CONFERENCE COMMITTEE REPORTS

Conf. Com. Rep. 1-82 on H.B. No. 2215-82

The purpose of this bill is to streamline the procedures for obtaining and issuing ex parte temporary restraining orders to prevent acts of or the recurrence of domestic abuse.

The bill provides a new chapter entitled "Domestic Abuse Protection Orders" which will replace the existing Chapter 585, Hawaii Revised Statutes, entitled "Ex Parte Temporary Restraining Orders."

The bill provides that the family court shall have jurisdiction with actions brought pursuant to this bill and that such actions be given docket priorities by the court.

The bill provides that there shall exist an action known as a petition for an order for protection in cases of domestic violence.

Your Committee amended the bill to provide that a protective order may not be issued for periods in excess of ninety (90) days from the date of the initial order.

Your Committee feels that due to the temporary nature of the relief granted under this Chapter, that an order issued by the court pursuant to this Chapter should not exceed a period of ninety days. Should circumstances warrant extended periods of court ordered protection, further hearings should be held or alternative forms of relief should be sought from the appropriate courts.

The bill has been further amended to provide that each county police department give information on the status of protective orders to other law enforcement officers in the same county.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2215-82, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2215-82, H.D. 1, S.D. 1, C.D. 1.

Representatives Nakamura, Hirono, Honda, Waihee and Liu,
Managers on the part of the House.

Senators Carpenter, George and Uwaine,
Managers on the part of the Senate.

Conf. Com. Rep. 2-82 on H.B. No. 2817-82

The purpose of this bill is to require the registration of all off-road vehicles in the State, defined in the bill as "any motorized vehicle which is designed for or used in areas not otherwise designated as a public street or highway," except for U.S. military vehicles, motorized construction and demolition vehicles, and motorized vehicles and implements of farming and husbandry that are not designed for and not used on public highways.

Your Committee upon further consideration has amended page 3, lines 13-16 of H.B. No. 2817-82, H.D. 2, S.D. 1 to read: "vehicles, and motorized vehicles and implements of farming and husbandry, except where such motorized vehicles are designed for and use public highway." This amendment adds motorized vehicles used for farming or husbandry to the class of vehicles and implements exempted from the registration requirements imposed by Section 286-41, HRS. The amendment also corrects a typographical error.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2817-82, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2817-82, H.D. 2, S.D. 1, C.D. 1.

Representatives Dods, Levin, Okamura, Takitani, Taniguchi and Ikeda,
Managers on the part of the House.

Senators Yamasaki, George and Kawasaki,
Managers on the part of the Senate.

Conf. Com. Rep. 3-82 on H.B. No. 2815-82

The purpose of this bill is to reinsert into section 286-51, Hawaii Revised Statutes, authorization for the counties to assess a fifty (50) cent county fee to be paid into a fund for the purpose of highway beautification and the disposition of abandoned vehicles, which was inadvertently deleted by Act 237, SLH 1976.

Your Committee upon further consideration has amended the effective date of H.B. No. 2815-82, H.D. 1, S.D. 1 from January 1, 1983 to July 1, 1982.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2815-82, H.D. 1, S.D. 1, as amended therein, and recommend that it pass Final Reading in the form attached hereto as H.B. No. 2815-82, H.D. 1, S.D. 1, C.D. 1.

Representatives Dods, Andrews, Say, Taniguchi and Medeiros,
Managers on the part of the House.

Senators Yamasaki, George and Kawasaki,
Managers on the part of the Senate.

Conf. Com. Rep. No. 4-82 on H.B. No. 2585-82

The purpose of this bill is to amend Sections 707-750 and 707, Hawaii Revised Statutes, by specifying that the offense of promoting child abuse applies to "pornographic" material in which minors are used.

On April 27, 1981, Section 707-751 of the Hawaii Revised Statutes relating to the promoting of child abuse in the second degree was found to be unconstitutional by a circuit court judge. The court's order indicated that the statute prohibited speech protected by the First and Fourteenth Amendment of the United States Constitution as well as speech that is not protected. The court indicated that because the statute did not incorporate the three-part test defining obscenity as enunciated by the U.S. Supreme Court in the case of Miller v. California, the statute prohibited non-obscene as well as obscene materials. The court further indicated that since non-obscene expression is permitted and protected by the First Amendment, the statute is overbroad on its face and unconstitutional.

