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# 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 businesses, these trust  
10 companies operate similarly to the trust department of a bank  
11 but do not take deposits or make loans. The nondepository trust  
12 company's focus is fiduciary, acting as a trustee or guardian in  
13 the administration of funds, estates, and other related  
14 services. These nondepository trust companies, also known as  
15 independent or corporate trust companies, are different than  
16 family trusts because they are chartered to provide fiduciary  
17 services to the 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 a new definition to be appropriately inserted  
7 and to read as follows:

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

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

12 "(a) A trust company may act as an agent in behalf of a  
13 principal in the transaction of any business or in the  
14 management of any property, real, personal or mixed, with such  
15 powers as the trust company may exercise under sections  
16 412:8-200 [~~and~~], 412:8-201 [7], and 412:8- ; provided[7] that  
17 its duties as such agent and the terms and conditions of the  
18 agency or power are set forth either specifically or generally  
19 in a written memorandum signed by the principal."

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 Statutory material to be repealed is bracketed  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



1 SECTION 8. This Act shall take effect on July 1, 2020.



**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. (SD1)

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

