

A Bill for an Act Relating to Financial Services Loan Companies.

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

SECTION 1. Section 412:9-409, Hawaii Revised Statutes, is amended to read as follows:

**“§412:9-409 Permitted investments.** (a) To the extent specified [herein,] in this subsection, a depository financial services loan company may invest its own assets in securities and obligations of:

- (1) The United States government and any agency of the United States government whose debt obligations are fully and explicitly guaranteed as to the timely payment of principal and interest by the full faith and credit of the United States[,] including, without limitation, Federal Reserve Banks, the Government National Mortgage Association, the Department of Veterans [Administration,] Affairs, the Federal Housing Administration, the Farmers Home Administration, the Export-Import Bank, the Overseas Private Investment Corporation, the Commodity Credit Corporation, and the Small Business Administration;
- (2) United States government-sponsored agencies which are originally established or chartered by the United States government to serve public purposes specified by the Congress but whose debt obligations are not explicitly guaranteed by the full faith and credit of the United States[,] including, without limitation, Banks for Cooperatives, the Federal Agricultural Mortgage Corporation, Federal Farm Credit Banks, Federal Home Loan Banks, the Federal Home Loan Mortgage Corporation, Federal Intermediate Credit Banks, Federal Land Banks, the Federal National Mortgage Association, the Financing Corporation, the Resolution Funding Corporation, the Student Loan Marketing Association, the Tennessee Valley Authority, and the United States Postal Service; and
- (3) Quasi-United States governmental institutions[,] including, without limitation, the International Bank for Reconstruction and Development (World Bank), the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, the European Investment Bank, and other multilateral lending institutions in which the United States Government is a shareholder or contributing member[.]; provided that the total amount invested in any one issuer shall not exceed twenty per cent of the depository financial services loan company’s capital and surplus.

(b) To the extent specified [herein,] in this subsection, a depository financial services loan company may invest its own assets in bonds, securities, or similar obligations issued by this State or any county of this State, through an appropriate agency or instrumentality.

(c) To the extent specified [herein,] in this subsection, a depository financial services loan company may invest its own assets in bonds or similar obligations issued by any state of the United States other than this State, the District of Columbia, or any territory or possession of the United States, by municipal governments of [such] these states, territories, or possessions, or by any foreign country or political subdivision of [such] that country; provided[,] that:

- (1) The bond, note, or warrant has been issued in compliance with the constitution and laws of [any such] that government;

- (2) There has been no default in payment of either principal or interest on any of the general obligations of [such] that government for a period of five years immediately preceding the date of the investment; and
- (3) The total amount invested in [such] the obligations of any one issuer by a depository financial services loan company shall not exceed twenty per cent of the depository financial services loan company's capital and surplus.

(d) To the extent specified [herein,] in this subsection, a depository financial services loan company may invest its own assets in notes, bonds, and other obligations of any corporation which at the time of the investment is incorporated under the laws of the United States or any state or territory thereof or the District of Columbia; provided[,] that the aggregate amount invested by a depository financial services loan company under this subsection and subsections (e) and (g)(3) in any one corporation shall not exceed twenty per cent of the depository financial services loan company's capital and surplus.

(e) To the extent specified [herein,] in this subsection, a depository financial services loan company may invest its own assets in securities of [an] investment grade[.] quality. The term "investment grade" means notes, bonds, certificates of interest or participation, beneficial interests, mortgage or receivable-related securities, and other obligations that are commonly understood to be of investment grade quality[,] including, without limitation, those securities that are rated within the four highest grades by any nationally-recognized rating service or unrated securities of similar quality as reasonably determined by the depository financial services loan company in its prudent judgment [(, which may be based in part upon estimates which it believes to be reliable)]. Investment grade does not include investments which are predominantly speculative in nature. The aggregate amount invested by a depository financial services loan company under this subsection and subsections (d) and (g)(3) in any one company or other issuer shall not exceed twenty per cent of the depository financial services loan company's capital and surplus. Subject to the approval of the commissioner, the twenty per cent limitation shall not apply to investment grade securities secured entirely by mortgage loans originated by the depository financial services loan company. In approving any transaction under this section, the commissioner may impose any conditions to ensure the safety and soundness of the institution.

