

ACT 273

A Bill for an Act Relating to Banks and Trust Companies and Amending Chapters 178 and 179, Revised Laws of Hawaii 1955, as Amended.

Be it Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 178, Revised Laws of Hawaii 1955, as amended, is hereby further amended in the following respects:

a. By adding thereto a new section to be numbered Section 178-22.5, to read as follows:

"Section 178-22.5. Authority to engage in trust business. Any bank may act as executor, administrator, registrar of and transfer agent for stocks and bonds, guardian, assignee or receiver, or in any other fiduciary capacity in which trust companies are permitted to act under the laws of this State, otherwise than as a real estate broker, stock broker or insurance agent, upon compliance with the following:

(a) The articles of association of such bank shall include as an object thereof the doing of a trust business.

(b) Such bank shall have allocated to its trust department, without impairment of the capital and surplus required for its banking business, capital and surplus in an amount not less than that which would be required under Section 179-2 of a trust company having its principal place of business at the location of the head office of such bank.

The director of regulatory agencies shall, upon compliance by any bank with the requirements of this section, grant to it a certificate that it is authorized to engage in a trust business. The provisions of Section 179-3 shall apply to the issuance of such certificate, as though such bank were a proposed trust company thereunder. Any bank so authorized shall, in the conduct of its trust business, have all of the powers of a trust company under, and shall comply with and be governed by all of the provisions of, section 179-13, paragraphs (a) and (b) of section 179-14, and sections 179-15 to 179-36, inclusive, as though such bank were a trust company thereunder. Upon approval by the director of regulatory agencies, the commercial and savings departments of any bank so authorized may be depositories of money held by it as a trustee or other fiduciary. Nothing herein shall impair the applicability to any bank so authorized of any provision of Chapter 178; provided, that sections 178-39 and 178-40 shall not apply with respect to offices or other places of business at which such bank shall engage solely in a trust business."

b. By adding thereto a new section to be numbered Section 178-77.5, to read as follows:

"Section 178-77.5. Establishment of trust department. Every bank authorized to engage in a trust business shall maintain a trust department in compliance with the provisions of this part."

c. By amending Section 178-78 to read as follows:

"Section 178-78. Segregation of investments; penalty. Any bank combining the business of a commercial bank and savings bank and

any bank authorized to engage in a trust business shall keep separate its investments relating to each department by the provisions of this part specifically provided for the respective kinds of business, and shall segregate all bonds, warrants, notes, mortgages, deeds and other securities of every nature of each of the savings department and the trust department, which shall be marked, stamped or labeled 'savings department' or 'trust department', respectively, or some similar words, and shall be held solely for the repayment of the depositors and creditors of such department and shall not be liable for nor pledged as security for, or used to pay any other obligation or liability of the bank, except as otherwise authorized by this part, until after the payment in full of all depositors and creditors of such department; provided, that branches of banks shall not be required to segregate loans, securities and investments in which savings deposits or assets may be represented or invested, if the main office segregates, identifies and sets apart qualified loans, bonds, and investments marked, stamped or labeled 'savings department' or 'savings depositors' securities' or some similar words, sufficient in amount and value together with proper cash reserves to fully pay and for the repayment solely of the depositors of savings deposits in not only the main office but also all of the branches of the bank. Any bank establishing, or maintaining or continuing to maintain a savings department or trust department which shall not in every respect comply with the provisions of this section, shall be subject to a penalty of \$50 for each day of any failure, neglect or refusal to comply. Such penalty may be collected by the director of regulatory agencies."

d. By deleting the title and the portion preceding the colon of the first sentence of Section 178-86 and inserting in lieu thereof the following:

"Investments authorized for savings and trust departments. Subject to the provisions of sections 178-50, 178-51 and 178-63, there shall be invested in the following classes of securities, and not otherwise, all of the capital and surplus allocated to the trust department of any bank, and seventy-five per cent of all moneys deposited in any savings bank or in the savings department of any bank. Any part of the remaining twenty-five per cent of moneys deposited in any savings bank or in the savings department of any bank may be similarly invested or may be maintained as reserves on hand or on demand with a reserve bank or banks."

e. By adding thereto a new section to be numbered Section 178-134.5, to read as follows:

"Section 178-134.5. Trust department creditors; priority of liens. In the event of the insolvency or voluntary or involuntary liquidation of any bank authorized to do a trust business, the creditors of the trust department shall have a first, prior and exclusive lien on all the unpledged assets of the trust department, and in the distribution of such assets or the proceeds thereof the same shall be first applied to satisfy the amount due such creditors after the payment of the expenses of liquidation of the trust department, and the unpledged

assets of the trust department shall be held and liquidated and first applied for the benefit of the creditors of the trust department."

f. By amending paragraph (a) of Section 178-170 to read as follows:

"(a) 'Bank' means a state or a national bank or a trust company;"

g. By amending paragraph (f) of Section 178-170 to read as follows:

"(f) 'State bank' means a bank chartered by the State or a trust company incorporated under the laws of the State."

h. By adding thereto a new section to be numbered Section 178-177.5, to read as follows:

"Section 178-177.5. Merger of banks qualified to do trust business or trust companies. If a merging bank shall be authorized to do a trust business or shall be a trust company, the resulting bank, by operation of law and without further transfer, substitution, act or deed, shall succeed to the rights, properties, assets, investments, deposits, demands, agreements and trusts of such merging bank under all trusts, executorships, administrations, guardianships, agencies and all other fiduciary or representative capacities as though it had originally assumed the same and shall succeed to and be entitled to take and execute the appointment to all executorships, trustee-ships, guardianships and other fiduciary and representative capacities to which such merging bank may be named or is thereafter named in wills, whenever probated, or to which it is or may be named or appointed by any other instrument."

SECTION 2. Chapter 179, Revised Laws of Hawaii 1955, as amended, is hereby further amended in the following respects:

a. By amending Section 179-4 to read as follows:

"Section 179-4. No corporations except trust companies or banks to act as executors, etc. No corporation or joint stock company, except trust companies doing business under the provisions of this chapter and except banks authorized to engage in a trust business, shall act as executor, administrator, guardian, assignee or receiver, or shall engage in the business of acting as trustee for the management and investment of funds of other persons, or shall continue to do business with the word 'trust' or 'trustee' in its corporate name, under penalty of \$10 for every day that it so acts or engages in business, which penalty may be recovered by the director of regulatory agencies in a civil action before any court of competent jurisdiction."

b. By amending Section 179-5 by the addition at the end of the section of the following sentence:

"After June 30, 1970, no trust company shall have power to engage, directly or indirectly, in the business of acting as a real estate broker, stock broker or insurance agent."

SECTION 3. This Act shall take effect upon its approval.

(Approved July 12, 1965.) H.B. 1071.