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# A BILL FOR AN ACT

RELATING TO FINANCIAL INSTITUTIONS.

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

1 PART I

2 SECTION 1. Chapter 412, Hawaii Revised Statutes, is  
3 amended by adding a new section to article 2 to be appropriately  
4 designated and to read as follows:

5 "§412:2- Powers of the commissioner. In addition to any  
6 other powers provided by law, the commissioner shall have the  
7 authority to:

8 (1) Administer and enforce the provisions and requirements  
9 of this chapter;

10 (2) Adopt, amend, or repeal rules or issue declaratory  
11 rulings pursuant to chapter 91 to effectuate the  
12 purposes of this chapter;

13 (3) Issue informal nonbinding interpretations to  
14 effectuate the purposes of this chapter;

15 (4) Develop requirements for charter or licensure through  
16 rules;



- 1       (5) Investigate and conduct hearings regarding any
- 2           violation of this chapter or any rule or order of, or
- 3           agreement with, the commissioner; and
- 4       (6) Require a licensed or chartered entity or other entity
- 5           with a certificate of authority to comply with any
- 6           rule, guidance, guideline, statement, supervisory
- 7           policy, or any similar proclamation issued or adopted
- 8           by the appropriate federal regulatory authority."

9           SECTION 2. Section 412:1-109, Hawaii Revised Statutes, is  
10 amended as follows:

11           1. By amending the definition of "appropriate federal  
12 regulatory agency" to read as follows:

13           "Appropriate federal regulatory agency" means, with  
14 respect to a financial institution or financial institution  
15 holding company, any one or more regulatory agencies of the  
16 federal government referred to in the following sentence which  
17 either (1) insures the deposits of the financial institution or  
18 financial institution holding company, or (2) has the power and  
19 duty to conduct periodic general examinations of the affairs of  
20 the financial institution or financial institution holding  
21 company by virtue of the legal characterization of the financial  
22 institution or financial institution holding company under

1 federal law, and not by virtue of the fact of affiliation of the  
2 financial institution or financial institution holding company  
3 with any other person or an alleged violation of a specific law.  
4 Subject to the preceding sentence, an appropriate federal  
5 regulatory agency may [~~be~~] include the Federal Deposit Insurance  
6 Corporation, the Comptroller of the Currency, the Federal  
7 Reserve Board, [~~the Office of Thrift Supervision,~~] the National  
8 Credit Union Administration, the Consumer Financial Protection  
9 Bureau, or any regulatory agency of the federal government which  
10 shall succeed to the insurance or supervisory duties of one of  
11 the foregoing."

12 2. By amending the definition of "deposit" or "deposits"  
13 to read as follows:

14 "Deposit" or "deposits" means money or its equivalent  
15 received or held by a person in the usual course of business and  
16 for which it has given or is obligated to give credit, either  
17 conditionally or unconditionally, to a demand, checking,  
18 savings, time, passbook, negotiable order of withdrawal, thrift,  
19 or share account, or which is evidenced by its passbook,  
20 certificate of deposit, thrift certificate, investment  
21 certificate, certificate of indebtedness, or other similar  
22 instrument, or a check, draft, or share draft drawn against a



1 deposit account and certified by a person, on which the person  
2 is primarily liable. A deposit includes all funds underlying  
3 prepaid access cards or stored value cards and other  
4 nontraditional access mechanisms to the extent that the funds  
5 have been placed in a depository institution."

6 SECTION 3. Section 412:3-501, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "**§412:3-501 Authorized places of business.** (a) A Hawaii  
9 financial institution may conduct business at one or more of the  
10 following places of business, to the extent authorized:

11 (1) The principal office of a Hawaii financial institution  
12 is the place of business that it designates as its  
13 executive headquarters in this State. A financial  
14 institution may, but need not, conduct other  
15 businesses permitted under its charter or license at  
16 its principal office; provided that for the purposes  
17 of this section, the terms "principal office", "home  
18 office", and "main office" are interchangeable;

19 (2) A branch is a place of business open to the public  
20 where a financial institution shall be authorized to  
21 conduct all businesses permitted under its charter or  
22 license, except for the maintenance of its executive



1            headquarters[+]. A branch does not include an  
2            automated teller machine or a remote service unit;

3            (3) An agency is a place of business open to the public  
4            where a financial institution may conduct only  
5            specific businesses approved by the commissioner in  
6            writing;

7            (4) An [~~automatic~~] automated teller machine or ATM is a  
8            place of business, either at a fixed location or  
9            mobile, consisting of an on-line or off-line, staffed  
10           or unstaffed, electronic processing device, including  
11           associated equipment and structures, that is situated  
12           at a premises separate from a financial institution's  
13           principal office, branch, agency, or support facility,  
14           at which deposits of cash or instruments, or cash  
15           disbursement transactions between a person and one or  
16           more financial institutions are accomplished, whether  
17           instantaneous or otherwise, through or by means of  
18           electronic or automated signals or impulses including  
19           the human voice[+ ~~provided that it shall not mean a~~  
20           ~~telephone or an electronic processing device situated~~  
21           ~~at or within the premises of a bank customer that is~~  
22           ~~used only for transactions between that customer and~~



1 ~~the financial institution~~]. The term does not include  
2 merchant operated terminals [~~and~~], point of sale  
3 terminals[+], and remote service units;

4 (5) A remote service unit is a place of business,  
5 consisting of an on-line or off-line, staffed or  
6 unstaffed, electronic processing device, including  
7 associated equipment and structures, that is used only  
8 for transactions between a financial institution  
9 customer and the financial institution, and that is  
10 situated at premises separate from a financial  
11 institution's principal office, branch, agency, or  
12 support facility, at which deposits of cash or  
13 instruments, or cash disbursement transactions, are  
14 accomplished, whether instantaneous or otherwise,  
15 through or by means of electronic or automated signals  
16 or impulses including the human voice; and

17 [+5+] (6) A support facility is a place of business that is  
18 not generally open to the public, where a financial  
19 institution conducts limited types of significant  
20 business operations of the financial institution,  
21 including but not limited to data processing, clerical  
22 activities, and storage.



1           (b) In addition to conducting business at a place of  
2 business described in subsection (a), a Hawaii financial  
3 institution may conduct business in any other manner or place  
4 necessary or convenient; provided that deposits of cash or  
5 instruments shall not be received, checks, negotiable orders of  
6 withdrawal, or share drafts shall not be paid, and cash shall  
7 not be disbursed, except at an authorized principal office,  
8 branch [~~or automatic~~], automated teller machine, or remote  
9 service unit, or at any agency or support facility which has  
10 been authorized by the commissioner to accept deposits or  
11 disburse cash."

12           SECTION 4. Section 412:5-203, Hawaii Revised Statutes, is  
13 amended by amending subsections (a) and (b) to read as follows:

14           "(a) "Operating subsidiary" means a corporation other than  
15 a corporation referred to in section 412:5-305(g)(2) to (8) of  
16 which more than [~~eighty~~] fifty per cent of the voting securities  
17 is held directly or indirectly by a bank.

18           (b) An operating subsidiary may engage in activities that  
19 are authorized for a bank, including those under section 412:5-  
20 305 and title 12 Code of Federal Regulations part 362, or that  
21 are usual or incidental to the business of a bank."



1 SECTION 5. Section 412:5-302, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "**§412:5-302 Limitations on loans and extensions of credit**  
4 **to one borrower.** (a) No bank shall permit a person to become  
5 indebted or liable to it, either directly or indirectly on loans  
6 and extensions of credit, including any credit exposure arising  
7 out of derivative transactions entered into by a bank and its  
8 subsidiaries, in a total amount outstanding at any one time in  
9 excess of twenty per cent of the capital and surplus of the  
10 bank.

11 (b) As used in this section, a "derivative transaction"  
12 includes any transaction that is a contract, agreement, swap,  
13 warrant, note, or option that is based, in whole or in part, on  
14 the value of, any interest in, any quantitative measure of or  
15 the occurrence of any event relating to, one or more  
16 commodities, securities, currencies, interest or other rates,  
17 indices, or other assets.

