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# A BILL FOR AN ACT

RELATING TO NONDEPOSITORY TRUSTS.

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

1           SECTION 1. Chapter 412, Hawaii Revised Statutes, is  
2 amended by adding a new part to article 8 to be appropriately  
3 designated and to read as follows:

4                   **"PART . NONDEPOSITORY TRUST COMPANIES**

5           **§412:8- Powers and duties.** (a) Unless otherwise  
6 prohibited or restricted by this section or any other law, a  
7 nondepository trust company shall have the general powers  
8 specified in section 412:8-200.

9           (b) Notwithstanding any other provision in this chapter, a  
10 nondepository trust company shall not:

- 11           (1) Solicit, accept, or hold deposits;
- 12           (2) Engage in banking business;
- 13           (3) Engage in business for which a real estate broker's  
14 license is required;
- 15           (4) Engage in any business for which an insurance producer  
16 license is required; or



1 (5) Engage in any business of a securities broker or  
2 dealer.

3 (c) A nondepository trust company shall not itself  
4 perform, and instead shall contract for, the following services  
5 for its clients, if needed:

- 6 (1) Financial advisors for client investments;
- 7 (2) Property management for client rental properties; or
- 8 (3) Real estate brokerages for client real estate  
9 transactions.

10 (d) A nondepository trust company shall be responsible for  
11 the performance of the service providers that it engages for its  
12 clients."

13 SECTION 2. Section 412:2-105.2, Hawaii Revised Statutes,  
14 is amended to read as follows:

15 **"§412:2-105.2 Hawaii financial institutions; assessments;**  
16 **fees; penalty.** (a) Beginning January 1, 2014, every Hawaii  
17 financial institution shall be assessed a yearly fee in  
18 accordance with the following:

- 19 (1) For financial institutions with total assets under  
20 \$750,000, the assessment shall be the sum of \$1,000



- 1 plus the product of 0.00029111 [~~times~~] multiplied by  
2 total assets;
- 3 (2) For financial institutions with total assets of at  
4 least \$750,000 but under \$7,500,000, the assessment  
5 shall be the sum of \$2,000 plus the product of  
6 0.00029111 [~~times~~] multiplied by total assets;
- 7 (3) For financial institutions with total assets of at  
8 least \$7,500,000 but under \$20,000,000, the assessment  
9 shall be the sum of \$4,800 plus the product of  
10 0.00029111 [~~times~~] multiplied by total assets;
- 11 (4) For financial institutions with total assets of at  
12 least \$20,000,000 but under \$75,000,000, the  
13 assessment shall be the sum of \$9,900 plus the product  
14 of 0.000064 [~~times~~] multiplied by total assets;
- 15 (5) For financial institutions with total assets of at  
16 least \$75,000,000 but under \$200,000,000, the  
17 assessment shall be the sum of \$15,000 plus the  
18 product of 0.00005333 [~~times~~] multiplied by total  
19 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 the sum of \$21,100 plus the  
2 product of 0.00004750 [~~times~~] multiplied by total  
3 assets; and

4 (7) For financial institutions with total assets of at  
5 least \$1,000,000,000 but under \$20,000,000,000, the  
6 assessment shall be the sum of \$29,000 plus the  
7 product of 0.00004 [~~times~~] multiplied by total assets;  
8 provided that the yearly fee assessed for financial institutions  
9 with total assets of at least \$2,000,000,000 but less than  
10 \$10,000,000,000 shall be no more than \$100,000, and the yearly  
11 fee assessed for financial institutions with total assets of at  
12 least \$10,000,000,000 shall be no more than \$150,000.

13 (b) Beginning July 1, 2021, subsection (a) shall not apply  
14 to nondepository trusts, and nondepository trusts shall be  
15 assessed a yearly fee in accordance with the following:

16 (1) For nondepository trusts with total assets under  
17 management under \$750,000, the assessment shall be the  
18 sum of \$1,000 plus the product of 0.00029111  
19 multiplied by total assets under management;

20 (2) For nondepository trusts with total assets under  
21 management of at least \$750,000 but under \$7,500,000,



1           the assessment shall be the sum of \$2,000 plus the  
2           product of 0.00029111 multiplied by total assets under  
3           management;

4           (3) For nondepository trusts with total assets under  
5           management of at least \$7,500,000 but under  
6           \$20,000,000, the assessment shall be the sum of \$4,800  
7           plus the product of 0.00029111 multiplied by total  
8           assets under management;

9           (4) For nondepository trusts with total assets under  
10           management of at least \$20,000,000 but under  
11           \$75,000,000, the assessment shall be the sum of \$9,900  
12           plus the product of 0.000064 multiplied by total  
13           assets under management;

14           (5) For nondepository trusts with total assets under  
15           management of at least \$75,000,000 but under  
16           \$200,000,000, the assessment shall be the sum of  
17           \$15,000 plus the product of 0.00005333 multiplied by  
18           total assets under management;

19           (6) For nondepository trusts with total assets under  
20           management of at least \$200,000,000 but under  
21           \$1,000,000,000, the assessment shall be the sum



1 of \$21,100 plus the product of 0.00004750 multiplied  
2 by total assets under management; and

3 (7) For nondepository trusts with total assets under  
4 management of at least \$1,000,000,000 but under  
5 \$20,000,000,000, the assessment shall be the sum of  
6 \$29,000 plus the product of 0.00004 multiplied by  
7 total assets under management;

8 provided that the yearly fee assessed for nondepository trusts  
9 with total assets under management of at least \$2,000,000,000  
10 but under \$10,000,000,000 shall be no more than \$100,000, and  
11 the yearly fee assessed for nondepository trusts with total  
12 assets under management of at least \$10,000,000,000 shall be no  
13 more than \$150,000.

