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# A BILL FOR AN ACT

RELATING TO FINANCIAL INSTITUTIONS.

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

1 PART I

2 SECTION 1. Chapter 412, Hawaii Revised Statutes, is  
3 amended by adding to article 2 a new section to be appropriately  
4 designated and to read as follows:

5 "§412:2-A Powers of the commissioner. In addition to any  
6 other powers provided by law, the commissioner shall have the  
7 authority to:

- 8 (1) Administer and enforce the provisions and requirements  
9 of this chapter;
- 10 (2) Adopt, amend, or repeal rules or issue declaratory  
11 rulings pursuant to chapter 91 to effectuate the  
12 purposes of this chapter;
- 13 (3) Issue informal nonbinding interpretations to  
14 effectuate the purposes of this chapter;
- 15 (4) Develop requirements for charter or licensure through  
16 rules;



- 1       (5) Investigate and conduct hearings regarding any  
2       violation of this chapter or any rule or order of, or  
3       agreement with, the commissioner; and  
4       (6) Require a licensed or chartered entity or other entity  
5       with a certificate of authority to comply with any  
6       rule, guidance, guideline, statement, supervisory  
7       policy, or any similar proclamation issued or adopted  
8       by the appropriate federal regulatory authority."

9       SECTION 2. Section 412:1-109, Hawaii Revised Statutes, is  
10      amended by amending the definitions of "appropriate federal  
11      regulatory agency" and "deposit" or "deposits" to read as  
12      follows:

13        "Appropriate federal regulatory agency" means, with  
14      respect to a financial institution or financial institution  
15      holding company, any one or more regulatory agencies of the  
16      federal government referred to in the following sentence which  
17      either (1) insures the deposits of the financial institution or  
18      financial institution holding company, or (2) has the power and  
19      duty to conduct periodic general examinations of the affairs of  
20      the financial institution or financial institution holding  
21      company by virtue of the legal characterization of the financial  
22      institution or financial institution holding company under



1 federal law, and not by virtue of the fact of affiliation of the  
2 financial institution or financial institution holding company  
3 with any other person or an alleged violation of a specific law.  
4 Subject to the preceding sentence, an appropriate federal  
5 regulatory agency may [~~be~~] include the Federal Deposit Insurance  
6 Corporation, the Comptroller of the Currency, the Federal  
7 Reserve Board, [~~the Office of Thrift Supervision,~~] the National  
8 Credit Union Administration, the Consumer Financial Protection  
9 Bureau, or any regulatory agency of the federal government which  
10 shall succeed to the insurance or supervisory duties of one of  
11 the foregoing.

12 "Deposit" or "deposits" means money or its equivalent  
13 received or held by a person in the usual course of business and  
14 for which it has given or is obligated to give credit, either  
15 conditionally or unconditionally, to a demand, checking,  
16 savings, time, passbook, negotiable order of withdrawal, thrift,  
17 or share account, or which is evidenced by its passbook,  
18 certificate of deposit, thrift certificate, investment  
19 certificate, certificate of indebtedness, or other similar  
20 instrument, or a check, draft, or share draft drawn against a  
21 deposit account and certified by a person, on which the person  
22 is primarily liable. A deposit includes all funds underlying



1 prepaid access cards or stored value cards, and other  
2 nontraditional access mechanisms to the extent that the funds  
3 have been placed in a depository institution."

4 SECTION 3. Section 412:3-501, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "**§412:3-501 Authorized places of business.** (a) A Hawaii  
7 financial institution may conduct business at one or more of the  
8 following places of business, to the extent authorized:

- 9 (1) The principal office of a Hawaii financial institution  
10 is the place of business that it designates as its  
11 executive headquarters in this State. A financial  
12 institution may, but need not, conduct other  
13 businesses permitted under its charter or license at  
14 its principal office; provided that for the purposes  
15 of this section, the terms "principal office", "home  
16 office", and "main office" are interchangeable;
- 17 (2) A branch is a place of business open to the public  
18 where a financial institution shall be authorized to  
19 conduct all businesses permitted under its charter or  
20 license, except for the maintenance of its executive  
21 headquarters[+]. A branch does not include an  
22 automated teller machine or a remote service unit;



- 1           (3) An agency is a place of business open to the public  
2           where a financial institution may conduct only  
3           specific businesses approved by the commissioner in  
4           writing;
- 5           (4) An automatic teller machine or ATM is a place of  
6           business, either at a fixed location or mobile,  
7           consisting of an on-line or off-line, staffed or  
8           unstaffed, electronic processing device, including  
9           associated equipment and structures, that is situated  
10          at a premises separate from a financial institution's  
11          principal office, branch, agency, or support facility,  
12          at which deposits of cash or instruments, or cash  
13          disbursement transactions between a person and one or  
14          more financial institutions are accomplished, whether  
15          instantaneous or otherwise, through or by means of  
16          electronic or automated signals or impulses including  
17          the human voice[; ~~provided that it shall not mean a~~  
18          ~~telephone or an electronic processing device situated~~  
19          ~~at or within the premises of a bank customer that is~~  
20          ~~used only for transactions between that customer, and~~  
21          ~~the financial institution]. The term does not include~~



1 merchant operated terminals [~~and~~], point of sale  
2 terminals[~~+~~], and remote service units;

3 (5) A remote service unit is a place of business,  
4 consisting of an on-line or off-line, staffed or  
5 unstaffed, electronic processing device, including  
6 associated equipment and structures, that is used only  
7 for transactions between a financial institution  
8 customer and the financial institution, and that is  
9 situated at premises separate from a financial  
10 institution's principal office, branch, agency, or  
11 support facility, at which deposits of cash or  
12 instruments, or cash disbursement transactions, are  
13 accomplished, whether instantaneous or otherwise,  
14 through or by means of electronic or automated signals  
15 or impulses including the human voice; and

16 [~~+5~~] (6) A support facility is a place of business that is  
17 not generally open to the public, where a financial  
18 institution conducts limited types of significant  
19 business operations of the financial institution,  
20 including but not limited to data processing, clerical  
21 activities, and storage.



1           (b) In addition to conducting business at a place of  
2 business described in subsection (a), a Hawaii financial  
3 institution may conduct business in any other manner or place  
4 necessary or convenient; provided that deposits of cash or  
5 instruments shall not be received, checks, negotiable orders of  
6 withdrawal, or share drafts shall not be paid, and cash shall  
7 not be disbursed, except at an authorized principal office,  
8 branch ~~[or]~~, automatic teller machine, or remote service unit,  
9 or at any agency or support facility which has been authorized  
10 by the commissioner to accept deposits or disburse cash."

11           SECTION 4. Section 412:5-203, Hawaii Revised Statutes, is  
12 amended by amending subsections (a) and (b) to read as follows:

13           "(a) "Operating subsidiary" means a corporation other than  
14 a corporation referred to in section 412:5-305(g)(2) to (8) of  
15 which more than ~~[eighty]~~ fifty per cent of the voting securities  
16 is held directly or indirectly by a bank.

17           (b) An operating subsidiary may engage in activities that  
18 are authorized for a bank, including those under section 412:5-  
19 305 and title 12 Code of Federal Regulations part 362, or that  
20 are usual or incidental to the business of a bank."

