
A BILL FOR AN ACT

RELATING TO THE BANK OF THE STATE OF HAWAII.

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

1 SECTION 1. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

4 "CHAPTER

5 BANK OF THE STATE OF HAWAII

6 § -1 Bank of the State of Hawaii; established. (a) The
7 bank of the State of Hawaii shall be established.

8 (b) The purposes of the bank of the State of Hawaii shall
9 be to:

- 10 (1) Support economic development by increasing access to
11 capital for businesses and farms within the State in
12 partnership with local financial institutions;
- 13 (2) Provide stability to the local financial sector, and
14 not in any way to compete with community banks, credit
15 unions, or other financial institutions;
- 16 (3) Reduce the costs paid by the State for basic banking
17 services; and



1 (4) Return profits, beyond those necessary to accomplish
2 the mission and continued sound operation of the bank,
3 to the general fund.

4 § -2 Board of the bank; powers and duties. (a) The
5 board of the bank of the State of Hawaii board shall operate,
6 manage, and control the bank of the State of Hawaii. The board
7 shall locate and maintain places of business of the bank and
8 adopt and enforce orders, rules, and bylaws for the transaction
9 of the bank's business.

10 (b) The board shall consist of the governor, the director
11 of finance, and the director of labor and industrial relations.
12 The powers of the board and the functions of the bank shall be
13 implemented through actions taken and policies and rules adopted
14 by the board.

15 (c) The governor shall act as chairperson of the board.
16 The board shall adopt rules requiring the holding of regular
17 meetings and specifying the means for providing notice of the
18 meetings.

19 (d) Two members of the board shall constitute a quorum to
20 transact business and exercise all rights, duties, and powers of
21 the board.



1 (e) A special meeting may be called at any time upon
2 notice by the governor or by a majority of the members of the
3 board.

4 (f) The board shall appoint a president of the bank. The
5 person appointed as president shall have extensive experience in
6 banking. The board may appoint and employ any subordinate
7 officers, employees, and agents as the board considers
8 necessary, and shall define the duties, designate the titles,
9 and fix the compensation of all those persons. The board may
10 designate the president or other officers or employees as its
11 agent in respect to the functions of the bank, subject to the
12 supervision, limitation, and control of the board.

13 (g) The board may remove and discharge any person
14 appointed in the exercise of the powers granted under this
15 chapter.

16 § -3 Advisory board of directors; appointment and
17 duties. (a) To enlist the help of private enterprise and to
18 encourage more active use of the purposes for which the bank of
19 the State of Hawaii was established, the bank of the State of
20 Hawaii board shall appoint an advisory board of directors that
21 shall consist of seven members.



1 (b) The members of the advisory board shall include
2 representatives of the State's financial, business,
3 agricultural, and public labor sectors. At least two members
4 shall be officers of banks, the majority of the stock of which
5 shall be owned by residents of this State.

6 (c) The bank of the State of Hawaii board shall appoint a
7 chairperson, vice-chairperson, and secretary from the advisory
8 board members. The term of office of members of the advisory
9 board of directors shall be set by the bank of the State of
10 Hawaii board, but may not exceed four years.

11 (d) The advisory board shall:

12 (1) Meet regularly with the management officers of the
13 bank to review the bank's operations and finances to
14 determine whether recommendations should be made by
15 the advisory board to the bank of the State of Hawaii
16 board relating to improved management performance,
17 better customer service, and overall improvement in
18 internal methods, procedures, and operating policies
19 of the bank;

20 (2) Make recommendations to the bank of the State of
21 Hawaii board relating to the establishment of
22 additional objectives for the operation of the bank;



1 (3) Make recommendations to the bank of the State of
2 Hawaii board concerning the appointment of officers of
3 the bank;

4 (4) Meet regularly with the bank of the State of Hawaii
5 board to present any recommendations concerning the
6 bank; and

7 (5) Participate on loan committees.

8 § -4 Deposits of public funds. (a) The bank of the
9 State of Hawaii may accept deposits of public funds. Except as
10 otherwise provided in section -5, the bank may not accept
11 deposits of private funds. All income earned by the bank for
12 its own account on public funds shall be credited to, and become
13 a part of, the revenues and income of the bank.

14 (b) Whenever any public funds are deposited in the bank,
15 the official having control of the public funds and the sureties
16 on the bond of the official shall be exempt from all liability
17 by reason of loss of any of the funds while deposited in the
18 bank.

19 (c) The bank shall pay interest on deposits of public
20 funds at a rate comparable to rates paid by private depositories
21 of public funds and may offer other financial products to the
22 department of budget and finance on a competitive basis.