18 [~~b~~] (c) This section applies to all loans and extensions  
19 of credit made and to all credit exposure arising out of  
20 derivative transactions entered into by a bank and its  
21 subsidiaries. It does not apply to loans and extensions of





1 credit made by a bank or its subsidiaries to its affiliates or  
2 subsidiaries.

3 [~~e~~] (d) The limitations set forth in this section shall  
4 not apply to:

5 (1) A bank's eligible acceptances as described in section  
6 412:5-204(b);

7 (2) A bank's purchase or discount of another bank's  
8 acceptances of the kinds described in section 13 of  
9 the Federal Reserve Act;

10 (3) A bank's deposits with a Federal Reserve Bank, Federal  
11 Home Loan Bank, or another depository institution made  
12 in compliance with this chapter;

13 (4) A bank's sale of federal funds to another depository  
14 institution with a maturity of one business day or  
15 under a continuing contract;

16 (5) Loans and extensions of credit secured by the  
17 interest-bearing obligations of the United States or  
18 those for which the faith and credit of the United  
19 States are distinctly pledged to provide for the  
20 payment of the principal and interest thereof or of  
21 the State or any county or municipal or political  
22 subdivision of this State, issued in compliance with



1 the laws of this State, where the market value of the  
2 security shall be at any time not less than one  
3 hundred five per cent of the face amount of the loans  
4 and extensions of credit;

5 (6) Loans and extensions of credit to the extent secured  
6 by a pledge or security interest in a deposit account  
7 in the lending bank; and

8 (7) Loans and extensions of credit arising from the  
9 discount of negotiable or nonnegotiable credit sales  
10 contracts which carry a partial recourse endorsement  
11 or limited guarantee by the person transferring the  
12 credit sales contracts, if the bank's respective file  
13 or the knowledge of its officers of the financial  
14 condition of each maker of [~~such~~] the credit sales  
15 contract is reasonably adequate, and an officer of the  
16 bank certifies in writing that the bank is relying  
17 primarily upon the responsibility of each maker for  
18 payment of [~~such~~] the credit sales contract, and not  
19 upon any partial recourse endorsement or limited  
20 guarantee by the transferor. Under these  
21 circumstances, [~~such~~] the credit sales contract will  
22 be considered a loan and extension of credit to the



1 maker of the credit sales contract rather than the  
2 seller of the credit sales contract.

3 [~~(d)~~] (e) In computing the total loans and extensions of  
4 credit made by a bank to any person, all loans and extensions of  
5 credit by the bank to the person and to any partnership, joint  
6 venture, or unincorporated association of which the person is a  
7 partner or a member and all credit exposure arising from a  
8 derivative transaction with any person and with any  
9 partnership, joint venture, or unincorporated association of  
10 which the person is a partner or a member shall be included  
11 unless the person is a limited partner, but not a general  
12 partner, in a limited partnership, or unless the person is a  
13 partner in a limited or general partnership, or a member of a  
14 joint venture or unincorporated association, if such partner or  
15 member, by law, by the terms of the partnership, joint venture,  
16 or membership agreement, or by the terms of an agreement with  
17 the bank, is not to be held liable to the bank for the debts of  
18 the partnership, joint venture, or association. In computing  
19 the total loans and extensions [~~(e)~~] of credit made by a bank to  
20 any firm, partnership, joint venture, or unincorporated  
21 association, all loans and extensions of credit to and all  
22 credit exposure arising from a derivative transaction with its



1 individual partners or members shall be included unless such  
2 individual partner is a limited partner, but not a general  
3 partner, in a limited partnership, or unless such individual  
4 partner or member, by law, by the terms of the partnership,  
5 joint venture, or membership agreement, or by the terms of an  
6 agreement with the bank, is not to be held liable to the bank  
7 for the debts of the partnership, joint venture, or association.

8       ~~[(e)]~~ (f) Alternatively, a bank may, with the prior  
9 approval of the commissioner, comply with the lending limits  
10 applicable to ~~[national banking associations,]~~ federal financial  
11 institutions, as and to the same extent it would, at the time,  
12 be so required by federal law or regulation if it were a  
13 ~~[national banking association.]~~ federal financial institution.  
14 A bank utilizing this alternative shall use a single method for  
15 calculating lending limits, including any credit exposure to the  
16 person arising from a derivative transaction, repurchase  
17 agreement, reverse purchase agreement, securities lending  
18 transaction, or securities borrowing transaction between the  
19 bank and the person. In monitoring a bank's compliance with the  
20 ~~[national banking association]~~ federal financial institution  
21 lending limits, the commissioner shall give substantial weight  
22 to the Office of the Comptroller of the Currency's regulations



1 and opinions interpreting the [~~national banking association~~]  
2 federal financial institution lending limits [~~and~~], including  
3 but not limited to those related to the internal model method or  
4 the conversion factor matrix method for calculating credit  
5 exposure to derivative transactions as described in title 12  
6 Code of Federal Regulations Part 32 of the Interim Rule as may  
7 be amended. The commissioner will regard [~~them~~] the regulations  
8 and opinions as strong evidence of safe and sound banking  
9 practices."

10 SECTION 6. Section 412:5-305, Hawaii Revised Statutes, is  
11 amended by amending subsections (f) and (g) to read as follows:

12 "(f) To the extent specified herein, a bank may purchase,  
13 hold, convey, sell, or lease real or personal property as  
14 follows:

15 (1) The real property in or on which the business of the  
16 bank is carried on, including its banking offices[~~7~~];  
17 other space in the same property to rent as a source  
18 of income; permanent or vacation residences or  
19 recreational facilities for its officers and  
20 employees; other real property necessary to the  
21 accommodation of the bank's business, including but  
22 not limited to parking facilities, data processing



1 centers, and real property held for future banking use  
2 where the bank in good faith expects to [~~utilize~~] use  
3 the property as bank premises; provided[~~7~~] that if the  
4 bank ceases to use any real property and improvements  
5 thereon for one of the foregoing purposes, it shall,  
6 within five years thereafter, sell the real property  
7 [~~or~~], cease to carry it or them as an asset[+], or  
8 transfer the real property to an operating subsidiary  
9 of the bank; provided further that the bank's  
10 investment in such operating subsidiary shall not  
11 exceed fifteen per cent of the bank's tier one  
12 capital; provided further, such property shall not  
13 without the approval of the commissioner exceed  
14 seventy-five per cent of the bank's capital and  
15 surplus;

- 16 (2) Personal property used in or necessary to the  
17 accommodation of the bank's business, including but  
18 not limited to furniture, fixtures, equipment, vaults,  
19 and safety deposit boxes. The bank's investment in  
20 furniture and fixtures shall not without the approval  
21 of the commissioner exceed twenty-five per cent of the  
22 bank's capital and surplus;



1 (3) Personal property and fixtures which the bank acquires  
2 for purposes of leasing to third parties, and such  
3 real property interests as shall be incidental  
4 thereto;

5 (4) Such real property or tangible personal property as  
6 may come into its possession as security for loans or  
7 in the collection of debts; or as may be purchased by  
8 or conveyed to the bank in satisfaction of or on  
9 account of debts previously contracted in the course  
10 of its business, when such property was held as  
11 security by the bank; and

12 (5) The seller's interest under an agreement of sale, as  
13 that term is defined in sections 501-101.5, and 502-  
14 85, including without limitation the reversionary  
15 interest in the real estate and the right to income  
16 under the agreement of sale, with or without recourse  
17 to the seller.

18 Except as otherwise authorized in this section any tangible  
19 personal property acquired by a bank pursuant to subsection  
20 (f)(4) shall be disposed of as soon as practicable and shall not  
21 without the written consent of the commissioner be considered a

1 part of the assets of the bank after the expiration of two years  
2 from the date of acquisition.

