



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

12       SECTION 2. Section 412:1-109, Hawaii Revised Statutes,  
13 is amended by:

14       (1) Amending the definition of "appropriate federal  
15 regulatory agency" to read as follows:

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

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

16 (2) Amending the definition of "deposit" or "deposits"  
17 to read as follows:

18 "Deposit" or "deposits" means money or its equivalent  
19 received or held by a person in the usual course of business  
20 and for which it has given or is obligated to give credit,  
21 either conditionally or unconditionally, to a demand,  
22 checking, savings, time, passbook, negotiable order of

1 withdrawal, thrift, or share account, or which is evidenced by  
2 its passbook, certificate of deposit, thrift certificate,  
3 investment certificate, certificate of indebtedness, or other  
4 similar instrument, or a check, draft, or share draft drawn  
5 against a deposit account and certified by a person, on which  
6 the person is primarily liable. A deposit includes all funds  
7 underlying prepaid access cards or stored value cards, and  
8 other nontraditional access mechanisms to the extent that the  
9 funds have been placed in a depository institution."

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

12 "§412:3-501 Authorized places of business. (a) A  
13 Hawaii financial institution may conduct business at one or  
14 more of the following places of business, to the extent  
15 authorized:

16 (1) The principal office of a Hawaii financial  
17 institution is the place of business that it  
18 designates as its executive headquarters in this  
19 State. A financial institution may, but need not,  
20 conduct other businesses permitted under its charter  
21 or license at its principal office; provided that  
22 for the purposes of this section, the terms

1 "principal office", "home office", and "main office"  
2 are interchangeable;

3 (2) A branch is a place of business open to the public  
4 where a financial institution shall be authorized to  
5 conduct all businesses permitted under its charter  
6 or license, except for the maintenance of its  
7 executive headquarters [→]. A branch does not  
8 include an automated teller machine or a remote  
9 service unit;

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

14 (4) An automatic teller machine or ATM is a place of  
15 business, either at a fixed location or mobile,  
16 consisting of an on-line or off-line, staffed or  
17 unstaffed, electronic processing device, including  
18 associated equipment and structures, that is  
19 situated at a premises separate from a financial  
20 institution's principal office, branch, agency, or  
21 support facility, at which deposits of cash or  
22 instruments, or cash disbursement transactions

1           between a person and one or more financial  
2           institutions are accomplished, whether instantaneous  
3           or otherwise, through or by means of electronic or  
4           automated signals or impulses including the human  
5           voice [~~;~~ ~~provided that it shall not mean a telephone~~  
6           ~~or an electronic processing device situated at or~~  
7           ~~within the premises of a bank customer that is used~~  
8           ~~only for transactions between that customer, and the~~  
9           ~~financial institution)]. The term does not include  
10          merchant operated terminals [~~and~~], point of sale  
11          terminals [~~;~~], and remote service units;~~

- 12          (5) A remote service unit is a place of business,  
13          consisting of an on-line or off-line, staffed or  
14          unstaffed, electronic processing device, including  
15          associated equipment and structures, that is used  
16          only for transactions between a financial  
17          institution customer and the financial institution,  
18          and that is situated at premises separate from a  
19          financial institution's principal office, branch,  
20          agency, or support facility, at which deposits of  
21          cash or instruments, or cash disbursement  
22          transactions, are accomplished, whether

1           instantaneous or otherwise, through or by means of  
2           electronic or automated signals or impulses  
3           including the human voice; and

4           ~~(5)~~ (6) A support facility is a place of business that  
5           is not generally open to the public, where a  
6           financial institution conducts limited types of  
7           significant business operations of the financial  
8           institution, including but not limited to data  
9           processing, clerical activities, and storage.

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

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

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

8 (b) An operating subsidiary may engage in activities  
9 that are authorized for a bank, including those under section  
10 412:5-305 and title 12 Code of Federal Regulations part 362,  
11 or that are usual or incidental to the business of a bank."

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

14 "**§412:5-302 Limitations on loans and extensions of**  
15 **credit to one borrower.** (a) No bank shall permit a person to  
16 become indebted or liable to it, either directly or indirectly  
17 on loans and extensions of credit, including any credit  
18 exposure arising out of derivative transactions entered into  
19 by a bank and its subsidiaries, in a total amount outstanding  
20 at any one time in excess of twenty per cent of the capital  
21 and surplus of the bank.



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

8        [~~(b)~~] (c) This section applies to all loans and  
9 extensions of credit made and to all credit exposure arising  
10 out of derivative transactions entered into by a bank and its  
11 subsidiaries. It does not apply to loans and extensions of  
12 credit made by a bank or its subsidiaries to its affiliates or  
13 subsidiaries.