14 ~~(b)~~ (c) The assessments shall be paid semiannually on  
15 March 1 and September 1 of each year based on the institution's  
16 total assets or total assets under management reported as of the  
17 previous December 31 and June 30, respectively.

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



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



- 1 (6) A nonrefundable fee of \$5,000 for an application of a  
2 bank to conduct a trust business through a subsidiary,  
3 division, or department of the bank pursuant to  
4 section 412:5-205;
- 5 (7) A nonrefundable fee of \$5,000 for an application of a  
6 bank to conduct insurance activities pursuant to  
7 section 412:5-205.5;
- 8 (8) A nonrefundable fee of \$5,000 for an application of a  
9 bank to engage in securities activities pursuant to  
10 section 412:5-205.7;
- 11 (9) A nonrefundable fee of \$2,000 for an application for a  
12 bank, savings bank, or depository financial services  
13 loan company to comply with lending limits applicable  
14 to federal financial institutions pursuant to  
15 section 412:5-302, 412:6-303, or 412:9-404;
- 16 (10) A nonrefundable fee of \$2,000 for an application to  
17 exceed certain permitted investment limits pursuant to  
18 sections 412:5-305(f) and (h), 412:6-306(f) and (h),  
19 412:7-306(f) and (h), 412:8-301(f), 412:9-409(f)  
20 and (i), and 412:10-502(g); and



1 (11) A nonrefundable fee of \$2,500 for an application to  
2 engage in the business of a credit union.

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

10 [~~(e)~~] (f) Intra-Pacific bank fees shall be as follows:

11 (1) A nonrefundable fee of \$9,000 to establish an initial  
12 branch pursuant to section 412:5-401;

13 (2) A nonrefundable fee of \$750 to establish an additional  
14 branch or agency of an intra-Pacific bank; and

15 (3) A nonrefundable fee of \$500 for an application to  
16 relocate a branch or agency of an intra-Pacific bank  
17 established or acquired pursuant to section 412:5-401.

18 [~~(f)~~] (g) A nonrefundable fee of \$500 shall be assessed for  
19 an application to relocate a branch or office established  
20 pursuant to section 412:12-107.



1        [~~(g)~~] (h) A nonrefundable fee of \$100 shall be assessed for  
2 each certificate of good standing for any Hawaii financial  
3 institution; provided that an additional fee of \$100 shall be  
4 assessed for each certificate of good standing that is requested  
5 to be provided in two business days from receipt of request.

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

9        [~~(i)~~] (j) For purposes of this section [~~,"total"]:~~

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

16        "Total assets under management" means the total market  
17 value of the assets that a trust company oversees, administers,  
18 or manages on behalf of its clients pursuant to its fiduciary  
19 and trust powers in article 8, including assets for which a  
20 trust company has engaged a third-party platform investment  
21 service, property management services, or real estate services.



1        [~~(j)~~] (k) A Hawaii financial institution that fails to make  
2 a payment required by this section shall be subject to an  
3 administrative fine of not more than \$250 per day for each day  
4 it is in violation of this section, which fine, together with  
5 the amount due under this section, may be recovered pursuant to  
6 section 412:2-611 and shall be deposited into the compliance  
7 resolution fund established pursuant to section 26-9(o)."

8            SECTION 3. Section 412:3-209, Hawaii Revised Statutes, is  
9 amended by amending subsection (a) to read as follows:

10            "(a) Every financial institution existing or organized  
11 under the laws of this State shall at all times, and every  
12 applicant in organization shall, before filing the final  
13 application for a charter or license under this part and at all  
14 times thereafter, have paid-in capital and surplus of not less  
15 than the following amounts for each type of institution  
16 specified below:

17	Banks	\$5,000,000
18	Savings banks	\$3,000,000
19	Savings and loan associations	\$2,000,000
20	Trust companies	\$1,500,000
21	<u>Nondepository trust companies</u>	<u>\$1,000,000</u>





1 necessary for fiscal year 2021-2022 and the same sum or so much  
2 thereof as may be necessary for fiscal year 2022-2023 for the  
3 division of financial institutions of the department of commerce  
4 and consumer affairs to administer nondepository trusts under  
5 this Act.

6 The sums appropriated shall be expended by the department  
7 of commerce and consumer affairs for the purposes of this Act.

8 SECTION 7. Statutory material to be repealed is bracketed  
9 and stricken. New statutory material is underscored.

10 SECTION 8. This Act shall take effect on July 1, 2021.



**Report Title:**

Financial Institutions; Nondepository Trust Companies; Powers and Duties; Assessments; Fees; Paid-in-capital; Surplus; Agent; Appropriation

**Description:**

Establishes provisions concerning nondepository trust companies, including powers and duties, yearly assessment calculations, and paid-in-capital and surplus requirements. Appropriates funds to the division of financial institutions to administer nondepository trusts. (CD1)

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

