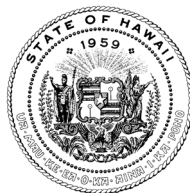


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## FAQS FOR LICENSEES

### GENERAL FAQS - updated 12.29.21

#### **What is the Small Dollar Loans law?**

Also known as the Installment Loan law, Act 056 (June 16, 2021) replaces the previous law on deferred deposit transactions, more commonly known as payday lending. Under the new law, borrowers will have safe and affordable access to credit from licensed lenders.

#### **When does the law take effect?**

Act 056 (2021) was signed into law on July 1, 2021 and takes effect on January 1, 2022. The Act provides licensing requirements for installment lenders and the repeal of deferred deposit transactions. The later effective date of January 1, 2022 allows deferred deposit check cashers to adopt the new law into their business model, and to allow the DFI to establish the processes and prepare the materials necessary for the licensing and supervision of this new area.

#### **How do I file an application for an installment loan license?**

All applications will be processed through the NMLS. The NMLS portal will open on January 1, 2022. Application checklists will be added to the NMLS Resource Center in December 2021. Here is a link to the NMLS Resource Center: <https://nationwidelicencingsystem.org>.

#### **When do I need to be licensed by?**

January 1, 2022. The NMLS portal will be open to applicants wishing to apply for an installment loan license on that date.

#### **May I conduct any installment lending activities in Hawaii while I have a pending application?**

Yes. Under the conditions described in the section below titled "No Action," a "No Action" position of conditional approval will be taken by DFI, with respect to a pending application,

provided the application is submitted through NMLS by March 1, 2022. An applicant may conduct installment loan activities in Hawaii until final action is taken on the application, or conditional approval is suspended. Any applicant submitting an application after March 1, 2022 will not be allowed to conduct installment lending activities without a license.

**No Action:**

An installment lender may conduct installment loan activities from the date of the DFI “No Action” notice if it agrees to the following conditions:

1. The applicant submits a complete application for licensure through NMLS by March 1, 2022
2. The applicant agrees to respond to questions regarding the processing of their application.
3. The pending application has not been denied, suspended, withdrawn or abandoned;
4. Any and all installment lending activity conducted is in compliance with Act 056; and
5. The DFI has issued a “No Action” notice in NMLS.

A “No Action” notice is a conditional approval by DFI of an application to allow the applicant to provide installment loans to consumers. It does not signify that the application will receive full approval for licensure by DFI as an Installment Lender.

**If DFI has questions for the applicant regarding the processing of its application, does that mean the application is not a “complete application?”**

No. So long as the applicant has provided accurate, substantive responses to all the items in the application checklist that is in the NMLS Resource Center, absent an obvious disqualifier, DFI anticipates issuing a “No Action” notice to the applicant. Examples of non-substantive responses include a document or attachment indicating that Policies and Procedures are to be determined, or a blank organization chart. The fact that DFI has questions for the applicant regarding the processing of their application does not in itself mean that the application is incomplete.

**If I am in compliance with “No Action” conditions 1 through 4 described above, but I am still waiting for a “No Action” notice to be issued to me, may I conduct installment lending activities in Hawaii and will my installment loan activity during such time be considered duly authorized by the State?**

No. However, DFI understands that an applicant wants to move forward with its business, and DFI expects to issue through NMLS a “No Action” notice when warranted, with reasonable promptness after receiving an application.

**If I have applied for a license by March 1, 2022 and remain in compliance with the five “No Action” conditions described above, if my application is still pending and it has not been**

**denied, suspended, withdrawn or abandoned, may I conduct installment lending activities in Hawaii while my license application is being processed?**

Yes.

**What entities are exempt from this law?**

- (1) A financial institution, as defined by Chapter 412, Hawaii Revised Statutes (HRS);
- (2) A non-depository financial services loan company;
- (3) An "open end credit plan", as defined in the Truth in Lending Act, title 15 United States Code section 1602(j); or
- (4) A tax refund anticipation loan.

