

S.B. NO. 2761

JAN 25 2012

A BILL FOR AN ACT

RELATING TO FINANCIAL INSTITUTIONS.

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

1 SECTION 1. Section 412:2-105, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§412:2-105 Fees [and], assessments[-], and fines. (a)

4 ~~The commissioner [may charge an examination fee based upon the~~
5 ~~cost per hour per examiner for all financial institutions~~
6 ~~examined by the commissioner or the commissioner's staff.~~

7 ~~Effective July 1, 1995, the hourly fee shall be \$40. After July~~
8 ~~1, 1996, the]~~ shall collect fees as follows:

9 (1) A nonrefundable fee of \$10,000 for review and
10 preliminary approval by the commissioner for the
11 organization of a bank, savings bank, savings and loan
12 association, trust company, or depository financial
13 services loan company. In addition, the applicant
14 shall be charged a fee of \$60 per employee hour in
15 excess of one hundred sixty hours for the review of
16 the application and attendant investigations. The
17 aggregate fee shall not exceed \$20,000. The

S.B. NO. 2761

1 additional fee will be billed and shall be paid before
2 preliminary approval is provided;

3 (2) A nonrefundable fee of \$2,500 for the review and
4 approval by the commissioner of the final application
5 for a charter or license to engage in the business of
6 a bank, savings bank, savings and loan association,
7 trust company, or depository financial services loan
8 company;

9 (3) A nonrefundable fee of \$10,000 for the review and
10 approval by the commissioner of an application for a
11 new nondepository financial services loan company. In
12 addition, the applicant shall be charged a fee of \$60
13 per employee hour in excess of one hundred sixty hours
14 for the review of the application and attendant
15 investigations. The aggregate fee shall not exceed
16 \$20,000. The additional fee will be billed and shall
17 be paid before the application is approved;

18 (4) \$5,000 for the review and approval by the commissioner
19 for a conversion to a state chartered institution;

20 (5) \$1,000 for the review and approval by the commissioner
21 to establish a new branch for a financial institution;

S.B. NO. 2761

- 1 (6) A nonrefundable fee of \$10,000 for the review and
2 approval by the commissioner of a merger or
3 consolidation. In addition, the applicant shall be
4 charged a fee of \$60 per employee hour in excess of on
5 hundred sixty hours for the review of the application
6 and attendant investigations. The aggregate fee shall
7 not exceed \$20,000. The additional fee will be billed
8 and must be paid before the approval is granted;
- 9 (7) \$1,000 for the review and approval by the commissioner
10 for the relocation of a principal office, branch, or
11 agency;
- 12 (8) \$200 for the review and approval by the commissioner
13 for the opening or relocating an out-of-state branch
14 or agency;
- 15 (9) \$200 for the review and approval by the commissioner
16 for the opening or relocating of a support facility;
- 17 (10) \$1,000 for the review and approval by the commissioner
18 for the issuance of preferred stock, decrease in
19 authorized capital stock or par value of capital
20 stock, or decrease in outstanding capital stock by the
21 acquisition of the Hawaii stock financial

S.B. NO. 2761

- 1 institution's own shares pursuant to section 412:3-
2 402(3) and (4);
- 3 (11) \$2,000 for the review and approval by the commissioner
4 for the acquisition by any bank, savings bank, or
5 savings and loan association of any federal power
6 pursuant to section 412:5-201, 412:6-201, 412:7-201,
7 or 412:10-201;
- 8 (12) \$2,000 for the review and approval by the commissioner
9 for a bank to accept drafts or bills of exchange in an
10 amount not exceeding at any time in the aggregate two
11 hundred per cent of its capital and surplus pursuant
12 to section 412:5-204;
- 13 (13) \$5,000 for the review and approval by the commissioner
14 for a bank to conduct a trust business through a
15 subsidiary, division, or department of the bank
16 pursuant to 412:5-205;
- 17 (14) \$5,000 for the review and approval by the commissioner
18 for a bank to conduct insurance activities pursuant to
19 section 412:5-205.5;
- 20 (15) \$5,000 for the review and approval by the commissioner
21 for a bank to engage in securities activities pursuant
22 to section 412:5-205.7;

