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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  
21 plus the product of 0.00029111 times total assets;



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



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

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

13           (1) For nondepository trusts with total assets under  
14 management under \$750,000, the assessment shall be the  
15 sum of \$1,000 plus the product of 0.00029111 times  
16 total assets under management;

17           (2) For nondepository trusts with total assets under  
18 management of at least \$750,000 but under \$7,500,000,  
19 the assessment shall be the sum of \$2,000 plus the  
20 product of 0.00029111 times total assets under  
21 management;



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



1        (7) For nondepository trusts with total assets under  
2                    management of at least \$1,000,000,000 but under  
3                    \$20,000,000,000, the assessment shall be the sum of  
4                    \$29,000 plus the product of 0.00004 times total assets  
5                    under management;  
6 provided that the yearly fee assessed for nondepository trusts  
7 with total assets under management of at least \$2,000,000,000  
8 but less than \$10,000,000,000 shall be no more than \$100,000,  
9 and the yearly fee assessed for nondepository trusts with total  
10 assets under management of at least \$10,000,000,000 shall be no  
11 more than \$150,000.

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

16        [~~e~~] (d) In addition to the assessments established in  
17 subsection (a), a financial institution or financial institution  
18 applicant 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           or 412:3-301;
- 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  
10          section 412:3-212;
- 11          (4) A nonrefundable fee of \$10,000 for an application for  
12          a merger or consolidation or acquisition of control  
13          involving a Hawaii financial institution;
- 14          (5) A nonrefundable fee of \$2,500 for an application for  
15          the conversion of a federal financial institution to a  
16          Hawaii financial institution or the conversion of a  
17          Hawaii financial institution to another Hawaii  
18          financial institution charter;
- 19          (6) A nonrefundable fee of \$5,000 for an application of a  
20          bank to conduct a trust business through a subsidiary,



- 1           division, or department of the bank pursuant to  
2           section 412:5-205;
- 3           (7) A nonrefundable fee of \$5,000 for an application of a  
4           bank to conduct insurance activities pursuant to  
5           section 412:5-205.5;
- 6           (8) A nonrefundable fee of \$5,000 for an application of a  
7           bank to engage in securities activities pursuant to  
8           section 412:5-205.7;
- 9           (9) A nonrefundable fee of \$2,000 for an application for a  
10          bank, savings bank, or depository financial services  
11          loan company to comply with lending limits applicable  
12          to federal financial institutions pursuant to  
13          section 412:5-302, 412:6-303, or 412:9-404;
- 14          (10) A nonrefundable fee of \$2,000 for an application to  
15          exceed certain permitted investment limits pursuant to  
16          sections 412:5-305(f) and (h), 412:6-306(f) and (h),  
17          412:7-306(f) and (h), 412:8-301(f), 412:9-409(f)  
18          and (i), and 412:10-502(g); and
- 19          (11) A nonrefundable fee of \$2,500 for an application to  
20          engage in the business of a credit union.



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

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

- 9        (1) A nonrefundable fee of \$9,000 to establish an initial  
10            branch pursuant to section 412:5-401;
- 11        (2) A nonrefundable fee of \$750 to establish an additional  
12            branch or agency of an intra-Pacific bank; and
- 13        (3) A nonrefundable fee of \$500 for an application to  
14            relocate a branch or agency of an intra-Pacific bank  
15            established or acquired pursuant to section 412:5-401.

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

19        [~~(g)~~] (h) A nonrefundable fee of \$100 shall be assessed  
20 for each certificate of good standing for any Hawaii financial  
21 institution; provided that an additional fee of \$100 shall be



1 assessed for each certificate of good standing that is requested  
2 to be provided in two business days from receipt of request.

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

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

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

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

19 ~~[(j)]~~ (k) A Hawaii financial institution that fails to  
20 make a payment required by this section shall be subject to an  
21 administrative fine of not more than \$250 per day for each day



1 it is in violation of this section, which fine, together with  
2 the amount due under this section, may be recovered pursuant to  
3 section 412:2-611 and shall be deposited into the compliance  
4 resolution fund established pursuant to section 26-9(o)."

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

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

14	Banks	\$5,000,000
15	Savings banks	\$3,000,000
16	Savings and loan associations	\$2,000,000
17	Trust companies	\$1,500,000
18	<u>Nondepository trust companies</u>	<u>\$1,000,000</u>
19	Depository financial services	
20	loan companies	\$1,000,000"



1 SECTION 4. Section 412:8-101, Hawaii Revised Statutes, is  
2 amended by adding a new definition to be appropriately inserted  
3 and to read as follows:

4 "Nondepository trust company" means a type of trust  
5 company that is not authorized to accept deposits."

6 SECTION 5. Section 412:8-202, Hawaii Revised Statutes, is  
7 amended by amending subsection (a) to read as follows:

8 "(a) A trust company may act as an agent [~~in~~] on behalf of  
9 a principal in the transaction of any business or in the  
10 management of any property, real, personal or mixed, with such  
11 powers as the trust company may exercise under  
12 sections 412:8-200 [~~and~~], 412:8-201[+], and 412:8- ; provided  
13 that its duties as such agent and the terms and conditions of  
14 the agency or power are set forth either specifically or  
15 generally in a written memorandum signed by the principal."

16 SECTION 6. Statutory material to be repealed is bracketed  
17 and stricken. New statutory material is underscored.

18 SECTION 7. This Act shall take effect on January 1, 2050.



**Report Title:**

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

**Description:**

Establishes provisions concerning nondepository trust companies, including powers and duties, yearly assessment calculations, and paid-in-capital and surplus requirements. Effective 1/1/2050.  
(HD1)

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

