EXECUTIVE CHAMBERS KE KE'ENA O KE KIA'ĀINA

JOSH GREEN, M.D. GOVERNOR KE KIA'ĀINA

April 10, 2025

The Honorable Ronald D. Kouchi President of the Senate, and Members of the Senate Thirty-Third State Legislature State Capitol, Room 409 Honolulu, Hawai'i 96813 The Honorable Nadine Nakamura Speaker, and Members of the House of Representatives Thirty-Third State Legislature State Capitol, Room 431 Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Nakamura, and Members of the Legislature:

This is to inform you that on April 10, 2025, the following bill was signed into law:

SB289

RELATING TO ETHICS ADMINISTRATIVE FINES. **ACT 013**

Sincerely,

Josh Green, M.D.

Governor, State of Hawai'i

Approved by the Governor

STATE OF HAWAII

on APR 1 0 2025
THE SENATE
THIRTY-THIRD LEGISLATURE, 2025

ACT 013 S.B. NO. 289

JAN 15 2025

A BILL FOR AN ACT

RELATING TO ETHICS ADMINISTRATIVE FINES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that it is in the public 2 interest to have an efficient and timely resolution of ethics and 3 lobbying cases. Timely resolution of matters before the ethics 4 commission promotes the fair adjudication of rights and public 5 transparency. This Act aims to provide greater uniformity, 6 flexibility, and efficiency in assessing administrative fines 7 related to violations of the state ethics code and lobbyist law. 8 SECTION 2. Section 84-17, Hawaii Revised Statutes, is 9 amended by amending subsection (1) to read as follows: 10 "[{](1)[} If notice and order of an administrative fine 11 has been issued pursuant to this section, the order shall become 12 final on the twentieth day after it is served upon the alleged 13 violator, unless the alleged violator submits a written request 14 for a hearing before the state ethics commission on or before 15 the twentieth day. After conducting a hearing pursuant to 16 chapter 91, the state ethics commission may affirm, modify, or 17 rescind the order as appropriate. The state ethics commission

1	may file with the circuit court of the first circuit any order
2	the commission has issued pursuant to this section for the
3	purpose of confirming the order as a final judgment that shall
4	have the same force and effect and shall be enforceable and
5	collectable as other judgments issued by the circuit courts;
6	provided that there shall be no appeal from the judgment.]
7	Administrative fines assessed pursuant to this section may be
8	enforced using the procedure provided in section 84-31(g)."
9	SECTION 3. Section 84-31, Hawaii Revised Statutes, is
10	amended to read as follows:
11	"§84-31 Duties of commission; complaint, hearing,
12	determination. (a) The ethics commission shall have the
13	following powers and duties:
14	(1) It shall prescribe forms for the disclosures required
15	by article XIV of the Hawaii constitution and
16	section 84-17 and the gifts disclosure statements
17	required by section 84-11.5 and shall establish
18	orderly procedures for implementing the requirements
19	of those provisions;
20	(2) It shall provide advice upon the request of any person
21	as to whether the facts and circumstances of a

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	particular situation constitute or will constitute a
	violation of the code of ethics or other laws or rules
	administered and enforced by the commission, and
	discuss ways to avoid an appearance of impropriety. A
	person receiving advice from the commission may
	request a written summary of that advice. The
	commission shall treat all advice requests, responses,
	and related materials as confidential. Written
	summaries shall be confidential unless the recipient
	waives confidentiality;
(3)	It shall render advisory opinions upon the request of

It shall render advisory opinions upon the request of any legislator, employee, or delegate to the constitutional convention, or person formerly holding such office or employment as to whether the facts and circumstances of a particular case constitute or will constitute a violation of the code of ethics. If no advisory opinion is rendered within ninety days after the request is filed with the commission, it shall be deemed that an advisory opinion was rendered and that the facts and circumstances of that particular case do not constitute a violation of the code of ethics. The