21           SECTION 5. Section 412:5-302, Hawaii Revised Statutes, is  
22 amended to read as follows:



1           "§412:5-302 Limitations on loans and extensions of credit  
2 to one borrower. (a) No bank shall permit a person to become  
3 indebted or liable to it, either directly or indirectly on loans  
4 and extensions of credit, including any credit exposure arising  
5 out of derivative transactions entered into by a bank and its  
6 subsidiaries, in a total amount outstanding at any one time in  
7 excess of twenty per cent of the capital and surplus of the  
8 bank.

9           (b) As used in this section, a "derivative transaction"  
10 includes any transaction that is a contract, agreement, swap,  
11 warrant, note, or option that is based, in whole or in part, on  
12 the value of, any interest in, any quantitative measure of or  
13 the occurrence of any event relating to, one or more  
14 commodities, securities, currencies, interest or other rates,  
15 indices, or other assets.

16           ~~(b)~~ (c) This section applies to all loans and extensions  
17 of credit made and to all credit exposure arising out of  
18 derivative transactions entered into by a bank and its  
19 subsidiaries. It does not apply to loans and extensions of  
20 credit made by a bank or its subsidiaries to its affiliates or  
21 subsidiaries.



1        [~~e~~] (d) The limitations set forth in this section shall  
2 not apply to:

3        (1) A bank's eligible acceptances as described in section  
4            412:5-204(b);

5        (2) A bank's purchase or discount of another bank's  
6            acceptances of the kinds described in section 13 of  
7            the Federal Reserve Act;

8        (3) A bank's deposits with a Federal Reserve Bank, Federal  
9            Home Loan Bank, or another depository institution made  
10           in compliance with this chapter;

11       (4) A bank's sale of federal funds to another depository  
12           institution with a maturity of one business day or  
13           under a continuing contract;

14       (5) Loans and extensions of credit secured by the  
15           interest-bearing obligations of the United States or  
16           those for which the faith and credit of the United  
17           States are distinctly pledged to provide for the  
18           payment of the principal and interest thereof or of  
19           the State or any county or municipal or political  
20           subdivision of this State, issued in compliance with  
21           the laws of this State, where the market value of the  
22           security shall be at any time not less than one



1 hundred five per cent of the face amount of the loans  
2 and extensions of credit;

3 (6) Loans and extensions of credit to the extent secured  
4 by a pledge or security interest in a deposit account  
5 in the lending bank; and

6 (7) Loans and extensions of credit arising from the  
7 discount of negotiable or nonnegotiable credit sales  
8 contracts which carry a partial recourse endorsement  
9 or limited guarantee by the person transferring the  
10 credit sales contracts, if the bank's respective file  
11 or the knowledge of its officers of the financial  
12 condition of each maker of [~~such~~] the credit sales  
13 contract is reasonably adequate, and an officer of the  
14 bank certifies in writing that the bank is relying  
15 primarily upon the responsibility of each maker for  
16 payment of [~~such~~] the credit sales contract, and not  
17 upon any partial recourse endorsement or limited  
18 guarantee by the transferor. Under these  
19 circumstances, [~~such~~] the credit sales contract will  
20 be considered a loan and extension of credit to the  
21 maker of the credit sales contract rather than the  
22 seller of the credit sales contract.



1        [~~(d)~~] (e) In computing the total loans and extensions of  
2 credit made by a bank to any person, all loans and extensions of  
3 credit by the bank to the person and to any partnership, joint  
4 venture, or unincorporated association of which the person is a  
5 partner or a member and all credit exposure arising from a  
6 derivative transaction with any person and with any partnership,  
7 joint venture, or unincorporated association of which the person  
8 is a partner or a member shall be included unless the person is  
9 a limited partner, but not a general partner, in a limited  
10 partnership, or unless the person is a partner in a limited or  
11 general partnership, or a member of a joint venture or  
12 unincorporated association, if such partner or member, by law,  
13 by the terms of the partnership, joint venture, or membership  
14 agreement, or by the terms of an agreement with the bank, is not  
15 to be held liable to the bank for the debts of the partnership,  
16 joint venture, or association. In computing the total loans and  
17 extensions [~~of~~] of credit made by a bank to any firm,  
18 partnership, joint venture, or unincorporated association, all  
19 loans and extensions of credit to and all credit exposure  
20 arising from a derivative transaction with its individual  
21 partners or members shall be included unless such individual  
22 partner is a limited partner, but not a general partner, in a



1 limited partnership, or unless such individual partner or  
2 member, by law, by the terms of the partnership, joint venture,  
3 or membership agreement, or by the terms of an agreement with  
4 the bank, is not to be held liable to the bank for the debts of  
5 the partnership, joint venture, or association.

6 ~~[-e)]~~ (f) Alternatively, a bank may, with the prior  
7 approval of the commissioner, comply with the lending limits  
8 applicable to national ~~[banking associations,]~~ banks, as and to  
9 the same extent it would, at the time, be so required by federal  
10 law or regulation if it were a national ~~[banking association.]~~  
11 bank. A bank utilizing this alternative shall use a single  
12 method for calculating lending limits, including any credit  
13 exposure to the person arising from a derivative transaction,  
14 repurchase agreement, reverse purchase agreement, securities  
15 lending transaction, or securities borrowing transaction between  
16 the bank and the person. In monitoring a bank's compliance with  
17 the national ~~[banking association]~~ bank lending limits, the  
18 commissioner shall give substantial weight to the Office of the  
19 Comptroller of the Currency's regulations and opinions  
20 interpreting the national ~~[banking association]~~ bank lending  
21 limits ~~[and]~~, including but not limited to those related to the  
22 internal model method or the conversion factor matrix method for



1 calculating credit exposure to derivative transactions as  
2 described in title 12 Code of Federal Regulations Part 32 of the  
3 Interim Rule as may be amended. The commissioner will regard  
4 [them] the regulations and opinions as strong evidence of safe  
5 and sound banking practices."

6 SECTION 6. Section 412:5-305, Hawaii Revised Statutes, is  
7 amended by amending subsections (f) and (g) to read as follows:

8 "(f) To the extent specified herein, a bank may purchase,  
9 hold, convey, sell, or lease real or personal property as  
10 follows:

11 (1) The real property in or on which the business of the  
12 bank is carried on, including its banking offices,  
13 other space in the same property to rent as a source  
14 of income; permanent or vacation residences or  
15 recreational facilities for its officers and  
16 employees; other real property necessary to the  
17 accommodation of the bank's business, including but  
18 not limited to parking facilities, data processing  
19 centers, and real property held for future banking use  
20 where the bank in good faith expects to [~~utilize~~] use  
21 the property as bank premises; provided, if the bank  
22 ceases to use any real property and improvements



1           thereon for one of the foregoing purposes, it shall,  
2           within five years thereafter, sell the real property  
3           ~~[or]~~, cease to carry it or them as an asset~~[or]~~, or  
4           transfer the real property to an operating subsidiary  
5           of the bank provided that the bank's investment in  
6           such operating subsidiary shall not exceed fifteen per  
7           cent of the bank's tier one capital; and provided  
8           further, such property shall not without the approval  
9           of the commissioner exceed seventy-five per cent of  
10          the bank's capital and surplus;

