



GOV. MSG. NO. 1207

EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

June 28, 2021

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Thirty First State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,
Speaker and Members of the
House of Representatives
Thirty First State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on June 28, 2021, the following bill was signed into law:

HB943 HD1 SD2 CD1

**RELATING TO NONDEPOSITORY TRUSTS
ACT 105 (21)**

Sincerely,

DAVID Y. IGE
Governor, State of Hawai'i

Approved by the Governor

on JUN 28 2021

HOUSE OF REPRESENTATIVES
THIRTY-FIRST LEGISLATURE, 2021
STATE OF HAWAII

ORIGINAL

ACT 105

H.B. NO.

943
H.D. 1
S.D. 2
C.D. 1

A BILL FOR AN ACT

RELATING TO NONDEPOSITORY TRUSTS.

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

1 SECTION 1. Chapter 412, Hawaii Revised Statutes, is
2 amended by adding a new part to article 8 to be appropriately
3 designated and to read as follows:

4 **"PART . NONDEPOSITORY TRUST COMPANIES**

5 **§412:8- Powers and duties.** (a) Unless otherwise
6 prohibited or restricted by this section or any other law, a
7 nondepository trust company shall have the general powers
8 specified in section 412:8-200.

9 (b) Notwithstanding any other provision in this chapter, a
10 nondepository trust company shall not:

11 (1) Solicit, accept, or hold deposits;

12 (2) Engage in banking business;

13 (3) Engage in business for which a real estate broker's
14 license is required;

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



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

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

(1) Financial advisors for client investments;

(2) Property management for client rental properties; or

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

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

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

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

(1) For financial institutions with total assets under \$750,000, the assessment shall be the sum of \$1,000



1 plus the product of 0.00029111 [~~times~~] multiplied by
2 total assets;

3 (2) For financial institutions with total assets of at
4 least \$750,000 but under \$7,500,000, the assessment
5 shall be the sum of \$2,000 plus the product of
6 0.00029111 [~~times~~] multiplied by total assets;

7 (3) For financial institutions with total assets of at
8 least \$7,500,000 but under \$20,000,000, the assessment
9 shall be the sum of \$4,800 plus the product of
10 0.00029111 [~~times~~] multiplied by total assets;

11 (4) For financial institutions with total assets of at
12 least \$20,000,000 but under \$75,000,000, the
13 assessment shall be the sum of \$9,900 plus the product
14 of 0.000064 [~~times~~] multiplied by total assets;

15 (5) For financial institutions with total assets of at
16 least \$75,000,000 but under \$200,000,000, the
17 assessment shall be the sum of \$15,000 plus the
18 product of 0.00005333 [~~times~~] multiplied by total
19 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~~] multiplied by total
3 assets; and

4 (7) For financial institutions with total assets of at
5 least \$1,000,000,000 but under \$20,000,000,000, the
6 assessment shall be the sum of \$29,000 plus the
7 product of 0.00004 [~~times~~] multiplied by total assets;
8 provided that the yearly fee assessed for financial institutions
9 with total assets of at least \$2,000,000,000 but less than
10 \$10,000,000,000 shall be no more than \$100,000, and the yearly
11 fee assessed for financial institutions with total assets of at
12 least \$10,000,000,000 shall be no more than \$150,000.

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

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

20 (2) For nondepository trusts with total assets under
21 management of at least \$750,000 but under \$7,500,000,



1 the assessment shall be the sum of \$2,000 plus the
2 product of 0.00029111 multiplied by total assets under
3 management;

4 (3) For nondepository trusts with total assets under
5 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 multiplied by total
8 assets under management;

9 (4) For nondepository trusts with total assets under
10 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 multiplied by total
13 assets under management;

14 (5) For nondepository trusts with total assets under
15 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 multiplied by
18 total assets under management;

19 (6) For nondepository trusts with total assets under
20 management of at least \$200,000,000 but under
21 \$1,000,000,000, the assessment shall be the sum



1 of \$21,100 plus the product of 0.00004750 multiplied
2 by total assets under management; and

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 multiplied by
7 total assets 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 under \$10,000,000,000 shall be no more than \$100,000, and
11 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
13 section 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
15 section 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)
20 and (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 for
19 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 for
2 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
8 section 26-9(o).

9 ~~[(i)]~~ (j) For purposes of this section~~["total"]~~:

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, including assets for which a
20 trust company has engaged a third-party platform investment
21 service, property management services, or real estate services.



1 [~~(j)~~] (k) A Hawaii financial institution that fails to make
2 a 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 to
6 section 412:2-611 and shall be deposited into the compliance
7 resolution fund established pursuant to section 26-9(o)."

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

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

17 Banks	\$5,000,000
18 Savings banks	\$3,000,000
19 Savings and loan associations	\$2,000,000
20 Trust companies	\$1,500,000
21 <u>Nondepository trust companies</u>	<u>\$1,000,000</u>



1 Depository financial services

2 loan companies \$1,000,000"

SECTION 4. Section 412:8-101, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

6 "Nondepository trust company" means a type of trust
7 company that is not authorized to accept deposits."

8 SECTION 5. Section 412:8-202, Hawaii Revised Statutes, is
9 amended by amending subsection (a) to read as follows:

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

19 SECTION 6. There is appropriated out of the compliance
20 resolution fund established pursuant to section 26-9(o), Hawaii
21 Revised Statutes, the sum of \$4,000 or so much thereof as may be

1 necessary for fiscal year 2021-2022 and the same sum or so much
2 thereof as may be necessary for fiscal year 2022-2023 for the
3 division of financial institutions of the department of commerce
4 and consumer affairs to administer nondepository trusts under
5 this Act.

6 The sums appropriated shall be expended by the department
7 of commerce and consumer affairs for the purposes of this Act.

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

10 SECTION 8. This Act shall take effect on July 1, 2021.

APPROVED this 28 day of JUN , 2021



GOVERNOR OF THE STATE OF HAWAII



HB No. 943, HD 1, SD 2, CD 1

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: April 27, 2021
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirty-First Legislature of the State of Hawaii, Regular Session of 2021.



Scott K. Saiki
Speaker
House of Representatives

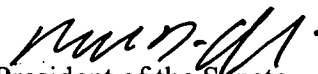



Brian L. Takeshita
Chief Clerk
House of Representatives

THE SENATE OF THE STATE OF HAWAI‘I

Date: April 27, 2021
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate
of the Thirty-First Legislature of the State of Hawai‘i, Regular Session of 2021.


President of the Senate


Clerk of the Senate