S.B. NO. 2761

- 1 (16) \$2,000 for the review and approval by the commissioner
2 for a bank to comply with lending limits applicable to
3 national banking associations pursuant to section
4 412:5-302;
- 5 (17) \$2,000 for the review and approval by the commissioner
6 for a bank to exceed certain permitted investments
7 pursuant to section 412:5-305(f) and (h);
- 8 (18) A nonrefundable fee of \$10,000 for the review and
9 approval by the commissioner for an intra-Pacific bank
10 or intra-Pacific bank holding company to engage in
11 business in the State pursuant to sections 412:5-401
12 and 412:5-402. In addition, the applicant shall be
13 charged a fee of \$60 per employee hour in excess of
14 one hundred sixty hours for the review of the
15 application and attendant investigations. The
16 aggregate fee shall not exceed \$20,000. The
17 additional fee will be billed and shall be paid before
18 preliminary approval is provided;
- 19 (19) \$5,000 for the review and approval by the commissioner
20 for a bank to establish a corporation to engage in
21 foreign or international banking and other foreign or

S.B. NO. 2761

- 1 international financial activities pursuant to section
2 412:5A-201;
- 3 (20) \$1,000 for the review and approval by the commissioner
4 for an extension of time to sell stock acquired and
5 held by an international banking corporation to
6 prevent loss pursuant to section 412:5A-210;
- 7 (21) \$5,000 for the review and approval by the commissioner
8 for the formation and ownership of a service
9 corporation by a savings bank and approval of a
10 service corporation to engage in certain activities
11 pursuant to section 412:6-203;
- 12 (22) \$5,000 for the review and approval by the commissioner
13 for a savings bank to acquire, establish, or hold the
14 voting securities of an operating subsidiary pursuant
15 to section 412:6-204;
- 16 (23) \$2,000 for the review and approval by the commissioner
17 for a savings bank to abide by the lending limits of
18 the national banking association rather than state
19 limits prescribed by section 412:6-303;
- 20 (24) \$1000 for the review and approval by the commissioner
21 for a bank, savings bank, savings and loan
22 association, trust company, or depository financial

S.B. NO. 2761

1 services loan company to purchase, hold, convey, sell,
2 or lease certain real or personal property in excess
3 of stated limits pursuant to sections 412:5-305(f)(1)
4 and (2), 412:6-306(f)(1) and (2), 412:7-306(f)(1) and
5 (2), 412:8-301(f)(1) and (2), and 412:9-409(f)(1) and
6 (2);

7 (25) \$1,000 for the review and approval of the commissioner
8 for an extension of the time by which a bank, savings
9 bank, savings and loan association, or depository
10 financial services loan company must sell or exchange
11 real property that was acquired as security for loans
12 or in the collection of debts pursuant to sections
13 412:5-305(f), 412:6-306(f), 412:7-306(g), and 412:9-
14 409(f);

15 (26) \$1,000 for the review and approval of the commissioner
16 for an extension of time for a bank, savings bank,
17 savings and loan association, or depository financial
18 services loan company to sell stock acquired or
19 purchased to save a loss on a preexisting debt secured
20 by the stock pursuant to sections 412:5-305(g), 412:6-
21 306(g)(6), 412:7-306(g)(6), and 412:9-409(g)(2);

S.B. NO. 2761

- 1 (27) \$1,000 for the review and approval of the commissioner
2 for a savings bank to invest its own assets in
3 residential properties in excess of two per cent of
4 the savings bank's capital or an aggregate investment
5 exceeding five per cent of the savings bank's capital
6 and surplus pursuant to section 412:6-306(h);
- 7 (28) \$5,000 for the review and approval by the commissioner
8 for the formation of a service corporation by a
9 savings and loan association pursuant to section
10 412:7-203;
- 11 (29) \$1,000 for the review and approval by the commissioner
12 for banks and other trust companies in which a trust
13 company may deposit its required reserves pursuant to
14 section 412:8-202;
- 15 (30) \$2,000 for the review and approval by the commissioner
16 of an agreement between a trust company and any bank
17 or national banking association to carry on trust
18 services in the bank's or national banking
19 association's name pursuant to section 412:8-204;
- 20 (31) \$100 for the review and approval by the commissioner
21 for the annual licensing of a financial services loan
22 company;

S.B. NO. 2761

1 (32) \$2,000 for the review and approval by the commissioner
2 for a financial services loan company to sell or
3 refer, and collect premiums or fees for the sale or
4 referral of, specified products and services pursuant
5 to section 412:9-201(a);

6 (33) \$2,000 for the review and approval by the commissioner
7 for a financial services loan company to issue standby
8 letters of credit pursuant to 412:9-201(c);

9 (34) \$5,000 for the review and approval by the commissioner
10 for depository financial services loan companies to
11 sell fixed rate annuities and collect premiums and
12 fees for the sale or referral of those fixed rate
13 annuities and the imposition of conditions and
14 restrictions that are in the public interest pursuant
15 to section 412:9-400;