1		opinion rendered or deemed rendered, until amended or
2		revoked, shall be binding on the commission in any
3		subsequent charges concerning the legislator,
4		employee, or delegate to the constitutional
5		convention, or person formerly holding such office or
6		employment, who sought the opinion and acted in
7		reliance on it in good faith, unless material facts
8		were omitted or misstated by such persons in the
9		request for an advisory opinion. The commission shall
10		also render public general advisory opinions
11		concerning proper interpretation of the code of ethics
12		and other laws or rules administered and enforced by
13		the commission, if it deems the opinion of sufficient
14		general interest and importance;
15	(4)	It may initiate an investigation into alleged,
16		possible, or potential violations of this chapter and
17		other laws or rules administered and enforced by the
18		commission, on a confidential basis, having available
19		all of the powers herein provided, whether the
20		investigation is made based on a charge allegation,

•		other information of inarcations, of as the commission
2		determines is in the public interest;
3	(5)	It shall initiate, receive, and consider charges and
4		other information, on a confidential basis, concerning
5		alleged, possible, or potential violations of this
6		chapter and other laws or rules administered and
7		enforced by the commission, initiate or make
8		investigation, and hold hearings;
9	(6)	Upon adoption of a resolution defining the scope and
10		nature of the inquiry, supported by a vote of three or
11		more members of the commission, it may subpoena
12		witnesses, administer oaths, and take testimony
13		relating to matters before the commission and require
14		the production for examination of any books or papers
15		relative to any matter under investigation or in
16		question before the commission;
17	(7)	It may, from time to time adopt, amend, and repeal any
18		rules, not inconsistent with this chapter, that in the
19		judgment of the commission seem appropriate for the
20		carrying out of this chapter and for the efficient
21		administration thereof, including every matter or

1		thing required to be done or which may be done with
2		the approval or consent or by order or under the
3		direction or supervision of or as prescribed by the
4		commission. The rules, when adopted as provided in
5		chapter 91, shall have the force and effect of law;
6	(8)	It shall have jurisdiction for purposes of
7		investigation and taking appropriate action on
8		possible violations of this chapter in all proceedings
9		commenced within six years of a possible violation of
10		this chapter by a legislator or employee or former
11		legislator or employee. A proceeding shall be deemed
12		commenced by the filing of a charge with the
13		commission or by the signing of a charge by three or
14		more members of the commission. Nothing herein shall
15		bar proceedings against a person who by fraud or other
16		device, prevents discovery of a violation of this
17		chapter;
18	(9)	It shall distribute its publications without cost to
19		the public and shall initiate and maintain programs
20		with the purpose of educating the citizenry and all
21		legislators, employees, and delegates to the

1	constitutional convention on matters of ethics in
2	government employment; and
3	(10) It shall administer any code of ethics adopted by a
4	state constitutional convention, subject to the
5	procedural requirements of this part and any rules
6	adopted thereunder.
7	(b) Charges concerning the violation of this chapter shall
8	be in writing, signed by the person making the charge under
9	oath; provided that any charge initiated by the commission shall
10	be signed by three or more members of the commission. The
11	commission shall issue written notice to every person against
12	whom a charge is received and afford the person an opportunity
13	to explain the conduct alleged to be in violation of the
14	chapter. The commission may investigate, after compliance with
15	this section, the charges and render an informal advisory
16	opinion to the alleged violator. The commission shall
17	investigate all charges on a confidential basis, having
18	available all the powers herein provided, and proceedings at
19	this stage shall not be public. If the informal advisory
20	opinion indicates a probable violation, the person charged shall
21	request a formal opinion or within a reasonable time comply with

the informal advisory opinion. If the person charged fails to 1 2 comply with the informal advisory opinion or if a majority of 3 the members of the commission determine that there is probable 4 cause for belief that a violation of this chapter might have 5 occurred, a copy of the charge and a further statement of the 6 alleged violation shall be personally served upon the alleged 7 violator. Service shall be made by personal service upon the 8 alleged violator wherever found or by registered or certified 9 mail with a request for a return receipt and marked deliver to 10 addressee only. If after due diligence service cannot be 11 effected successfully in accordance with the above, service may 12 be made by publication if so ordered by the circuit court of the 13 circuit wherein the alleged violator last resided. The state 14 ethics commission shall submit to the circuit court for its 15 consideration in issuing its order to allow service by 16 publication an affidavit setting forth facts based upon the 17 personal knowledge of the affiant concerning the methods, means, 18 and attempts made to locate and effect service by personal 19 service or by registered or certified mail in accordance with 20 the above. Service by publication when ordered by the court 21 shall be made by publication once a week for four successive

