

A Bill for an Act Relating to Financial Institutions.

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

SECTION 1. The legislature finds that the fees financial institutions are required to pay under chapter 412, Hawaii Revised Statutes, are inconsistent and need clarification. Inconsistent and ambiguous fees create confusion and time consuming inquiries for the department of commerce and consumer affairs' division of financial institutions.

Accordingly, the purpose of this Act is to create a consistent and clear fee process for financial institutions.

SECTION 2. Section 412:2-105.2, Hawaii Revised Statutes, is amended by amending subsections (b) to (f) to read as follows:

"(b) The assessments shall be paid semiannually on ~~[February 15]~~ March 1 and ~~[August 15]~~ September 1 of each year based on the institution's total assets reported as of the previous December 31 and June 30, respectively~~]; provided that the payments of the assessment shall commence on February 15, 2014.~~

(c) In addition to the assessments established in subsection (a), a financial institution or financial institution applicant shall pay fees as follows:

- (1) A nonrefundable fee of \$10,000 for an application for preliminary approval by the commissioner for the organization of a Hawaii financial institution pursuant to section 412:3-201, 412:3-202, 412:3-206, or 412:3-301~~[-or 412:5-205];~~
- (2) A nonrefundable fee of \$9,000 for an application for preliminary approval by the commissioner for the organization of a Hawaii financial institution pursuant to section 412:5-402;
- (3) A nonrefundable fee of \$2,500 for a final application for a charter or license to engage in the business of a Hawaii financial institution pursuant to section 412:3-212;
- ~~[(4) A nonrefundable fee of \$2,500 for a final application for a charter or license to engage in the business of a savings bank pursuant to section 412:6-101;~~
- ~~[(5) A nonrefundable fee of \$2,500 for a final application for a charter or license to engage in the business of a trust company pursuant to section 412:8-102;~~
- ~~[(6)]~~ (4) A nonrefundable fee of \$10,000 for an application for a merger or consolidation or acquisition of control involving a Hawaii financial institution;
- ~~[(7) A nonrefundable fee of \$10,000 for an application for the acquisition of control of a Hawaii financial institution;~~
- ~~[(8)]~~ (5) A nonrefundable fee of \$2,500 for an application for the conversion of a federal financial institution to a Hawaii financial institution or the conversion of a Hawaii financial institution to another Hawaii financial institution charter;
- ~~[(9)]~~ (6) A nonrefundable fee of \$5,000 for an application of a bank to conduct a trust business through a subsidiary, division, or department of the bank pursuant to ~~[[section]]~~ 412:5-205;
- ~~[(10)]~~ (7) A nonrefundable fee of \$5,000 for an application of a bank to conduct insurance activities pursuant to section 412:5-205.5;
- ~~[(11)]~~ (8) A nonrefundable fee of \$5,000 for an application of a bank to engage in securities activities pursuant to section 412:5-205.7;

- ~~[(12)]~~ (9) A nonrefundable fee of \$2,000 for an application for a bank ~~[or]~~, savings bank, or depository financial services loan company to comply with lending limits applicable to federal financial institutions pursuant to section 412:5-302 ~~[or section]~~, 412:6-303~~;~~, or 412:9-404;
- ~~[(13)]~~ (10) A nonrefundable fee of \$2,000 for an application to exceed certain permitted investment limits pursuant to sections 412:5-305(f) and (h), 412:6-306(f) and (h), 412:7-306(f) and (h), 412:8-301(f), 412:9-409(f) and (i), and 412:10-502(g); and
- ~~[(14)]~~ (11) A nonrefundable fee of \$2,500 for an application ~~[for a charter]~~ to engage in the business of a credit union.
- (d) ~~[Beginning January 1, 2014, the]~~ The annual fee for each intra-Pacific financial institution and interstate branch of out-of-state banks is the sum of \$1,000 for each office, agency, and branch office maintained by the financial institution, payment of which shall be made before December 31 of each year. The commissioner may establish, increase, decrease, or repeal this fee pursuant to rules adopted in accordance with chapter 91.
- (e) Intra-Pacific bank fees shall be as follows:
- (1) A nonrefundable fee of \$9,000 to establish an initial branch pursuant to section 412:5-401;
- ~~[(1)]~~ (2) A nonrefundable fee of \$750 ~~[for an application for a]~~ to establish an additional branch~~[- subsidiary, or subsidiary of a holding company]~~ or agency of an intra-Pacific bank ~~[pursuant to section 412:5-402]; and~~
- ~~[(2)]~~ (3) A nonrefundable fee of \$500 for an application to relocate a branch~~[- subsidiary, or subsidiary of a holding company]~~ or agency of an intra-Pacific bank established or acquired pursuant to section 412:5-401.
- (f) A nonrefundable fee of \$500 shall be assessed for an application to relocate a branch or office established pursuant to section 412:12-107.”

