

**ACT 207**

H. B. 829.

A Bill for an Act to Amend Chapter 178, Revised Laws of Hawaii 1955, as Amended, Relating to Banks.

*Be It Enacted by the Legislature of the State of Hawaii:*

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

(a) By adding thereto a new section numbered section 178-... to read as follows:

**“Section 178-..... Nondepartmental banking.** Any bank authorized by its articles of association or incorporation to transact the business of

a commercial bank, the business of a savings bank, or the business of a trust company, or a combination thereof, may engage in such businesses without maintaining a separate department for each such business.”

(b) By amending section 178-3, to read as follows:

**“Section 178-3. ‘Commercial bank’; definition; construction of term.** The term ‘commercial bank,’ when used in this part, means any bank which is authorized by law to receive deposits of money, deal in commercial paper, make loans thereon, or to lend money on real or personal property as security, or to purchase or discount bills, notes or other commercial paper, or to buy, sell or advertise for purchase or sale such securities as are permissible for investment by commercial banks, gold and silver bullion, or foreign money or bills of exchange. A commercial bank may also act as broker or agent for others in making or procuring loans on real estate located within the State, and receive for such services a reasonable fee or commission; but shall not in any case guarantee either the principal or interest of any such loans, nor guarantee the truth of any statement made by any applicant filing his application for any of such loans. A commercial bank may transact the business of a savings bank.”

(c) By amending section 178-4, to read as follows:

**“Section 178-4. ‘Savings bank’; definition; construction of term.** The term ‘savings bank,’ when used in this part, means a bank organized for the purpose of accumulating and loaning its funds and the funds of its depositors, and which may loan, invest and collect the same, with interest; and may repay depositors with or without interest, and having power to invest such funds in such property, securities and obligations as may be authorized by this part; and to pay a stipulated rate of interest on deposits made for a stated period or upon special terms. Where the term ‘savings bank’ is used in this part it shall also apply to any commercial bank if it also transacts the business of a savings bank by accepting savings deposits, but the term only applies with regard to such savings bank business transacted by the commercial bank.”

(d) By amending 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 stock broker or insurance agent or in a business requiring a license as a real estate broker, upon compliance with the following:

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

(2) Such bank shall have, in addition to 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 certificates, 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, paragraph (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, any bank so authorized may be a depository 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."

(e) By amending section 178-24.1, to read as follows:

**"Section 178-24.1. Par value of stock.** Shares of stock may be issued at par value of \$5 or more per share. Any bank may at any time increase the par value of its stock, or reduce it, but not below \$5 per share, after having first received the written approval of the director of regulatory agencies and by the vote of the shareholders owning at least two-thirds of the stock in such bank, at any regular or special shareholders' meeting which may be called for that purpose. When the increase or decrease of the par value of the capital stock has been authorized at a shareholders' meeting as herein provided, the president, cashier or secretary of the bank shall prepare a certificate in form prescribed by the director containing a copy of the resolution, as passed by the shareholders at such meeting, authorizing the increase or decrease in the par value of such capital stock. Such certificate shall be signed by, and verified by oath of, the president, cashier or secretary of the bank and forthwith transmitted to the director."

(f) By amending section 178-28 to read as follows:

**"Section 178-28. Increase or decrease of capital stock.** Any bank may at any time increase its capital stock, or reduce it, but not below the minimum provided by section 178-12, after having first received the written approval of the director and by the vote of the shareholders owning at least two-thirds of the stock in such bank, at any regular or special shareholders' meeting, which may be called for that purpose. When the increase or decrease of the capital stock has been authorized at a shareholders' meeting as herein provided, the president, cashier or secretary of the bank shall prepare a certificate in form prescribed by the director containing a copy of the resolution, as passed by the shareholders at such meeting, authorizing the increase or decrease of such capital stock. Such certificate shall be signed by, and verified by oath of, the president, cashier or secretary of the bank and forthwith transmitted to the director. Upon receipt of such certificate, the director may authorize the increase or decrease of the capital stock of the bank, and after such increase or decrease has been authorized and approved, shall thereupon issue his certificate showing the amount to which the capital

stock has been increased or decreased by authority of the resolution, as herein provided. No bank shall issue any certificate of stock under any increase of capital unless the shares represented by such certificate have been fully paid, but if such shares have been fully paid, a certificate of stock may be issued therefor regardless of whether the whole amount of the authorized increase of capital has been fully paid.”

(g) By amending the first paragraph of section 178-31, to read as follows:

**“Section 178-31. Preferred stock.** Notwithstanding any other provision of law, any bank may, with the approval of the director and by vote of shareholders owning at least two-thirds of the stock in such bank then outstanding, upon not less than five days’ notice, given by registered mail pursuant to action taken by its board of directors, issue preferred stock in such amount and with such par value as shall be approved by the director, and make such amendments to its articles of incorporation as may be necessary for this purpose. In the case of any newly organized bank which has not yet issued common stock, the requirement of notice to and vote of shareholders shall not apply. No bank shall issue any certificate of preferred stock unless the shares represented by such certificate have been fully paid, but if such shares have been fully paid, a certificate of preferred stock may be issued therefor regardless of whether the par value of all preferred stock approved as hereinbefore provided has been fully paid.”