- 1 weeks of a notice in a newspaper of general circulation in the
- 2 circuit of the alleged violator's last known state address. The
- 3 alleged violator shall have twenty days after service thereof to
- 4 respond in writing to the charge and statement.
- 5 (c) If after twenty days following service of the charge
- 6 and further statement of alleged violation in accordance with
- 7 this section, a majority of the members of the commission
- 8 conclude that there is probable cause to believe that a
- 9 violation of this chapter or of the code of ethics adopted by
- 10 the constitutional convention has been committed, then the
- 11 commission shall set a time and place for a hearing, giving
- 12 notice to the complainant and the alleged violator. Upon the
- 13 commission's issuance of a notice of hearing, the charge and
- 14 further statement of alleged violation and the alleged
- 15 violator's written response thereto shall become public records.
- 16 The hearing shall be held within ninety days of the commission's
- 17 issuance of a notice of hearing. If the hearing is not held
- 18 within that ninety-day period, the charge and further statement
- 19 of alleged violation shall be dismissed; provided that any delay
- 20 that is at the request of, or caused by, the alleged violator

- 1 shall not be counted against the ninety-day period. All parties
- 2 shall have an opportunity to:
- 3 (1) Be heard;
- 4 (2) Subpoena witnesses and require the production of any
- 5 books or papers relative to the proceedings;
- **6** (3) Be represented by counsel; and
- 7 (4) Have the right of cross-examination.
- 8 All hearings shall be in accordance with chapter 91. All
- 9 witnesses shall testify under oath and the hearings shall be
- 10 open to the public. The commission shall not be bound by the
- 11 strict rules of evidence but the commission's findings must be
- 12 based upon competent and substantial evidence. All testimony
- 13 and other evidence taken at the hearing shall be recorded.
- (d) A decision of the commission pertaining to the conduct
- 15 of any legislator, delegate to the constitutional convention, or
- 16 employee or person formerly holding such office or employment
- 17 shall be in writing and signed by three or more of the members
- 18 of the commission. A decision of the commission rendered after
- 19 a hearing together with findings and the record of the
- 20 proceeding shall be a public record.

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2	commission against any person covered by this chapter shall be
3	civilly liable to the person charged for all costs incurred in
4	defending the charge, including but not limited to costs and
5	attorneys' fees. In any case where the commission decides not
6	to issue a complaint in response to a charge, the commission
7	shall upon the written request of the person charged make a
8	finding as to whether or not the charge was frivolous. The
9	person charged may initiate an action in the circuit court for
10	recovery of fees and costs incurred in commission proceedings
11	within one year after the commission renders a decision. The
12	commission's decision shall be binding upon the court for
13	purposes of a finding pursuant to section 607-14.5.
14	(f) The commission shall cause to be published yearly
15	summaries of decisions, advisory opinions, and informal advisory
16	opinions. The commission shall make sufficient deletions in the
17	summaries to prevent disclosing the identity of persons involved
18	in the decisions or opinions where the identity of such persons
19	is not otherwise a matter of public record under this chapter.
20	(g) Notwithstanding the above procedures, for any