SECTION 3. Section 412:2-109, Hawaii Revised Statutes, is amended to read as follows:

“§412:2-109 Compliance resolution fund; financial institution examiners.

- (a) Any law to the contrary notwithstanding, fees and fines collected by the commissioner of financial institutions shall be deposited into the compliance resolution fund established pursuant to section 26-9(o).
- (b) The commissioner may appoint financial institution examiners, in accordance with chapter 76, who shall examine the affairs, transactions, accounts, records, documents, and assets of financial institutions. The commissioner also may appoint administrative support personnel, in accordance with chapter 76, who shall assist and support the examiners. The commissioner may pay the salaries of the financial institution examiners and administrative support personnel from the compliance resolution fund.
- (c) The compliance resolution fund also may be used to reimburse financial institution examiners and administrative support personnel for the following expenses necessarily incurred on account of an examination and the education and training of financial institution examiners and administrative support personnel:
- (1) Actual travel expenses in amounts customary for these expenses and approved by the commissioner;
 - (2) A reasonable living expense allowance at a rate customary for these expenses and approved by the commissioner; and

- (3) Any fee or tuition necessary to attend educational and training conferences, workshops, seminars, and any similar events of this nature.
- (d) The compliance resolution fund also may be used for other expenses relating to examinations of financial institutions and administrative costs, including personnel costs of the division and costs incurred by supporting offices and divisions.
- (e) All persons receiving any reimbursement or compensation from the compliance resolution fund shall submit to the commissioner for approval a detailed account of all expenses and compensation necessarily incurred. Persons shall not receive or accept any additional compensation on account of an examination. In the case of an examination, any reimbursement or compensation made by the fund and approved by the commissioner shall be charged to the financial institution being examined by the commissioner and all receipts shall be credited to the fund.
- (f) Moneys in the compliance resolution fund shall not revert to the general fund.

~~[(g) The commissioner may annually charge each financial institution subject to examination by the commissioner the sum of \$500 plus \$100 for each office, agency, and branch office maintained by the financial institution, payment of which shall be made before July 2 and thereafter credited to the compliance resolution fund. The commissioner may establish, increase, decrease, or repeal this fee when necessary pursuant to rules adopted in accordance with chapter 91.]~~

SECTION 4. Section 412:3-201, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The application shall be submitted in a form prescribed by the commissioner. The commissioner may accept application forms that are utilized by any federal regulatory agency in processing similar applications. The application shall be accompanied by an application fee [of \$9,000, or such greater amount as the commissioner shall establish by rule pursuant to chapter 91.] assessed pursuant to section 412:2-105.2. The application fee shall not be refundable.”

SECTION 5. Section 412:3-212, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) If the commissioner is satisfied that the financial institution and, if applicable, its holding company have fulfilled all the requirements of law and the grounds for preliminary approval, and that the financial institution is qualified to engage in the business of a financial institution, the commissioner shall issue a written decision and order approving the application. The order may restrict the payment of dividends for a period of up to three years, and may contain any other conditions and restrictions on the financial institution that are in the public interest, including but not limited to the divestment of any contractual arrangement with an affiliate or subsidiary involving any type of business not permitted under this chapter. Upon the satisfactory fulfillment by the financial institution and, if applicable, its holding company of the conditions in the written decision and order approving the application ~~[and upon the payment by a depository financial services loan company of the initial license fee assessed pursuant to section 412:2-105.2]~~, the commissioner shall issue to the financial institution a charter or license to engage in the business of a financial institution under this chapter.”

SECTION 6. Section 412:3-503, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The institution shall file an application with the commissioner. The application shall be in a form prescribed by the commissioner and shall be accompanied by a fee ~~[the amount of which shall be established by rule.]~~ if required by section 412:2-105.2. The application shall contain the following information:

- (1) The name of the financial institution;
- (2) The specific location of the proposed site of the principal office, branch, or agency;
- (3) The anticipated opening date and, if open for a specified period, the end of such period;
- (4) The nature of the business or transactions intended to be carried on at the location;
- (5) Facts showing the necessity or justification for the proposed site and that there is a reasonable assurance of sufficient volume of business so that opening and maintaining the proposed business location will not jeopardize the solvency of the financial institution; and
- (6) Any other information that the commissioner may require.”