16 (35) \$5,000 for the review and approval of the commissioner
17 for a depository financial services loan company to
18 deposit its cash reserves in United States branches of
19 non-United States banks pursuant to section 412:9-
20 401(b);

21 (36) \$2,000 for the review and approval by the commissioner
22 of irrevocable lines of credit of one year or more

S.B. NO. 2761

- 1 used as reserves for depository financial services
2 loan companies pursuant to section 412:9-401(c);
3 (37) \$5,000 for the review and approval by the commissioner
4 for one or more depository financial services loan
5 companies to form and own a service corporation
6 pursuant to section 412:9-403;
7 (38) \$1,000 for the review and approval by the commissioner
8 for a proposed change in a credit union's field of
9 membership pursuant to section 412:10-109(h);
10 (39) A nonrefundable fee of \$10,000 for the review and
11 approval by the commissioner of an application for an
12 interstate merger transaction submitted by an out-of-
13 state bank pursuant to section 412:12-104. In
14 addition, the applicant shall be charged a fee of \$60
15 per employee hour in excess of one hundred sixty hours
16 for the review of the application and attendant
17 investigations. The aggregate fee shall not exceed
18 \$20,000. The additional fee will be billed and shall
19 be paid before the approval is granted;
20 (40) \$1,000 for the review and approval by the commissioner
21 of an application for a charter of a credit union; and

1 (41) \$100 for the review and approval by the commissioner
2 of a request to use of the terms listed in section
3 412:1-104.

4 (b) The commissioner may [establish,] increase[.] or
5 decrease[, or repeal the] any hourly fee established in
6 subsection (a), and may establish, increase, decrease, or repeal
7 any other fee, when necessary pursuant to rules adopted in
8 accordance with chapter 91.

9 ~~(b)~~ (c) In addition to the examination fee, the
10 commissioner ~~may~~ shall charge any financial institution
11 examined or investigated by the commissioner or the
12 commissioner's staff, additional amounts for travel, per diem,
13 mileage, and other reasonable expenses incurred in connection
14 with the examination.

15 ~~(e)~~ (d) The commissioner shall bill the affected
16 financial institution for examination fees and expenses as soon
17 as feasible after the close of the examination or investigation.
18 The affected financial institution shall pay the division of
19 financial institutions within thirty days following the billing.
20 All such payments shall be deposited to the compliance
21 resolution fund established pursuant to section 26-9(o). All
22 disputes relating to these billings between the affected

1 financial institution and the commissioner shall be resolved in
2 accordance with the procedures for contested cases under chapter
3 91.

4 ~~[(d) The commissioner, by rules adopted in accordance with~~
5 ~~chapter 91, may set reasonable fee amounts to be collected by~~
6 ~~the division in connection with its regulatory functions,~~
7 ~~including, without limitation, any fees for renewals,~~
8 ~~applications, licenses, and charters. Unless otherwise provided~~
9 ~~by statute, all such fees shall be deposited into the compliance~~
10 ~~resolution fund established pursuant to section 26-9(e).]~~

11 (e) A Hawaii financial institution that fails to make a
12 payment required by this section shall be subject to an
13 administrative fine of not more than \$250 per day for each day
14 it is in violation of this section~~[, which fine, together with~~
15 ~~the amount due under this section, may be recovered pursuant to~~
16 ~~section 412:2-611 and shall be deposited into the compliance~~
17 ~~resolution fund established pursuant to section 26-9(e)]."~~

18 SECTION 2. Section 412:2-109, Hawaii Revised Statutes, is
19 amended by amending subsection (g) to read as follows:

20 "(g) The commissioner may [annually] charge each financial
21 institution subject to examination by the commissioner [~~the sum~~
22 ~~of \$500 plus \$100 for each office, agency, and branch office~~

S.B. NO. 2761

1 ~~maintained by the financial institution, payment of which shall~~
2 ~~be made]~~ an annual fee which shall be paid before July 2 [~~and~~
3 ~~thereafter credited to the compliance resolution fund.]~~ of each
4 year and shall be as follows:

- 5 (1) \$5,000 for financial institutions with assets of at
6 least \$500,000 but less than \$10,000,000 for the
7 previous calendar year ending December 31;
- 8 (2) \$7,500 for financial institutions with assets of at
9 least \$10,000,000 but less than \$100,000,000 for the
10 previous calendar year ending December 31;
- 11 (3) \$10,000 for financial institutions with assets of at
12 least \$100,000,000 but less than \$750,000,000 for the
13 previous calendar year ending December 31;
- 14 (4) \$12,500 for financial institutions with assets of at
15 least \$750,000,000 but less than \$5,000,000,000 for
16 the previous calendar year ending December 31; and
- 17 (5) \$15,000 for financial institutions with assets of at
18 least \$5,000,000,000 for the previous calendar year
19 ending December 31.

