

ACT 154

S.B. NO. 2821

A Bill for an Act Relating to the Code of Financial Institutions.

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

SECTION 1. The legislature finds that it is in the public interest to attract foreign capital to the State for investment, revenue enhancement, and other economic development purposes. With the plethora and demise of Japanese investments of a decade ago, the State must take the initiative to investigate new sources of foreign capital to stimulate Hawaii's economy.

A novel approach to attracting foreign capital is through foreign capital depositories. Newly introduced in Montana, foreign capital depositories allow foreign depositors to deposit their assets with financial privacy and asset protection. The Montana law is the first of its kind in the nation and could represent possible application to Hawaii. Before any further legislative consideration is given to this idea, however, it is incumbent upon the legislature to determine the feasibility of chartering foreign capital depositories in the State.

The purpose of this Act is to convene a task force in the department of business, economic development, and tourism to study and recommend to the legislature the feasibility of chartering foreign capital depositories in Hawaii under the code of financial institutions.

SECTION 2. (a) There is established a foreign capital depository task force within the department of business, economic development, and tourism for administrative purposes to consist of the following members:

- (1) The director of business, economic development, and tourism, who shall serve as the lead chairperson of the task force;
- (2) The commissioner of financial institutions or the commissioner's designee;
- (3) The director of taxation or the director's designee;
- (4) The prosecuting attorney of the city and county of Honolulu or the prosecuting attorney's designee, who shall also serve as the liaison of the task force to the prosecutors of the other counties;
- (5) The attorney general or the attorney general's designee;
- (6) The chief of police of the city and county of Honolulu or a designee of the chief of police, who shall also serve as the liaison of the task force to the chiefs of police of the other counties;
- (7) A member of the banking community designated by the director of business, economic development, and tourism; and
- (8) Any other agency or designee deemed appropriate by the director of business, economic development, and tourism.

(b) The task force shall serve until it has accomplished the objectives of this Act or twenty days prior to the convening of the regular session of 1999, whichever occurs first.

(c) The task force shall investigate the feasibility of chartering foreign capital depositories in the State under the code of financial institutions. The investigation shall also include but not be limited to the following:

- (1) Economic development and business opportunities that may result from chartering foreign capital depositories;
- (2) Marketing requirements necessary to attract foreign depositors;
- (3) Changes necessary in Hawaii law to attract foreign depositors and deter possible criminal activity including requirements for depositor privacy, disclosure, asset protection, creditor judgment protection, and anti-money laundering safeguards;
- (4) Costs involved in administering a foreign capital depositories law, including rule drafting, personnel, training, and other necessary expenses;
- (5) Expected benefits, financial or otherwise, that may accrue to the State;
- (6) Changes necessary, using the Montana law on foreign capital depositories as a starting point for consideration, to conform the law to Hawaii law;
- (7) Identification and separation of pertinent issues for purposes of drafting statutes and rules;
- (8) Identification of potential uses of foreign capital depositories to commit violations of state criminal laws and any changes in statutes, rules, or procedures needed to prevent such use;
- (9) Examination of other legal entities or mechanisms including dynasty trusts, that would serve the same purpose as a depository, or similar purposes;
- (10) Tax treatment of foreign capital depositories; and
- (11) Any other objective deemed necessary by the director of business, economic development, and tourism or the task force.

SECTION 3. The director of business, economic development, and tourism, in consultation with the task force, shall submit a report to the legislature, including

findings, recommendations, and implementing draft legislation no later than twenty days prior to the convening of the regular session of 1999.

SECTION 4. This Act shall take effect upon its approval.

(Approved July 7, 1998.)