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

- 16        (1) A bank's eligible acceptances as described in  
17                section 412:5-204(b);
- 18        (2) A bank's purchase or discount of another bank's  
19                acceptances of the kinds described in section 13 of  
20                the Federal Reserve Act;

- 1 (3) A 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 (4) A bank's sale of federal funds to another depository  
5 institution with a maturity of one business day or  
6 under a continuing contract;
- 7 (5) 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  
15 the security shall be at any time not less than one  
16 hundred five per cent of the face amount of the  
17 loans and extensions of credit;
- 18 (6) Loans and extensions of credit to the extent secured  
19 by a pledge or security interest in a deposit  
20 account in the lending bank; and
- 21 (7) 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 contracts, if the bank's respective  
4 file or the knowledge of its officers of the  
5 financial condition of each maker of [~~sueh~~] the  
6 credit sales contract is reasonably adequate, and an  
7 officer of the bank certifies in writing that the  
8 bank is relying primarily upon the responsibility of  
9 each maker for payment of [~~sueh~~] the credit sales  
10 contract, and not upon any partial recourse  
11 endorsement or limited guarantee by the transferor.  
12 Under these circumstances, [~~sueh~~] the credit sales  
13 contract will be considered a loan and extension of  
14 credit to the maker of the credit sales contract  
15 rather than the seller of the credit sales contract.

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

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

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

1 opinions as strong evidence of safe and sound banking  
2 practices."

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

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

9 (1) The real property in or on which the business of the  
10 bank is carried on, including its banking offices,  
11 other space in the same property to rent as a source  
12 of income; permanent or vacation residences or  
13 recreational facilities for its officers and  
14 employees; other real property necessary to the  
15 accommodation of the bank's business, including but  
16 not limited to parking facilities, data processing  
17 centers, and real property held for future banking  
18 use where the bank in good faith expects to  
19 [~~utilize~~] use the property as bank premises;  
20 provided, if the bank ceases to use any real  
21 property and improvements thereon for one of the  
22 foregoing purposes, it shall, within five years

1           thereafter, sell the real property [~~or~~], cease to  
2           carry it or them as an asset[+], or transfer the  
3           real property to an operating subsidiary of the bank  
4           provided that the bank's investment in such  
5           operating subsidiary shall not exceed fifteen per  
6           cent of the bank's tier one capital; provided  
7           further, such property shall not without the  
8           approval of the commissioner exceed seventy-five per  
9           cent of the bank's capital and surplus;

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

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

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

8           (5) The seller's interest under an agreement of sale, as  
9           that term is defined in sections 501-101.5, and 502-  
10          85, including without limitation the reversionary  
11          interest in the real estate and the right to income  
12          under the agreement of sale, with or without  
13          recourse to the seller.

14          Except as otherwise authorized in this section any  
15          tangible personal property acquired by a bank pursuant to  
16          subsection (f) (4) shall be disposed of as soon as practicable  
17          and shall not without the written consent of the commissioner  
18          be considered a part of the assets of the bank after the  
19          expiration of two years from the date of acquisition.

20          Except as otherwise authorized in this section any real  
21          property acquired by a bank pursuant to subsection (f) (4)  
22          shall be sold or exchanged for other real property by the bank



1 within five years after title thereto has vested in it by  
2 purchase or otherwise, or within such further time as may be  
3 granted by the commissioner.

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

11 For purposes of this subsection, "tier one capital" has  
12 the same meaning as set forth in title 12 Code of Federal  
13 Regulations part 325.

14 (g) A bank may own or control [~~the capital stock~~]:

15 (1) [~~Of operating~~] Operating subsidiaries, or the parent  
16 of the operating subsidiary, as set forth in this  
17 article;

18 (2) [~~Of a~~] A corporation, partnership, or limited  
19 liability company, organized and existing for the  
20 ownership of real or personal property used or which  
21 the bank in good faith expects to be used in the

- 1 bank's business[+] or used for a permitted purpose  
2 under title 12 Code of Federal Regulations part 362;
- 3 (3) [~~0f~~] The capital stock of the Federal National  
4 Mortgage Association, the Student Loan Marketing  
5 Association, Federal Home Loan Mortgage Corporation,  
6 or of any other corporation organized for  
7 substantially the same purposes; provided that this  
8 subsection shall be deemed to authorize subscription  
9 for as well as purchase of the stock;
- 10 (4) [~~0f~~] A small business investment [~~companies~~] company  
11 operating under the Federal Small Business  
12 Investment Act of 1958;
- 13 (5) [~~0f bank~~] Bank service corporations, subject to the  
14 Bank Service [~~Corporation~~] Company Act, 12 U.S.C.  
15 §§1861-1862;
- 16 (6) [~~0f a~~] A corporation whose stock is acquired or  
17 purchased to save a loss on a preexisting debt  
18 secured by such stock; provided, that the stock  
19 shall be sold within twelve months of the date  
20 acquired or purchased, or within such further time  
21 as may be granted by the commissioner;