20 The commissioner may establish, increase, decrease, or repeal
21 [~~this fee]~~ any or all of these fees when necessary pursuant to
22 rules adopted in accordance with chapter 91."

1 SECTION 3. Section 412:2-508, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) Applications for a provisional approval shall be
4 filed with the commissioner, and shall provide the information
5 required by this chapter for preliminary approval to organize
6 the type of financial institution that will result from the
7 merger or acquisition under this part. The applicant shall also
8 furnish such other information as the commissioner may require,
9 and an application fee [~~as established by the commissioner.~~]
10 pursuant to section 412:2-105."

11 SECTION 4. Section 412:3-102, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§412:3-102 Change of name.** To change its name, a Hawaii
14 financial institution shall file with the commissioner an
15 application [~~with the commissioner and pay the fees as the~~
16 ~~commissioner may establish.~~] accompanied by an application fee
17 pursuant to section 412:2-105. The application shall be
18 approved if the commissioner is satisfied that the new name
19 complies with this chapter and chapter 414. Any change of name
20 of a stock financial institution pursuant to this section shall
21 be effected in accordance with chapter 414. Any change of name
22 shall not affect a financial institution's rights, liabilities,

S.B. NO. 2761

1 or obligations existing prior to the effective date thereof, and
2 no documents of transfer shall be necessary to preserve the
3 rights, liabilities, or obligations; provided that the
4 commissioner may require notice to be given to the public and
5 other governmental agencies."

6 SECTION 5. Section 412:3-212, Hawaii Revised Statutes, is
7 amended by amending subsection (c) to read as follows:

8 "(c) If the commissioner is satisfied that the financial
9 institution and, if applicable, its holding company have
10 fulfilled all the requirements of law and the grounds for
11 preliminary approval, and that the financial institution is
12 qualified to engage in the business of a financial institution,
13 the commissioner shall issue a written decision and order
14 approving the application. The order may restrict the payment
15 of dividends for a period of up to three years, and may contain
16 any other conditions and restrictions on the financial
17 institution that are in the public interest, including [~~but not~~
18 ~~limited to~~] the divestment of any contractual arrangement with
19 an affiliate or subsidiary involving any type of business not
20 permitted under this chapter. Upon the satisfactory fulfillment
21 by the financial institution and, if applicable, its holding
22 company of the conditions in the written decision and order

S.B. NO. 2761

1 approving the application and upon the payment by a depository
2 financial services loan company of [~~an~~] the initial license fee
3 [~~established by rule pursuant to chapter 91,~~] pursuant to
4 section 412:2-105, the commissioner shall issue to the financial
5 institution a charter or license to engage in the business of a
6 financial institution under this chapter."

7 SECTION 6. Section 412:3-301, Hawaii Revised Statutes is
8 amended by amending subsection (c) to read as follows:

9 "(c) The application shall be submitted on a form
10 prescribed by the commissioner [~~. The application~~] and shall be
11 accompanied by an application fee [~~of \$5,000, or such greater~~
12 ~~amount as the commissioner shall establish by rule pursuant to~~
13 ~~chapter 91. The application fee shall not be refundable.~~]
14 pursuant to section 412:2-105."

15 SECTION 7. Section 412:3-304, Hawaii Revised Statutes, is
16 amended by amending subsection (b) to read as follows:

17 "(b) If the commissioner is satisfied that the applicant
18 has fulfilled all the requirements of law and is qualified to
19 engage in the business of a nondepository financial services
20 loan company, the commissioner shall issue a written decision
21 and order approving the application. Upon the approval of the
22 application, the payment of [~~an initial~~] the license fee

S.B. NO. 2761

1 ~~[established by rule pursuant to chapter 91,]~~ pursuant to
2 section 412:2-105, and, if applicable, upon providing
3 satisfactory evidence to the commissioner of compliance with the
4 requirements of chapter 414 relating to foreign corporations,
5 the commissioner shall issue to the applicant a license to
6 engage in the business of a nondepository financial services
7 loan company under this chapter."