(h) By deleting section 178-33.

(i) By amending section 178-46, to read as follows:

**“Section 178-46. Directors’ meetings; examination of reports.** The board of directors of every bank shall hold a regular meeting at least once every month. At every such meeting the president or cashier shall submit a detailed report showing every loan and investment which exceeds in amount one-half of one per cent of the capital and surplus of the bank or \$50,000, whichever is the lesser, made during the preceding month or since the last report, also a separate report of all loans made to any officer, director or employee (except such loans as are excluded from the requirements of approval by section 178-62), whether made direct or indirect or contingent, and the amount of security held therefor, if any, unless an advisory, discount or executive committee, the majority of whom are not active officers of the bank, shall make and file a written report stating that the committee has examined such reports and approved thereof, or stating its disapproval of any item appearing therein. The board of directors shall examine and pass upon such written report or the report of such advisory, discount or executive committee and make the same a part of the record of their meeting by recording the same in the minutes, and such record shall show their approval or disapproval.”

(j) By amending section 178-50, to read as follows:

**“Section 178-50. Amount of reserve; regulations and restrictions.** Every bank shall have on hand at all times in actual money of the United States an amount equal to at least twelve per cent of the total demand deposits, five per cent of the total time deposits of the bank and five per cent of

the total savings deposits of the bank; provided, that fifty per cent of the reserve required by law to be maintained may be deposited, payable on demand, in banks or trust companies (in the State or elsewhere) approved by the director of regulatory agencies of the State; the balance of such reserve shall be cash in the vaults of the bank; provided, further, that banks in the State may have on deposit in banks in the City of Honolulu or with the written approval of the director of regulatory agencies in banks in the other states of the United States fifty per cent of the cash required to be kept for commercial and savings deposits. No bank shall be required to maintain any reserve on deposits of public funds. If any bank becomes a member of the federal reserve system, it shall comply with the reserve requirements of the federal reserve act and its amendments, and its compliance therewith shall be deemed a compliance with the provisions of this section relative to reserves."

(k) By amending section 178-56, to read as follows:

**"Section 178-56. Assets, pledge of, prohibited; exceptions; limitations on borrowed money.** No bank shall give preference to any depositor or creditor by pledging the assets of the bank, except as otherwise authorized by this part; provided, that any bank may for any temporary purpose borrow money and pledge or hypothecate as collateral security therefor its assets not exceeding fifty per cent in excess of the amount borrowed; provided, further, that the limitation for borrowing purposes may be waived by the State director of regulatory agencies to any extent to which he deems advisable.

Any bank may rediscount with and sell to a federal reserve bank any and all notes, drafts, bills of exchange, acceptances and other securities, with no restrictions, as fully and to the same extent as this privilege is given to national bank members under the terms of the federal reserve act, or by regulations of the federal reserve board made pursuant thereto."

(l) By amending section 178-57, to read as follows:

**"Section 178-57. Public funds; definition; pledge of assets to secure.** Any bank may pledge its assets to secure public funds as authorized by this part. The term 'public funds,' when used in this part, means funds belonging to the State which may be deposited to the credit of the State or to the official credit of the director of finance; funds belonging to any county within the State deposited to the credit of any county or to the official credit of any county treasurer; funds belonging to the government having jurisdiction of any place outside the State in which a branch of a bank is located, or any political subdivision, instrumentality or municipality thereof, deposited to the official credit of the treasurer or similar fiscal officer thereof; postal savings fund or funds belonging to the United States deposited in such manner and under such rules and regulations as may be prescribed by the United States government."

(m) By amending section 178-59, to read as follows:

**"Section 178-59. Loans and investments, where commercial bank also transacts business of savings bank.** Except as otherwise herein provided, no commercial bank, whose loans and investments are defined and limited by section 178-60, which also transacts the business of a savings

bank, whose loans and investments are defined and limited by section 178-86, shall directly or indirectly loan or invest its assets in excess of the limitations imposed by either of those sections.”

(n) By amending section 178-63, to read as follows:

**“Section 178-63. Investment, valuation, entry on books.** All investments made by any bank shall be charged or entered on the books of the bank in a sum not to exceed their cost to the bank adjusted for amortization of premium and, at the option of the bank, for accretion of discount; provided, that any bank with the written approval of the director of regulatory agencies may enter any investments on the books of the bank at the market value thereof.”

(o) By amending section 178-66, to read as follows:

**“Section 178-66. Real estate loans; restrictions.** No commercial banks shall, except for the purpose of facilitating the sale of property owned by the bank, make any loan on the security of real estate unless it is secured by a first lien on improved or unimproved real estate and shall not in any case exceed eighty per cent of the appraised market value of the real estate over and above all taxes due and bonded indebtedness for public improvements due. No commercial bank shall loan in the aggregate more than the sum of seventy-five per cent of its savings deposits, if it also transacts the business of a savings bank, and twenty-five per cent of the total of its capital, surplus and commercial deposits on obligations secured by real estate. These provisions, however, shall not prevent any bank from taking another and immediately subsequent mortgage or deed of trust thereon when it already holds a first mortgage or deed of trust on such real estate, nor from accepting a second lien on real estate to secure the repayment of a debt previously contracted in good faith; nor shall it prevent subsequent liens of any kind from being taken to secure the payment of a debt previously contracted in good faith when the subsequent liens are necessary further to secure the payment of any debt and to save the bank from loss. There shall be on file at the bank in support of such real estate obligation such appraisal, evidence of merchantable title and insurance as may be required by the director of regulatory agencies.”

(p) By deleting sections 178-77, 178-77.5 and 178-78.

(q) By amending sections 178-79 through 178-84, to read as follows:

**“Section 178-79. By-laws; adoption; deposits; withdrawal; restrictions.** Each savings bank shall prescribe by its by-laws or by contract with its savings depositors the time and conditions on which repayment is to be made to savings depositors.

**“Section 178-80. Interest on savings deposits.** The directors of any savings bank may provide that such rate of interest shall be paid on savings deposits as they may see fit, payable at such periods and upon such terms and conditions as may be reasonable.

**“Section 178-81. Passbook; contents.** A passbook shall be issued to every savings depositor in a savings bank, containing the rules and regulations adopted by the board of directors governing such savings deposits, in

which book shall be entered each deposit (except on certificates of deposit) made by and every payment made to the savings depositor, and no payment or any check against any such savings account shall be made unless accompanied by and entered in the passbook issued therefor, except for good cause and on assurance satisfactory to the officers of the bank.

**“Section 178-82. Passbooks; periodical verification thereof with bank records.** Every savings bank shall at least once every two years, publish or cause to be published in one or more newspapers of general circulation in the State a notice requesting savings depositors to present their passbooks, issued pursuant to section 178-81, to the issuing bank within thirty days from the date of publication of such notice for verification thereof with the records of such issuing bank.

**“Section 178-83. Certificate of deposit; issuance; regulations.** No savings bank other than a commercial bank which also transacts the business of a savings bank shall issue demand certificates of deposit, but it may issue time certificates of deposit. Commercial banks may issue certificates of deposit, both time and demand.

**“Section 178-84. Overdrafts prohibited.** No savings bank shall permit a depositor to overdraw his savings account.”

(r) By amending the first paragraph of section 178-86, to read as follows:

**“Section 178-86. Investments authorized for savings banks, including commercial banks, which also transact the business of a savings bank, and for banks which do a trust business.** 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, assets of any bank doing a trust business equal in amount to the capital and surplus 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, and seventy-five per cent of the savings deposits of any bank. Any part of the remaining twenty-five per cent of the savings deposits of any bank may be similarly invested or may be maintained as reserves on hand or on demand with a reserve bank or banks.”

(s) By amending subsection (e) of section 178-86, to read as follows:

**“(e) Notes or bonds secured by first lien upon improved real estate and improvements thereon in the State, provided, that in each case the amount of such obligation shall not exceed eighty per cent of the appraised market value of the security over and above all taxes due and bonded indebtedness due. The aggregate of such investments shall not exceed seventy-five per cent of the total savings deposits of such bank. A leasehold interest in real property and the improvements thereon shall be considered real estate for the purposes of this paragraph, if at the time of the making of such investment, the expiration date of the lease is at least two years beyond the maturity date of the notes or bonds secured by lien thereon;”**

(t) By amending section 178-131, to read as follows:

**“Section 178-131. ‘Depositor’ defined; preference prohibited. The**

word 'depositor', as used in section 178-133, shall be construed to include also purchasers or holders in due course of certificates of deposit, cashiers' checks, certified checks, outstanding unpaid drafts drawn or issued by the bank, unsecured letters of credit and unsecured drafts accepted by the bank; provided, the instruments above enumerated are issued pursuant to cash or credit actually received or realized by the bank; provided, further, that no depositor or deposit, expressly including deposits of public funds shall have a preference or prior lien on any assets of an insolvent bank under the provisions of this chapter over the claims of other depositors or deposits, except that this provision shall not be construed to apply to any claims of demands involving funds held by any such bank where a valid lien or preference to such funds shall lawfully be established."

(u) By amending section 178-133, to read as follows:

**"Section 178-133. Depositors; priority of lien; depositors.** In the event of the insolvency of voluntary or involuntary liquidation of any bank under the provisions of this part, the depositors of the bank shall have a first, prior and exclusive lien upon all the unpledged assets of the bank and, in the distribution of the assets or the proceeds thereof, the same shall be applied to satisfy the amount due the depositors after the payment of expenses of liquidation of the bank. After the depositors of the bank have been paid in full, any remaining assets of the bank may then be used or applied to the payment of other unsecured creditors."

(v) By deleting sections 178-134 and 178-134.5.

SECTION 2. All acts and parts of acts inconsistent with this Act are hereby repealed.

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

(Approved June 4, 1967.)