
A BILL FOR AN ACT

RELATING TO NONDEPOSITORY TRUSTS.

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

1 SECTION 1. The legislature finds that there is a growing
2 "gap group" of consumers who need their assets to be responsibly
3 managed for them, but typically would not meet asset
4 qualifications to be serviced by banks or large investment
5 firms. These consumers may have no qualified or available
6 family member to help them manage their assets. A nondepository
7 trust charter would allow a qualified company to fulfill a
8 fiduciary responsibility to consumers and provide investment
9 oversight. Usually independent business, these trust companies
10 operate similarly to the trust department of a bank but do not
11 take deposits or make loans. The nondepository trust company's
12 focus is fiduciary, acting as a trustee or guardian in the
13 administration of funds, estates, and other related services.
14 These nondepository trust companies, also known as independent
15 or corporate trust companies, are different than family trusts
16 because they are chartered to provide fiduciary services to the
17 public.



- 1 Accordingly, the purpose of this Act is to establish:
- 2 (1) Powers and duties of nondepository trust companies;
- 3 (2) Yearly assessments for nondepository trust companies
- 4 beginning July 1, 2021; and
- 5 (3) Paid-in-capital and surplus requirements for
- 6 nondepository trust companies.

7 SECTION 2. Chapter 412, Hawaii Revised Statutes, is

8 amended by adding a new part to article 8 to be appropriately

9 designated and to read as follows:

10 "PART . NONDEPOSITORY TRUST COMPANIES

11 §412:8- Powers and duties. (a) Unless otherwise

12 prohibited or restricted by this section or any other law, a

13 nondepository trust company shall have the general powers

14 specified in section 412:8-200.

15 (b) Notwithstanding any other provision in this chapter, a

16 nondepository trust company shall not:

- 17 (1) Solicit, accept, or hold deposits;
- 18 (2) Engage in banking business;
- 19 (3) Engage in business for which a real estate broker's
- 20 license is required;



1 (4) Engage in any business for which an insurance producer
2 license is required; or

3 (5) Engage in any business of securities broker or dealer.

4 (c) A nondepository trust company shall not itself
5 perform, and instead shall contract for, the following services
6 for its clients, if needed:

7 (1) Financial advisors for client investments;

8 (2) Property management for client rental properties; or

9 (3) Real estate brokerages for client real estate
10 transactions.

11 (d) A nondepository trust company shall be responsible for
12 the performance of the service providers that it engages for its
13 clients."

14 SECTION 3. Section 412:2-105.2, Hawaii Revised Statutes,
15 is amended to read as follows:

16 "**§412:2-105.2 Hawaii financial institutions; assessments;**
17 **fees; penalty.** (a) Beginning January 1, 2014, every Hawaii
18 financial institution shall be assessed a yearly fee in
19 accordance with the following:



- 1 (1) For financial institutions with total assets under
2 \$750,000, the assessment shall be the sum of \$1,000
3 plus the product of 0.00029111 times total assets;
- 4 (2) For financial institutions with total assets of at
5 least \$750,000 but under \$7,500,000, the assessment
6 shall be the sum of \$2,000 plus the product of
7 0.00029111 times total assets;
- 8 (3) For financial institutions with total assets of at
9 least \$7,500,000 but under \$20,000,000, the assessment
10 shall be the sum of \$4,800 plus the product of
11 0.00029111 times total assets;
- 12 (4) For financial institutions with total assets of at
13 least \$20,000,000 but under \$75,000,000, the
14 assessment shall be the sum of \$9,900 plus the product
15 of 0.000064 times total assets;
- 16 (5) For financial institutions with total assets of at
17 least \$75,000,000 but under \$200,000,000, the
18 assessment shall be the sum of \$15,000 plus the
19 product of 0.00005333 times total assets;
- 20 (6) For financial institutions with total assets of at
21 least \$200,000,000 but under \$1,000,000,000, the



1 assessment shall be the sum of \$21,100 plus the
2 product of 0.00004750 times total assets;

3 (7) For financial institutions with total assets of at
4 least \$1,000,000,000 but under \$20,000,000,000, the
5 assessment shall be the sum of \$29,000 plus the
6 product of 0.00004 times total assets;

7 provided that the yearly fee assessed for financial institutions
8 with total assets of at least \$2,000,000,000 but less than
9 \$10,000,000,000 shall be no more than \$100,000, and the yearly
10 fee assessed for financial institutions with total assets of at
11 least \$10,000,000,000 shall be no more than \$150,000.