3 Except as otherwise authorized in this section any real  
4 property acquired by a bank pursuant to subsection (f)(4) shall  
5 be sold or exchanged for other real property by the bank within  
6 five years after title thereto has vested in it by purchase or  
7 otherwise, or within such further time as may be granted by the  
8 commissioner.

9 Any bank acquiring any real property in any manner other  
10 than provided by this section shall immediately, upon receiving  
11 notice from the commissioner, charge the same to profit and  
12 loss, or otherwise remove the same from assets, and when any  
13 loss impairs the capital and surplus of the bank the impairment  
14 shall be made good in the manner provided in this chapter.

15 For purposes of this subsection, "tier one capital" has the  
16 same meaning as "tier 1 capital" as set forth in title 12 Code  
17 of Federal Regulations section 325.2(v).

18 (g) A bank may own or control [~~the capital stock~~]:  
19 (1) [~~Of operating~~] Operating subsidiaries, or the parent  
20 of the operating subsidiary, as set forth in this  
21 article;





- 1           (2)   ~~[Of a]~~ A corporation, partnership, or limited  
2                    liability company, organized and existing for the  
3                    ownership of real or personal property used or which  
4                    the bank in good faith expects to be used in the  
5                    bank's business~~[+]~~ or used for a permissible purpose  
6                    under title 12 Code of Federal Regulations part 362;
- 7           (3)   ~~[Of]~~ The capital stock of the Federal National  
8                    Mortgage Association, the Student Loan Marketing  
9                    Association, Federal Home Loan Mortgage Corporation,  
10                   or of any other corporation organized for  
11                   substantially the same purposes; provided that this  
12                   subsection shall be deemed to authorize subscription  
13                   for as well as purchase of the stock;
- 14           (4)   ~~[Of]~~ A small business investment ~~[companies]~~ company  
15                   operating under the Federal Small Business Investment  
16                   Act of 1958;
- 17           (5)   ~~[Of bank]~~ Bank service corporations, subject to the  
18                   Bank Service ~~[Corporation]~~ Company Act, 12 ~~[U.S.C. §§]~~  
19                   United States Code sections 1861-1862;
- 20           (6)   ~~[Of a]~~ A corporation whose stock is acquired or  
21                   purchased to save a loss on a preexisting debt secured  
22                   by such stock; provided, that the stock shall be sold



1 within twelve months of the date acquired or  
2 purchased, or within such further time as may be  
3 granted by the commissioner;

4 (7) [~~Of an~~] An international banking corporation  
5 established pursuant to article 5A [~~of this chapter~~]  
6 or an Edge corporation or an Agreement corporation  
7 established or authorized pursuant to section 25a of  
8 the Federal Reserve Act, 12 [~~U.S.C. §~~] United States  
9 Code section 631;

10 (8) [~~Of a~~] A captive insurance company incorporated under  
11 the laws of the United States, or any state or  
12 territory thereof, or the District of Columbia;

13 (9) [~~Of a~~] A company transacting a business of insurance  
14 or the sale of annuities pursuant to the authority  
15 conferred in section 412:5-205.5; and

16 (10) [~~Of a~~] A company engaging in securities activities  
17 pursuant to the authority conferred in section 412:5-  
18 205.7."

19 SECTION 7. Section 412:6-303, Hawaii Revised Statutes, is  
20 amended to read as follows:

21 "**§412:6-303 Limitations on loans and extensions of credit**  
22 **to one borrower.** (a) No savings bank shall permit a person to



1 become indebted or liable to it, either directly or indirectly,  
2 on loans and extensions of credit, including any credit exposure  
3 arising out of derivative transactions entered into by a savings  
4 bank and its subsidiaries, in a total amount outstanding at any  
5 one time in excess of twenty per cent of the capital and surplus  
6 of the savings bank.

7 (b) As used in this section, a "derivative transaction"  
8 includes any transaction that is a contract, agreement, swap,  
9 warrant, note, or option that is based, in whole or in part, on  
10 the value of, any interest in, any quantitative measure of, or  
11 the occurrence of any event relating to one or more commodities,  
12 securities, currencies, interest or other rates, indices, or  
13 other assets.

14 ~~[(b)]~~ (c) This section applies to all loans ~~[and]~~,  
15 extensions of credit made, and credit exposure arising out of  
16 derivative transactions entered into, by a savings bank and its  
17 subsidiaries. It does not apply to loans and extensions of  
18 credit made by a savings bank or its subsidiaries to its  
19 affiliates or subsidiaries.

20 ~~[(c)]~~ (d) The limitations set forth in this section shall  
21 not apply to:



- 1 (1) A savings bank's deposits with a Federal Reserve Bank,  
2 Federal Home Loan Bank, or another depository  
3 institution made in compliance with this chapter;
- 4 (2) A savings bank's sale of federal funds to another  
5 depository institution with a maturity of one business  
6 day or under a continuing contract;
- 7 (3) Loans and extensions of credit secured by the  
8 interest-bearing obligations of the United States or  
9 those for which the faith and credit of the United  
10 States are distinctly pledged to provide for the  
11 payment of the principal and interest thereof or of  
12 the State or any county or municipal or political  
13 subdivision of this State, issued in compliance with  
14 the laws of this State, where the market value of the  
15 security shall be at any time not less than one  
16 hundred five per cent of the face amount of the loans  
17 and extensions of credit;
- 18 (4) Loans and extensions of credit to the extent secured  
19 by a pledge or security interest in a deposit account  
20 in the savings bank serving as the lender; and
- 21 (5) Loans and extensions of credit arising from the  
22 discount of negotiable or nonnegotiable credit sales



1 contracts which carry a partial recourse endorsement  
2 or limited guarantee by the person transferring the  
3 credit sales contract, if the savings bank's  
4 respective file or the knowledge of its officers of  
5 the financial condition of each maker of [~~such~~] the  
6 consumer paper is reasonably adequate, and an officer  
7 of the savings bank certifies in writing that the  
8 savings bank is relying primarily upon the  
9 responsibility of each maker for payment of [~~such~~] the  
10 credit sales contract, and not upon any partial  
11 recourse endorsement or limited guarantee by the  
12 transferor. Under these circumstances, [~~such~~] the  
13 credit sales contract will be considered a loan and  
14 extension of credit to the maker of the credit sales  
15 contract rather than the seller of the credit sales  
16 contract.

17 [~~(d)~~] (e) In computing the total loans and extensions of  
18 credit made by a savings bank to any person, all loans and  
19 extensions of credit by the savings bank to the person and to  
20 any partnership, joint venture, or unincorporated association of  
21 which the person is a partner or a member and all credit  
22 exposure arising from a derivative transaction with any person



1 and with any partnership, joint venture, or unincorporated  
2 association of which the person is a partner or a member shall  
3 be included unless the person is a limited partner, but not a  
4 general partner, in a limited partnership, or unless the person  
5 is a partner in a limited or general partnership, or a member of  
6 a joint venture or unincorporated association, if such partner  
7 or member, by law, by the terms of the partnership, joint  
8 venture, or membership agreement, or by the terms of an  
9 agreement with the savings bank, is not to be held liable to the  
10 savings bank for the debts of the partnership, joint venture, or  
11 association. In computing the total loans and extensions  
12 [of] credit made by a savings bank to any firm, partnership,  
13 joint venture, or unincorporated association, all loans and  
14 extensions of credit to and all credit exposure arising from a  
15 derivative transaction with its individual partners or members  
16 shall be included unless such individual partner is a limited  
17 partner, but not a general partner, in a limited partnership, or  
18 unless such individual partner or member, by law, by the terms  
19 of the partnership, joint venture, or membership agreement, or  
20 by the terms of an agreement with the savings bank, is not to be  
21 held liable to the savings bank for the debts of the  
22 partnership, joint venture, or association.