**What activities require an installment loan license?**

- Holding yourself out as an "installment lender" or "lender" pursuant to Act 56 (2021);
- Being in the business of offering or making a consumer loan in the amount of \$1,500 or less;
- Arranging a consumer loan for a third party, or acting as an agent for a third party (regardless of whether the third party is exempt from licensure under the Act, and regardless of whether approval, acceptance, or ratification by the third party is necessary to create a legal obligation for the third party).

**Do employees need to be licensed or just the company?**

Employees of a licensed Small Dollar Installment Loan company do not need to hold a license unless the individual employees are making their own loans.

**Loan Details**

**How many loans can I make to a consumer?**

One loan per customer.

**What is the maximum amount an installment lender can lend to a borrower?**

A lender cannot make a loan greater than \$1,500, nor shall the amount financed exceed \$1,500 by any one lender at any time to a consumer.

**What are the minimum and maximum installment loan terms?**

The minimum term of an installment loan:

- Two (2) months for a loan of \$500 or less or
- Four (4) months if the loan amount is \$500.01 or more.

For purposes of meeting the required minimum contracted repayment term, an installment loan lender may calculate one month as twenty-eight (28) days or longer. The maximum term is twelve (12) months.

**What is the maximum interest rate allowable for installment loans?**

An installment lender may charge a rate not to exceed thirty-six (36) per cent per year on that portion of the unpaid principal balance of the loan. Interest on loans shall be precomputed.

**Is there a waiting period before another installment loan can be made?**

Yes, the law requires an installment lender to wait three days before making another installment loan to the same consumer.

**Does the consumer have the right of rescission?**

You may rescind an installment loan at or before 5:00 p.m., Hawaii Standard Time, on the third business day after the date the loan was originated and at the location where the loan was originated. You must return to the lender the principal amount of the loan in the original form that you received the proceeds. There is no charge to rescind the loan and, at the time of rescission, the lender must refund you any associated loan fees and interest it received from you.

**Requirements of Applicants/Licensees**

**Do I need a physical location?**

- Every installment lender licensed under this chapter shall have and maintain a principal place of business in the State, regardless of whether the installment lender maintains its principal office outside of the State. The principal place of business may be the location of the Hawaii designated agent for service of process.
- An installment lender shall not maintain any branch offices in the State in addition to its principal place of business without the prior written approval of the commissioner. No business shall be conducted at a branch office until the branch office has been licensed by the commissioner.

**Are criminal background checks required for applicants?**

Fingerprints are required of all individual applicants. If the applicant is not an individual, then each of the applicant's control persons, executive officers, directors, general partners, and managing members must submit fingerprints for a criminal background check.

**What are the bonding requirements for licensees?**

The applicant shall file and maintain a surety bond that is approved by the commissioner and executed by the applicant as obligor and by a surety company authorized to operate as a surety

in this State, whose liability as a surety does not exceed, in the aggregate, the penal sum of the bond. The penal sum of the bond shall be a minimum of \$30,000 and a maximum of \$250,000, based upon the annual dollar amount of loans originated.

**What are the fees to apply for a license?**

Initial application fee: \$1,000 Processing fee: \$35 for each control person

**What are the annual license renewal fees and when are they due?**

The annual license renewal fee is the greater of:

\$1,000; or

An amount equal to the sum of \$0.15 per installment loan originated during the previous year plus 0.08 per cent of the dollar volume of loans originated during the previous year; provided that for the purposes of calculating the renewal fee, all installment loans originated by the installment lender between the third quarter of the previous year and third quarter of the current year shall be considered.

The annual renewal fee is due on or before December 31 of each year.

**When are annual reports due?**

Annual reports are filed at the same time the annual license renewal fee is due (December 31 of each year).

**When must I renew my license?**

Renewals are processed through NMLS. The renewal portal opens on November 1 of each year. Renewals must be filed no later than December 1 of each year.

**Will the DFI conduct investigations and examinations of licensees?**

The commissioner has the authority to conduct investigations and examinations. The commissioner may access, receive, and use any books, accounts, records, files, documents, information, or evidence that the commissioner deems relevant to the investigation or examination, regardless of the location, possession, control, or custody of the documents, information, or evidence.