11          (2) Personal property used in or necessary to the  
12          accommodation of the bank's business, including but  
13          not limited to furniture, fixtures, equipment, vaults,  
14          and safety deposit boxes. The bank's investment in  
15          furniture and fixtures shall not without the approval  
16          of the commissioner exceed twenty-five per cent of the  
17          bank's capital and surplus;

18          (3) Personal property and fixtures which the bank acquires  
19          for purposes of leasing to third parties, and such  
20          real property interests as shall be incidental  
21          thereto;



1 (4) Such real property or tangible personal property as  
2 may come into its possession as security for loans or  
3 in the collection of debts; or as may be purchased by  
4 or conveyed to the bank in satisfaction of or on  
5 account of debts previously contracted in the course  
6 of its business, when such property was held as  
7 security by the bank; and

8 (5) The seller's interest under an agreement of sale, as  
9 that term is defined in sections 501-101.5, and 502-  
10 85, including without limitation the reversionary  
11 interest in the real estate and the right to income  
12 under the agreement of sale, with or without recourse  
13 to the seller.

14 Except as otherwise authorized in this section any tangible  
15 personal property acquired by a bank pursuant to subsection  
16 (f) (4) shall be disposed of as soon as practicable and shall not  
17 without the written consent of the commissioner be considered a  
18 part of the assets of the bank after the expiration of two years  
19 from the date of acquisition.

20 Except as otherwise authorized in this section any real  
21 property acquired by a bank pursuant to subsection (f) (4) shall  
22 be sold or exchanged for other real property by the bank within



1 five years after title thereto has vested in it by purchase or  
2 otherwise, or within such further time as may be granted by the  
3 commissioner.

4 Any bank acquiring any real property in any manner other  
5 than provided by this section shall immediately, upon receiving  
6 notice from the commissioner, charge the same to profit and  
7 loss, or otherwise remove the same from assets, and when any  
8 loss impairs the capital and surplus of the bank the impairment  
9 shall be made good in the manner provided in this chapter.

10 For purposes of this subsection, "tier one capital" has the  
11 same meaning as set forth in title 12 Code of Federal  
12 Regulations part 325.

13 (g) A bank may own or control [~~the capital stock~~]:

14 (1) [~~Of operating~~] Operating subsidiaries, or the parent  
15 of the operating subsidiary, as set forth in this  
16 article;

17 (2) [~~Of a~~] A corporation, partnership, or limited  
18 liability company, organized and existing for the  
19 ownership of real or personal property used or which  
20 the bank in good faith expects to be used in the  
21 bank's business[+] or used for a permitted purpose  
22 under title 12 Code of Federal Regulations part 362;



- 1           (3) ~~[Of]~~ The capital stock of the Federal National  
2           Mortgage Association, the Student Loan Marketing  
3           Association, Federal Home Loan Mortgage Corporation,  
4           or of any other corporation organized for  
5           substantially the same purposes; provided that this  
6           subsection shall be deemed to authorize subscription  
7           for as well as purchase of the stock;
- 8           (4) ~~[Of]~~ A small business investment ~~[companies]~~ company  
9           operating under the Federal Small Business Investment  
10          Act of 1958;
- 11          (5) ~~[Of bank]~~ Bank service corporations, subject to the  
12          Bank Service ~~[Corporation]~~ Company Act, 12 U.S.C.  
13          §§1861-1862;
- 14          (6) ~~[Of a]~~ A corporation whose stock is acquired or  
15          purchased to save a loss on a preexisting debt secured  
16          by such stock; provided, that the stock shall be sold  
17          within twelve months of the date acquired or  
18          purchased, or within such further time as may be  
19          granted by the commissioner;
- 20          (7) ~~[Of an]~~ An international banking corporation  
21          established pursuant to article 5A ~~[of this chapter]~~  
22          or an Edge corporation or an Agreement corporation



- 1 established or authorized pursuant to section 25a of  
2 the Federal Reserve Act, 12 U.S.C. §631;
- 3 (8) [~~0f-a~~] A captive insurance company incorporated under  
4 the laws of the United States, or any state or  
5 territory thereof, or the District of Columbia;
- 6 (9) [~~0f-a~~] A company transacting a business of insurance  
7 or the sale of annuities pursuant to the authority  
8 conferred in section 412:5-205.5; and
- 9 (10) [~~0f-a~~] A company engaging in securities activities  
10 pursuant to the authority conferred in section 412:5-  
11 205.7."

12 SECTION 7. Section 412:6-303, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 "§412:6-303 Limitations on loans and extensions of credit  
15 to one borrower. (a) No savings bank shall permit a person to  
16 become indebted or liable to it, either directly or indirectly,  
17 on loans and extensions of credit, including any credit exposure  
18 arising out of derivative transactions entered into by a savings  
19 bank and its subsidiaries, in a total amount outstanding at any  
20 one time in excess of twenty per cent of the capital and surplus  
21 of the savings bank.



1        (b) As used in this section, a "derivative transaction"  
2 includes any transaction that is a contract, agreement, swap,  
3 warrant, note, or option that is based, in whole or in part, on  
4 the value of, any interest in, any quantitative measure of or  
5 the occurrence of any event relating to, one or more  
6 commodities, securities, currencies, interest or other rates,  
7 indices, or other assets.

8        [~~b~~] (c) This section applies to all loans [~~and~~],  
9 extensions of credit made, and credit exposure arising out of  
10 derivative transactions entered into, by a savings bank and its  
11 subsidiaries. It does not apply to loans and extensions of  
12 credit made by a savings bank or its subsidiaries to its  
13 affiliates or subsidiaries.

14        [~~e~~] (d) The limitations set forth in this section shall  
15 not apply to:

16        (1) A savings bank's deposits with a Federal Reserve Bank,  
17                Federal Home Loan Bank, or another depository  
18                institution made in compliance with this chapter;

19        (2) A savings bank's sale of federal funds to another  
20                depository institution with a maturity of one business  
21                day or under a continuing contract;



- 1           (3) Loans and extensions of credit secured by the  
2           interest-bearing obligations of the United States or  
3           those for which the faith and credit of the United  
4           States are distinctly pledged to provide for the  
5           payment of the principal and interest thereof or of  
6           the State or any county or municipal or political  
7           subdivision of this State, issued in compliance with  
8           the laws of this State, where the market value of the  
9           security shall be at any time not less than one  
10          hundred five per cent of the face amount of the loans  
11          and extensions of credit;
- 12          (4) Loans and extensions of credit to the extent secured  
13          by a pledge or security interest in a deposit account  
14          in the savings bank serving as the lender; and
- 15          (5) Loans and extensions of credit arising from the  
16          discount of negotiable or nonnegotiable credit sales  
17          contracts which carry a partial recourse endorsement  
18          or limited guarantee by the person transferring the  
19          credit sales contract, if the savings bank's  
20          respective file or the knowledge of its officers of  
21          the financial condition of each maker of [~~such~~] the  
22          consumer paper is reasonably adequate, and an officer



1 of the savings bank certifies in writing that the  
2 savings bank is relying primarily upon the  
3 responsibility of each maker for payment of [~~such~~] the  
4 credit sales contract, and not upon any partial  
5 recourse endorsement or limited guarantee by the  
6 transferor. Under these circumstances, [~~such~~] the  
7 credit sales contract will be considered a loan and  
8 extension of credit to the maker of the credit sales  
9 contract rather than the seller of the credit sales  
10 contract.

