

A Bill for an Act Relating to Financial Institutions.

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

SECTION 1. Chapter 403, Hawaii Revised Statutes, is amended in the following respects:

(1) By amending section 403-23 to read:

“Sec. 403-23 Application for authority to organize, fee; contents. Any number of persons, not less than five, at least three of whom shall be residents of the State, may file an application with the director of regulatory agencies for authority to organize a bank. The applicants shall pay to the director at the time of their application a fee of \$1,000, which fee shall in no case be refunded. No persons shall organize a bank until written authority for that purpose has been obtained from the director. The application shall be in duplicate and shall specify to the extent then determined in regard to the proposed bank:

- (1) The proposed location; the amount of capital; the corporate name (the word “limited” not to be a part of the corporate name);
- (2) The names of the proposed subscribers to the capital stock and the amount of stock for which each will probably subscribe; the names of the persons, partnerships, associations, or corporations which propose to own or control more than one-half of the capital stock; the names of the proposed active officers and directors;
- (3) Evidence of the character, financial responsibility, experience, and ability of the incorporators, directors, and officers; evidence of the need and advisability of granting the authority;
- (4) Any other information which the director may require.”

(2) By amending section 403-55 to read:

“Sec. 403-55 Procedure to open or maintain branch bank; application. Any bank desiring to open and maintain a branch bank or change the location of an established branch shall file a petition in triplicate with the director of regulatory agencies of the State in a form approved by him and shall state:

- (1) The name of the bank;
- (2) The specific location of the proposed site of the branch bank office;
- (3) Facts showing that there is a reasonable assurance of sufficient volume of business so that the proposed branch is warranted;
- (4) Facts showing that the opening and maintenance of the proposed branch or change of location is justified;
- (5) Such other facts that the director may from time to time prescribe.

A petition for change of location shall be accompanied by a fee of \$150 and a petition for opening and maintaining a branch office shall be accompanied by a fee of \$500, which shall be deposited to the credit of the general fund of the State.

Upon receipt by the director of regulatory agencies of such petition he shall make an investigation of the conditions and facts contained in such petition pertinent thereto, and if in his judgment he is satisfied that the establishment of the proposed branch or change of location is justified he shall issue a certificate permitting the

organization and maintenance of such branch or change of location of a branch.”

SECTION 2. Chapter 407, Hawaii Revised Statutes, is amended in the following respects:

1. By amending section 407-11 to read:

“**Sec. 407-11 Application for authority to organize; fee.** Any five or more persons, of whom a majority shall be residents of the State, desiring to form a corporation to carry on the business of a building and loan association under this chapter, shall file with the bank examiner an application, in writing and under oath, for authority to organize such association. The applicants shall pay to the director of regulatory agencies at the time their application is filed a fee of \$1,000, which fee shall in no case be refunded. No person shall organize a building and loan association or circulate a stock subscription list for the organization of a building and loan association until written authority for that purpose has been obtained from the bank examiner.”

2. By amending section 407-41 to read:

“**Sec. 407-41 Branch offices and agencies; approval of bank examiner; content of application.** Each association shall be operated from the main office in the State. All branch offices and agencies shall be subject to direction from the main office. No association may establish or maintain a branch office or agency without the prior written approval of the bank examiner, except that temporary and incidental agencies may be created for individual transactions and for special temporary purposes without such approval. Each application for approval of the establishment and maintenance of a branch office or an agency shall state the proposed location, the need therefor, the functions to be performed therein, the estimated annual expense thereof, and the mode of payment therefor. Each application shall be accompanied by a budget of the association for the current dividend period and for the next succeeding semiannual period, which reflects the estimated additional expense of the maintenance of the branch office or agency. Every such application shall be accompanied by a fee of \$500, which shall be deposited to the credit of the general fund of the State. Upon the receipt by the bank examiner of the application, he shall determine whether the establishment and maintenance of the office will unduly injure any properly conducted existing association in the community where the branch office or agency is proposed to be established, or in any neighboring community. If he finds that no undue injury is likely to result and that the establishment and maintenance of the branch office or agency is advisable, he may approve the application.”

SECTION 3. Chapter 408, Hawaii Revised Statutes, is amended in the following respects:

1. By amending section 408-8 to read:

“**Sec. 408-8 Application for license; investigation fee.** Any company required or desiring to obtain a license to operate under this chapter shall file an application, in writing, under oath, with the bank examiner, in the form prescribed by the bank examiner, which shall contain:

(1) The full name and address of the applicant, and, if the applicant is a firm, of every member thereof, or, if the applicant is a corporation, of every officer thereof;

- (2) The county and town with street and number where the business is to be conducted; and
- (3) Such other information as the bank examiner may require.