(f) To the extent specified [herein,] in this subsection, a depository financial services loan company may purchase, hold, convey, sell, or lease real or personal property as follows:

- (1) The real property in or on which the business of the depository financial services loan company is carried on, other space in the same property to rent as a source of income; permanent or vacation residences or recreational facilities for its officers and employees; other real property necessary [to] for the accommodation of the depository financial services loan company's business, including but not limited to parking facilities, data processing centers, and real property held for future use where the depository financial services loan company in good faith expects to utilize the property as depository financial services loan company premises; provided, if the depository financial services loan company ceases to use any real property and improvements thereon for one of the foregoing purposes, it [shall], within five years thereafter, shall sell the real property or cease to carry it [or them] as an asset; provided further, [such] the property [shall not], without the approval of the commissioner, shall not exceed seventy-five per cent of the depository financial services loan company's capital and surplus;

- (2) Personal property used in or necessary [to] for the accommodation of the depository financial services loan company's business, including but not limited to furniture, fixtures, equipment, vaults, and safety deposit boxes[. The]; provided that the depository financial services loan company's investment in furniture and fixtures [shall not], without the approval of the commissioner, shall not exceed twenty-five per cent of the depository financial services loan company's capital and surplus;
- (3) Personal property and fixtures which the depository financial services loan company acquires for purposes of leasing to third parties and [such] any real property interests [as shall be] that is incidental thereto;
- (4) [Such] Any real property or tangible personal property [as] that may come into its possession as security for loans or in the collection of debts; or [as] that may be purchased by or conveyed to the depository financial services loan company in satisfaction of or on account of debts previously contracted in the course of its business, when [such] the property was held as security by the depository financial services loan company; and
- (5) The seller's interest under an agreement of sale, as that term is defined in sections 501-101.5 and 502-85[,] including, without limitation, the reversionary interest in the real property and the right to income under the agreement of sale, with or without recourse to the seller.

Except as otherwise authorized in this section, any tangible personal property coming into the possession of any depository financial services loan company pursuant to [[subsection (f)(4)]] paragraph (4) shall be disposed of as soon as practicable and [shall not], without the written consent of the commissioner, shall not be considered a part of the assets of the depository financial services loan company after the expiration of two years from the date of acquisition.

Except as otherwise authorized in this section, any real property acquired by a depository financial services loan company pursuant to [[subsection (f)(4)]] paragraph (4) shall be sold or exchanged for other real property by the depository financial services loan company within five years after title thereto has vested in it by purchase or otherwise, or within [such] any further time [as] that may be extended by the commissioner.

Any depository financial services loan company acquiring any real property in any manner other than provided by this section [shall] immediately, upon receiving notice from the commissioner, shall charge the same to profit and loss, or otherwise remove the same from the assets, and when any loss impairs the capital and surplus of the depository financial services loan company, the impairment shall be made good in the manner provided in this chapter.

(g) To the extent specified [herein,] in this subsection, a depository financial services loan company may invest its own assets in capital stock of:

- (1) Service corporations as set forth in this article;
- (2) A corporation whose stock is acquired or purchased to save a loss on a preexisting debt secured by [such] the stock; provided, that the stock shall be sold within twelve months of the date acquired or purchased, or within [such] any further time [as] that may be granted by the commissioner;
- (3) Companies listed on the New York or American stock exchanges or on the National Association of Securities Dealers Automated Quotations; provided that the aggregate amount invested by a depository financial services loan company under this paragraph and subsections (d) and (e) in any one corporation shall not exceed twenty per cent of the depository financial services loan company's capital and surplus.

(h) To the extent specified in this subsection, a depository financial services loan company may invest its own assets in securities issued by a diversified investment management company (as defined in the Investment Company Act of 1940), commonly known as a diversified mutual fund. The fund must have been in existence for at least five years. The aggregate amount invested by a depository financial services loan company under this subsection in any one diversified mutual fund shall not exceed twenty per cent of the depository financial services loan company's capital and surplus.'

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 24, 1995.)