11 [~~(d)~~] (e) In computing the total loans and extensions of  
12 credit made by a savings bank to any person, all loans and  
13 extensions of credit by the savings bank to the person and to  
14 any partnership, joint venture, or unincorporated association of  
15 which the person is a partner or a member and all credit  
16 exposure arising from a derivative transaction with any person  
17 and with any partnership, joint venture, or unincorporated  
18 association of which the person is a partner or a member shall  
19 be included unless the person is a limited partner, but not a  
20 general partner, in a limited partnership, or unless the person  
21 is a partner in a limited or general partnership, or a member of  
22 a joint venture or unincorporated association, if such partner



1 or member, by law, by the terms of the partnership, joint  
2 venture, or membership agreement, or by the terms of an  
3 agreement with the savings bank, is not to be held liable to the  
4 savings bank for the debts of the partnership, joint venture, or  
5 association. In computing the total loans and extensions  
6 of credit made by a savings bank to any firm, partnership,  
7 joint venture, or unincorporated association, all loans and  
8 extensions of credit to and all credit exposure arising from a  
9 derivative transaction with its individual partners or members  
10 shall be included unless such individual partner is a limited  
11 partner, but not a general partner, in a limited partnership, or  
12 unless such individual partner or member, by law, by the terms  
13 of the partnership, joint venture, or membership agreement, or  
14 by the terms of an agreement with the savings bank, is not to be  
15 held liable to the savings bank for the debts of the  
16 partnership, joint venture, or association.

17 ~~(e)~~ (f) Alternatively, a savings bank may, with the  
18 prior approval of the commissioner, comply with the lending  
19 limits applicable to national ~~banking associations,~~ banks, as  
20 and to the same extent it would, at the time, be so required by  
21 federal law or regulation if it were a national ~~banking~~  
22 ~~association.]~~ bank. A savings bank utilizing this alternative



1 shall use a single method for calculating lending limits,  
2 including any credit exposure to the person arising from a  
3 derivative transaction, repurchase agreement, reverse purchase  
4 agreement, securities lending transaction, or securities  
5 borrowing transaction between the savings bank and the person.

6 In monitoring a savings bank's compliance with the national  
7 [~~banking association~~] bank lending limits, the commissioner  
8 shall give substantial weight to the Office of the Comptroller  
9 of the Currency's regulations and opinions interpreting the  
10 national [~~banking association~~] bank lending limits [~~and~~],  
11 including but not limited to those related to the internal model  
12 method or the conversion factor matrix method for calculating  
13 credit exposure to derivative transactions as described in title  
14 12 Code of Federal Regulations Part 32 of the Interim Rule as  
15 may be amended. The commissioner will regard [~~them~~] the  
16 regulations and opinions as strong evidence of safe and sound  
17 banking practices."

18 SECTION 8. Section 412:9-200, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 "§412:9-200 **General powers.** Except as expressly  
21 prohibited or limited by this chapter, a financial services loan  
22 company shall have the power to make loans where the interest



1 charged, contracted for, or received is in excess of rates  
2 permitted by law, other than this article, and to engage in  
3 other activities that are usual or incidental to the business  
4 for which it is licensed, and shall have all rights, powers, and  
5 privileges of a corporation organized under the laws of this  
6 State, including but not limited to, the power to:

- 7 (1) Make loans and extensions of credit of any kind,  
8 whether unsecured or secured by real or personal  
9 property of any kind or description;
- 10 (2) Borrow money from any source within or without this  
11 State;
- 12 (3) Charge or retain a fee for the originating, selling,  
13 brokering, or servicing of loans and extensions of  
14 credit;
- 15 (4) Discount, purchase, or acquire loans, including but  
16 not limited to notes, credit sales contracts, mortgage  
17 loans, or other instruments;
- 18 (5) Become the legal or beneficial owner of tangible  
19 personal property and fixtures and such other real  
20 property interests as shall be incidental thereto, to  
21 lease such property, to obtain an assignment of a  
22 lessor's interest in a lease of the property, and to



1 incur obligations incidental to the financial services  
2 loan company's position as the legal or beneficial  
3 owner and the lessor of the property;

4 (6) Sell or refer credit related insurance products, and  
5 collect premiums or fees for the sale or referral  
6 thereof, including, but not limited to, credit life  
7 insurance, credit disability insurance, accident, and  
8 health or sickness insurance, involuntary unemployment  
9 insurance, personal property insurance, and mortgage  
10 protection insurance;

11 (7) Make investments as permitted under this article;  
12 [~~and~~]

13 (8) Charge to a borrower a returned check fee if a check  
14 that has been tendered by the borrower in payment on  
15 account of a loan is returned unpaid; provided that:

16 (A) The fee shall not exceed \$20;

17 (B) The fee shall be imposed under a separate  
18 billing, and shall not be added to a borrower's  
19 outstanding loan balance nor deducted from a loan  
20 payment; and

21 (C) A failure to pay the fee shall not constitute a  
22 default under any outstanding loan agreement



1                   between the borrower and the financial services  
2                   loan company[-]; and  
3       (9) Charge to a borrower a "below minimum draft fee" of  
4                   \$10.00 per draft, for the processing costs involved on  
5                   a draft written below the minimum amount established  
6                   on an open-ended loan."

7       SECTION 9. Section 412:9-404, Hawaii Revised Statutes, is  
8 amended to read as follows:

9       "**§412:9-404** [~~Limitation~~] Limitations on loans and  
10 **extensions of credit to one borrower.** (a) No depository  
11 financial services loan company shall permit a person to become  
12 indebted or liable to it, either directly or indirectly, on  
13 loans and extensions of credit, including any credit exposure  
14 arising out of derivative transactions entered into by a  
15 depository financial services loan company and its subsidiaries,  
16 in a total amount outstanding at any one time in excess of  
17 twenty per cent of the depository financial services loan  
18 company's capital, and surplus; provided that such aggregate  
19 amount may be increased to one hundred per cent of the  
20 depository financial services loan company's capital and surplus  
21 if the loans, and extensions of credit made to the person in  
22 excess of twenty per cent of the depository financial services



1 loan company's capital and surplus are fully secured by real  
2 property as provided in section 412:9-405.

3 (b) As used in this section, a "derivative transaction"  
4 includes any transaction that is a contract, agreement, swap,  
5 warrant, note, or option that is based, in whole or in part, on  
6 the value of, any interest in, any quantitative measure of or  
7 the occurrence of any event relating to, one or more  
8 commodities, securities, currencies, interest or other rates,  
9 indices, or other assets.

10 ~~(b)~~ (c) The limitations set forth in this section shall  
11 not apply to:

12 (1) Loans and extensions of credit to the extent secured  
13 by a pledge or security interest in a deposit account  
14 in the lending depository financial services loan  
15 company; and

16 (2) Loans and extensions of credit secured by the  
17 interest-bearing obligations of the United States or  
18 those for which the faith and credit of the United  
19 States are distinctly pledged to provide for the  
20 payment of principal and interest thereof or of the  
21 State or any county or municipal or political  
22 subdivision of this State, issued in compliance with



1 the laws of this State, where the market value of the  
2 security shall be at any time not less than one  
3 hundred five per cent of the face amount of the loans  
4 and extensions of credit.

