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Hawaii Amends Small Dollar Lending Law

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Hawaii recently enacted HB 1192, which amends the state's small dollar lending law by setting forth a new licensing requirement for "installment lenders" and specifies various consumer protection requirements. The amendments, which impact consumer loans of $1,500 or less, include a broad definition of "installment lender" that would capture loans offered under a bank partnership model:

- "any person who is the business of offering or making a consumer loan, who arranges a consumer loan for a third party, or who acts as an agent for a third party, regardless of whether the third party is exempt from licensure under this chapter or whether approval, acceptance, or ratification by a third party is necessary to create a legal obligation for the third party, through any method including mail, telephone, the Internet, or any electronic means."

The new law exempts banks and various other financial institutions, including entities licensed under Hawaii's Financial Services Loan Company Act, but would nonetheless impact the ability of exempt entities from contracting with brokers or agents to make small-dollar loans based on the foregoing language. Among other provisions, the bill:

- Caps the annual interest rate on installment loans at 36 percent
- Provides that the maximum contracted repayment term of an installment loan is 12 months
- Stipulates that the minimum repayment term is two months for installment loans of $500 or less, or four months for loans of $500.01 or more
- Limits monthly maintenance fees to between $25 and $35 depending on the installment loan's original principal amount
- States that any installment loan made without a required license is void
- Prohibits a consumer's repayment obligations to be secured by a lien on real or personal property

The amendment also repealed Hawaii's law on deferred deposits, which along with the installment lender licensing requirements are effective January 1, 2022. The remaining provisions of HB 1192 took effect on July 1.

Putting It Into Practice: The passage of Hawaii's new law marks, among other things, a continuing trend to rein in loans made using a bank partnership model (we previously discussed this latest trend in an earlier Consumer Finance & FinTech Blog post here). These "anti-evasion" laws effectively limit the interest rates that may be charged, even if the loans are originated by a bank that may otherwise not be subject to interest rate limitations.

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