- 1           (7) ~~[Of an]~~ An international banking corporation  
2           established pursuant to article 5A ~~[of this chapter]~~  
3           or an Edge corporation or an Agreement corporation  
4           established or authorized pursuant to section 25a of  
5           the Federal Reserve Act, 12 U.S.C. §631;
- 6           (8) ~~[Of a]~~ A captive insurance company incorporated  
7           under the laws of the United States, or any state or  
8           territory thereof, or the District of Columbia;
- 9           (9) ~~[Of a]~~ A company transacting a business of insurance  
10          or the sale of annuities pursuant to the authority  
11          conferred in section 412:5-205.5; and
- 12          (10) ~~[Of a]~~ A company engaging in securities activities  
13          pursuant to the authority conferred in section  
14          412:5-205.7."

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

17           "**§412:6-303 Limitations on loans and extensions of**  
18 **credit to one borrower.** (a) No savings bank shall permit a  
19 person to become indebted or liable to it, either directly or  
20 indirectly, on loans and extensions of credit, including any  
21 credit exposure arising out of derivative transactions entered  
22 into by a savings bank and its subsidiaries, in a total amount

1 outstanding at any one time in excess of twenty per cent of  
2 the capital and surplus of the savings bank.

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

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

16 ~~(e)~~ (d) The limitations set forth in this section  
17 shall not apply to:

18 (1) A savings bank's deposits with a Federal Reserve  
19 Bank, Federal Home Loan Bank, or another depository  
20 institution made in compliance with this chapter;

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

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

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

1 be included unless the person is a limited partner, but not a  
2 general partner, in a limited partnership, or unless the  
3 person is a partner in a limited or general partnership, or a  
4 member of a joint venture or unincorporated association, if  
5 such partner or member, by law, by the terms of the  
6 partnership, joint venture, or membership agreement, or by the  
7 terms of an agreement with the savings bank, is not to be held  
8 liable to the savings bank for the debts of the partnership,  
9 joint venture, or association. In computing the total loans  
10 and extensions [+]of[+] credit made by a savings bank to any  
11 firm, partnership, joint venture, or unincorporated  
12 association, all loans and extensions of credit to and all  
13 credit exposure arising from a derivative transaction with its  
14 individual partners or members shall be included unless such  
15 individual partner is a limited partner, but not a general  
16 partner, in a limited partnership, or unless such individual  
17 partner or member, by law, by the terms of the partnership,  
18 joint venture, or membership agreement, or by the terms of an  
19 agreement with the savings bank, is not to be held liable to  
20 the savings bank for the debts of the partnership, joint  
21 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,~~] banks,  
4 as and to the same extent it would, at the time, be so  
5 required by federal law or regulation if it were a national  
6 [~~banking association.~~] bank. A savings bank utilizing this  
7 alternative shall use a single method for calculating lending  
8 limits, including any credit exposure to the person arising  
9 from a derivative transaction, repurchase agreement, reverse  
10 purchase agreement, securities lending transaction, or  
11 securities borrowing transaction between the savings bank and  
12 the person. In monitoring a savings bank's compliance with  
13 the national [~~banking association]~~ bank lending limits, the  
14 commissioner shall give substantial weight to the Office of  
15 the Comptroller of the Currency's regulations and opinions  
16 interpreting the national [~~banking association]~~ bank lending  
17 limits [~~and~~], including but not limited to those related to  
18 the internal model method or the conversion factor matrix  
19 method for calculating credit exposure to derivative  
20 transactions as described in title 12 Code of Federal  
21 Regulations Part 32 of the Interim Rule as may be amended.  
22 The commissioner will regard [~~them~~] the regulations and



1 opinions as strong evidence of safe and sound banking  
2 practices."

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

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

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

- 1           (4) Discount, purchase, or acquire loans, including but  
2           not limited to notes, credit sales contracts,  
3           mortgage 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,  
7           to lease such property, to obtain an assignment of a  
8           lessor's interest in a lease of the property, and  
9           to incur obligations incidental to the financial  
10          services loan company 's position as the legal or  
11          beneficial 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,  
16          and health or sickness insurance, involuntary  
17          unemployment insurance, personal property insurance,  
18          and mortgage 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  
7 's outstanding loan balance nor deducted from  
8 a loan 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 \$10.00 per draft, for the processing costs involved  
15 on a draft written below the minimum amount  
16 established on an open-ended loan."