1        [~~e~~] (f) Alternatively, a savings bank may, with the  
2 prior approval of the commissioner, comply with the lending  
3 limits applicable to [~~national banking associations,~~] federal  
4 financial institutions, as and to the same extent it would, at  
5 the time, be so required by federal law or regulation if it were  
6 a [~~national banking association.~~] federal financial institution.  
7 A savings bank utilizing this alternative shall use a single  
8 method for calculating lending limits, including any credit  
9 exposure to the person arising from a derivative transaction,  
10 repurchase agreement, reverse purchase agreement, securities  
11 lending transaction, or securities borrowing transaction between  
12 the savings bank and the person. In monitoring a savings bank's  
13 compliance with the [~~national banking association~~] federal  
14 financial institution lending limits, the commissioner shall  
15 give substantial weight to the Office of the Comptroller of the  
16 Currency's regulations and opinions interpreting the [~~national~~  
17 ~~banking association~~] federal financial institution lending  
18 limits [~~and~~], including but not limited to those related to the  
19 internal model method or the conversion factor matrix method for  
20 calculating credit exposure to derivative transactions as  
21 described in title 12 Code of Federal Regulations Part 32 of the  
22 Interim Rule as may be amended. The commissioner will regard



1 ~~[them]~~ the regulations and opinions as strong evidence of safe  
2 and sound banking practices."

3 SECTION 8. Section 412:9-200, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "**§412:9-200 General powers.** Except as expressly  
6 prohibited or limited by this chapter, a financial services loan  
7 company shall have the power to make loans where the interest  
8 charged, contracted for, or received is in excess of rates  
9 permitted by law, other than this article, and to engage in  
10 other activities that are usual or incidental to the business  
11 for which it is licensed, and shall have all rights, powers, and  
12 privileges of a corporation organized under the laws of this  
13 State, including but not limited to, the power to:

- 14 (1) Make loans and extensions of credit of any kind,  
15 whether unsecured or secured by real or personal  
16 property of any kind or description;
- 17 (2) Borrow money from any source within or without this  
18 State;
- 19 (3) Charge or retain a fee for the originating, selling,  
20 brokering, or servicing of loans and extensions of  
21 credit;





- 1           (4) Discount, purchase, or acquire loans, including but  
2                   not limited to notes, credit sales contracts, mortgage  
3                   loans, or other instruments;
- 4           (5) Become the legal or beneficial owner of tangible  
5                   personal property and fixtures and such other real  
6                   property interests as shall be incidental thereto, to  
7                   lease such property, to obtain an assignment of a  
8                   lessor's interest in a lease of the property, and to  
9                   incur obligations incidental to the financial services  
10                  loan company's position as the legal or beneficial  
11                  owner and the lessor of the property;
- 12          (6) Sell or refer credit related insurance products, and  
13                  collect premiums or fees for the sale or referral  
14                  thereof, including, but not limited to, credit life  
15                  insurance, credit disability insurance, accident, and  
16                  health or sickness insurance, involuntary unemployment  
17                  insurance, personal property insurance, and mortgage  
18                  protection insurance;
- 19          (7) Make investments as permitted under this article;
- 20                  [and]



1 (8) Charge to a borrower a returned check fee if a check  
2 that has been tendered by the borrower in payment on  
3 account of a loan is returned unpaid; provided that:

4 (A) The fee shall not exceed \$20;

5 (B) The fee shall be imposed under a separate  
6 billing, and shall not be added to a borrower's  
7 outstanding loan balance nor deducted from a loan  
8 payment; and

9 (C) A failure to pay the fee shall not constitute a  
10 default under any outstanding loan agreement  
11 between the borrower and the financial services  
12 loan company[-]; and

13 (9) Charge to a borrower a "below minimum draft fee" of  
14 \$10 per draft for the processing costs involved on a  
15 draft written below the minimum amount established on  
16 an open-ended loan."

17 SECTION 9. Section 412:9-404, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 "**§412:9-404** ~~[Limitation]~~ **Limitations on loans and**  
20 **extensions of credit to one borrower.** (a) No depository  
21 financial services loan company shall permit a person to become  
22 indebted or liable to it, either directly or indirectly, on



1 loans and extensions of credit, including any credit exposure  
2 arising out of derivative transactions entered into by a  
3 depository financial services loan company and its subsidiaries,  
4 in a total amount outstanding at any one time in excess of  
5 twenty per cent of the depository financial services loan  
6 company's capital and surplus; provided that such aggregate  
7 amount may be increased to one hundred per cent of the  
8 depository financial services loan company's capital and surplus  
9 if the loans and extensions of credit made to the person in  
10 excess of twenty per cent of the depository financial services  
11 loan company's capital and surplus are fully secured by real  
12 property as provided in section 412:9-405.

13 (b) As used in this section, a "derivative transaction"  
14 includes any transaction that is a contract, agreement, swap,  
15 warrant, note, or option that is based, in whole or in part, on  
16 the value of, any interest in, any quantitative measure of, or  
17 the occurrence of any event relating to, one or more  
18 commodities, securities, currencies, interest or other rates,  
19 indices, or other assets.

20 ~~(b)~~ (c) The limitations set forth in this section shall  
21 not apply to:



1           (1) Loans and extensions of credit to the extent secured  
2                   by a pledge or security interest in a deposit account  
3                   in the lending depository financial services loan  
4                   company; and

5           (2) Loans and extensions of credit secured by the  
6                   interest-bearing obligations of the United States or  
7                   those for which the faith and credit of the United  
8                   States are distinctly pledged to provide for the  
9                   payment of principal and interest thereof or of the  
10                  State or any county or municipal or political  
11                  subdivision of this State, issued in compliance with  
12                  the laws of this State, where the market value of the  
13                  security shall be at any time not less than one  
14                  hundred five per cent of the face amount of the loans  
15                  and extensions of credit.

16           (d) In computing the total loans and extensions of credit  
17 made by a depository financial services loan company to any  
18 person, all loans and extensions of credit by the depository  
19 financial services loan company to the person and to any  
20 partnership, joint venture, or unincorporated association of  
21 which the person is a partner or a member and all credit  
22 exposure arising from a derivative transaction with any person



1 and with any partnership, joint venture, or unincorporated  
2 association of which the person is a partner or a member shall  
3 be included unless the person is a limited partner, but not a  
4 general partner, in a limited partnership, or unless the person  
5 is a partner in a limited or general partnership, or a member of  
6 a joint venture or unincorporated association, if such partner  
7 or member, by law, by the terms of the partnership, joint  
8 venture, or membership agreement, or by the terms of an  
9 agreement with the depository financial services loan company,  
10 is not to be held liable to the depository financial services  
11 loan company for the debts of the partnership, joint venture, or  
12 association. In computing the total loans and extensions of  
13 credit made by a depository financial services loan company to  
14 any firm, partnership, joint venture, or unincorporated  
15 association, all loans and extensions of credit to and all  
16 credit exposure arising from a derivative transaction with its  
17 individual partners or members shall be included unless such  
18 individual partner is a limited partner, but not a general  
19 partner, in a limited partnership, or unless such individual  
20 partner or member, by law, by the terms of the partnership,  
21 joint venture, or membership agreement, or by the terms of an  
22 agreement with the depository financial services loan company,



1 is not to be held liable to the depository financial services  
2 loan company for the debts of the partnership, joint venture, or  
3 association.

4 (e) Alternatively, a depository financial services loan  
5 company, with the prior approval of the commissioner, may comply  
6 with the lending limits applicable to federal financial  
7 institutions as and to the same extent it would, at the time, be  
8 so required by federal law or regulation if it were a federal  
9 financial institution. A depository financial services loan  
10 company utilizing this alternative shall use a single method for  
11 calculating lending limits, including any credit exposure to the  
12 person arising from a derivative transaction, repurchase  
13 agreement, reverse purchase agreement, securities lending  
14 transaction, or securities borrowing transaction between the  
15 depository financial services loan company and the person. In  
16 monitoring a depository financial services loan company's  
17 compliance with the federal financial institution lending  
18 limits, the commissioner shall give substantial weight to the  
19 Office of the Comptroller of the Currency's regulations and  
20 opinions interpreting the federal financial institution lending  
21 limits, including but not limited to those related to the  
22 internal model method or the conversion factor matrix method for



1 calculating credit exposure to derivative transactions as  
2 described in title 12 Code of Federal Regulations Part 32 of the  
3 Interim Rule as may be amended. The commissioner will regard  
4 the regulations and opinions as strong evidence of safe and  
5 sound banking practices."