The applicant shall pay to the director of regulatory agencies at the time of filing of an application for license an investigation fee of \$1,000, which shall not be refundable. Licensees who apply for the relocation of their present offices shall pay to the director an investigation fee of \$50, which shall not be refundable.

Conditions for approval. Upon the filing of the application, if the bank examiner upon investigation finds:

- (1) That the financial responsibility, experience, character, and general fitness of the applicant and of the officers or members thereof are such as to command the confidence of the community and to warrant belief that the business will be operated honestly, fairly, and efficiently within the purposes of this chapter;
- (2) That allowing the applicant to engage in this business will promote the convenience and advantage of the locality or community in which the business of the applicant is to be conducted;
- (3) That the applicant has available for the operation of this business at the specified location capital of at least \$100,000; and
- (4) That allowing the applicant to engage in this business will not substantially lessen competition or tend to create a monopoly or in any other manner be in restraint of trade,

then the bank examiner shall write upon the face of the application the fact that he has approved the same, together with the date, and affix his signature. The application shall then be returned to the applicant who shall upon receipt of an approved application transmit it within thirty days to the director who shall file and preserve the application.

Review of disapproval. No application shall be disapproved except after the applicant has had a notice of a hearing on the application and an opportunity to be heard thereon. If the application is denied, the bank examiner shall, within twenty days thereafter, prepare and keep on file in his office, a written order of denial thereof, which shall contain his findings with respect thereto and the reasons supporting the denial, and forthwith serve upon the applicant a copy thereof. Within ten days after the receipt of the copy the applicant may appeal from the order of denial to a board consisting of the director of regulatory agencies, comptroller, and attorney general by filing with the comptroller a notice of appeal. After notice by mail to the applicant and after a hearing at which the applicant shall be entitled to be present and to be heard, the board shall file with the comptroller its decision in writing either ordering the bank examiner to approve the application or affirming his action in disapproving the same. A copy of the decision or order of the board shall forthwith be served upon the applicant by the bank examiner. The applicant may appeal from an adverse decision of the board to the circuit court of the circuit in which the applicant proposes to establish an office, as provided in chapter 91."

2. By amending section 408-26 to read:

"**Sec. 408-26 Fees.** (a) The fees to be paid for examinations of industrial loan companies shall be the same as those charged for examination of banks, trust

companies, and all fiduciary companies as provided by section 401-8; provided that for foreign corporations the fees shall be \$20 per day, or the actual cost thereof whichever is the greater, but not to exceed \$250 for any one examination. All fees shall be paid directly to the director of regulatory agencies upon receipt of a bill from the bank examiner.

(b) For filing and investigation of an industrial loan company's application for transfer of an industrial loan license under section 408-11.1, a fee of \$1,000 shall be paid by the proposed transferee. If the proposed transferee is a licensed industrial loan company under this chapter and the license so transferred shall be used as a branch office by the industrial loan company, the fee shall be \$500.

(c) For filing and investigation of an industrial loan company's application for a branch office license under section 408-14(4), the fee shall be \$500."

SECTION 4. Section 449-14, Hawaii Revised Statutes, is amended to read:

"Sec. 449-14 Fees. The following fees shall be paid by licensed escrow depositories to the bank examiner and into the general fund:

- (1) For filing and investigation of an escrow depository's application for license, \$200.
- (2) For initial issuance and annual renewal of an escrow depository's license, \$25.
- (3) For initial issuance and annual renewal of a branch office license, \$5.
- (4) For reissuance of a license or endorsement on the license for the change in the business address of its office, \$3."

SECTION 5. Section 454-3, Hawaii Revised Statutes, is amended by amending subsection (e) to read:

"(e) The license fee for a license calendar year or any part thereof shall be \$100 for a mortgage broker and \$25 for a mortgage solicitor, which fees shall be deposited with the director of finance to the credit of the general fund. Failure of any mortgage broker or mortgage solicitor to pay the license fee for a license calendar year on or before December 31 of the preceding calendar year shall constitute an automatic forfeiture of the broker's or solicitor's license. A broker's or solicitor's license which is forfeited for nonpayment of the license fee may be restored; provided that application for restoration is made within six months of the forfeiture and a penalty fee in the amount of \$100 for mortgage brokers and \$25 for mortgage solicitors is paid in addition to the delinquent license fee."

SECTION 6. Statutory material to be repealed is bracketed. New material is underscored.*

SECTION 7. This Act shall take effect upon its approval.

(Approved June 21, 1979.)

*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.