5 (d) In computing the total loans and extensions of credit  
6 made by a depository financial services loan company to any  
7 person, all loans and extensions of credit by the depository  
8 financial services loan company to the person and to any  
9 partnership, joint venture, or unincorporated association of  
10 which the person is a partner or a member and all credit  
11 exposure arising from a derivative transaction with any person  
12 and with any partnership, joint venture, or unincorporated  
13 association of which the person is a partner or a member shall  
14 be included unless the person is a limited partner, but not a  
15 general partner, in a limited partnership, or unless the person  
16 is a partner in a limited or general partnership, or a member of  
17 a joint venture or unincorporated association, if such partner  
18 or member, by law, by the terms of the partnership, joint  
19 venture, or membership agreement, or by the terms of an  
20 agreement with the depository financial services loan company,  
21 is not to be held liable to the depository financial services  
22 loan company for the debts of the partnership, joint venture, or



1 association. In computing the total loans and extensions of  
2 credit made by a depository financial services loan company to  
3 any firm, partnership, joint venture, or unincorporated  
4 association, all loans and extensions of credit to and all  
5 credit exposure arising from a derivative transaction with its  
6 individual partners or members shall be included unless such  
7 individual partner is a limited partner, but not a general  
8 partner, in a limited partnership, or unless such individual  
9 partner or member, by law, by the terms of the partnership,  
10 joint venture, or membership agreement, or by the terms of an  
11 agreement with the depository financial services loan company,  
12 is not to be held liable to the depository financial services  
13 loan company for the debts of the partnership, joint venture, or  
14 association.

15 (e) Alternatively, a depository financial services loan  
16 company may, with the prior approval of the commissioner, comply  
17 with the lending limits applicable to national banks, as and to  
18 the same extent it would, at the time, be so required by federal  
19 law or regulation if it were a national bank. A depository  
20 financial services loan company utilizing this alternative shall  
21 use a single method for calculating lending limits, including  
22 any credit exposure to the person arising from a derivative



1 transaction, repurchase agreement, reverse purchase agreement,  
2 securities lending transaction, or securities borrowing  
3 transaction between the depository financial services loan  
4 company and the person. In monitoring a depository financial  
5 services loan company's compliance with the national bank  
6 lending limits, the commissioner shall give substantial weight  
7 to the Office of the Comptroller of the Currency's regulations  
8 and opinions interpreting the national bank lending limits,  
9 including but not limited to those related to the internal model  
10 method or the conversion factor matrix method for calculating  
11 credit exposure to derivative transactions as described in title  
12 12 Code of Federal Regulations Part 32 of the Interim Rule as  
13 may be amended. The commissioner will regard the regulations  
14 and opinions as strong evidence of safe and sound banking  
15 practices."

16 PART II

17 SECTION 10. Chapter 412, Hawaii Revised Statutes, is  
18 amended by adding to article 2 a new section to be appropriately  
19 designated and to read as follows:

20 "§412:2-B Hawaii financial institutions; assessments;  
21 fees; penalty. (a) Beginning calendar year 2014, every Hawaii



1 financial institution shall be assessed a yearly fee in  
2 accordance with the following:

3 (1) For financial institutions with total assets under  
4 \$750,000, the assessment shall be \$1,000 plus  
5 0.00029111 times total assets;

6 (2) For financial institutions with total assets of at  
7 least \$750,000 but under \$7,500,000, the assessment  
8 shall be \$2,000 plus 0.00029111 times total assets;

9 (3) For financial institutions with total assets of at  
10 least \$7,500,000 but under \$20,000,000, the assessment  
11 shall be \$4,800 plus 0.00029111 times total assets;

12 (4) For financial institutions with total assets of at  
13 least \$20,000,000 but under \$75,000,000, the  
14 assessment shall be \$9,900 plus 0.000064 times total  
15 assets;

16 (5) For financial institutions with total assets of at  
17 least \$75,000,000 but under \$200,000,000, the  
18 assessment shall be \$15,000 plus 0.00005333 times  
19 total assets;

20 (6) For financial institutions with total assets of at  
21 least \$200,000,000 but under \$1,000,000,000, the



1 assessment shall be \$21,100 plus 0.00004750 times  
2 total assets; and

3 (7) For financial institutions with total assets of at  
4 least \$1,000,000,000 but under \$20,000,000,000, the  
5 assessment shall be \$29,000 plus 0.00004 times total  
6 assets;

7 provided that the yearly fee assessed shall be no more than  
8 \$100,000 for financial institutions with total assets of at  
9 least \$2,000,000,000 but less than \$10,000,000,000, and no more  
10 than \$150,000 for financial institutions with total assets of at  
11 least \$10,000,000,000.

12 (b) The assessments shall be paid semiannually on February  
13 15 and August 15 of each year based on the institution's total  
14 assets reported as of the previous December 31 and June 30,  
15 respectively; provided however, the payments of the assessment  
16 shall commence on February 15, 2014.

17 (c) In addition to the assessments established in  
18 subsection (a), a financial institution or financial institution  
19 applicant shall pay fees as follows:

20 (1) A nonrefundable fee of \$10,000 for an application for  
21 preliminary approval by the commissioner for the  
22 organization of a Hawaii financial institution



- 1           pursuant to section 412:3-201, 412:3-202, 412:3-206,  
2           412:3-301, or 412:5-205;
- 3           (2) A nonrefundable fee of \$9,000 for an application for  
4           preliminary approval by the commissioner for the  
5           organization of a Hawaii financial institution  
6           pursuant to section 412:5-402;
- 7           (3) A nonrefundable fee of \$2,500 for a final application  
8           for a charter or license to engage in the business of  
9           a Hawaii financial institution pursuant to section  
10           412:3-212;
- 11           (4) A nonrefundable fee of \$2,500 for a final application  
12           for a charter or license to engage in the business of  
13           a savings bank pursuant to section 412:6-101;
- 14           (5) A nonrefundable fee of \$2,500 for a final application  
15           for a charter or license to engage in the business of  
16           a trust company pursuant to section 412:8-102;
- 17           (6) A nonrefundable fee of \$10,000 for an application for  
18           a merger or consolidation or acquisition of control  
19           involving a Hawaii financial institution;
- 20           (7) A nonrefundable fee of \$10,000 for an application for  
21           the acquisition of control of a Hawaii financial  
22           institution;



- 1       (8) A nonrefundable fee of \$2,500 for an application for  
2       the conversion of a federal financial institution to a  
3       Hawaii financial institution or the conversion of a  
4       Hawaii financial institution to another Hawaii  
5       financial institution charter;
- 6       (9) A nonrefundable fee of \$5,000 for an application of a  
7       bank to conduct a trust business through a subsidiary,  
8       division, or department of the bank pursuant to 412:5-  
9       205;
- 10       (10) A nonrefundable fee of \$5,000 for an application of a  
11       bank to conduct insurance activities pursuant to  
12       section 412:5-205.5;
- 13       (11) A nonrefundable fee of \$5,000 for an application of a  
14       bank to engage in securities activities pursuant to  
15       section 412:5-205.7;
- 16       (12) A nonrefundable fee of \$2,000 for an application for a  
17       bank or savings bank to comply with lending limits  
18       applicable to national banking associations pursuant  
19       to section 412:5-302 or 412:6-303;
- 20       (13) A nonrefundable fee of \$2,000 for an application to  
21       exceed certain permitted investment limits pursuant to  
22       sections 412:5-305(f) and (h), 412:6-306(f) and (h),



1           412:7-306(f) and (h), 412:8-301(f), 412:9-409(f) and  
2           (i), and 412:10-502(g); and

3       (14) A nonrefundable fee of \$2,500 for an application for a  
4       charter of a credit union.