6 PART II

7 SECTION 10. Chapter 412, Hawaii Revised Statutes, is  
8 amended by adding a new section to article 2 to be appropriately  
9 designated, and to read as follows:

10 "§412:2- Hawaii financial institutions; assessments;  
11 fees; penalty. (a) Beginning January 1, 2014, every Hawaii  
12 financial institution shall be assessed a yearly fee in  
13 accordance with the following:

14 (1) For financial institutions with total assets under  
15 \$750,000, the assessment shall be the sum of \$1,000  
16 plus the product of 0.00029111 times total assets;

17 (2) For financial institutions with total assets of at  
18 least \$750,000 but under \$7,500,000, the assessment  
19 shall be the sum of \$2,000 plus the product of  
20 0.00029111 times total assets;

21 (3) For financial institutions with total assets of at  
22 least \$7,500,000 but under \$20,000,000, the assessment



- 1           shall be the sum of \$4,800 plus the product of  
2           0.00029111 times total assets;
- 3       (4) For financial institutions with total assets of at  
4           least \$20,000,000 but under \$75,000,000, the  
5           assessment shall be the sum of \$9,900 plus the product  
6           of 0.000064 times total assets;
- 7       (5) For financial institutions with total assets of at  
8           least \$75,000,000 but under \$200,000,000, the  
9           assessment shall be the sum of \$15,000 plus the  
10          product of 0.00005333 times total assets;
- 11       (6) For financial institutions with total assets of at  
12          least \$200,000,000 but under \$1,000,000,000, the  
13          assessment shall be the sum of \$21,100 plus the  
14          product of 0.00004750 times total assets;
- 15       (7) For financial institutions with total assets of at  
16          least \$1,000,000,000 but under \$20,000,000,000, the  
17          assessment shall be the sum of \$29,000 plus the  
18          product of 0.00004 times total assets;
- 19       provided that the yearly fee assessed for financial institutions  
20       with total assets of:
- 21       (8) At least \$2,000,000,000 but less than \$10,000,000,000  
22       shall be no more than \$100,000; and





1       (9) At least \$10,000,000,000 shall be no more than  
2           \$150,000.

3       (b) The assessments shall be paid semiannually on February  
4 15 and August 15 of each year based on the institution's total  
5 assets reported as of the previous December 31 and June 30,  
6 respectively; provided that the payments of the assessment shall  
7 commence on February 15, 2014.

8       (c) In addition to the assessments established in  
9 subsection (a), a financial institution or financial institution  
10 applicant shall pay fees as follows:

11       (1) A nonrefundable fee of \$10,000 for an application for  
12           preliminary approval by the commissioner for the  
13           organization of a Hawaii financial institution  
14           pursuant to section 412:3-201, 412:3-202, 412:3-206,  
15           412:3-301, or 412:5-205;

16       (2) A nonrefundable fee of \$9,000 for an application for  
17           preliminary approval by the commissioner for the  
18           organization of a Hawaii financial institution  
19           pursuant to section 412:5-402;

20       (3) A nonrefundable fee of \$2,500 for a final application  
21           for a charter or license to engage in the business of



- 1           a Hawaii financial institution pursuant to section  
2           412:3-212;
- 3           (4) A nonrefundable fee of \$2,500 for a final application  
4           for a charter or license to engage in the business of  
5           a savings bank pursuant to section 412:6-101;
- 6           (5) A nonrefundable fee of \$2,500 for a final application  
7           for a charter or license to engage in the business of  
8           a trust company pursuant to section 412:8-102;
- 9           (6) A nonrefundable fee of \$10,000 for an application for  
10           a merger or consolidation or acquisition of control  
11           involving a Hawaii financial institution;
- 12           (7) A nonrefundable fee of \$10,000 for an application for  
13           the acquisition of control of a Hawaii financial  
14           institution;
- 15           (8) A nonrefundable fee of \$2,500 for an application for  
16           the conversion of a federal financial institution to a  
17           Hawaii financial institution or the conversion of a  
18           Hawaii financial institution to another Hawaii  
19           financial institution charter;
- 20           (9) A nonrefundable fee of \$5,000 for an application of a  
21           bank to conduct a trust business through a subsidiary,



- 1 division, or department of the bank pursuant to 412:5-  
2 205;
- 3 (10) A nonrefundable fee of \$5,000 for an application of a  
4 bank to conduct insurance activities pursuant to  
5 section 412:5-205.5;
- 6 (11) A nonrefundable fee of \$5,000 for an application of a  
7 bank to engage in securities activities pursuant to  
8 section 412:5-205.7;
- 9 (12) A nonrefundable fee of \$2,000 for an application for a  
10 bank or savings bank to comply with lending limits  
11 applicable to federal financial institutions pursuant  
12 to section 412:5-302 or section 412:6-303;
- 13 (13) A nonrefundable fee of \$2,000 for an application to  
14 exceed certain permitted investment limits pursuant to  
15 sections 412:5-305(f) and (h), 412:6-306(f) and (h),  
16 412:7-306(f) and (h), 412:8-301(f), 412:9-409(f) and  
17 (i), and 412:10-502(g); and
- 18 (14) A nonrefundable fee of \$2,500 for an application for a  
19 charter of a credit union.
- 20 (d) Beginning January 1, 2014, the annual fee for each  
21 intra-Pacific financial institution and interstate branch of out  
22 of state banks is the sum of \$1,000 for each office, agency, and



1 branch office maintained by the financial institution, payment  
2 of which shall be made before December 31 of each year. The  
3 commissioner may establish, increase, decrease, or repeal this  
4 fee pursuant to rules adopted in accordance with chapter 91.

5 (e) Intra-Pacific bank fees shall be as follows:

6 (1) A nonrefundable fee of \$750 for an application for a  
7 branch, subsidiary, or subsidiary of a holding company  
8 of an intra-Pacific bank pursuant to section 412:5-  
9 402; and

10 (2) A nonrefundable fee of \$500 for an application to  
11 relocate a branch, subsidiary, or subsidiary of a  
12 holding company of an intra-Pacific bank established  
13 or acquired pursuant to section 412:5-401.

14 (f) A nonrefundable fee of \$500 shall be assessed for an  
15 application to relocate a branch established pursuant to section  
16 412:12-107.

17 (g) A nonrefundable fee of \$100 shall be assessed for each  
18 certificate of good standing for any Hawaii financial  
19 institution; provided that an additional fee of \$100 shall be  
20 assessed for each certificate of good standing that is requested  
21 to be provided in two business days from receipt of request.



1       (h) All assessments and fees shall be deposited into the  
2 compliance resolution fund established pursuant to section 26-  
3 9(o).

4       (i) For purposes of this section, "total assets" means for  
5 an insured depository institution the total assets reported in  
6 the financial institution's quarterly reports of condition, or  
7 call reports, which are required to be filed pursuant to section  
8 7(a)(3) of the Federal Deposit Insurance Act or in the unaudited  
9 financial statements filed pursuant to section 412:3-112.

10       (j) A Hawaii financial institution that fails to make a  
11 payment required by this section shall be subject to an  
12 administrative fine of not more than \$250 per day for each day  
13 it is in violation of this section, which fine, together with  
14 the amount due under this section, may be recovered pursuant to  
15 section 412:2-611 and shall be deposited into the compliance  
16 resolution fund established pursuant to section 26-9(o)."