21 violation of this chapter with a proposed administrative penalty

(e) A person who files a frivolous charge with the



1	of less than \$1,000, the state ethics commission may issue a
2	notice and order of administrative fine describing the violation
3	and assessing an administrative fine. The order shall become
4	final on the twentieth day after it is served upon the alleged
5	violator, unless the alleged violator submits a written request
6	for a hearing before the state ethics commission on or before
7	the twentieth day. After conducting a hearing pursuant to
8	chapter 91, the state ethics commission may affirm, modify, or
9	rescind the order as appropriate. The state ethics commission
10	may file with the circuit court of the first circuit any order
11	the commission has issued pursuant to this section for the
12	purpose of confirming the order as a final judgment that shall
13	have the same force and effect and shall be enforceable and
14	collectable as other judgments issued by the circuit courts;
15	provided that there shall be no appeal from the judgment."
16	SECTION 4. Section 84-39, Hawaii Revised Statutes, is
17	amended by amending subsection (b) to read as follows:
18	"(b) No fine shall be assessed under this section unless:
19	(1) The state ethics commission convenes a hearing in
20	accordance with section 84-31(c) and chapter 91 and a
21	decision has been rendered by the commission; [or]

1	(2)	The state ethics commission and respondent agree to
2		resolve any charge of an alleged violation prior to
3		completion of the contested case process and the
4		resolution includes payment of an administrative fine
5		or restitution, or both[+]; or
6	(3)	The state ethics commission issues a notice and order
7		of administrative fine pursuant to section 84-31(g)."
8	SECT	ION 5. Section 97-6, Hawaii Revised Statutes, is
9	amended t	o read as follows:
10	''§97	-6 Administration. (a) The state ethics commission
11	shall adm	inister and implement this chapter, and shall have the
12	following	powers and duties:
13	(1)	Initiate, receive, and consider charges and other
14		information, on a confidential basis, concerning
15		alleged, possible, or potential violations of this
16		chapter and other laws or rules administered and
17		enforced by the commission, and investigate or cause
18		to be investigated; on a confidential basis, the
19		activities of any person to determine whether the
20		person is in compliance with this chapter;



1	(2)	Prescribe forms for the documentation, statements, and
2		reports required by sections 97-2 and 97-3 and
3		establish orderly procedures for implementing the
4		requirements of those provisions;
5	(3)	Provide advice upon the request of any person as to
6		whether the facts and circumstances of a particular
7		situation constitute or will constitute a violation of
8		this chapter or other laws or rules administered and
9		enforced by the commission and discuss ways to avoid
10		an appearance of impropriety. A person receiving
11		advice from the commission may request a written
12		summary of that advice. The commission shall treat
13		all advice requests, responses, and related materials
14		as confidential. Written summaries shall be
15		confidential unless the recipient waives
16		confidentiality;
17	(4)	Render advisory opinions upon the request of any
18		person subject to this chapter. If no advisory

opinion is rendered within ninety days after the

request is filed with the commission, it shall be

deemed that an advisory opinion was rendered and that



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1		the facts and circumstances of that particular case do
2		not constitute a violation of this chapter. The
3		opinion rendered or deemed rendered, until amended or
4		revoked, shall be binding on the commission in any
5		subsequent charges concerning the person subject to
6		this chapter who sought the opinion and acted in
7		reliance on it in good faith, unless material facts
8		were omitted or misstated by the person in the request
9		for an advisory opinion. The commission shall also
10		render public general advisory opinions concerning
11		proper interpretations of the laws of this chapter and
12		other laws or rules administered and enforced by the
13		commission, if it deems the opinion of sufficient
14		general interest and importance;
15	(5)	Issue subpoenas, administer oaths, require the
16		production for examination of any records or papers
17		relative to any matter under investigation or in
18		question before the commission, and exercise those
19		powers conferred upon the commission by section 92-16;
20	(6)	Adopt, amend, and repeal rules, not inconsistent with
21		this chapter, that in the judgment of the commission

1		seem appropriate for the carrying out of this chapter
2		and for the efficient administration of this chapter,
3		including every matter or thing required to be done or
4		that may be done with the approval or consent or by
5		order or under the direction or supervision of, or as
6		prescribed by, the commission. The rules, when
7		adopted as provided in chapter 91, shall have the
8		force and effect of law;
9	(7)	Have jurisdiction for purposes of investigation and
10		taking appropriate action on possible violations of
11		this chapter in all proceedings commenced within six
12		years of a possible violation of this chapter. A
13		proceeding shall be deemed commenced by the filing of
14		a charge with the commission or by the signing of a
15		charge by three or more members of the commission.
16		Nothing shall bar proceedings against a person who by
17		fraud or other device prevents discovery of a
18		violation of this chapter; and
19	(8)	Distribute educational and advisory publications and
20		initiate, administer, and maintain training programs
21		for the purpose of training lobbyists on compliance