8 SECTION 8. Section 412:3-503, Hawaii Revised Statutes, is
9 amended by amending subsections (b) and (c) to read as follows:

10 "(b) The institution shall file an application with the
11 commissioner. The application shall be in a form prescribed by
12 the commissioner and shall be accompanied by [a] an application
13 ~~fee [the amount of which shall be established by rule.]~~ pursuant
14 to section 412:2-105. The application shall contain the
15 following information:

- 16 (1) The name of the financial institution;
17 (2) The specific location of the proposed site of the
18 principal office, branch, or agency;
19 (3) The anticipated opening date and, if open for a
20 specified period, the end of such period;
21 (4) The nature of the business or transactions intended to
22 be carried on at the location;

S.B. NO. 2761

1 (5) Facts showing the necessity or justification for the
2 proposed site and that there is a reasonable assurance
3 of sufficient volume of business so that opening and
4 maintaining the proposed business location will not
5 jeopardize the solvency of the financial institution;
6 and

7 (6) Any other information that the commissioner may
8 require.

9 (c) If after appropriate examination and investigation,
10 the commissioner is satisfied that the proposed opening or
11 relocation is justified and proper, the commissioner shall
12 approve the application in writing, with any conditions as the
13 commissioner deems appropriate. Upon payment by a financial
14 services loan company of the initial license fee for the new
15 branch or agency, or the reissuance of license fee for the
16 relocated office [~~as established by rule pursuant to chapter~~
17 ~~91,~~] pursuant to section 412:2-105, the commissioner shall issue
18 a license for the new or relocated office."

19 SECTION 9. Section 412:3-505, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "**§412:3-505 Opening or relocating out-of-state branch or**
22 **agency.** With the commissioner's prior written approval, a

S.B. NO. 2761

1 Hawaii financial institution may open or relocate a branch or
2 agency that is outside of this State, including [~~but not limited~~
3 ~~to~~] any state, possession, or territory of the United States or
4 any foreign country. An application to open or relocate an out-
5 of-state branch or agency shall be filed in accordance with
6 section 412:3-503 [~~, and the commissioner may assess the financial~~
7 ~~institution any additional expenses as may be reasonably~~
8 ~~necessary to consider the application.~~] and be accompanied by a
9 fee pursuant to section 412:2-105."

10 SECTION 10. Section 412:3-506, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§412:3-506 Opening or relocating a support facility.** A
13 Hawaii financial institution that opens or relocates a support
14 facility shall within thirty days thereafter submit a letter to
15 the commissioner [~~containing the following information:~~]

16 including:

- 17 (1) The location of the support facility;
- 18 (2) A description of the type of functions [~~which~~] the
19 support facility will perform; [~~and~~]
- 20 (3) The date or anticipated date of opening or
21 relocation[-]; and
- 22 (4) The fee pursuant to section 412:2-105."

1 SECTION 11. Section 412:3-603, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§412:3-603 Procedure for applications pursuant to this**
4 **part.** Whenever the written approval of the commissioner is
5 required with respect to any transaction covered by this part,
6 the following procedures shall apply:

7 (1) An application for approval by the commissioner
8 pursuant to this part shall be on a form prescribed by
9 the commissioner and shall contain any information,
10 data, and records as the commissioner may require[~~-~~],
11 and shall be accompanied by a nonrefundable
12 application fee pursuant to section 412:2-105. As far
13 as possible consistent with the effective discharge of
14 the commissioner's responsibilities, the commissioner
15 shall prescribe the use of forms currently prescribed
16 by the appropriate federal regulatory agency of
17 financial institutions and financial institution
18 holding companies for identical or similar types of
19 transactions[~~-. The application shall be accompanied~~
20 ~~by an application fee established by the commissioner~~
21 ~~pursuant to section 412:2-105. The application fee~~
22 ~~shall not be refundable];~~

1 (2) If any material change occurs in the facts set forth
2 in an application, or if for any other reason the
3 applicant desires to amend the application, an
4 amendment setting forth any change, together with
5 copies of all documents and other material relevant to
6 the change, shall be filed with the commissioner.
7 Within twenty days after receiving an application or
8 any amendment thereto, the commissioner may request
9 any additional information necessary in deciding
10 whether to approve a proposed transaction pursuant to
11 this part. The applicant shall submit the additional
12 information in a reasonable time thereafter, as may be
13 specified by the commissioner;

14 (3) If the commissioner would approve a plan of
15 conversion, merger, or consolidation, an acquisition
16 of assets or assumption of liabilities, an acquisition
17 of control, or a voluntary cessation of business or
18 voluntary dissolution, but on terms different than
19 contained in the application, the commissioner may
20 give notice to the applicant of the nature of the
21 changes which would be approved, and the applicant may
22 submit an amended application;