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

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

1 extensions of credit, including any credit exposure arising  
2 out of derivative transactions entered into by a depository  
3 financial services loan company and its subsidiaries, in a  
4 total amount outstanding at any one time in excess of twenty  
5 per cent of the depository financial services loan company's  
6 capital, and surplus; provided that such aggregate amount may  
7 be increased to one hundred per cent of the depository  
8 financial services loan company's capital and surplus if the  
9 loans, and extensions of credit made to the person in excess  
10 of twenty per cent of the depository financial services loan  
11 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,  
16 on the value of, any interest in, any quantitative measure of  
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  
21 shall not apply to:

1           (1) Loans and extensions of credit to the extent secured  
2           by a pledge or security interest in a deposit  
3           account in the lending depository financial services  
4           loan 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  
13          the security shall be at any time not less than one  
14          hundred five per cent of the face amount of the  
15          loans and extensions of credit.

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

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

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

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

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

5 PART II

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

9 "§412:2- Hawaii financial institutions; assessments;  
10 fees; penalty. (a) Beginning calendar year 2014, every  
11 Hawaii financial institution shall be assessed a yearly fee in  
12 accordance with the following:

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

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

19 (3) For financial institutions with total assets of at  
20 least \$7,500,000 but under \$20,000,000, the  
21 assessment shall be \$4,800 plus 0.00029111 times  
22 total assets;



1        (4) For financial institutions with total assets of at  
2            least \$20,000,000 but under \$75,000,000, the  
3            assessment shall be \$9,900 plus 0.000064 times  
4            total assets;

5        (5) For financial institutions with total assets of at  
6            least \$75,000,000 but under \$200,000,000, the  
7            assessment shall be \$15,000 plus 0.00005333 times  
8            total assets;

9        (6) For financial institutions with total assets of at  
10           least \$200,000,000 but under \$1,000,000,000, the  
11           assessment shall be \$21,100 plus 0.00004750 times  
12           total assets;

13       (7) For financial institutions with total assets of at  
14           least \$1,000,000,000 but under \$20,000,000,000, the  
15           assessment shall be \$29,000 plus 0.00004 times  
16           total assets;

17 provided however that the yearly fee assessed for financial  
18 institutions with total assets of:

19       (1) At least \$2,000,000,000 but less than  
20           \$10,000,000,000, shall be no more than \$100,000; and

21       (2) At least \$10,000,000,000, shall be no more than  
22           \$150,000.

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

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

- 10        (1) A nonrefundable fee of \$10,000 for an application  
11        for preliminary approval by the commissioner for the  
12        organization of a Hawaii financial institution  
13        pursuant to section 412:3-201, 412:3-202, 412:3-206,  
14        412:3-301, or 412:5-205;
- 15        (2) A nonrefundable fee of \$9,000 for an application for  
16        preliminary approval by the commissioner for the  
17        organization of a Hawaii financial institution  
18        pursuant to section 412:5-402;
- 19        (3) A nonrefundable fee of \$2,500 for a final  
20        application for a charter or license to engage in  
21        the business of a Hawaii financial institution  
22        pursuant to section 412:3-212;

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

1           subsidiary, division, or department of the bank  
2           pursuant to 412:5-205;

3       (10) A nonrefundable fee of \$5,000 for an application of  
4           a 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  
7           a bank to engage in securities activities pursuant  
8           to section 412:5-205.7;

9       (12) A nonrefundable fee of \$2,000 for an application for  
10          a bank or savings bank to comply with lending limits  
11          applicable to national banking associations 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  
15          to sections 412:5-305(f) and (h), 412:6-306(f) and  
16          (h), 412:7-306(f) and (h), 412:8-301(f), 412:9-  
17          409(f) and (i), and 412:10-502(g); and

18       (14) A nonrefundable fee of \$2,500 for an application for  
19          a charter of a credit union.

20       (d) Beginning calendar year 2014, the annual fee for  
21       each intra-Pacific financial institution and interstate branch  
22       of out of state banks is the sum of \$1,000 for each office,

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

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

7 (1) A nonrefundable fee of \$750 for an application for a  
8 branch, subsidiary, or subsidiary of a holding  
9 company of an intra-Pacific bank pursuant to section  
10 412:5-402; and

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

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

17 (g) A nonrefundable fee of \$100 for each certificate of  
18 good standing for any Hawaii financial institution; provided  
19 that an additional fee of \$100 for each certificate in which a  
20 certificate of good standing is requested to be provided in  
21 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  
5 for an insured depository institution the total assets  
6 reported in the financial institution's quarterly reports of  
7 condition, or call reports, which are required to be filed  
8 pursuant to section 7(a)(3) of the Federal Deposit Insurance  
9 Act or in the unaudited financial statements filed pursuant to  
10 section 412:3-112.

11       (j) A Hawaii financial institution that fails to make a  
12 payment required by this section shall be subject to an  
13 administrative fine of not more than \$250 per day for each day  
14 it is in violation of this section, which fine, together with  
15 the amount due under this section, may be recovered pursuant  
16 to section 412:2-611, and shall be deposited into the  
17 compliance resolution fund established pursuant to section 26-  
18 9(o)."

