

JAN 21 2011

S.B. NO. 194

A BILL FOR AN ACT

RELATING TO CREATION OF A STATE BANK.

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

1 SECTION 1. The legislature finds that access to capital is
2 vital to the financial health, security, and well-being of the
3 individuals and businesses that drive Hawaii's economy. The
4 lack of accessible capital can exacerbate the financial burdens
5 that many working families and businesses experience during
6 periods of economic downturn. The legislature further finds
7 that it can best direct economic development policy initiatives
8 in a responsive and efficient manner through a state bank that
9 provides consistent capital lending regardless of fluctuating
10 economic conditions.

11 The mission of the state bank of Hawaii is to promote
12 agriculture, education, community development, economic
13 development, commerce, and industry in Hawaii. To achieve this
14 mission, the bank shall act as a funding resource in partnership
15 with other financial institutions, economic development groups,
16 and guaranty agencies. All state funds and all funds of state
17 institutions shall be deposited at the state bank and guaranteed
18 by the State. The state bank may also accept deposits from any



1 other private or public source. The state bank of Hawaii shall
2 employ a risk-management strategy that includes accurate
3 financial reporting and strict compliance with all applicable
4 laws, rules, and regulations.

5 SECTION 2. Chapter 412, Hawaii Revised Statutes, is
6 amended by adding a new article to be appropriately designated
7 and to read as follows:

8 "ARTICLE . STATE BANK

9 §412: -101 Definitions. As used in this article, except
10 as otherwise specifically provided:

11 "Advisory board" or "board" means the board of the state
12 bank of Hawaii.

13 "Commissioner" means the commissioner of financial
14 institutions.

15 "Department" means the department of budget and finance.

16 "Director" means the director of finance.

17 "Division" means the division of financial institutions of
18 the department of commerce and consumer affairs.

19 "Persons" means natural or legal persons.

20 "President" means the president of the state bank of
21 Hawaii.



1 "State bank of Hawaii" or "bank" means the financial
2 institution that is created by this article.

3 "State-chartered bank" means a corporation which has
4 authority to operate as a bank under article 5 of this chapter
5 and does not include a savings bank, savings and loan
6 association, trust company, financial services loan company,
7 credit union, financial institution holding company, or the
8 state bank of Hawaii.

9 §412: -102 State bank created. (a) There shall be a
10 state bank of Hawaii, which shall be organized and managed in
11 accordance with articles 3 and 4 and shall be subject to all
12 laws, rules, and regulations generally applicable to financial
13 institutions in the State.

14 (b) The director shall deposit all state moneys in the
15 state bank. The bank shall accept deposits of state money and
16 any other private capital in accordance with rules adopted by
17 the director. The bank shall invest all moneys in a manner that
18 ensures appropriate cash management.

19 (c) The state bank of Hawaii shall promote agriculture,
20 education, community development, economic development,
21 commerce, and industry in Hawaii by acting in partnership with
22 other financial institutions, economic development groups, and



1 guaranty agencies to serve as a funding resource for persons
2 doing business within the State.

3 **§412: -103 State bank loan authority.** (a) The bank
4 shall make loans subject to the limitations in this chapter and
5 rules adopted by the director. The bank may charge the same
6 terms for a loan or extension of credit and may exercise any
7 other power or authority as a state-chartered bank under article
8 5.

9 (b) The bank shall not make a loan to the president, any
10 board member, or any officer of the bank.

11 **§412: -104 State bank board; duties.** The board shall:

12 (1) Meet regularly with the management of the bank to
13 review the bank's operations;

14 (2) Make recommendations to the director relating to
15 improving management performance, customer service,
16 and internal methods, procedures, and operating
17 policies of the bank;

18 (3) Make recommendations to the director relating to the
19 establishment of additional objectives for the
20 operation of the bank; and

21 (4) Make recommendations to the director concerning the
22 appointment of officers of the bank.



1 **§412: -105 State bank board; composition.** (a) The
2 board shall consist of eleven voting members. The director
3 shall be a voting member and shall serve as the chair of the
4 board. Ten additional members shall be appointed to the board
5 by the governor pursuant to section 26-34. At least three
6 members shall be representatives of state-chartered banks. At
7 least three members shall be residents of the State and shall
8 not be employed by, serve on the board of directors of, or have
9 a substantial ownership interest in any financial institution.
10 The commissioner of financial institutions shall be an ex
11 officio nonvoting member.

12 (b) The term of each board member, except the director,
13 shall be four years; provided that three of the original board
14 members shall be appointed to serve an initial term of four
15 years, two shall be appointed to serve an initial term of three
16 years, two shall be appointed to serve an initial term of two
17 years, and the two remaining members shall be appointed to serve
18 a one-year initial term. All subsequent terms shall be four
19 years. The director shall serve on the board during the
20 director's entire term of office. A board member may be removed
21 for cause by the governor pursuant to section 26-34(d).



1 (c) In accordance with section 26-35.5, each person
2 serving on the board or any subcommittee of the board and each
3 officer and employee of the bank shall be indemnified by the
4 bank against all costs and expenses actually and necessarily
5 incurred by the person in connection with the defense of any
6 action, suit, or proceeding in which the person is made a party
7 by reason of being or having been a member of the board, an
8 officer, or an employee of the bank; provided that the indemnity
9 afforded pursuant to this subsection shall not apply where the
10 person has been found to have engaged in wilful misconduct.
11 Indemnification under this subsection is not exclusive of other
12 rights as to which the member, officer, or employee may be
13 entitled as a matter of law.