5       (d) Beginning calendar year 2014, the annual fee for each  
6 intra-Pacific financial institution and interstate branch of out  
7 of state banks is the sum of \$1,000 for each office, agency, and  
8 branch office maintained by the financial institution, payment  
9 of which shall be made before December 31 of each calendar year.  
10 The commissioner may establish, increase, decrease, or repeal  
11 this fee pursuant to rules adopted in accordance with chapter  
12 91.

13       (e) Intra-Pacific bank fees shall be as follows:

14       (1) A nonrefundable fee of \$750 for an application for a  
15       branch, subsidiary, or subsidiary of a holding company  
16       of an intra-Pacific bank pursuant to section 412:5-  
17       402; and

18       (2) A nonrefundable fee of \$500 for an application to  
19       relocate a branch, subsidiary, or subsidiary of a  
20       holding company of an intra-Pacific bank pursuant to  
21       section 412:5-401.



1       (f) A nonrefundable fee of \$500 for an application to  
2 relocate a branch pursuant to section 412:12-107.

3       (g) A nonrefundable fee of \$100 for each certificate of  
4 good standing for any Hawaii financial institution; provided  
5 that an additional fee of \$100 shall apply for each certificate  
6 to be provided in two business days from receipt of request.

7       (h) All assessments and fees shall be deposited into the  
8 compliance resolution fund established pursuant to section 26-  
9 9(o).

10       (i) For purposes of this section, "total assets" means for  
11 an insured depository institution the total assets reported in  
12 the financial institution's quarterly reports of condition, or  
13 call reports, which are required to be filed pursuant to section  
14 7(a)(3) of the Federal Deposit Insurance Act or in the unaudited  
15 financial statements filed pursuant to section 412:3-112.

16       (j) A Hawaii financial institution that fails to make a  
17 payment required by this section shall be subject to an  
18 administrative fine of not more than \$250 for each day it is in  
19 violation of this section, which fine, together with the amount  
20 due under this section, may be recovered pursuant to section  
21 412:2-611, and shall be deposited into the compliance resolution  
22 fund established pursuant to section 26-9(o)."



1 SECTION 11. Section 412:2-105, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "~~§412:2-105 Fees [and assessments. (a) The commissioner~~  
4 ~~may charge an examination fee based upon the cost per hour per~~  
5 ~~examiner for all financial institutions examined by the~~  
6 ~~commissioner or the commissioner's staff. Effective July 1,~~  
7 ~~[1995], the hourly fee shall be \$40. After July 1, 1996, the~~  
8 ~~commissioner may establish, increase, decrease, or repeal the~~  
9 ~~hourly fee when necessary pursuant to rules adopted in~~  
10 ~~accordance with chapter 91.~~

11 ~~(b) In addition to the examination fee, the].~~ (a) The  
12 commissioner ~~[may]~~ shall charge any financial institution  
13 examined or investigated by the commissioner or the  
14 commissioner's staff, ~~[additional amounts]~~ an amount for travel,  
15 per diem, mileage, and other reasonable expenses incurred in  
16 connection with the examination~~[-]~~ or investigation.

17 ~~[(e)]~~ (b) The commissioner shall bill the affected  
18 financial institution for ~~[examination fees, and]~~ expenses as  
19 soon as feasible after the close of the examination or  
20 investigation. The affected financial institution shall pay the  
21 division ~~[of financial institutions]~~ within thirty days  
22 following the billing. All such payments shall be deposited to



1 the compliance resolution fund established pursuant to section  
2 26-9(o). All disputes relating to these billings between the  
3 affected financial institution and the commissioner shall be  
4 resolved in accordance with the procedures for contested cases  
5 under chapter 91.

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

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

20 SECTION 12. Section 412:2-508, Hawaii Revised Statutes, is  
21 amended by amending subsection (b) to read as follows:



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

9           SECTION 13. Section 412:3-102, Hawaii Revised Statutes, is  
10 amended to read as follows:

11           "**§412:3-102 Change of name.** To change its name, a Hawaii  
12 financial institution shall file an application with the  
13 commissioner [~~and pay the fees as the commissioner may~~  
14 ~~establish~~]. The application shall be approved if the  
15 commissioner is satisfied that the new name complies with this  
16 chapter and chapter 414. Any change of name of a stock  
17 financial institution pursuant to this section shall be effected  
18 in accordance with chapter 414. Any change of name shall not  
19 affect a financial institution's rights, liabilities, or  
20 obligations existing prior to the effective date thereof, and no  
21 documents of transfer shall be necessary to preserve the rights,  
22 liabilities, or obligations; provided that the commissioner may



1 require notice to be given to the public and other governmental  
2 agencies."

3 SECTION 14. Section 412:3-212, Hawaii Revised Statutes, is  
4 amended by amending subsection (c) to read as follows:

5 "(c) If the commissioner is satisfied that the financial  
6 institution and, if applicable, its holding company have  
7 fulfilled all the requirements of law and the grounds for  
8 preliminary approval, and that the financial institution is  
9 qualified to engage in the business of a financial institution,  
10 the commissioner shall issue a written decision and order  
11 approving the application. The order may restrict the payment  
12 of dividends for a period of up to three years, and may contain  
13 any other conditions and restrictions on the financial  
14 institution that are in the public interest, including but not  
15 limited to the divestment of any contractual arrangement with an  
16 affiliate or subsidiary involving any type of business not  
17 permitted under this chapter. Upon the satisfactory fulfillment  
18 by the financial institution and, if applicable, its holding  
19 company of the conditions in the written decision and order  
20 approving the application and upon the payment by a depository  
21 financial services loan company of ~~[a]~~ the initial license fee  
22 ~~[established by rule pursuant to chapter 91,]~~ pursuant to



1 section 412:2-B, the commissioner shall issue to the financial  
2 institution a charter or license to engage in the business of a  
3 financial institution under this chapter."

4 SECTION 15. Section 412:3-301, Hawaii Revised Statutes, is  
5 amended by amending subsection (c) to read as follows:

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

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

14 "(b) If the commissioner is satisfied that the applicant  
15 has fulfilled all the requirements of law and is qualified to  
16 engage in the business of a nondepository financial services  
17 loan company, the commissioner shall issue a written decision  
18 and order approving the application. Upon the approval of the  
19 application, [~~the payment of an initial license fee established~~  
20 ~~by rule pursuant to chapter 91,~~] and, if applicable, upon  
21 providing satisfactory evidence to the commissioner of  
22 compliance with the requirements of chapter 414 relating to



1 foreign corporations, the commissioner shall issue to the  
2 applicant a license to engage in the business of a nondepository  
3 financial services loan company under this chapter."