S.B. NO. 2761

- 1 (4) If the commissioner intends to disapprove an
2 application, the commissioner shall deliver to the
3 applicant a written notice of the intent to
4 disapprove. Within ten days after receipt of the
5 commissioner's notice of intent to disapprove an
6 application, the applicant may request an
7 administrative hearing, to be held in accordance with
8 chapter 91. If no request for a hearing is made, the
9 commissioner's disapproval shall become final. If
10 after the hearing the commissioner finally disapproves
11 the application, the applicant may, within thirty days
12 of the date of the final decision, appeal to the
13 circuit court as provided in chapter 91;
- 14 (5) Notwithstanding any other provision of this part, any
15 complete application which is not approved or denied
16 by the commissioner within a period of sixty days
17 after the application is filed with the commissioner
18 or, if the applicant consents to an extension of the
19 period within which the commissioner may act, within
20 the extended period, shall be deemed to be approved by
21 the commissioner as of the first day after the period
22 of sixty days or the extended period. If the

S.B. NO. 2761

1 commissioner gives notice of an informational and
2 comment proceeding on the application, the sixty-day
3 period shall be extended to a date as may be fixed by
4 order of the commissioner. For purposes of this
5 section, an application is deemed to be filed with the
6 commissioner at the time when the complete
7 application, including any amendments or supplements,
8 containing all of the information in the form required
9 by the commissioner, is received and accepted by the
10 commissioner; and

11 (6) Any applicant submitting information to the
12 commissioner pursuant to this part may request that
13 the information, or any part thereof, be kept
14 confidential. The request shall be made in writing
15 and shall set forth the specific items sought to be
16 kept confidential and the reasons and authority for
17 the confidential treatment. The commissioner may,
18 pursuant to a request or otherwise, determine that
19 good cause exists to keep some or all of the
20 information confidential, and shall keep the
21 information confidential and not subject to public
22 disclosure. In connection with an application for the

S.B. NO. 2761

1 acquisition of control pursuant to section 412:3-612,
2 the commissioner may release information to the
3 affected financial institution or financial
4 institution holding company with a directive that some
5 or all of the information be kept confidential."

6 SECTION 12. Section 412:5-203, Hawaii Revised Statutes, is
7 amended by amending subsection (d) to read as follows:

8 "(d) The bank shall file an application with the
9 commissioner in a form approved by the commissioner. The
10 application shall be accompanied by a fee [~~the amount of which~~
11 ~~shall be prescribed by rule.~~] pursuant to section 412:2-105.

12 The application shall contain the following information
13 concerning the proposed operating subsidiary:

- 14 (1) The name and date for commencement of operations;
- 15 (2) The specific location;
- 16 (3) The activities and nature of business;
- 17 (4) The ownership, amount, and nature of the investment;
- 18 and
- 19 (5) Any other information that the commissioner may
20 require."

21 SECTION 13. Section 412:5-205, Hawaii Revised Statutes is
22 amended by amending subsection (b) to read as follows:

S.B. NO. 2761

1 "(b) The bank shall file an application for such approval
2 with the commissioner on a form prescribed by the commissioner,
3 together with an application fee [~~of \$5,000, or such greater~~
4 ~~amount as the commissioner shall establish, no part of which~~
5 ~~shall be refundable.~~] pursuant to section 412:2-105. The
6 application shall contain the following information:

- 7 (1) Appropriate board resolutions authorizing the
8 establishment of a trust company, division, or
9 department;
- 10 (2) Employment history, education, management experience,
11 and other biographical information for all executive
12 officers, trust officers, and managers of the trust
13 company, division, or department;
- 14 (3) Proposed policies concerning common trust funds,
15 overdrafts, disaster recovery plans, dividends,
16 management of assets and liabilities, conflicts of
17 interest, investments, and fee schedules. The
18 commissioner may consider any existing bank policies
19 that will be adapted and [~~utilized~~] used for its trust
20 business;
- 21 (4) A business plan and financial projections regarding
22 profitability of the proposed trust business;

S.B. NO. 2761

1 (5) Evidence that the bank has or will have the financial
2 ability, responsibility, and experience to engage in
3 the trust business; and

4 (6) Any other information [~~which~~] that the commissioner
5 may require."

6 SECTION 14. Section 412:5-205.5, Hawaii Revised Statutes,
7 is amended by amending subsection (c) to read as follows:

8 "(c) The bank shall file an application for approval with
9 the commissioner in a form prescribed by the commissioner. The
10 application shall be accompanied by a fee [~~the amount of which~~
11 ~~shall be prescribed by rule.~~] pursuant to section 412:2-105.