14 (d) Members of the board shall be reimbursed by the bank
15 for actual and necessary expenses incurred to attend meetings in
16 connection with the performance of board duties.

17 **§412: -106 Appointment of president and officers.** The
18 director shall appoint a president of the state bank of Hawaii
19 and may appoint other officers. The director may remove the
20 president and any officer for any reason.

21 **§412: -107 Examination.** The commissioner shall examine
22 the state bank in the same manner as a state-chartered financial



1 institution under section 412:2-200 and shall exercise
2 enforcement authority in regards to the bank in the same manner
3 as authorized by sections 412:2-300 through 412:2-611. The bank
4 shall pay the division for the costs of an examination in
5 accordance with section 412:2-105.

6 **§412: -108 Director's annual report.** (a) By December
7 1st of each year, the director shall submit an annual report to
8 the legislature on the affairs of the bank. The report may
9 include any recommendations to improve the management or
10 organization of the bank.

11 **§412: -109 Confidentiality of information.** (a)
12 Pursuant to sections 92F-13 and 412:2-104, certain state bank
13 business records, records of the director, and records of the
14 division of financial institutions relating to the state bank
15 are exempt from public disclosure.

16 (b) Financial and commercial information and records
17 submitted by the bank to either the division or the director for
18 the purpose of administering this chapter may be shared between
19 the division and the director. Information and records
20 submitted to the division and to the director may also be used
21 by any party in any suit or administrative hearing involving any
22 provision of this chapter.



1 (c) This section does not prohibit:

2 (1) The issuance by the commissioner or the director of
3 general public statements or reports based upon the
4 reports of persons subject to this chapter as long as
5 the statements or reports do not identify the
6 information furnished by any person; or

7 (2) The publication by the commissioner or the director of
8 the name of any person violating this chapter and a
9 statement of the manner of the violation by that
10 person.

11 **§412: -110 Rules.** Pursuant to section 412:2-107, the
12 commissioner shall, in accord with the requirements of chapter
13 91, adopt any rules necessary to implement this chapter,
14 including but not limited to rules regarding:

- 15 (1) Objectives of the bank;
16 (2) Criteria for evaluating a loan;
17 (3) Individual and aggregate lending limits for borrowers;
18 and
19 (4) Eligibility for borrowing from the state bank.

20 **§412 -111 Exemption from fees and taxes.** The bank is
21 exempt from payment of all fees and all taxes levied by the
22 State or any of its subdivisions.



1 SECTION 3. Section 92F-13, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§92F-13 Government records; exceptions to general rule.

4 This part shall not require disclosure of:

- 5 (1) Government records which, if disclosed, would
6 constitute a clearly unwarranted invasion of personal
7 privacy;
- 8 (2) Government records pertaining to the prosecution or
9 defense of any judicial or quasi-judicial action to
10 which the State or any county is or may be a party, to
11 the extent that such records would not be
12 discoverable;
- 13 (3) Government records that, by their nature, must be
14 confidential in order for the government to avoid the
15 frustration of a legitimate government function;
- 16 (4) Government records which, pursuant to state or federal
17 law including an order of any state or federal court,
18 are protected from disclosure; ~~and~~
- 19 (5) Inchoate and draft working papers of legislative
20 committees including budget worksheets and unfiled
21 committee reports; work product; records or
22 transcripts of an investigating committee of the



1 legislature which are closed by rules adopted pursuant
2 to section 21-4 and the personal files of members of
3 the legislature[-]; and

4 (6) Records of the state bank of Hawaii that are protected
5 from disclosure under section 412:2-104."

6 SECTION 4. Section 412:2-104, Hawaii Revised Statutes, is
7 amended by amending subsection (c) to read as follows:

8 "(c) The commissioner may furnish reports of examination
9 and other information relating to the examination of a financial
10 institution or financial institution holding company to:

11 (1) The governor, attorney general and the heads of other
12 state governmental agencies having regulatory
13 authority over the financial institution or financial
14 institution holding company;

15 (2) The appropriate federal regulatory agencies of the
16 financial institution or financial institution holding
17 company;

18 (3) The Office of Comptroller of the Currency, the Federal
19 Housing Finance Board or a federal, state, or foreign
20 bank regulatory agency if the requesting agency agrees
21 to use the information only for functions directly



1 related to the exercise of its appropriate supervisory
2 authority; [~~and~~]

3 (4) Other agencies of the United States or a state for use
4 where necessary to investigate civil or criminal
5 charges in connection with the affairs of any
6 financial institution or financial institution holding
7 company under the supervision of the commissioner[~~-~~];
8 and

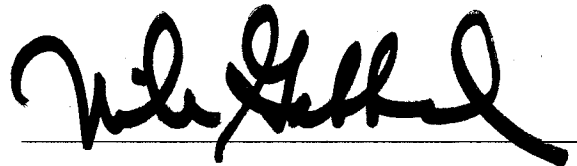
9 (5) The director of finance where disclosure is necessary
10 for the oversight of the state bank of Hawaii or
11 enforcement of article _____."

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

14 SECTION 6. This Act shall take effect upon its approval.

15

INTRODUCED BY:



Michelle Tidani



Report Title:

State Bank of Hawaii

Description:

Establishes the state bank of Hawaii for the purpose of promoting agriculture, education, community development, economic development, commerce, and industry within the State.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