4 SECTION 17. Section 412:3-505, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "**§412:3-505 Opening or relocating out-of-state branch or**  
7 **agency.** With the commissioner's prior written approval, a  
8 Hawaii financial institution may open or relocate a branch or  
9 agency that is outside of this State, including but not limited  
10 to any state, possession, or territory of the United States or  
11 any foreign country. An application to open or relocate an out-  
12 of-state branch or agency shall be filed in accordance with  
13 section 412:3-503[, ~~and the commissioner may assess the~~  
14 ~~financial institution any additional expenses as may be~~  
15 ~~reasonably necessary to consider the application]."~~

16 SECTION 18. Section 412:3-603, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 "**§412:3-603 Procedure for applications pursuant to this**  
19 **part.** Whenever the written approval of the commissioner is  
20 required with respect to any transaction covered by this part,  
21 the following procedures shall apply:



- 1 (1) An application for approval by the commissioner  
2 pursuant to this part shall be on a form prescribed by  
3 the commissioner and shall contain any information,  
4 data, and records as the commissioner may require~~[ ]~~,  
5 and shall be accompanied by a nonrefundable  
6 application fee pursuant to section 412:2-B. As far  
7 as possible consistent with the effective discharge of  
8 the commissioner's responsibilities, the commissioner  
9 shall prescribe the use of forms currently prescribed  
10 by the appropriate federal regulatory agency of  
11 financial institutions and financial institution  
12 holding companies for identical or similar types of  
13 transactions~~[. The application shall be accompanied~~  
14 ~~by an application fee established by the commissioner~~  
15 ~~pursuant to section 412:2-105. The application fee~~  
16 ~~shall not be refundable];~~
- 17 (2) If any material change occurs in the facts set forth  
18 in an application, or if for any other reason the  
19 applicant desires to amend the application, an  
20 amendment setting forth any change, together with  
21 copies of all documents and other material relevant to  
22 the change, shall be filed with the commissioner.



1           Within twenty days after receiving an application or  
2           any amendment thereto, the commissioner may request  
3           any additional information necessary in deciding  
4           whether to approve a proposed transaction pursuant to  
5           this part. The applicant shall submit the additional  
6           information in a reasonable time thereafter, as may be  
7           specified by the commissioner;

8           (3) If the commissioner would approve a plan of  
9           conversion, merger, or consolidation, an acquisition  
10          of assets or assumption of liabilities, an acquisition  
11          of control, or a voluntary cessation of business or  
12          voluntary dissolution, but on terms different than  
13          contained in the application, the commissioner may  
14          give notice to the applicant of the nature of the  
15          changes [~~which~~] that would be approved, and the  
16          applicant may submit an amended application;

17          (4) If the commissioner intends to disapprove an  
18          application, the commissioner shall deliver to the  
19          applicant a written notice of the intent to  
20          disapprove. Within ten days after receipt of the  
21          commissioner's notice of intent to disapprove an  
22          application, the applicant may request an



1 administrative hearing, to be held in accordance with  
2 chapter 91. If no request for a hearing is made, the  
3 commissioner's disapproval shall become final. If  
4 after the hearing the commissioner finally disapproves  
5 the application, the applicant may, within thirty days  
6 of the date of the final decision, appeal to the  
7 circuit court as provided in chapter 91;

- 8 (5) Notwithstanding any other provision of this part, any  
9 complete application [~~which~~] that is not approved or  
10 denied by the commissioner within a period of sixty  
11 days after the application is filed with the  
12 commissioner or, if the applicant consents to an  
13 extension of the period within which the commissioner  
14 may act, within the extended period, shall be deemed  
15 to be approved by the commissioner as of the first day  
16 after the period of sixty days or the extended period.  
17 If the commissioner gives notice of an informational  
18 and comment proceeding on the application, the sixty-  
19 day period shall be extended to a date as may be fixed  
20 by order of the commissioner. For purposes of this  
21 section, an application is deemed to be filed with the  
22 commissioner at the time when the complete



1 application, including any amendments or supplements,  
2 containing all of the information in the form required  
3 by the commissioner, is received, and accepted by the  
4 commissioner; and

5 (6) Any applicant submitting information to the  
6 commissioner pursuant to this part may request that  
7 the information, or any part thereof, be kept  
8 confidential. The request shall be made in writing  
9 and shall set forth the specific items sought to be  
10 kept confidential and the reasons and authority for  
11 the confidential treatment. The commissioner may,  
12 pursuant to a request or otherwise, determine that  
13 good cause exists to keep some or all of the  
14 information confidential, and shall keep the  
15 information confidential and not subject to public  
16 disclosure. In connection with an application for the  
17 acquisition of control pursuant to section 412:3-612,  
18 the commissioner may release information to the  
19 affected financial institution or financial  
20 institution holding company with a directive that some  
21 or all of the information be kept confidential."



1 SECTION 19. Section 412:5-203, Hawaii Revised Statutes, is  
2 amended by amending subsection (d) to read as follows:

3 "(d) The bank shall file an application with the  
4 commissioner in a form approved by the commissioner. The  
5 application shall be accompanied by a fee [~~the amount of which~~  
6 ~~shall be prescribed by rule.~~] pursuant to section 412:2-B. The  
7 application shall contain the following information concerning  
8 the proposed operating subsidiary:

- 9 (1) The name and date for commencement of operations;  
10 (2) The specific location;  
11 (3) The activities and nature of business;  
12 (4) The ownership, amount, and nature of the investment;  
13 and  
14 (5) Any other information that the commissioner may  
15 require."

16 SECTION 20. Section 412:5-205, Hawaii Revised Statutes, is  
17 amended by amending subsection (b) to read as follows:

18 "(b) The bank shall file an application for such approval  
19 with the commissioner on a form prescribed by the commissioner,  
20 together with an application fee [~~of \$5,000, or such greater~~  
21 ~~amount as the commissioner shall establish, no part of which~~



1 ~~shall be refundable.] pursuant to section 412:2-B.~~ The  
2 application shall contain the following information:

3 (1) Appropriate board resolutions authorizing the  
4 establishment of a trust company, division, or  
5 department;

6 (2) Employment history, education, management experience,  
7 and other biographical information for all executive  
8 officers, trust officers, and managers of the trust  
9 company, division, or department;

10 (3) Proposed policies concerning common trust funds,  
11 overdrafts, disaster recovery plans, dividends,  
12 management of assets and liabilities, conflicts of  
13 interest, investments, and fee schedules. The  
14 commissioner may consider any existing bank policies  
15 that will be adapted and [~~utilized~~] used for its trust  
16 business;

17 (4) A business plan and financial projections regarding  
18 profitability of the proposed trust business;

19 (5) Evidence that the bank has or will have the financial  
20 ability, responsibility, and experience to engage in  
21 the trust business; and



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

3 SECTION 21. Section 412:5-205.5, Hawaii Revised Statutes,  
4 is amended by amending subsection (c) to read as follows:

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

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

17 If the bank proposes to engage in the business of insurance  
18 through a subsidiary or affiliate, then the application shall  
19 also contain information regarding the experience and  
20 qualifications of the proposed executive officers and directors  
21 of the subsidiary or affiliate and the ownership, amount, and  
22 nature of the bank's investment in and advances to the



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

12 SECTION 22. Section 412:5-205.7, Hawaii Revised Statutes,  
13 is amended by amending subsection (c) to read as follows:

14 "(c) The bank shall file an application for approval with  
15 the commissioner in a form prescribed by the commissioner[~~.—The~~  
16 ~~application shall be~~], and accompanied by a fee [~~the amount of~~  
17 ~~which shall be prescribed by rule.~~] pursuant to section 412:2-B.