1 (d) The department of budget and finance shall deposit
2 with the bank moneys from the general fund in an amount that the
3 department of budget and finance determines is necessary to
4 allow the bank to fulfill its duties under this chapter.

5 § -5 Powers of the bank. The bank of the State of
6 Hawaii may:

7 (1) Make, purchase, guarantee or hold loans:

8 (A) To state-chartered or federally chartered lending
9 agencies or institutions or other financial
10 institutions;

11 (B) That are insured or guaranteed in whole or in
12 part by the United States, its agencies, or
13 instrumentalities;

14 (C) Obtained as security pledged for, or originated
15 in the restructuring of, any other loan properly
16 originated or participated in by the bank; or

17 (D) To instrumentalities of this State;

18 (2) Purchase participation interests in loans made or held
19 by banks, bank holding companies, state-chartered or
20 federally chartered lending agencies or institutions,
21 or any other financial institution or entity that
22 provides financial services and meets underwriting



- 1 standards that are generally accepted by state or
2 federal financial regulatory agencies;
- 3 (3) Invest its funds in conformity with policies of the
4 bank of the State of Hawaii board and the department
5 of budget and finance;
- 6 (4) Buy and sell federal funds;
- 7 (5) Lease, assign, sell, exchange, transfer, convey,
8 grant, pledge, or mortgage all real and personal
9 property, title to which has been acquired in any
10 manner;
- 11 (6) Perform all acts and do all things necessary,
12 convenient, advisable, or desirable to carry out the
13 powers expressly granted or necessarily implied in
14 this chapter through or by means of its president,
15 officers, agents, or employees or by contracts with
16 any person, firm, or corporation;
- 17 (7) Purchase, guarantee, or hold loans originated by
18 financial institutions doing business in this State;
- 19 (8) Make loans in the form of participation loans to
20 qualified persons residing in or doing business in
21 this State where the originator of the loan is a
22 private financial institution;



1 (9) Act as a custodian bank for financial institutions
2 organized under the laws of this State and accept
3 deposits from the financial institutions in connection
4 with this function;

5 (10) Issue bank stock loans to financial institutions
6 organized under the laws of this State; and

7 (11) For financial institutions that make the bank a
8 reserve depository, perform the functions and render
9 the services of a clearinghouse, including all
10 facilities for providing domestic and foreign exchange
11 and may rediscount paper, on terms prescribed by the
12 bank of the State of Hawaii board.

13 § -6 Income; excess earnings. Except as otherwise
14 provided, as soon as possible after the end of each calendar
15 year, the bank of the State of Hawaii board shall determine the
16 amount of income, if any, earned by the bank of the State of
17 Hawaii in that calendar year that is in excess of amounts
18 necessary to pay for expenses of administering the activities of
19 the bank. The amount of the excess shall be transferred to the
20 general fund.

21 § -7 Rulemaking powers. (a) The bank of the State of
22 Hawaii board shall adopt rules to:



1 (1) Ensure the safety and soundness of the bank of the
2 State of Hawaii that, to the extent possible, reflect
3 applicable standards for safety and soundness set
4 forth in 12 C.F.R. part 364;

5 (2) Specify the bank's powers and permissible investments
6 and activities;

7 (3) Authorize specific services that the bank may provide;

8 (4) Specify limits for loans and other obligations the
9 bank makes or undertakes;

10 (5) Specify reserve requirements; and

11 (6) Establish other requirements that the board considers
12 necessary.

13 (b) The department of commerce and consumer affairs shall
14 examine the bank no less than once each calendar quarter to
15 verify that the bank is complying with the rules the board
16 adopted under subsection (a). The department shall report the
17 results of the examination to the board and to the legislature.
18 The department's report shall be a public record subject to
19 disclosure.

20 (c) The state auditor shall audit the accounts and
21 financial affairs of the bank no less than once every two years.

1 § -8 Deposits; guaranteed by State; exempt from
2 taxation. (a) All deposits in the bank of the State of Hawaii
3 are guaranteed by the State.

4 (b) The deposits and any income earned by the bank of the
5 State of Hawaii shall not be subject to state or local taxes of
6 any kind.

7 § -9 Civil actions. (a) Civil actions may be brought
8 as provided in this section against the State on account of
9 claims for relief claimed to have arisen out of transactions
10 connected with the operation of the bank of the State of Hawaii.

11 (b) In an action brought under this section, the State
12 shall be designated as The State of Hawaii, doing business as
13 The Bank of the State of Hawaii.