12 The application shall contain:

- 13 (1) A description of the activities to be conducted;
14 (2) The experience and qualifications of the proposed
15 managers;
16 (3) The specific location where the activities will be
17 conducted; and
18 (4) Any other information that the commissioner may
19 require.

20 If the bank proposes to engage in the business of insurance
21 through a subsidiary or affiliate, then the application shall
22 also contain information regarding the experience and

1 qualifications of the proposed executive officers and directors
2 of the subsidiary or affiliate and the ownership, amount, and
3 nature of the bank's investment in and advances to the
4 subsidiary or affiliate. Upon being satisfied that the
5 application is complete, that the conduct of the insurance
6 business will not affect the safety or soundness of the bank or
7 harm the public interest, and that the bank and its subsidiary
8 or affiliate, if applicable, have sufficient experience,
9 qualifications, and financial capability to engage in the
10 activities authorized by this section, the commissioner shall
11 approve the application. The commissioner may impose any terms
12 and conditions which the commissioner considers necessary to
13 protect the bank, the customers of the bank, and the public
14 interest."

15 SECTION 15. Section 412:5-205.7, Hawaii Revised Statutes,
16 is amended by amending subsection (c) to read as follows:

17 "(c) The bank shall file an application for approval with
18 the commissioner in a form prescribed by the commissioner [~~—The~~
19 ~~application shall be]~~ and accompanied by a fee [~~the amount of~~
20 ~~which shall be prescribed by rule.]~~ pursuant to section 412:2-
21 105. The application shall contain:

22 (1) A description of the activities to be conducted;

S.B. NO. 2761

1 (2) The experience and qualifications of the proposed
2 managers;

3 (3) The specific location where the activities will be
4 conducted; and

5 (4) Any other information that the commissioner may
6 require.

7 If the bank proposes to engage in securities activities through
8 a subsidiary or affiliate, then the application shall also
9 contain information regarding the experience and qualifications
10 of the proposed executive officers and directors of the
11 subsidiary or affiliate and the ownership, amount, and nature of
12 the bank's investment in and advances to the subsidiary or
13 affiliate. Upon being satisfied that the application is
14 complete, that the conduct of the securities activities will not
15 affect the safety or soundness of the bank or harm the public
16 interest, and that the bank and its subsidiary or affiliate, if
17 applicable, have sufficient experience, qualifications, and
18 financial capability to engage in the activities authorized by
19 this section, the commissioner shall approve the application.
20 The commissioner may impose any terms and conditions which the
21 commissioner considers necessary to protect the bank, the
22 customers of the bank, and the public interest."

S.B. NO. 2761

1 SECTION 16. Section 412:6-201, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) Any savings bank desiring to acquire any federal
4 power shall file an application with the commissioner. The
5 application shall indicate the applicable federal statute, rule,
6 regulation, interpretation, or court decision, the extent of the
7 federal power desired, the reasons for the application, and any
8 other information requested by the commissioner. The
9 commissioner may by rule prescribe the form of application [~~and~~
10 ~~application filing fees~~]."

11 SECTION 17. Section 412:9-102, Hawaii Revised Statutes is
12 amended to read as follows:

13 "**§412:9-102 Annual license fee.** On or before December 31
14 of each year, each financial services loan company shall pay to
15 the commissioner an annual license fee [~~of \$50~~] pursuant to
16 section 412:2-105 for each license that it holds for the ensuing
17 year. A financial services loan company whose application for a
18 license was approved in December may pay to the commissioner the
19 first annual license fee [~~of \$50~~] for the ensuing year on or
20 before the expiration of thirty days after receiving notice of
21 the approval of the financial services loan company's
22 application."

S.B. NO. 2761

1 SECTION 18. Section 412:12-105, Hawaii Revised Statutes is
2 amended by amending subsection (c) to read as follows:

3 "(c) An out-of-state bank desiring to establish and
4 operate a branch or to acquire and operate a branch in this
5 State pursuant to this section shall provide to the commissioner
6 written notice of the proposed transaction not later than the
7 date on which the bank applies to the responsible federal bank
8 supervisory agency for approval to establish or acquire the
9 branch. The filing of the notice shall be accompanied by a
10 nonrefundable filing fee [~~of \$9,000 or a greater amount as the~~
11 ~~commissioner may establish by rule pursuant to chapter 91. The~~
12 ~~filing fee shall be nonrefundable.] pursuant to section 412:2-
13 105."~~