18 The application shall contain:

- 19 (1) A description of the activities to be conducted;  
20 (2) The experience and qualifications of the proposed  
21 managers;



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

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

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

21 SECTION 23. Section 412:5-402, Hawaii Revised Statutes, is  
22 amended by amending subsection (a) to read as follows:



1           "(a) In order to obtain prior approval of the commissioner,  
2 the applicant shall file the application required by and comply  
3 with the provisions of article 3. The application shall be  
4 accompanied by the application fee pursuant to section 412:2-B.

5 The application shall contain the following information:

- 6           (1) The applicant's articles of incorporation and bylaws,  
7           or other basic governing documents;
- 8           (2) A certificate from the appropriate regulatory body  
9           where its home office is located, indicating that the  
10           applicant is in good standing in that jurisdiction;  
11           and
- 12           (3) Any other information required by the commissioner."

13           SECTION 24. Section 412:6-201, Hawaii Revised Statutes, is  
14 amended by amending subsection (b) to read as follows:

15           "(b) Any savings bank desiring to acquire any federal  
16 power shall file an application with the commissioner. The  
17 application shall indicate the applicable federal statute, rule,  
18 regulation, interpretation, or court decision[  ]; the extent of  
19 the federal power desired[  ]; the reasons for the  
20 application[  ]; and any other information requested by the  
21 commissioner. The commissioner may by rule prescribe the form  
22 of application [~~and application filing fees~~]."



1 SECTION 25. Section 412:9-102, Hawaii Revised Statutes, is  
2 repealed.

3 [~~"§412:9-102 Annual license fee. On or before December 31~~  
4 ~~of each year, each financial services loan company shall pay to~~  
5 ~~the commissioner an annual license fee of \$50 for each license~~  
6 ~~that it holds for the ensuing year. A financial services loan~~  
7 ~~company whose application for a license was approved in December~~  
8 ~~may pay to the commissioner the first annual license fee of \$50~~  
9 ~~for the ensuing year on or before the expiration of thirty days~~  
10 ~~after receiving notice of the approval of the financial services~~  
11 ~~loan company's application." ]~~

12 PART III

13 SECTION 26. Chapter 412, Hawaii Revised Statutes, is  
14 amended by adding to article 2 a new section to be appropriately  
15 designated and to read as follows:

16 "§412:2- Hawaii financial institutions; fees; penalty.

17 (a) A financial institution or financial institution applicant  
18 shall pay fees as follows:

- 19 (1) A nonrefundable fee of \$10,000 for an application for  
20 preliminary approval by the commissioner for the  
21 organization of a Hawaii financial institution



- 1           pursuant to section 412:3-201, 412:3-202, 412:3-206,  
2           412:3-301, or 412:5-205;
- 3           (2) A nonrefundable fee of \$9,000 for an application for  
4           preliminary approval by the commissioner for the  
5           organization of a Hawaii financial institution  
6           pursuant to section 412:5-402;
- 7           (3) A nonrefundable fee of \$2,500 for a final application  
8           for a charter or license to engage in the business of  
9           a Hawaii financial institution pursuant to section  
10           412:3-212;
- 11           (4) A nonrefundable fee of \$2,500 for a final application  
12           for a charter or license to engage in the business of  
13           a savings bank pursuant to section 412:6-101;
- 14           (5) A nonrefundable fee of \$2,500 for a final application  
15           for a charter or license to engage in the business of  
16           a trust company pursuant to section 412:8-102;
- 17           (6) A nonrefundable fee of \$10,000 for an application for  
18           a merger or consolidation or acquisition of control  
19           involving a Hawaii financial institution;
- 20           (7) A nonrefundable fee of \$10,000 for an application for  
21           the acquisition of control of a Hawaii financial  
22           institution;



- 1       (8) A nonrefundable fee of \$2,500 for an application for  
2       the conversion of a federal financial institution to a  
3       Hawaii financial institution or the conversion of a  
4       Hawaii financial institution to another Hawaii  
5       financial institution charter;
- 6       (9) A nonrefundable fee of \$5,000 for an application of a  
7       bank to conduct a trust business through a subsidiary,  
8       division, or department of the bank pursuant to 412:5-  
9       205;
- 10      (10) A nonrefundable fee of \$5,000 for an application of a  
11      bank to conduct insurance activities pursuant to  
12      section 412:5-205.5;
- 13      (11) A nonrefundable fee of \$5,000 for an application of a  
14      bank to engage in securities activities pursuant to  
15      section 412:5-205.7;
- 16      (12) A nonrefundable fee of \$2,000 for an application for a  
17      bank or savings bank to comply with lending limits  
18      applicable to national banking associations pursuant  
19      to section 412:5-302 or section 412:6-303;
- 20      (13) A nonrefundable fee of \$2,000 for an application to  
21      exceed certain permitted investment limits pursuant to  
22      sections 412:5-305(f) and (h), 412:6-306(f) and (h),



1           412:7-306(f) and (h), 412:8-301(f), 412:9-409(f) and  
2           (i), and 412:10-502(g); and

3       (14) A nonrefundable fee of \$2,500 for an application for a  
4           charter of a credit union.

5       (b) Intra-Pacific bank fees shall be as follows:

6       (1) A nonrefundable fee of \$750 for an application for a  
7           branch, subsidiary, or subsidiary of a holding company  
8           of an intra-Pacific bank pursuant to section 412:5-  
9           402; and

10      (2) A nonrefundable fee of \$500 for an application to  
11           relocate a branch, subsidiary, or subsidiary of a  
12           holding company of an intra-Pacific bank pursuant to  
13           section 412:5-401.

14      (c) A nonrefundable fee of \$500 for an application to  
15           relocate a branch pursuant to section 412:12-107.

16      (d) A nonrefundable fee of \$100 for each certificate of  
17           good standing for any Hawaii financial institution; provided  
18           that an additional fee of \$100 shall apply for each certificate  
19           of good standing to be provided in two business days from  
20           receipt of request.





1 SECTION 28. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 29. This Act, except for part II, shall take  
4 effect on January 1, 2112; provided that on January 1, 2014:

5 (1) Part III of this Act shall be repealed; and

6 (2) Part II of this Act shall take effect.



**Report Title:**

Financial Institutions; Hawaii Banks; Powers; Fees

**Description:**

Replaces individual fees for Hawaii banks and nondepositories for specific regulatory items with one assessment. Increases and clarifies bank powers. Clarifies the authority of the Commissioner of Financial Institutions. Effective 01/01/2112. (HD1)

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