14 (c) An action brought under this section may be brought in
15 the same manner and shall be subject to the same laws as other
16 civil actions. The action shall be brought in a circuit court
17 in the State.

18 § -10 Public officials; exemption from liability.
19 Whenever any public funds are deposited in the bank of the State
20 of Hawaii, the public official who deposited the funds and the
21 sureties on any bond of the public official shall be exempt from



1 liability by reason of loss of any of the funds while the funds
2 are deposited in the bank of the State of Hawaii.

3 § -11 Conduct of business; execution of instruments.

4 (a) All business of the bank of the State of Hawaii shall be
5 conducted under the name of the bank of the State of Hawaii.

6 Title to property pertaining to the operation of the bank shall
7 be obtained and conveyed in the name of the bank of the State of
8 Hawaii, doing business as the bank of the State of Hawaii.

9 (b) Instruments shall be executed in the name of the State
10 of Hawaii. Within the scope of authority granted by the bank of
11 the State of Hawaii board, the president of the bank may execute
12 instruments on behalf of the bank, including any instrument
13 granting, conveying, or otherwise affecting any interest in or
14 lien upon real or personal property.

15 (c) Other officers or employees of, and legal counsel to,
16 the bank may execute instruments on behalf of the bank when
17 authorized by the board.

18 § -12 Certain records confidential. (a) The following
19 records of the bank of the State of Hawaii are confidential and
20 shall not be disclosed:

21 (1) Commercial or financial information of a customer of
22 the bank, whether obtained directly or indirectly,



1 other than routine credit inquiries concerning
2 information that is required to be disclosed in
3 accordance with due legal process;

4 (2) Internal or interagency memoranda or letters that
5 would not be available by law to a party other than in
6 litigation with the bank; and

7 (3) Except as provided in section -7, information that
8 is contained in or related to a report of an
9 examination or operating or condition reports prepared
10 by, on behalf of, or for the use of, a state or
11 federal agency responsible for the regulation or
12 supervision of any bank activity.

13 (b) As used in this section, "customer" means any person
14 that has transacted or is transacting business with, or has
15 used, or is using the services of, the bank of the State of
16 Hawaii, or for which the bank has acted or is acting as a
17 fiduciary with respect to trust property."

18 SECTION 2. Section 36-1, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "§36-1 Responsibility for moneys. ~~[The]~~ Except for moneys
21 deposited with the bank of the State of Hawaii, the director of
22 finance shall be responsible for the safekeeping of all moneys



1 paid into the treasury, and for the proper disbursement and
2 appropriation thereof, pursuant to the laws; and the director
3 shall be liable therefor on the director's official bond,
4 provided that in case of the larceny or embezzlement of any
5 moneys, by any officer of the director's department, or other
6 persons, the director shall be allowed to give that fact, and
7 that the director had no collusive knowledge thereof, in
8 evidence, and the establishment of these facts shall discharge
9 the director from responsibility."

10 SECTION 3. Section 38-1, Hawaii Revised Statutes, is
11 amended by amending the definition of "depository" to read as
12 follows:

13 "Depository includes the bank of the State of Hawaii, any
14 federally insured national or state bank, savings and loan
15 association, or financial services loan company; or federal or
16 state credit union insured by the national credit union
17 administration authorized to do business in this State."

18 SECTION 4. Section 412:1-109, Hawaii Revised Statutes, is
19 amended by amending the definition of "depository institution"
20 to read as follows:

21 ""Depository institution" means a financial institution
22 that is authorized to accept deposits under its chartering or

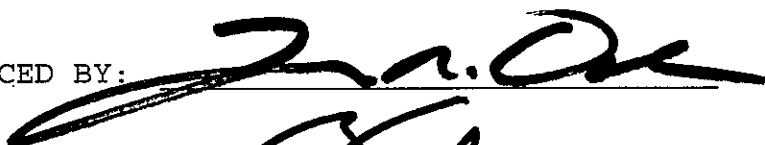


1 licensing authority and includes the bank of the State of
2 Hawaii, a bank, savings bank, savings and loan association,
3 depository financial services loan company, credit union, or
4 intra-Pacific bank."

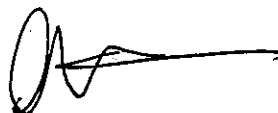
5 SECTION 5. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 6. This Act shall take effect upon its approval.
8

INTRODUCED BY:



Marilyn B. Lee



JAN 24 2011



Report Title:

Financial Institutions

Description:

Establishes the bank of the State of Hawaii.

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