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

21       "**§412:2-105 Fees [and assessments].** [~~(a)~~—The  
22 ~~commissioner may charge an examination fee based upon the cost~~

1 ~~per hour per examiner for all financial institutions examined~~  
2 ~~by the commissioner or the commissioner's staff. Effective~~  
3 ~~July 1, [1995], the hourly fee shall be \$40. After July 1,~~  
4 ~~1996, the commissioner may establish, increase, decrease, or~~  
5 ~~repeal the hourly fee when necessary pursuant to rules adopted~~  
6 ~~in accordance with chapter 91.~~

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

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

1 commissioner shall be resolved in accordance with the  
2 procedures for contested cases under chapter 91.

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

11 ~~[-(e)]~~ (c) A Hawaii financial institution that fails to  
12 make a payment required by this section shall be subject to an  
13 administrative fine of not more than \$250 per day for each day  
14 it is in violation of this section, which fine, together with  
15 the amount due under this section, may be recovered pursuant  
16 to section 412:2-611, and shall be deposited into the  
17 compliance resolution fund established pursuant to section 26-  
18 9(o)."

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

21 "(b) Applications for a provisional approval shall be  
22 filed with the commissioner, and shall provide the information



1 required by this chapter for preliminary approval to organize  
2 the type of financial institution that will result from the  
3 merger or acquisition under this part. The applicant shall  
4 also furnish such other information as the commissioner may  
5 require, and an application fee [~~as established by the~~  
6 ~~commissioner.~~] pursuant to section 412:2- ."

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

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

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

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

1 to engage in the business of a financial institution under  
2 this chapter."

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

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

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

13 "(b) If the commissioner is satisfied that the applicant  
14 has fulfilled all the requirements of law and is qualified to  
15 engage in the business of a nondepository financial services  
16 loan company, the commissioner shall issue a written decision  
17 and order approving the application. Upon the approval of the  
18 application, [~~the payment of an initial license fee~~  
19 ~~established by rule pursuant to chapter 91,~~] and, if  
20 applicable, upon providing satisfactory evidence to the  
21 commissioner of compliance with the requirements of chapter  
22 414 relating to foreign corporations, the commissioner shall

1 issue to the applicant a license to engage in the business of  
2 a nondepository financial services loan company under this  
3 chapter."

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

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

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

18 "§412:3-603 Procedure for applications pursuant to this  
19 part. Whenever the written approval of the commissioner is  
20 required with respect to any transaction covered by this part,  
21 the following procedures shall apply:

- 1           (1) An application for approval by the commissioner  
2           pursuant to this part shall be on a form prescribed  
3           by the commissioner and shall contain any  
4           information, data, and records as the commissioner  
5           may require[-], and shall be accompanied by a  
6           nonrefundable application fee pursuant to section  
7           412:2-\_\_\_\_\_. As far as possible consistent with the  
8           effective discharge of the commissioner's  
9           responsibilities, the commissioner shall prescribe  
10          the use of forms currently prescribed by the  
11          appropriate federal regulatory agency of financial  
12          institutions and financial institution holding  
13          companies for identical or similar types of  
14          transactions[~~. The application shall be accompanied~~  
15          ~~by an application fee established by the~~  
16          ~~commissioner pursuant to section 412:2-105. The~~  
17          ~~application fee shall not be refundable~~];
- 18          (2) If any material change occurs in the facts set forth  
19          in an application, or if for any other reason the  
20          applicant desires to amend the application, an  
21          amendment setting forth any change, together with  
22          copies of all documents and other material relevant

1 to the change, shall be filed with the  
2 commissioner. Within twenty days after receiving an  
3 application or any amendment thereto, the  
4 commissioner may request any additional information  
5 necessary in deciding whether to approve a proposed  
6 transaction pursuant to this part. The applicant  
7 shall submit the additional information in a  
8 reasonable time thereafter, as may be specified by  
9 the commissioner;

10 (3) If the commissioner would approve a plan of  
11 conversion, merger, or consolidation, an acquisition  
12 of assets or assumption of liabilities, an  
13 acquisition of control, or a voluntary cessation of  
14 business or voluntary dissolution, but on terms  
15 different than contained in the application, the  
16 commissioner may give notice to the applicant of the  
17 nature of the changes [~~which~~] that would be  
18 approved, and the applicant may submit an amended  
19 application;

20 (4) If the commissioner intends to disapprove an  
21 application, the commissioner shall deliver to the  
22 applicant a written notice of the intent to

1 disapprove. Within ten days after receipt of the  
2 commissioner's notice of intent to disapprove an  
3 application, the applicant may request an  
4 administrative hearing, to be held in accordance  
5 with chapter 91. If no request for a hearing is  
6 made, the commissioner's disapproval shall become  
7 final. If after the hearing the commissioner  
8 finally disapproves the application, the applicant  
9 may, within thirty days of the date of the final  
10 decision, appeal to the circuit court as provided in  
11 chapter 91;