12 (b) Beginning July 1, 2021, subsection (a) shall not apply
13 to nondepository trust companies, and nondepository trust
14 companies shall be assessed a yearly fee in accordance with the
15 following:

16 (1) For nondepository trust companies with total assets
17 under management under \$750,000, the assessment shall
18 be the sum of \$1,000 plus the product of 0.00029111
19 times total assets under management;

20 (2) For nondepository trust companies with total assets
21 under management of at least \$750,000 but under



- 1 \$7,500,000, the assessment shall be the sum of \$2,000
2 plus the product of 0.00029111 times total assets
3 under management;
- 4 (3) For nondepository trust companies with total assets
5 under management of at least \$7,500,000 but under
6 \$20,000,000, the assessment shall be the sum of \$4,800
7 plus the product of 0.00029111 times total assets
8 under management;
- 9 (4) For nondepository trust companies with total assets
10 under management of at least \$20,000,000 but under
11 \$75,000,000, the assessment shall be the sum of \$9,900
12 plus the product of 0.000064 times total assets under
13 management;
- 14 (5) For nondepository trust companies with total assets
15 under management of at least \$75,000,000 but under
16 \$200,000,000, the assessment shall be the sum of
17 \$15,000 plus the product of 0.00005333 times total
18 assets under management;
- 19 (6) For nondepository trust companies with total assets
20 under management of at least \$200,000,000 but under
21 \$1,000,000,000, the assessment shall be the sum of



1 \$21,100 plus the product of 0.00004750 times total
2 assets under management; and
3 (7) For nondepository trust companies with total assets
4 under management of at least \$1,000,000,000 but under
5 \$20,000,000,000, the assessment shall be the sum of
6 \$29,000 plus the product of 0.00004 times total assets
7 under management;
8 provided that the yearly fee assessed for nondepository trust
9 companies with total assets under management of at least
10 \$2,000,000,000 but less than \$10,000,000,000 shall be no more
11 than \$100,000, and the yearly fee assessed for nondepository
12 trust companies with total assets under management of at least
13 \$10,000,000,000 shall be no more than \$150,000.

14 [~~(b)~~] (c) The assessments shall be paid semiannually on
15 March 1 and September 1 of each year based on the institution's
16 total assets or total assets under management reported as of the
17 previous December 31 and June 30, respectively.

18 [~~(e)~~] (d) In addition to the assessments established in
19 subsection (a), a financial institution or financial institution
20 applicant shall pay fees as follows:



- 1 (1) A nonrefundable fee of \$10,000 for an application for
2 preliminary approval by the commissioner for the
3 organization of a Hawaii financial institution
4 pursuant to section 412:3-201, 412:3-202, 412:3-206,
5 or 412:3-301;
- 6 (2) A nonrefundable fee of \$9,000 for an application for
7 preliminary approval by the commissioner for the
8 organization of a Hawaii financial institution
9 pursuant to section 412:5-402;
- 10 (3) A nonrefundable fee of \$2,500 for a final application
11 for a charter or license to engage in the business of
12 a Hawaii financial institution pursuant to section
13 412:3-212;
- 14 (4) A nonrefundable fee of \$10,000 for an application for
15 a merger or consolidation or acquisition of control
16 involving a Hawaii financial institution;
- 17 (5) 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 (6) 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
4 section 412:5-205;
- 5 (7) 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 (8) 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 (9) A nonrefundable fee of \$2,000 for an application for a
12 bank, savings bank, or depository financial services
13 loan company to comply with lending limits applicable
14 to federal financial institutions pursuant to section
15 412:5-302, 412:6-303, or 412:9-404;
- 16 (10) A nonrefundable fee of \$2,000 for an application to
17 exceed certain permitted investment limits pursuant to
18 sections 412:5-305(f) and (h), 412:6-306(f) and (h),
19 412:7-306(f) and (h), 412:8-301(f), 412:9-409(f) and
20 (i), and 412:10-502(g); and



1 (11) A nonrefundable fee of \$2,500 for an application to
2 engage in the business of a credit union.