1	with state lobbying laws and applicable parts of the
2	code of ethics.
3	(b) Charges concerning the violation of this chapter shall
4	be in writing, signed by the person making the charge under
5	oath; provided that any charge initiated by the commission shall
6	be signed by three or more members of the commission. The
7	commission shall issue written notice to every person against
8	whom a charge is received and afford the person an opportunity
9	to explain the conduct alleged to be in violation of the
10	chapter. The commission may investigate, after compliance with
11	this section, the charges and render an informal advisory
12	opinion to the alleged violator. The commission shall
13	investigate all charges on a confidential basis, having
14	available all the powers herein provided, and proceedings at
15	this stage shall not be public. If the informal advisory
16	opinion indicates a probable violation, the person charged shall
17	request a formal opinion or within a reasonable time comply with
18	the informal advisory opinion. If the person charged fails to
19	comply with the informal advisory opinion or if a majority of
20	the members of the commission determine that there is probable
21	cause for belief that a violation of this chapter might have

occurred, a copy of the charge and a further statement of the 1 2 alleged violation shall be personally served upon the alleged violator. Service shall be made by personal service upon the 3 alleged violator wherever found or by registered or certified 4 mail with request for a return receipt and marked deliver to 5 6 addressee only. If after due diligence service cannot be effected successfully in accordance with the above, service may 7 8 be made by publication if so ordered by the circuit court of the 9 circuit wherein the alleged violator last resided. The commission shall submit to the circuit court for its 10 consideration in issuing its order to allow service by 11 12 publication an affidavit setting forth facts based upon the personal knowledge of the affiant concerning the methods, means, 13 14 and attempts made to locate and effect service by personal 15 service or by registered or certified mail in accordance with 16 the above. Service by publication when ordered by the court 17 shall be made by publication once a week for four successive 18 weeks of a notice in a newspaper of general circulation in the circuit of the alleged violator's last known state address. The 19 20 alleged violator shall have twenty days after service thereof to 21 respond in writing to the charge and statement.

1 (C) If after twenty days following service of the charge 2 and further statement of alleged violation in accordance with this section, a majority of the members of the commission 3 4 conclude that there is probable cause to believe that a 5 violation of this chapter has been committed, then the 6 commission shall set a time and place for a hearing, giving 7 notice to the complainant and the alleged violator in the same 8 manner as provided in subsection (b). Upon the commission's 9 issuance of a notice of hearing, the charge and further 10 statement of alleged violation and the alleged violator's 11 written response thereto shall become public records. 12 hearing shall be held within ninety days of the commission's 13 issuance of a notice of hearing. If the hearing is not held 14 within that ninety-day period, the charge and further statement 15 of alleged violation shall be dismissed; provided that any delay 16 that is at the request of, or caused by, the alleged violator 17 shall not be counted against the ninety-day period. 18 All parties shall have an opportunity to: 19 (1) Be heard; 20 Subpoena witnesses and require the production of any (2)

books or papers relative to the proceedings;



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- 1 (3) Be represented by counsel; and
- 2 (4) Have the right of cross-examination.
- 3 All hearings shall be in accordance with chapter 91. All
- 4 witnesses shall testify under oath and the hearings shall be
- 5 open to the public. The commission shall not be bound by the
- 6 strict rules of evidence but the commission's findings shall be
- 7 based on competent and substantial evidence.
- 8 All testimony and other evidence taken at the hearing shall
- 9 be recorded. All fees collected under this chapter shall be
- 10 deposited into the general fund.
- 11 (d) A decision of the commission pertaining to the conduct
- 12 of any person subject to this chapter shall be in writing and
- 13 signed by three or more of the members of the commission. A
- 14 decision of the commission rendered after a hearing together
- 15 with findings and the record of the proceeding shall be a public
- 16 record.
- 17 (e) A person who files a frivolous charge with the
- 18 commission against any person covered by this chapter shall be
- 19 civilly liable to the person charged for all costs incurred in
- 20 defending the charge, including but not limited to costs and
- 21 attorneys' fees. In any case where the commission does not