SECTION 7. Section 412:5-201, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Any bank desiring to acquire any federal power~~[,]~~ shall file an application with the commissioner. The application shall indicate the applicable federal statute, rule, regulation, interpretation or court decision, the extent of the federal power desired, the reasons for the application, and any other information requested by the commissioner. The commissioner may by rule prescribe the form of application ~~[and application filing fees].~~”

SECTION 8. Section 412:5-401, Hawaii Revised Statutes, is amended to read as follows:

“**§412:5-401 Required approval.** No intra-Pacific bank or intra-Pacific bank holding company may engage in business in this State, except in one of the following three forms:

- (1) Branch. An intra-Pacific bank may establish or acquire one or more branches in this State if it obtains the prior approval of the commissioner under this chapter to operate such branch or branches;
- (2) Subsidiary of an intra-Pacific bank. An intra-Pacific bank may establish or acquire, directly or indirectly, the assets of or control over or merge with a bank that is a Hawaii financial institution or its holding company if the intra-Pacific bank obtains the prior approval of the commissioner and:
 - (A) Complies with the requirements of this chapter as to mergers and acquisitions; and
 - (B) Obtains a charter under this chapter to engage in business as a bank;
- (3) Subsidiary of an intra-Pacific bank holding company. An intra-Pacific bank holding company may establish or acquire, directly or indirectly, the assets of or control over or merge with a bank that is a ~~[Hawaii]~~ financial institution or acquire control over or merge with, its holding company if the intra-Pacific bank holding company obtains the prior approval of the commissioner and:
 - (A) Complies with the requirements of this chapter as to mergers and acquisitions; ~~[and] or~~
 - (B) Obtains a charter under this chapter to engage in business as a bank.”

SECTION 9. Section 412:5A-201, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The application shall be on a form prescribed by the commissioner and shall contain any information that the commissioner may require. ~~[The application shall be accompanied by an application fee established by the commissioner pursuant to chapter 91.]~~”

SECTION 10. Section 412:6-204, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) The savings bank shall file an application with the commissioner in a form approved by the commissioner. ~~[The application shall be accompanied by a fee, the amount of which shall be prescribed by rule.]~~ The application shall contain the following information concerning the proposed operating subsidiary:

- (1) The name and date for commencement of operations;
- (2) The specific location;
- (3) The activities and nature of business;
- (4) The ownership, amount, and nature of the investment; and
- (5) Any other information that the commissioner may require.”

SECTION 11. Section 412:7-201, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Any savings and loan association desiring to acquire any federal power shall file an application with the commissioner. The application shall indicate the applicable federal statute, rule, regulation, interpretation or court decision, the extent of the federal power desired, the reasons for the application, and any other information requested by the commissioner. The commissioner may by rule prescribe the form of application ~~[and application filing fees]~~.”

SECTION 12. Section 412:7-204, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) The savings and loan association shall file an application with the commissioner in a form approved by the commissioner. ~~[The application shall be accompanied by a fee, the amount of which shall be prescribed by rule.]~~ The application shall contain the following information concerning the proposed operating subsidiary:

- (1) The name and date for commencement of operations;
- (2) The specific location;
- (3) The activities and nature of business;
- (4) The ownership, amount, and nature of the investment; and
- (5) Any other information that the commissioner may require.”

SECTION 13. Section 412:10-103, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The application shall be submitted on a form prescribed by the commissioner. The application shall be accompanied by a fee ~~[as the commissioner shall establish by rule]~~ established by section 412:2-105.2, no part of which shall be refundable.”

SECTION 14. Section 412:10-201, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Any credit union desiring to acquire any federal power~~[.]~~ shall file an application with the commissioner. The application shall indicate the applicable federal statute, rule, regulation, interpretation or court decision, the extent of the federal power desired, the reasons for the application, and any other infor-

mation requested by the commissioner. The commissioner may by rule prescribe the form of application [~~and application filing fees~~].”

SECTION 15. Section 412:13-222, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The foreign bank shall file an application with the commissioner. The application shall be in a form and contain any information as the commissioner shall require [~~and shall be accompanied by a fee, the amount of which shall be established by rule~~].”

SECTION 16. Section 412:10-125, Hawaii Revised Statutes, is repealed.

SECTION 17. Statutory material to be repealed is bracketed and stricken.¹ New statutory material is underscored.

SECTION 18. This Act shall take effect upon its approval.

(Approved June 29, 2016.)

Note

1. Edited pursuant to HRS §23G-16.5.