

ACT 252

S.B. NO. 1912

A Bill for an Act Relating to Foreign Banks.

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

SECTION 1. Section 405D-39, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) As used in this section:

“Adjusted liabilities” means the liabilities of the bank’s business in this State, excluding:

- (1) Accrued expenses;
- (2) Any liability to an office, whether in or outside of this State, or majority-owned subsidiary of the bank; and
- (3) Such other liabilities as the commissioner may exclude.

“Applicable minimum”, when used with respect to eligible assets deposited or to be deposited with an approved depository by a foreign bank, means the amount as the commissioner by rule may determine as necessary for the maintenance of sound financial condition, for the protection of the interests of creditors of the bank’s business in this State, or for the protection of the public interest.

“Approved depository” means a bank organized under the laws of this State or a national bank headquartered in this State which has been selected by the foreign bank and approved by the commissioner to act as the approved depository of the foreign bank and which has filed with the commissioner an agreement to comply with all applicable provisions of this section and of any rule or order issued under this section.

“Eligible assets” means any of the following:

- (1) Cash;
- [(2)] Any security of the type described in section 403-128;
- [(3)] (2) Any negotiable certificate of deposit which:
 - (A) Has a maturity of not more than one year;
 - (B) Is payable in the United States; and
 - (C) Is issued by a bank organized under the laws of a state of the United States, by a national bank, or by a branch office of a foreign bank which is located in the United States;
- [(4)] (3) Any commercial paper which is payable in the United States and which is rated P-1 or its equivalent by a nationally recognized rating service; provided that any conflict in rating shall be resolved in favor of the lower rating;
- [(5)] (4) Any banker’s acceptance which is payable in the United States and which is eligible for discount with a Federal Reserve Bank;
- [(6)] (5) Any other asset which the commissioner determines is eligible.

Notwithstanding the foregoing provisions of this [paragraph,] definition, “eligible asset” does not include any instrument the issuer of which is, or is affiliated with, the foreign bank, is domiciled in, or controlled by a bank or other person domiciled in, the same foreign nation as the foreign bank, or is controlled by the foreign nation. For purposes of this paragraph, to be “affiliated” means to control, to be controlled by, or to be under common control with.”

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SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

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

(Approved June 8, 1989.)