12 (5) Notwithstanding any other provision of this part,  
13 any complete application [~~which~~] that is not  
14 approved or denied by the commissioner within a  
15 period of sixty days after the application is filed  
16 with the commissioner or, if the applicant consents  
17 to an extension of the period within which the  
18 commissioner may act, within the extended period,  
19 shall be deemed to be approved by the commissioner  
20 as of the first day after the period of sixty days  
21 or the extended period. If the commissioner gives  
22 notice of an informational and comment proceeding on

1 the application, the sixty-day period shall be  
2 extended to a date as may be fixed by order of the  
3 commissioner. For purposes of this section, an  
4 application is deemed to be filed with the  
5 commissioner at the time when the complete  
6 application, including any amendments or  
7 supplements, containing all of the information in  
8 the form required by the commissioner, is received,  
9 and accepted by the commissioner; and

10 (6) Any applicant submitting information to the  
11 commissioner pursuant to this part may request that  
12 the information, or any part thereof, be kept  
13 confidential. The request shall be made in writing  
14 and shall set forth the specific items sought to be  
15 kept confidential and the reasons and authority for  
16 the confidential treatment. The commissioner may,  
17 pursuant to a request or otherwise, determine that  
18 good cause exists to keep some or all of the  
19 information confidential, and shall keep the  
20 information confidential and not subject to public  
21 disclosure. In connection with an application for  
22 the acquisition of control pursuant to section



1           412:3-612, the commissioner may release information  
2           to the affected financial institution or financial  
3           institution holding company with a directive that  
4           some or all of the information be kept  
5           confidential."

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

8           "(d) The bank shall file an application with the  
9           commissioner in a form approved by the commissioner. The  
10          application shall be accompanied by a fee [~~the amount of which~~  
11          ~~shall be prescribed by rule.~~] pursuant to section 412:2- .

12          The application shall contain the following information  
13          concerning the proposed operating subsidiary:

- 14           (1) The name and date for commencement of operations;  
15           (2) The specific location;  
16           (3) The activities and nature of business;  
17           (4) The ownership, amount, and nature of the investment;  
18           and  
19           (5) Any other information that the commissioner may  
20           require."

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

1           "(b) The bank shall file an application for such  
2 approval with the commissioner on a form prescribed by the  
3 commissioner, together with an application fee [~~of \$5,000, or~~  
4 ~~such greater amount as the commissioner shall establish, no~~  
5 ~~part of which shall be refundable.~~] pursuant to section 412:2-  
6 \_\_\_. The application shall contain the following information:

- 7           (1) Appropriate board resolutions authorizing the  
8                 establishment of a trust company, division, or  
9                 department;
- 10          (2) Employment history, education, management  
11                 experience, and other biographical information for  
12                 all executive officers, trust officers, and managers  
13                 of the trust company, division, or department;
- 14          (3) Proposed policies concerning common trust funds,  
15                 overdrafts, disaster recovery plans, dividends,  
16                 management of assets and liabilities, conflicts of  
17                 interest, investments, and fee schedules. The  
18                 commissioner may consider any existing bank policies  
19                 that will be adapted and [~~utilized~~] used for its  
20                 trust business;
- 21          (4) A business plan and financial projections regarding  
22                 profitability of the proposed trust business;

- 1           (5) Evidence that the bank has or will have the  
2           financial ability, responsibility, and experience to  
3           engage in the trust business; and  
4           (6) Any other information [~~which~~] that the commissioner  
5           may require."

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

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

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

21 If the bank proposes to engage in the business of insurance  
22 through a subsidiary or affiliate, then the application shall

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

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

19 "(c) The bank shall file an application for approval  
20 with the commissioner in a form prescribed by the  
21 commissioner [~~The application shall be~~], and accompanied by

1 a fee [~~the amount of which shall be prescribed by rule.~~]

2 pursuant to section 412:2- . The application shall contain:

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

10 If the bank proposes to engage in securities activities

11 through a subsidiary or affiliate, then the application shall

12 also contain information regarding the experience and

13 qualifications of the proposed executive officers and

14 directors of the subsidiary or affiliate and the ownership,

15 amount, and nature of the bank's investment in and advances to

16 the subsidiary or affiliate. Upon being satisfied that the

17 application is complete, that the conduct of the securities

18 activities will not affect the safety or soundness of the bank

19 or harm the public interest, and that the bank and its

20 subsidiary or affiliate, if applicable, have sufficient

21 experience, qualifications, and financial capability to engage

22 in the activities authorized by this section, the commissioner

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

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

7 "(a) In order to obtain prior approval of the  
8 commissioner, the applicant shall file the application  
9 required by and comply with the provisions of article 3. The  
10 application shall be accompanied by the application fee  
11 pursuant to section 412:2-\_\_\_\_\_. The application shall contain  
12 the following information:

