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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 family member qualified or  
6 available 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)   Yearly assessments for nondepository trusts beginning
- 3                 July 1, 2021;
- 4           (2)   Paid-in-capital and surplus requirements for
- 5                 nondepository trust companies; and
- 6           (3)   Powers and duties of 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 trusts, and nondepository trusts shall be  
14 assessed a yearly fee in accordance with the following:

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

19 (2) For nondepository trusts with total assets under  
20 management of at least \$750,000 but under \$7,500,000,  
21 the assessment shall be the sum of \$2,000 plus the



- 1           product of 0.00029111 times total assets under  
2           management;
- 3       (3) For nondepository trusts with total assets under  
4           management of at least \$7,500,000 but under  
5           \$20,000,000, the assessment shall be the sum of \$4,800  
6           plus the product of 0.00029111 times total assets  
7           under management;
- 8       (4) For nondepository trusts with total assets under  
9           management of at least \$20,000,000 but under  
10          \$75,000,000, the assessment shall be the sum of \$9,900  
11          plus the product of 0.000064 times total assets under  
12          management;
- 13       (5) For nondepository trusts with total assets under  
14           management of at least \$75,000,000 but under  
15           \$200,000,000, the assessment shall be the sum of  
16           \$15,000 plus the product of 0.00005333 times total  
17           assets under management;
- 18       (6) For nondepository trusts with total assets under  
19           management of at least \$200,000,000 but under  
20           \$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;  
3       (7) For nondepository trusts with total assets under  
4           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 trusts  
9 with total assets under management of at least \$2,000,000,000  
10 but less than \$10,000,000,000 shall be no more than \$100,000,  
11 and the yearly fee assessed for nondepository trusts with total  
12 assets under management of at least \$10,000,000,000 shall be no  
13 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 means for an insured depository institution the total assets  
11 reported in the financial institution's quarterly reports of  
12 condition, or call reports, which are required to be filed  
13 pursuant to section 7(a)(3) of the Federal Deposit Insurance Act  
14 or in the unaudited financial statements filed pursuant to  
15 section 412:3-112.

16           ~~[(j)]~~ (k) A Hawaii financial institution that fails to  
17 make a payment required by this section shall be subject to an  
18 administrative fine of not more than \$250 per day for each day  
19 it is in violation of this section, which fine, together with  
20 the amount due under this section, may be recovered pursuant to



1 section 412:2-611 and shall be deposited into the compliance  
2 resolution fund established pursuant to section 26-9(o)."

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

5 "(a) Every financial institution existing or organized  
6 under the laws of this State shall at all times, and every  
7 applicant in organization shall before filing the final  
8 application for a charter or license under this part and at all  
9 times thereafter, have paid-in capital and surplus of not less  
10 than the following amounts for each type of institution  
11 specified below:

12	Banks	\$5,000,000
13	Savings banks	\$3,000,000
14	Savings and loan associations	\$2,000,000
15	Trust companies	\$1,500,000
16	<u>Nondepository trust companies</u>	<u>\$1,000,000</u>
17	Depository financial services	
18	loan companies	\$1,000,000"

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



1       "Nondepository trust company" means a company that is not  
2 authorized to accept deposits."

3       "Total assets under management" means the total market  
4 value of the assets that a trust company oversees, administers,  
5 or manages on behalf of its clients pursuant to its fiduciary  
6 and trust powers in article 8 of this chapter, including such  
7 assets for which a trust company has engaged a third-party  
8 platform investment, property management services, or real  
9 estate services."

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 [~~+~~], and 412:8-      ; provided, that its  
17 duties as such agent and the terms and conditions of the agency  
18 or power are set forth either specifically or generally in a  
19 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:**

Establishes provisions concerning nondepository trust companies.  
(SD1)

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