- 1 issue a decision or final conclusion in which the commission
- 2 concludes that a person has violated this chapter, the
- 3 commission shall, upon the written request of the person
- 4 charged, make a finding as to whether or not the charge was
- 5 frivolous. The person charged may initiate an action in the
- 6 circuit court for recovery of fees and costs incurred in
- 7 commission proceedings within one year after the commission
- 8 renders a decision that the charge was frivolous. The
- 9 commission's decision shall be binding upon the court for
- 10 purposes of a finding pursuant to section 607-14.5.
- 11 (f) The commission shall cause to be published yearly
- 12 summaries of decisions, advisory opinions, and informal advisory
- 13 opinions. The commission shall make sufficient deletions in the
- 14 summaries to prevent disclosing the identity of persons involved
- 15 in the decisions or opinions where the identity of such persons
- 16 is not otherwise a matter of public record under this chapter.
- 17 (g) Notwithstanding the above procedures, for any
- 18 violation of this chapter with a proposed administrative penalty
- 19 of less than \$1,000, the state ethics commission may issue a
- 20 notice and order of administrative fine describing the violation
- 21 and assessing an administrative fine. The order shall become



•	I mar on the twentreth day after it is served upon the arreged
2	violator, unless the alleged violator submits a written request
3	for a hearing before the state ethics commission on or before
4	the twentieth day. After conducting a hearing pursuant to
5	chapter 91, the state ethics commission may affirm, modify, or
6	rescind the order as appropriate. The state ethics commission
7	may file with the circuit court of the first circuit any order
8	the commission has issued pursuant to this section for the
9	purpose of confirming the order as a final judgment that shall
10	have the same force and effect and shall be enforceable and
11	collectable as other judgments issued by the circuit courts;
12	provided that there shall be no appeal from the judgment."
13	SECTION 6. Section 97-7, Hawaii Revised Statutes, is
14	amended by amending subsection (b) to read as follows:
15	"(b) No fine shall be assessed unless the state ethics
16	commission:
17	(1) Convenes a hearing in accordance with section 97-6(c)
18	and chapter 91 and renders a decision; $[or]$
19	(2) Together with the alleged violator, agrees to resolve
20	any alleged violation before the completion of the
21	contested case process; provided that the resolution

1	includes payment of an administrative fine or
2	restitution, or both[-]; or
3	(3) Issues a notice and order of administrative fine
4	pursuant to section 97-6(g)."
5	SECTION 7. This Act does not affect rights and duties that
6	matured, penalties that were incurred, and proceedings that were
7	begun before its effective date.
8	SECTION 8. If any provision of this Act, or the
9	application thereof to any person or circumstance, is held
10	invalid, the invalidity does not affect other provisions or
11	applications of the Act that can be given effect without the
12	invalid provision or application, and to this end the provisions
13	of this Act are severable.
14	SECTION 9. Statutory material to be repealed is bracketed
15	and stricken. New statutory material is underscored.
16	SECTION 10. This Act shall take effect upon its approval.
17	$\sim 10^{-1}$
	INTRODUCED BY:
	By Request

APPROVED this

10th

day of April , 2025

GOVERNOR OF THE STATE OF HAWAI'I

THE SENATE OF THE STATE OF HAWAI'I

Date: February 28, 2025 Honolulu, Hawai'i 96813

We hereby certify that the foregoing Bill this day passed Third Reading in the Senate of the Thirty-Third Legislature of the State of Hawai'i, Regular Session of 2025.

President of the Senate

Clerk of the Senate

Olword

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAI'I

Date: MAR 2 8 2025 Honolulu, Hawai'i 96813

We hereby certify that the foregoing Bill this day passed Third Reading in the House of Representatives of the Thirty-Third Legislature of the State of Hawai'i, Regular Session of 2025.

Speaker, House of Representatives

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Clerk, House of Representatives

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