14 SECTION 19. Section 412:13-202, Hawaii Revised Statutes is
15 amended to read as follows:

16 "**§412:13-202 Application to establish and maintain a**
17 **branch or agency; contents.** [~~A foreign bank, in order to~~] To
18 procure a license under this article [~~to establish and maintain]~~
19 for the purpose of establishing and maintaining a Hawaii state
20 branch or Hawaii state agency, a foreign bank shall submit an
21 application to the commissioner, together with the application

S.B. NO. 2761

1 fee prescribed in section [~~412:13-206.~~] 412:2-105. The
2 application shall contain:

3 (1) The same information as required by the Board of
4 Governors of the Federal Reserve System for an
5 application to establish a branch or agency, as the
6 case may be, in the United States;

7 (2) If applicable, a statement under oath appointing an
8 agent in this State for receipt of service of process
9 in accordance with section 414-437, if the license is
10 granted; and

11 (3) Any additional information that the commissioner may
12 require."

13 SECTION 20. Section 412:13-216, Hawaii Revised Statutes is
14 amended by amending subsection (a) to read as follows:

15 "(a) The application for a license to establish and
16 maintain a Hawaii representative office shall be in writing
17 under oath and shall be in a form and contain any information
18 [~~as~~] the commissioner may require by rule or order. The
19 application shall be accompanied by a nonrefundable application
20 fee [~~of \$1,500 or a greater amount as the commissioner may~~
21 ~~establish by rule.~~] pursuant to section 412:2-105."

S.B. NO. 2761

1 SECTION 21. Section 412:13-206, Hawaii Revised Statutes is
2 repealed.

3 ~~["~~§412:13-206~~ **Application fees.** Upon applying to the
4 commissioner under this article for an initial license to
5 establish and maintain a Hawaii state branch or Hawaii state
6 agency, a foreign bank shall pay to the commissioner an
7 application fee of \$9,000 or a greater amount as the
8 commissioner shall establish by rule pursuant to chapter 91.
9 For an application to establish additional branches or agencies,
10 the foreign bank shall pay an application fee of \$1,500 or a
11 greater amount as may be established by rule. For an
12 application to amend a license, the foreign bank shall pay an
13 application fee of \$1,500 or a greater amount as may be
14 established by rule. All application fees shall be
15 nonrefundable."]~~

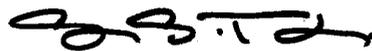
16 SECTION 22. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 23. This Act shall take effect upon its approval.

19

20

INTRODUCED BY:



21

BY REQUEST

S.B. NO. 2761

Report Title:

Financial Institutions; Fees

Description:

Adjusts regulatory fees for financial institutions to more accurately reflect today's economy.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

DEPARTMENT: Commerce and Consumer Affairs

TITLE: A BILL FOR AN ACT RELATING TO FINANCIAL INSTITUTIONS.

PURPOSE: Provide a more flexible fee structure, to reflect the changes in the regulatory environment and ongoing monitoring of the industry for the benefit of consumers. This will enable the Division of Financial Institutions (DFI) to protect the rights and funds of depositors, borrowers, consumers, and other members of the public while ensuring the safety and soundness and regulatory compliance of Hawaii's financial institutions.

MEANS: Amend sections 412:2-105; 412:2-109(g), 412:2-508(b), 412:3-102, 412:3-212(c), 412:3-301(c), 412:3-304(b), 412:3-503(b) and (c), 412:3-505, 412:3-506, 412:3-603, 412:5-203(d), 412:205(b), 412:5-205.5(c), 412:5-205.7(c), 412:6-201(b), 412:9-102, 412:12-105(c), 412:13-202, and 412:13-216(a) and repeal section 412:13-206, Hawaii Revised Statutes.

JUSTIFICATION: The financial institution laws have not been reviewed since the 1996 recodification. DFI has been reviewing financial institution applications for new applications, change in control, stock purchases, and new branch locations without an accompanying fee for the review. Consequently, the financial institutions have not paid their share of the costs of reviewing their applications.

The fees have been adjusted to add or update the fees charged for reviewing various applications. DFI currently reviews and grants approvals for many types of requests

by its licenses; however, DFI does not receive any fees to review the applications. Further, DFI must coordinate with federal regulatory agencies before granting approval for some applications.

Impact on the public: Increased protections for the public while aiding the financial institutions to provide services to the public.

Impact on the department and other agencies: The new fee structure will allow DFI to be compensated for its time to enforce the financial institutions regulations.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: CCA-104.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval.