

## ACT 207

S.B. NO. 2726

A Bill for an Act Relating to Financial Institutions.

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

SECTION 1. Section 207-14, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The statement filed pursuant to this section shall be accompanied by a registration fee of \$30. The registration fee shall be nonrefundable even in the event of a denial. In addition, foreign lenders who are currently registered pursuant to this chapter shall pay an annual renewal fee of \$30 in order to maintain the immunities and privileges granted in this section. The annual renewal fee shall be due on or before June 30, of each calendar year. The failure to submit the annual renewal fee as required shall result in the automatic cancellation of any statements filed pursuant to this section but shall not retroactively affect or impair any of the immunities provided by this part. [The commissioner may, in] In the commissioner’s discretion, [extend] the time period for filing of a renewal fee may be extended for an additional thirty days beyond June 30 of each calendar year if good cause exists for such an extension. The registration fee, annual renewal fee, and any other charge or fee assessed under this part shall be deposited into the financial institution examiners’ revolving fund established under section 412:2-109.”

SECTION 2. Section 412:2-109, Hawaii Revised Statutes, is amended by amending subsections (g) and (h) to read as follows:

“(g) Before August 16, 1995, and thereafter before July 2, 1996, each financial institution subject to examination by the commissioner shall pay a sum of \$250 plus \$50 for each office, agency, and branch office maintained by the financial institution, to the commissioner to be credited to the financial institution examiners’ revolving fund.

(h) Before July 2, 1997, and each year thereafter before July 2, each financial institution subject to examination by the commissioner shall pay a sum of \$500 plus

\$100 for each office, agency, and branch office maintained by the financial institution, to the commissioner to be credited to the financial institution examiners' revolving fund."

SECTION 3. Section 412:2-315, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) The commissioner may assess and collect from all affected Hawaii financial institutions their ratable share of the administrative costs incurred by the division in its administration of any emergency orders issued under this section. Administrative costs assessed under this section shall be deposited into the financial institution examiners' revolving fund established under section 412:2-109. The determination of the commissioner of which Hawaii financial institution or institutions are "affected" and the proration method the commissioner chooses to employ in making assessments under this section may be appealed to the circuit court as provided in chapter 91 by any Hawaii financial institution aggrieved thereby."

SECTION 4. Section 412:2-503, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) If the failing financial institution is a bank, savings bank, or depository financial services loan company that is a Hawaii financial institution, or if the institution to result from the acquisition proposed in the application is to be any of the foregoing, the commissioner may accept an application under this part only from:

- (1) A Hawaii financial institution;
- (2) A federal financial institution whose operations are principally conducted in this State (unless the operations of any holding company of such an applicant are principally conducted [in a state other] elsewhere than in Hawaii or a qualifying state);
- (3) A financial institution whose operations are principally conducted in a qualifying state (unless the operations of any holding company of such an applicant are principally conducted [in a state other] elsewhere than in Hawaii or a qualifying state);
- (4) The holding company of any of the foregoing, if any (unless the operations of such holding company or any holding company of such holding company are principally conducted [in a state other] elsewhere than in Hawaii or a qualifying state);
- (5) A person that is not a company; and
- (6) Notwithstanding any other limitations in this section, a bank holding company as defined under the Bank Holding Company Act of 1956, as amended, that is adequately capitalized and adequately managed."

SECTION 5. Section 412:2-611, Hawaii Revised Statutes, is amended to read as follows:

**"§412:2-611 Action to recover administrative fines; deposit to [general] revolving fund.** (a) If any Hawaii financial institution or institution-affiliated party fails to pay an assessment after any administrative fine assessed under this chapter has become final, the commissioner shall recover the amount assessed by action in circuit court, in which case the commissioner may request the court to award reasonable attorney's fees and costs.

(b) [Unless otherwise provided by statute, all] All administrative fines collected under authority of this chapter shall be deposited in the [general] financial

institution examiners' revolving fund [of the State] established under section 412:2-109 .”

SECTION 6. Section 412:3-112, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Every Hawaii financial institution [shall], at its own expense, shall file the following written reports with the commissioner:

- (1) An independent audit report of its financial statements as of the close of its fiscal year shall be filed by a Hawaii financial institution, other than a nondepository financial services loan company or credit union, within one hundred twenty days of the close of its fiscal year; provided that the commissioner for good cause shown may grant a reasonable extension of not more than forty-five days. For depository institutions, the independent audit report specified in this paragraph shall [be conducted in accordance] comply with the requirements [of] for annual reports under section 36 of the Federal Deposit Insurance Act (12 U.S.C. §1831m)[.], as amended; provided that for a depository institution which, in any fiscal year, is a small depository institution within the meaning of section 36(j) of the Federal Deposit Insurance Act, or any implementing regulations thereunder, the independent audit report specified in this paragraph shall comply with the requirements for annual independent audits of financial statements under section 36(d). For trust companies, the independent audit report shall contain audited financial statements prepared in accordance with generally accepted accounting principles and shall be based on an audit performed in accordance with generally accepted auditing standards, the independent auditor's report on the fair presentation of the financial statements and any qualification to the report, any management letter, and any other report. Hawaii financial institutions that are subsidiaries of a financial institution holding company may satisfy the requirements of this paragraph by filing an independent audit report of the financial institution holding company;
- (2) Unaudited financial statements as of the following dates shall be filed by a Hawaii financial institution within thirty days of the date of the financial statement as follows:
  - (A) For a nondepository financial services loan company, trust company, or credit union, the statements shall be filed as of June 30 and December 31 of each year; and
  - (B) For a Hawaii financial institution, other than a nondepository financial services loan company, trust company, or credit union, the statements shall be filed as of March 31, June 30, September 30, and December 31 of each year;

provided that the commissioner for good cause shown may grant a reasonable extension of not more than forty-five days.

The reports shall be in a form prescribed by the commissioner and prepared in accordance with section 412:3-108. In the alternative, the institution may file the Call Reports, Consolidated Reports of Condition and Reports of Income, or Thrift Financial Reports as of those dates which are submitted to the appropriate federal regulatory agency of the institution;

- (3) A notice of any change in the office of the person who has primary responsibility for the operation and management of the financial institution shall be filed by a Hawaii financial institution within ten days of

the change. The notice shall specify the name and address of the person, who shall be designated that institution's "chief executive officer"; and

- (4) Any other reports and other information that the commissioner may require with respect to any financial institution at the times and in the form as the commissioner deems appropriate for the proper supervision and regulation of the institution.

Each report shall be signed by an officer authorized by the institution's board of directors to sign the report, and shall contain a declaration of the officer's authority and a statement that the report is true and correct."

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 8. This Act shall take effect upon its approval.

(Approved June 17, 1996.)