17       SECTION 11. Section 412:2-105, Hawaii Revised Statutes, is  
18 amended to read as follows:

19       "**§412:2-105 Fees [and assessments].** [~~(a)~~—The  
20 ~~commissioner may charge an examination fee based upon the cost~~  
21 ~~per hour per examiner for all financial institutions examined by~~  
22 ~~the commissioner or the commissioner's staff. Effective July 1,~~



1 ~~1995, the hourly fee shall be \$40. After July 1, 1996, the~~  
2 ~~commissioner may establish, increase, decrease, or repeal the~~  
3 ~~hourly fee when necessary pursuant to rules adopted in~~  
4 ~~accordance with chapter 91.~~

5 ~~(b) In addition to the examination fee, the] (a) The~~  
6 commissioner ~~[may]~~ shall charge any financial institution  
7 examined ~~[or investigated]~~ by the commissioner or the  
8 commissioner's staff, ~~[additional amounts]~~ an amount for travel,  
9 per diem, mileage, and other reasonable expenses incurred in  
10 connection with the examination.

11 ~~[(e)] (b)~~ The commissioner shall bill the affected  
12 financial institution for ~~[examination fees and]~~ expenses as  
13 soon as feasible after the close of the examination ~~[or~~  
14 ~~investigation]~~. The affected financial institution shall pay  
15 the division ~~[of financial institutions]~~ within thirty days  
16 following the billing. All such payments shall be deposited to  
17 the compliance resolution fund established pursuant to section  
18 26-9(o). All disputes relating to these billings between the  
19 affected financial institution and the commissioner shall be  
20 resolved in accordance with the procedures for contested cases  
21 under chapter 91.



1       ~~[(d) The commissioner, by rules adopted in accordance with~~  
2 ~~chapter 91, may set reasonable fee amounts to be collected by~~  
3 ~~the division in connection with its regulatory functions,~~  
4 ~~including, without limitation, any fees for renewals,~~  
5 ~~applications, licenses, and charters. Unless otherwise provided~~  
6 ~~by statute, all such fees shall be deposited into the compliance~~  
7 ~~resolution fund established pursuant to section 26-9(o).~~

8       ~~(e)]~~ (c) A Hawaii financial institution that fails to make  
9 a payment required by this section shall be subject to an  
10 administrative fine of not more than \$250 per day for each day  
11 it is in violation of this section, which fine, together with  
12 the amount due under this section, may be recovered pursuant to  
13 section 412:2-611, and shall be deposited into the compliance  
14 resolution fund established pursuant to section 26-9(o)."

15       SECTION 12. Section 412:2-508, Hawaii Revised Statutes, is  
16 amended by amending subsection (b) to read as follows:

17       "(b) Applications for a provisional approval shall be  
18 filed with the commissioner, and shall provide the information  
19 required by this chapter for preliminary approval to organize  
20 the type of financial institution that will result from the  
21 merger or acquisition under this part. The applicant shall also  
22 furnish such other information as the commissioner may require,



1 and an application fee [~~as established by the commissioner.~~]  
2 assessed pursuant to section 412:2- ."

3 SECTION 13. Section 412:3-102, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "**§412:3-102 Change of name.** To change its name, a Hawaii  
6 financial institution shall file an application with the  
7 commissioner [~~and pay the fees as the commissioner may~~  
8 ~~establish~~]. The application shall be approved if the  
9 commissioner is satisfied that the new name complies with this  
10 chapter and chapter 414. Any change of name of a stock  
11 financial institution pursuant to this section shall be effected  
12 in accordance with chapter 414. Any change of name shall not  
13 affect a financial institution's rights, liabilities, or  
14 obligations existing prior to the effective date thereof, and no  
15 documents of transfer shall be necessary to preserve the rights,  
16 liabilities, or obligations; provided that the commissioner may  
17 require notice to be given to the public and other governmental  
18 agencies."

19 SECTION 14. Section 412:3-212, Hawaii Revised Statutes, is  
20 amended by amending subsection (c) to read as follows:

21 "(c) If the commissioner is satisfied that the financial  
22 institution and, if applicable, its holding company have





1 fulfilled all the requirements of law and the grounds for  
2 preliminary approval, and that the financial institution is  
3 qualified to engage in the business of a financial institution,  
4 the commissioner shall issue a written decision and order  
5 approving the application. The order may restrict the payment  
6 of dividends for a period of up to three years, and may contain  
7 any other conditions and restrictions on the financial  
8 institution that are in the public interest, including but not  
9 limited to the divestment of any contractual arrangement with an  
10 affiliate or subsidiary involving any type of business not  
11 permitted under this chapter. Upon the satisfactory fulfillment  
12 by the financial institution and, if applicable, its holding  
13 company of the conditions in the written decision and order  
14 approving the application and upon the payment by a depository  
15 financial services loan company of [~~an~~] the initial license fee  
16 [~~established by rule pursuant to chapter 91,~~] assessed pursuant  
17 to section 412:2- , the commissioner shall issue to the  
18 financial institution a charter or license to engage in the  
19 business of a financial institution under this chapter."

20 SECTION 15. Section 412:3-301, Hawaii Revised Statutes, is  
21 amended by amending subsection (c) to read as follows:



1           "(c) The application shall be submitted on a form  
2 prescribed by the commissioner [~~—The application~~] and shall be  
3 accompanied by an application fee [~~of \$5,000, or such greater~~  
4 ~~amount as the commissioner shall establish by rule pursuant to~~  
5 ~~chapter 91. The application fee shall not be refundable.~~]  
6 assessed pursuant to section 412:2- ."

7           SECTION 16. Section 412:3-304, Hawaii Revised Statutes, is  
8 amended by amending subsection (b) to read as follows:

9           "(b) If the commissioner is satisfied that the applicant  
10 has fulfilled all the requirements of law and is qualified to  
11 engage in the business of a nondepository financial services  
12 loan company, the commissioner shall issue a written decision  
13 and order approving the application. Upon the approval of the  
14 application [~~, the payment of an initial license fee established~~  
15 ~~by rule pursuant to chapter 91,~~] and, if applicable, upon  
16 providing satisfactory evidence to the commissioner of  
17 compliance with the requirements of chapter 414 relating to  
18 foreign corporations, the commissioner shall issue to the  
19 applicant a license to engage in the business of a nondepository  
20 financial services loan company under this chapter."

21           SECTION 17. Section 412:3-505, Hawaii Revised Statutes, is  
22 amended to read as follows:



1           "**§412:3-505 Opening or relocating out-of-state branch or**  
2 **agency.** With the commissioner's prior written approval, a  
3 Hawaii financial institution may open or relocate a branch or  
4 agency that is outside of this State, including but not limited  
5 to any state, possession, or territory of the United States or  
6 any foreign country. An application to open or relocate an out-  
7 of-state branch or agency shall be filed in accordance with  
8 section 412:3-503[, ~~and the commissioner may assess the~~  
9 ~~financial institution any additional expenses as may be~~  
10 ~~reasonably necessary to consider the application]."~~

11           SECTION 18. Section 412:3-603, Hawaii Revised Statutes, is  
12 amended to read as follows:

13           "**§412:3-603 Procedure for applications pursuant to this**  
14 **part.** Whenever the written approval of the commissioner is  
15 required with respect to any transaction covered by this part,  
16 the following procedures shall apply:

17           (1) An application for approval by the commissioner  
18           pursuant to this part shall be on a form prescribed by  
19           the commissioner and shall contain any information,  
20           data, and records as the commissioner may require[-],  
21           and shall be accompanied by a nonrefundable  
22           application fee assessed pursuant to section 412:2- .