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

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



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

4 "§412:2- Hawaii financial institutions; fees;

5 penalty. (a) A financial institution or financial  
6 institution applicant shall pay fees as follows:

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

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

16 (3) A nonrefundable fee of \$2,500 for a final  
17 application for a charter or license to engage in  
18 the business of a Hawaii financial institution  
19 pursuant to section 412:3-212;

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



- 1           the business of a savings bank pursuant to section  
2           412:6-101;
- 3           (5) A nonrefundable fee of \$2,500 for a final  
4           application for a charter or license to engage in  
5           the business of a trust company pursuant to section  
6           412:8-102;
- 7           (6) A nonrefundable fee of \$10,000 for an application  
8           for a merger or consolidation or acquisition of  
9           control involving a Hawaii financial institution;
- 10          (7) A nonrefundable fee of \$10,000 for an application  
11          for the acquisition of control of a Hawaii financial  
12          institution;
- 13          (8) A nonrefundable fee of \$2,500 for an application for  
14          the conversion of a federal financial institution to  
15          a Hawaii financial institution or the conversion of  
16          a Hawaii financial institution to another Hawaii  
17          financial institution charter;
- 18          (9) A nonrefundable fee of \$5,000 for an application of  
19          a bank to conduct a trust business through a  
20          subsidiary, division, or department of the bank  
21          pursuant to 412:5-205;

- 1        (10) A nonrefundable fee of \$5,000 for an application of  
2            a bank to conduct insurance activities pursuant to  
3            section 412:5-205.5;
- 4        (11) A nonrefundable fee of \$5,000 for an application of  
5            a bank to engage in securities activities pursuant  
6            to section 412:5-205.7;
- 7        (12) A nonrefundable fee of \$2,000 for an application for  
8            a bank or savings bank to comply with lending limits  
9            applicable to national banking associations pursuant  
10          to section 412:5-302 or section 412:6-303;
- 11       (13) A nonrefundable fee of \$2,000 for an application to  
12          exceed certain permitted investment limits pursuant  
13          to sections 412:5-305(f) and (h), 412:6-306(f) and  
14          (h), 412:7-306(f) and (h), 412:8-301(f), 412:9-  
15          409(f) and (i), and 412:10-502(g); and
- 16       (14) A nonrefundable fee of \$2,500 for an application for  
17          a charter of a credit union.
- 18       (b) Intra-Pacific bank fees shall be as follows:
- 19       (1) A nonrefundable fee of \$750 for an application for a  
20          branch, subsidiary, or subsidiary of a holding  
21          company of an intra-Pacific bank pursuant to section  
22          412:5-402; and

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

5           (c) A nonrefundable fee of \$500 for an application to  
6           relocate a branch pursuant to section 412:12-107.

7           (d) A nonrefundable fee of \$100 for each certificate of  
8           good standing for any Hawaii financial institution; provided  
9           however, an additional fee of \$100 for each certificate of  
10          good standing is requested to be provided in two business days  
11          from receipt of request.

12          (e) All assessments and fees shall be deposited into the  
13          compliance resolution fund established pursuant to section 26-  
14          9(o).

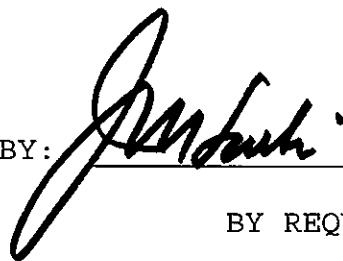
15          (f) For purposes of this section, "total assets" means  
16          for an insured depository institution the total assets  
17          reported in the financial institution's quarterly reports of  
18          condition, or call reports, which are required to be filed  
19          pursuant to section 7(a)(3) of the Federal Deposit Insurance  
20          Act or in the unaudited financial statements filed pursuant to  
21          section 412:3-112.

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

9        SECTION 27. Statutory material to be repealed is  
10 bracketed and stricken. New statutory material is  
11 underscored.

12        SECTION 28. This Act shall take effect upon its  
13 approval; provided Part II shall take effect on January 1,  
14 2014, and Part III shall be repealed on January 1, 2014;  
15 provided further that Section 10 shall take effect on January  
16 1, 2014.

INTRODUCED BY:



BY REQUEST

JAN 22 2013

# H.B. NO. 840

**Report Title:**

Financial Institutions; Hawaii Banks; Powers; Fees.

**Description:**

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.

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

JUSTIFICATION SHEET

DEPARTMENT: Commerce and Consumer Affairs

TITLE: A BILL FOR AN ACT RELATING TO FINANCIAL INSTITUTIONS.

PURPOSE: The purpose of this bill is to amend chapter 412, Hawaii Revised Statutes (HRS), to modernize the law in light of the changes made to federal laws, including the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.

