmissions, sales, or issuances of  
19 payment instruments conducted by authorized delegates shall be  
20 in accordance with the licensee's written procedures provided to  
21 the authorized delegate[+] and shall comply with all applicable  
22 federal and state laws, rules, and regulations."



1 SECTION 14. Section 489D-28, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 " ~~[§]489D-28[§]~~ **Civil penalties.** (a) The commissioner  
4 may assess a fine against a person who violates this chapter or  
5 a rule adopted or an order issued under this chapter in an  
6 amount not to exceed \$500 per day for each day the violation is  
7 outstanding, plus the State's costs and expenses for the  
8 investigation and prosecution of the matter, including  
9 reasonable attorneys' fees.

10 (b) All administrative fines collected under authority of  
11 this chapter shall be deposited into the compliance resolution  
12 fund established pursuant to section 26-9(o)."

13 SECTION 15. Section 846-2.7, Hawaii Revised Statutes, is  
14 amended by amending subsection (b) to read as follows:

15 "(b) Criminal history record checks may be conducted by:

16 (1) The department of health on operators of adult foster  
17 homes or developmental disabilities domiciliary homes  
18 and their employees, as provided by section 333F-22;

19 (2) The department of health on prospective employees,  
20 persons seeking to serve as providers, or  
21 subcontractors in positions that place them in direct  
22 contact with clients when providing non-witnessed



1 direct mental health services as provided by section  
2 321-171.5;

3 (3) The department of health on all applicants for  
4 licensure for, operators for, and prospective  
5 employees, and volunteers at one or more of the  
6 following: skilled nursing facility, intermediate  
7 care facility, adult residential care home, expanded  
8 adult residential care homes, assisted living  
9 facility, home health agency, hospice, adult day  
10 health center, special treatment facility, therapeutic  
11 living program, intermediate care facility for the  
12 mentally retarded, hospital, rural health center and  
13 rehabilitation agency, and, in the case of any of the  
14 above-related facilities operating in a private  
15 residence, on any adult living in the facility other  
16 than the client as provided by section 321-15.2;

17 (4) The department of education on employees, prospective  
18 employees, and teacher trainees in any public school  
19 in positions that necessitate close proximity to  
20 children as provided by section 302A-601.5;

21 (5) The counties on employees and prospective employees  
22 who may be in positions that place them in close



- 1 proximity to children in recreation or child care  
2 programs and services;
- 3 (6) The county liquor commissions on applicants for liquor  
4 licenses as provided by section 281-53.5;
- 5 (7) The department of human services on operators and  
6 employees of child caring institutions, child placing  
7 organizations, and foster boarding homes as provided  
8 by section 346-17;
- 9 (8) The department of human services on prospective  
10 adoptive parents as established under section  
11 346-19.7;
- 12 (9) The department of human services on applicants to  
13 operate child care facilities, prospective employees  
14 of the applicant, and new employees of the provider  
15 after registration or licensure as provided by section  
16 346-154;
- 17 (10) The department of human services on persons exempt  
18 pursuant to section 346-152 to be eligible to provide  
19 child care and receive child care subsidies as  
20 provided by section 346-152.5;
- 21 (11) The department of human services on operators and  
22 employees of home and community-based case management



1 agencies and operators and other adults, except for  
2 adults in care, residing in foster family homes as  
3 provided by section 346-335;

4 (12) The department of human services on staff members of  
5 the Hawaii youth correctional facility as provided by  
6 section 352-5.5;

7 (13) The department of human services on employees,  
8 prospective employees, and volunteers of contracted  
9 providers and subcontractors in positions that place  
10 them in close proximity to youth when providing  
11 services on behalf of the office or the Hawaii youth  
12 correctional facility as provided by section 352D-4.3;

13 (14) The judiciary on employees and applicants at detention  
14 and shelter facilities as provided by section 571-34;

15 (15) The department of public safety on employees and  
16 prospective employees who are directly involved with  
17 the treatment and care of persons committed to a  
18 correctional facility or who possess police powers  
19 including the power of arrest as provided by section  
20 353C-5;



- 1       (16) The department of commerce and consumer affairs on
- 2           applicants for private detective or private guard
- 3           licensure as provided by section 463-9;
- 4       (17) Private schools and designated organizations on
- 5           employees and prospective employees who may be in
- 6           positions that necessitate close proximity to
- 7           children; provided that private schools and designated
- 8           organizations receive only indications of the states
- 9           from which the national criminal history record
- 10          information was provided as provided by section
- 11          302C-1;
- 12       (18) The public library system on employees and prospective
- 13          employees whose positions place them in close
- 14          proximity to children as provided by section
- 15          302A-601.5;
- 16       (19) The State or any of its branches, political
- 17          subdivisions, or agencies on applicants and employees
- 18          holding a position that has the same type of contact
- 19          with children, dependent adults, or persons committed
- 20          to a correctional facility as other public employees
- 21          who hold positions that are authorized by law to



1 require criminal history record checks as a condition  
2 of employment as provided by section 78-2.7;

3 (20) The department of human services on licensed adult day  
4 care center operators, employees, new employees,  
5 subcontracted service providers and their employees,  
6 and adult volunteers as provided by section 346-97;

7 (21) The department of human services on purchase of  
8 service contracted and subcontracted service providers  
9 and their employees serving clients of the adult and  
10 community care services branch, as provided by section  
11 346-97;

12 (22) The department of human services on foster grandparent  
13 program, senior companion program, and respite  
14 companion program participants as provided by section  
15 346-97;

16 (23) The department of human services on contracted and  
17 subcontracted service providers and their current and  
18 prospective employees that provide home and community-  
19 based services under Section 1915(c) of the Social  
20 Security Act [~~42 U.S.C. §1396n(e)~~] (Title 42 United  
21 States Codes Section 1396n(c)), as provided by section  
22 346-97; [and]



1        (24)    The department of commerce and consumer affairs on:  
2                (A)    Each principal of every non-corporate applicant  
3                        for a money transmitter license; and  
4                (B)    The executive officers, key shareholders, and  
5                        managers in charge of a money transmitter's  
6                        activities of every corporate applicant for a  
7                        money transmitter license,  
8                        as provided by section 489D-9; and

9        [~~24~~] (25)    Any other organization, entity, or the State,  
10                        its branches, political subdivisions, or agencies as  
11                        may be authorized by state law."

12        SECTION 16.    Statutory material to be repealed is bracketed  
13        and stricken.    New statutory material is underscored.

14        SECTION 17.    This Act shall take effect on January 1, 2009.

APPROVED this    19    day of    JUN    , 2008



GOVERNOR OF THE STATE OF HAWAII