1 As far as possible consistent with the effective  
2 discharge of the commissioner's responsibilities, the  
3 commissioner shall prescribe the use of forms  
4 currently prescribed by the appropriate federal  
5 regulatory agency of financial institutions and  
6 financial institution holding companies for identical  
7 or similar types of transactions [~~The application~~  
8 ~~shall be accompanied by an application fee established~~  
9 ~~by the commissioner pursuant to section 412:2-105.~~  
10 ~~The application fee shall not be refundable];~~

- 11 (2) If any material change occurs in the facts set forth  
12 in an application, or if for any other reason the  
13 applicant desires to amend the application, an  
14 amendment setting forth any change, together with  
15 copies of all documents and other material relevant to  
16 the change, shall be filed with the commissioner.  
17 Within twenty days after receiving an application or  
18 any amendment thereto, the commissioner may request  
19 any additional information necessary in deciding  
20 whether to approve a proposed transaction pursuant to  
21 this part. The applicant shall submit the additional



1 information in a reasonable time thereafter, as may be  
2 specified by the commissioner;

3 (3) If the commissioner would approve a plan of  
4 conversion, merger, or consolidation, an acquisition  
5 of assets or assumption of liabilities, an acquisition  
6 of control, or a voluntary cessation of business or  
7 voluntary dissolution, but on terms different than  
8 contained in the application, the commissioner may  
9 give notice to the applicant of the nature of the  
10 changes [~~which~~] that would be approved, and the  
11 applicant may submit an amended application;

12 (4) If the commissioner intends to disapprove an  
13 application, the commissioner shall deliver to the  
14 applicant a written notice of the intent to  
15 disapprove. Within ten days after receipt of the  
16 commissioner's notice of intent to disapprove an  
17 application, the applicant may request an  
18 administrative hearing, to be held in accordance with  
19 chapter 91. If no request for a hearing is made, the  
20 commissioner's disapproval shall become final. If  
21 after the hearing the commissioner finally disapproves  
22 the application, the applicant may, within thirty days



1 of the date of the final decision, appeal to the  
2 circuit court as provided in chapter 91;

3 (5) Notwithstanding any other provision of this part, any  
4 complete application [~~which~~] that is not approved or  
5 denied by the commissioner within a period of sixty  
6 days after the application is filed with the  
7 commissioner or, if the applicant consents to an  
8 extension of the period within which the commissioner  
9 may act, within the extended period, shall be deemed  
10 to be approved by the commissioner as of the first day  
11 after the period of sixty days or the extended period.  
12 If the commissioner gives notice of an informational  
13 and comment proceeding on the application, the sixty-  
14 day period shall be extended to a date as may be fixed  
15 by order of the commissioner. For purposes of this  
16 section, an application is deemed to be filed with the  
17 commissioner at the time when the complete  
18 application, including any amendments or supplements,  
19 containing all of the information in the form required  
20 by the commissioner, is received and accepted by the  
21 commissioner; and



1           (6) Any applicant submitting information to the  
2           commissioner pursuant to this part may request that  
3           the information, or any part thereof, be kept  
4           confidential. The request shall be made in writing  
5           and shall set forth the specific items sought to be  
6           kept confidential and the reasons and authority for  
7           the confidential treatment. The commissioner may,  
8           pursuant to a request or otherwise, determine that  
9           good cause exists to keep some or all of the  
10          information confidential, and shall keep the  
11          information confidential and not subject to public  
12          disclosure. In connection with an application for the  
13          acquisition of control pursuant to section 412:3-612,  
14          the commissioner may release information to the  
15          affected financial institution or financial  
16          institution holding company with a directive that some  
17          or all of the information be kept confidential."

18          SECTION 19. Section 412:5-203, Hawaii Revised Statutes, is  
19          amended by amending subsection (d) to read as follows:

20          "(d) The bank shall file an application with the  
21          commissioner in a form approved by the commissioner. The  
22          application shall be accompanied by a fee [~~the amount of which~~



1 ~~shall be prescribed by rule.] assessed pursuant to section~~  
2 412:2- . The application shall contain the following  
3 information concerning the proposed operating subsidiary:

- 4 (1) The name and date for commencement of operations;
- 5 (2) The specific location;
- 6 (3) The activities and nature of business;
- 7 (4) The ownership, amount, and nature of the investment;
- 8 and
- 9 (5) Any other information that the commissioner may
- 10 require."

11 SECTION 20. Section 412:5-205, Hawaii Revised Statutes, is  
12 amended by amending subsection (b) to read as follows:

13 "(b) The bank shall file an application for such approval  
14 with the commissioner on a form prescribed by the commissioner,  
15 together with an application fee [~~of \$5,000, or such greater~~  
16 ~~amount as the commissioner shall establish, no part of which~~  
17 ~~shall be refundable.] assessed pursuant to section 412:2- .~~

18 The application shall contain the following information:

- 19 (1) Appropriate board resolutions authorizing the
- 20 establishment of a trust company, division, or
- 21 department;





- 1           (2) Employment history, education, management experience,  
2           and other biographical information for all executive  
3           officers, trust officers, and managers of the trust  
4           company, division, or department;
- 5           (3) Proposed policies concerning common trust funds,  
6           overdrafts, disaster recovery plans, dividends,  
7           management of assets and liabilities, conflicts of  
8           interest, investments, and fee schedules. The  
9           commissioner may consider any existing bank policies  
10          that will be adapted and [~~utilized~~] used for its trust  
11          business;
- 12          (4) A business plan and financial projections regarding  
13          profitability of the proposed trust business;
- 14          (5) Evidence that the bank has or will have the financial  
15          ability, responsibility, and experience to engage in  
16          the trust business; and
- 17          (6) Any other information [~~which~~] that the commissioner  
18          may require."

19          SECTION 21. Section 412:5-205.5, Hawaii Revised Statutes,  
20          is amended by amending subsection (c) to read as follows:

21          "(c) The bank shall file an application for approval with  
22          the commissioner in a form prescribed by the commissioner. The



1 application shall be accompanied by a fee [~~the amount of which~~  
2 ~~shall be prescribed by rule.~~] assessed pursuant to section  
3 412:2-\_\_\_. The application shall contain:

- 4 (1) A description of the activities to be conducted;
- 5 (2) The experience and qualifications of the proposed  
6 managers;
- 7 (3) The specific location where the activities will be  
8 conducted; and
- 9 (4) Any other information that the commissioner may  
10 require.

11 If the bank proposes to engage in the business of insurance  
12 through a subsidiary or affiliate, then the application shall  
13 also contain information regarding the experience and  
14 qualifications of the proposed executive officers and directors  
15 of the subsidiary or affiliate and the ownership, amount, and  
16 nature of the bank's investment in and advances to the  
17 subsidiary or affiliate. Upon being satisfied that the  
18 application is complete, that the conduct of the insurance  
19 business will not affect the safety or soundness of the bank or  
20 harm the public interest, and that the bank and its subsidiary  
21 or affiliate, if applicable, have sufficient experience,  
22 qualifications, and financial capability to engage in the



1 activities authorized by this section, the commissioner shall  
2 approve the application. The commissioner may impose any terms  
3 and conditions [~~which~~] that the commissioner considers necessary  
4 to protect the bank, the customers of the bank, and the public  
5 interest."

6 SECTION 22. Section 412:5-205.7, Hawaii Revised Statutes,  
7 is amended by amending subsection (c) to read as follows:

8 "(c) The bank shall file an application for approval with  
9 the commissioner in a form prescribed by the commissioner[~~—The~~  
10 ~~application shall be~~] and accompanied by a fee [~~the amount of~~  
11 ~~which shall be prescribed by rule.~~] assessed pursuant to section  
12 412:2- . The application shall contain:

- 13 (1) A description of the activities to be conducted;
- 14 (2) The experience and qualifications of the proposed  
15 managers;
- 16 (3) The specific location where the activities will be  
17 conducted; and
- 18 (4) Any other information that the commissioner may  
19 require.