## Part I - Housekeeping

Section 1 adds new powers of the commissioner and clarifies current powers to administer and enforce the chapter and to provide adequate oversight to licensees.

Section 2 updates the definition of "deposit" to include such nontraditional mechanisms for access as prepaid access cards and stored value cards.

Section 3 clarifies the type of places at which a financial institution may conduct business. Specifically, this section clarifies that automatic teller machines do not include remote service units and defines remote service unit and what activities may be carried out, in those locations.

Section 4 changes the percentage of voting securities held directly or indirectly by a bank of a corporation to be considered an operating subsidiary from eighty to fifty. This section also expands the activities authorized for a bank to engage in that are usual or incidental to banking.

Section 5 clarifies that credit exposure arising out of derivative transactions entered into by a bank and its subsidiaries is included in the limit on indebtedness or liability of any person to a bank. The

section defines "derivative transaction" as used in §412:5-302 and provides detailed guidance on calculation of the credit exposure arising from a derivative transaction for purposes of determining lending limits.

Section 6 expands the types of capital stock a bank may own or control by authorizing banks to:

- (1) Not only sell real property, or cease to carry it as an asset as required when a bank ceases to use it for a valid purpose, but to also transfer the real property to an operating subsidiary of the bank as long as the bank's investment in the operating subsidiary does not exceed 15% of the bank's tier one capital; and
- (2) Own or control the parent of an operating subsidiary which is owned or controlled by a bank;
- (3) Own or control a partnership or limited liability company organized and existing for the ownership of real or personal property used in a bank's business or for any federally permitted purpose.

Section 7 applies the same provisions as in section 6 above to savings banks.

Section 8 expands the powers of financial services loan companies to include charging a borrower a \$10 fee to process a draft written below the minimum amount established on an open-ended loan.

Section 9 applies the same provisions as in section 6 above to financial services loan companies.

Part II - annual assessment structure  
Section 10 establishes new assessments for financial institutions to take effect on January 1, 2014, that will take the place of most of the specific fees charged financial

institutions. These assessments are based on the total assets of each financial institution with a cap for the very largest institutions. This section also provides some specific fees for specific applications and certifications. This is to ensure that the initial costs to the Division of reviewing these applications and the cost of certifications are covered fairly by the institutions using the Division's resources.

Sections 11 to 25 are conforming amendments to delete references to specific fees.

Section 11 also makes it mandatory that the Commissioner charge travel, per diem, mileage and other reasonable expenses, and includes such expenses for investigations as are currently provided for examination.

Part III - new fee assessment

Section 26 provides that the specific application and certification fees as established are applicable upon approval of the Act.

**MEANS:**

Add three new sections to chapter 412; amend sections 412:1-109, 412:2-105, 412:2-508, 412:5-205.5, 412:5-205.7, 412:5-402, 412:3-102, 412:3-212, 412:3-301, 412:3-304, 412:3-501, 412:3-505, 412:3-603, 412:5-203, 412:5-203, 412:5-205, 412:5-302, 412:5-305, 412:6-201, 412:6-303, 412:9-200, 412:9-404; and repeal 412:9-102, HRS.

**JUSTIFICATION:**

The bill modernizes the law to allow the Commissioner of Financial Institutions to supervise and regulate state chartered financial institutions in Hawaii. The last comprehensive review of financial institutions laws was in 1993. This bill is the compilation of meetings with the industry over the summer of 2012 to review and modernize the law to reflect the changes in federal law.



New definitions were added and some existing definitions were amended to reflect the changes in the federal laws over the last 19 years.

This bill proposes to adjust fees to reflect the additional regulatory requirements and monitoring required for these licensees. Several federal laws were created and amended over the years which increase the amount of supervision, regulation and examination over state chartered financial institutions. Some of these laws include, the Gramm Leach Bliley Act, Bank Secrecy Act/Anti Money Laundering, Federal Deposit Insurance Corp. Act, Equal Credit Opportunity Act, Servicemembers Civil Relief Act, Fair and Accurate Credit Transaction Act, Fair Credit Reporting Act, Electronic Funds Transfer, Real Estate Settlement Procedures Act, Truth In Lending Act, Check Clearing for the 21<sup>st</sup> Century Act, Truth In Savings Act, Secure And Fair Enforcement for Mortgage Licensing Act, and Dodd-Frank Wall Street Reform and Consumer Protection Act . A new federal regulatory partner has also been created, the Consumer Financial Protection Bureau.

Impact on the public: Continues to protect the public and strengthens the laws on financial institutions.

Impact on the department and other agencies:  
None.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: CCA-104.

OTHER AFFECTED AGENCIES: None.

EFFECTIVE DATE: July 1, 2013; with new annual assessment to take effect on January 1, 2014.