3 [~~(d)~~] (e) The annual fee for each intra-Pacific financial
4 institution and interstate branch of out-of-state banks is the
5 sum of \$1,000 for each office, agency, and branch office
6 maintained by the financial institution, payment of which shall
7 be made before December 31 of each year. The commissioner may
8 establish, increase, decrease, or repeal this fee pursuant to
9 rules adopted in accordance with chapter 91.

10 [~~(e)~~] (f) Intra-Pacific bank fees shall be as follows:

- 11 (1) A nonrefundable fee of \$9,000 to establish an initial
12 branch pursuant to section 412:5-401;
- 13 (2) A nonrefundable fee of \$750 to establish an additional
14 branch or agency of an intra-Pacific bank; and
- 15 (3) A nonrefundable fee of \$500 for an application to
16 relocate a branch or agency of an intra-Pacific bank
17 established or acquired pursuant to section 412:5-401.

18 [~~(f)~~] (g) A nonrefundable fee of \$500 shall be assessed
19 for an application to relocate a branch or office established
20 pursuant to section 412:12-107.



1 ~~[(g)]~~ (h) A nonrefundable fee of \$100 shall be assessed
2 for each certificate of good standing for any Hawaii financial
3 institution; provided that an additional fee of \$100 shall be
4 assessed for each certificate of good standing that is requested
5 to be provided in two business days from receipt of request.

6 ~~[(h)]~~ (i) All assessments and fees shall be deposited into
7 the compliance resolution fund established pursuant to section
8 26-9(o).

9 ~~[(i)]~~ (j) For purposes of this section~~[, "total assets"]~~:
10 "Total assets" means for an insured depository institution
11 the total assets reported in the financial institution's
12 quarterly reports of condition, or call reports, which are
13 required to be filed pursuant to section 7(a)(3) of the Federal
14 Deposit Insurance Act or in the unaudited financial statements
15 filed pursuant to section 412:3-112.

16 "Total assets under management" means the total market
17 value of the assets that a trust company oversees, administers,
18 or manages on behalf of its clients pursuant to its fiduciary
19 and trust powers in article 8 of this chapter, including such
20 assets for which a trust company has engaged a third-party



1 platform investment, property management services, or real
2 estate services.

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

10 SECTION 4. Section 412:3-209, Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

12 "(a) Every financial institution existing or organized
13 under the laws of this State shall at all times, and every
14 applicant in organization shall before filing the final
15 application for a charter or license under this part and at all
16 times thereafter, have paid-in capital and surplus of not less
17 than the following amounts for each type of institution
18 specified below:

19	Banks	\$5,000,000
20	Savings banks	\$3,000,000
21	Savings and loan associations	\$2,000,000



1	Trust companies	\$1,500,000
2	<u>Nondepository trust companies</u>	<u>\$1,000,000</u>
3	Depository financial services	
4	loan companies	\$1,000,000"

5 SECTION 5. Section 412:8-101, Hawaii Revised Statutes, is
6 amended by adding two new definitions to be appropriately
7 inserted and to read as follows:

8 "Nondepository trust company" means a trust company that
9 is not authorized to accept deposits.

10 "Total assets under management" means the total market
11 value of the assets that a trust company oversees, administers,
12 or manages on behalf of its clients pursuant to its fiduciary
13 and trust powers in article 8 of this chapter, including such
14 assets for which a trust company has engaged a third-party
15 platform investment, property management services, or real
16 estate services."

17 SECTION 6. Section 412:8-202, Hawaii Revised Statutes, is
18 amended by amending subsection (a) to read as follows:

19 "(a) A trust company may act as an agent in behalf of a
20 principal in the transaction of any business or in the
21 management of any property, real, personal or mixed, with such



1 powers as the trust company may exercise under sections
2 412:8-200 [~~and~~], 412:8-201 [~~+~~], and 412:8- ; provided [~~+~~] that
3 its duties as such agent and the terms and conditions of the
4 agency or power are set forth either specifically or generally
5 in a written memorandum signed by the principal."

6 SECTION 7. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 8. This Act shall take effect on July 1, 2050.



Report Title:

Financial Institutions; Nondepository Trust Companies; Powers and Duties; Assessments; Fees; Paid-in-capital and Surplus; Agent

Description:

Clarifies the powers and duties of nondepository trust companies. Amends the yearly assessment on nondepository trust companies by basing its calculation on total assets under management. Establishes a paid-in capital and surplus requirement for chartering nondepository trust companies. Effective 7/1/2050. (HD1)

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