20 If the bank proposes to engage in securities activities through  
21 a subsidiary or affiliate, then the application shall also  
22 contain information regarding the experience and qualifications



1 of the proposed executive officers and directors of the  
2 subsidiary or affiliate and the ownership, amount, and nature of  
3 the bank's investment in and advances to the subsidiary or  
4 affiliate. Upon being satisfied that the application is  
5 complete, that the conduct of the securities activities will not  
6 affect the safety or soundness of the bank or harm the public  
7 interest, and that the bank and its subsidiary or affiliate, if  
8 applicable, have sufficient experience, qualifications, and  
9 financial capability to engage in the activities authorized by  
10 this section, the commissioner shall approve the application.  
11 The commissioner may impose any terms and conditions [~~which~~  
12 that the commissioner considers necessary to protect the bank,  
13 the customers of the bank, and the public interest."

14 SECTION 23. Section 412:5-402, Hawaii Revised Statutes, is  
15 amended by amending subsection (a) to read as follows:

16 "(a) In order to obtain prior approval of the commissioner,  
17 the applicant shall file the application required by and comply  
18 with the provisions of article 3. The application shall be  
19 accompanied by the application fee assessed pursuant to section  
20 412:2- . The application shall contain the following  
21 information:



- 1 (1) The applicant's articles of incorporation and bylaws,  
2 or other basic governing documents;
- 3 (2) A certificate from the appropriate regulatory body  
4 where its home office is located, indicating that the  
5 applicant is in good standing in that jurisdiction;  
6 and
- 7 (3) Any other information required by the commissioner."

8 SECTION 24. Section 412:6-201, Hawaii Revised Statutes, is  
9 amended by amending subsection (b) to read as follows:

10 "(b) Any savings bank desiring to acquire any federal  
11 power shall file an application with the commissioner. The  
12 application shall indicate the applicable federal statute, rule,  
13 regulation, interpretation, or court decision[]; the extent of  
14 the federal power desired[]; the reasons for the  
15 application[]; and any other information requested by the  
16 commissioner. The commissioner may by rule prescribe the form  
17 of application [~~and application filing fees~~]."

18 SECTION 25. Section 412:9-102, Hawaii Revised Statutes, is  
19 repealed.

20 [~~"§412:9-102 Annual license fee. On or before December 31~~  
21 ~~of each year, each financial services loan company shall pay to~~  
22 ~~the commissioner an annual license fee of \$50 for each license~~



1 ~~that it holds for the ensuing year. A financial services loan~~  
2 ~~company whose application for a license was approved in December~~  
3 ~~may pay to the commissioner the first annual license fee of \$50~~  
4 ~~for the ensuing year on or before the expiration of thirty days~~  
5 ~~after receiving notice of the approval of the financial services~~  
6 ~~loan company's application." ]~~

7 PART III

8 SECTION 26. Chapter 412, Hawaii Revised Statutes, is  
9 amended by adding a new section to article 2 to be appropriately  
10 designated and to read as follows:

11 **"§412:2- Hawaii financial institutions; fees; penalty.**

12 (a) A financial institution or financial institution applicant  
13 shall pay fees as follows:

14 (1) A nonrefundable fee of \$10,000 for an application for  
15 preliminary approval by the commissioner for the  
16 organization of a Hawaii financial institution  
17 pursuant to section 412:3-201, 412:3-202, 412:3-206,  
18 412:3-301, or 412:5-205;

19 (2) A nonrefundable fee of \$9,000 for an application for  
20 preliminary approval by the commissioner for the  
21 organization of a Hawaii financial institution  
22 pursuant to section 412:5-402;



- 1        (3) A nonrefundable fee of \$2,500 for a final application  
2        for a charter or license to engage in the business of  
3        a Hawaii financial institution pursuant to section  
4        412:3-212;
- 5        (4) A nonrefundable fee of \$2,500 for a final application  
6        for a charter or license to engage in the business of  
7        a savings bank pursuant to section 412:6-101;
- 8        (5) A nonrefundable fee of \$2,500 for a final application  
9        for a charter or license to engage in the business of  
10       a trust company pursuant to section 412:8-102;
- 11       (6) A nonrefundable fee of \$10,000 for an application for  
12       a merger or consolidation or acquisition of control  
13       involving a Hawaii financial institution;
- 14       (7) A nonrefundable fee of \$10,000 for an application for  
15       the acquisition of control of a Hawaii financial  
16       institution;
- 17       (8) A nonrefundable fee of \$2,500 for an application for  
18       the conversion of a federal financial institution to a  
19       Hawaii financial institution or the conversion of a  
20       Hawaii financial institution to another Hawaii  
21       financial institution charter;



- 1        (9) A nonrefundable fee of \$5,000 for an application of a  
2        bank to conduct a trust business through a subsidiary,  
3        division, or department of the bank pursuant to 412:5-  
4        205;
- 5        (10) A nonrefundable fee of \$5,000 for an application of a  
6        bank to conduct insurance activities pursuant to  
7        section 412:5-205.5;
- 8        (11) A nonrefundable fee of \$5,000 for an application of a  
9        bank to engage in securities activities pursuant to  
10       section 412:5-205.7;
- 11       (12) A nonrefundable fee of \$2,000 for an application for a  
12       bank or savings bank to comply with lending limits  
13       applicable to federal financial institutions pursuant  
14       to section 412:5-302 or section 412:6-303;
- 15       (13) A nonrefundable fee of \$2,000 for an application to  
16       exceed certain permitted investment limits pursuant to  
17       sections 412:5-305(f) and (h), 412:6-306(f) and (h),  
18       412:7-306(f) and (h), 412:8-301(f), 412:9-409(f) and  
19       (i), and 412:10-502(g); and
- 20       (14) A nonrefundable fee of \$2,500 for an application for a  
21       charter of a credit union.
- 22       (b) Intra-Pacific bank fees shall be as follows:





1       (1) A nonrefundable fee of \$750 for an application for a  
2       branch, subsidiary, or subsidiary of a holding company  
3       of an intra-Pacific bank pursuant to section 412:5-  
4       402; and

5       (2) A nonrefundable fee of \$500 for an application to  
6       relocate a branch, subsidiary, or subsidiary of a  
7       holding company of an intra-Pacific bank established  
8       or acquired pursuant to section 412:5-401.

9       (c) A nonrefundable fee of \$500 shall be assessed for an  
10      application to relocate a branch established pursuant to section  
11      412:12-107.

12      (d) A nonrefundable fee of \$100 shall be assessed for each  
13      certificate of good standing for any Hawaii financial  
14      institution; provided that an additional fee of \$100 shall be  
15      assessed for each certificate of good standing that is requested  
16      to be provided in two business days from receipt of request.

17      (e) All assessments and fees shall be deposited into the  
18      compliance resolution fund established pursuant to section 26-  
19      9(o).

20      (f) For purposes of this section, "total assets" means for  
21      an insured depository institution the total assets reported in  
22      the financial institution's quarterly reports of condition, or



1 call reports, which are required to be filed pursuant to section  
2 7(a)(3) of the Federal Deposit Insurance Act or in the unaudited  
3 financial statements filed pursuant to section 412:3-112.

4 (g) A Hawaii financial institution that fails to make a  
5 payment required by this section shall be subject to an  
6 administrative fine of not more than \$250 for each day it is in  
7 violation of this section, which fine, together with the amount  
8 due under this section, may be recovered pursuant to section  
9 412:2-611 and shall be deposited into the compliance resolution  
10 fund established pursuant to section 26-9(o)."

11 PART IV

12 SECTION 27. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

14 SECTION 28. This Act shall take effect on July 1, 2112;  
15 provided that part II shall take effect on January 1, 2014, and  
16 part III shall be repealed on January 1, 2014; provided further  
17 that section 10 shall take effect on January 1, 2014.



**Report Title:**

Financial Institutions; Hawaii Banks; Powers; Fees

**Description:**

Modernizes the State's financial institutions law, codified as chapter 412, Hawaii Revised Statutes. Replaces individual fees for Hawaii banks and nondepositories for specific regulatory items with one assessment. Increases and clarifies bank powers. Clarifies the authority of the commissioner of financial institutions. Effective July 1, 2112. (SB1071 HD1)

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

