

ACT 328

H.B. NO. 2042

A Bill for an Act Relating to a Hawaii State Library Foundation Trust Fund.

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

SECTION 1. Chapter 312, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§312- Hawaii state library foundation trust fund.** (a) There is established as a separate fund of the Hawaii state library foundation, a Hawaii nonprofit corporation, the Hawaii state library foundation trust fund. All funds contributed to the trust fund, including income and capital gains earned therefrom, shall be used exclusively for state library programs as defined in the articles, bylaws, resolutions, and other instruments executed on behalf of the Hawaii state library foundation or by the state librarian. The trust fund may receive any and all types of private contributions, and the income and capital gains earned by the fund; provided that funds or properties donated for library use and patrons’ deposits shall be deposited and accounted for in accordance with rules adopted by the comptroller. The trust fund shall be subject to the following restrictions:

- (1) All funds, and the income and capital gains earned by investment of those funds, shall be expended only for the support of state library programs; and
- (2) Other restrictions imposed by the legislature with respect to the transfer or appropriation of funds.

(b) Any funds deposited in the trust fund, and any income and capital gains earned therefrom, not used for state library programs, shall be invested in accordance with the provisions of the articles, bylaws, resolutions, or other instruments executed on behalf of the Hawaii state library foundation, and in a manner intended to maximize the rate of return on investment of the fund.

(c) If the trust fund is terminated or the Hawaii state library foundation is dissolved, all funds, including the income and capital gains earned by the investment of funds, shall be distributed in accordance with the articles and bylaws of the Hawaii state library foundation.

(d) The Hawaii state library foundation shall require an annual audit of the trust fund, the results of which shall be submitted to the department of education

not more than thirty days after receipt by the foundation. The foundation shall retain for a period of three years, any documents, papers, books, records, and other evidence that is pertinent to the trust fund, and permit inspection or access thereto by the department of education, the state librarian, the department of accounting and general services, state legislators, and the state auditor, or their duly authorized representatives.

(e) The purpose of this section is to create by statute a private charitable trust fund to financially support state library programs. The trust fund shall be subject to the terms and conditions provided in this section. The trust fund shall not be placed in the state treasury and the State shall not administer the fund nor be liable for its operation or solvency. The fund shall be a private charitable trust fund administered by a private trust company as trustee.

(f) Subsections (a) to (e) shall take effect upon the creation of a Hawaii state library foundation, a tax-exempt, nonprofit foundation that is subject to the terms and conditions provided in this section; provided that this section shall be repealed on June 30, 1995, if the Hawaii state library foundation is not established by this date.”

SECTION 2. Section 102-14, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

“(g) This section shall not apply to the University of Hawaii system, public library system, department of education facilities, department of transportation airport and harbor restaurant and lounge facilities and operations, public parks, and state and county facilities designed and intended for use as facilities for entertainment and other public events.”

SECTION 3. Section 312-4, Hawaii Revised Statutes, is repealed.

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 5. This Act shall take effect upon its approval.

(Approved June 23, 1993.)

**Note**

1. Edited pursuant to HRS §23G-16.5.