The State is currently appealing the trial judge's decision to the Hawaii Supreme Court. However, your Committee believes that any question as to what is being prohibited should be clarified.

The bill provides that the conduct or material being prohibited in the child abuse statutes relates to pornography.

Your Committee amended the bill by adopting the definition of pornography as used in Section 712-1210, Hawaii Revised Statutes, to apply to Sections 707-750 and 707-751.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2585-82, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2585-82, H.D. 1, S.D. 1, C.D. 1.

Representatives Nakamura, Hirono, Honda, Waihee and Liu,
Managers on the part of the House.

Senators Carpenter, George and Kobayashi,
Managers on the part of the Senate.

Conf. Com. Rep. No. 5-82 on S.B. No. 2642-82

The purpose of this bill is to provide for the continued operation of the Juvenile Justice Interagency Board and to alter its membership to increase input.

Present law places the Juvenile Justice Interagency Board under the authority of the State Law Enforcement Agency (SLEPA) for administrative purposes. However, SLEPA is scheduled to cease operations on March 31, 1983. This bill provides for the transfer of administrative responsibility from SLEPA to the Department of the Attorney General.

The bill provided further that the Board membership be increased from seven to ten members and included the Director of the Office of Children and Youth as an ex officio member.

Your Committee upon further reconsideration has amended the bill to provide for the Board to be comprised of nine members and has excluded the Director of the Office of Children and Youth from membership because that agency functions as an advisory board rather than as a policy making board. The bill has also been amended to require that at least one resident member from each county in the State serve on the Board. This will increase valuable input and provide statewide representation.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2642-82, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2642-82, H.D. 1, C.D. 1.

Representatives Nakamura, Honda, Shito, Taniguchi and Liu,
Managers on the part of the House.

Senators Carpenter, O'Connor and Anderson,
Managers on the part of the Senate.

Conf. Com. Rep. 6-82 on S.B. No. 2379-82

The purpose of this bill is to give judges discretion to sentence a person to a term of imprisonment to run concurrently or consecutively.

Presently, the law requires a judge to sentence a person to terms of imprisonment to run concurrently, giving no discretion to judges. This requirement negates the deterrent and punishment aspects of sentencing and in so doing fails to deter similar future behavior on the part of the particular individual involved. The bill provides that judges have discretion to sentence a person to consecutive terms of imprisonment. Your Committee feels that judges will exercise their discretion in invoking consecutive terms of imprisonment when appropriate as in instances where the defendant committed multiple or subsequent offenses.

The bill further provides for the deletion of current law dealing with consecutive terms of imprisonment for escape and crimes committed while imprisoned. The provisions of the deleted section are essentially covered by the granting of discretionary power to the judges in imposing consecutive sentences. Thus, your Committee made technical changes consistent with the deletion.

The bill also provided that the court impose a mandatory maximum and consecutive term of imprisonment for the crime of assault in the first degree committed by a person who is imprisoned in a correctional institution. Your Committee amended the bill by deleting this provision since the court's discretionary power to invoke a consecutive term of imprisonment will cover that situation.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2379-82, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2379-82, H.D. 1, C.D. 1.

Representatives Nakamura, Honda, Shito, Taniguchi and Liu,
Managers on the part of the House.

Senators Carpenter, Cayetano and Soares,
Managers on the part of the Senate.

Conf. Com. Rep. 7-82 on S.B. No. 2467-82

The purpose of this bill is to regulate the ownership of firearms and ammunition.

The bill prohibits the ownership, possession, sale or transfer of certain types of ammunition, designed primarily to penetrate metal and protective armor or to explode upon impact.

Your Committee is aware that technological advancements have made available ammunition, commonly known as "KTW bullets," which are designed for its high penetration capabilities. These bullets have the capability of piercing through several

slabs of metal while retaining its lethalness. These bullets are also very susceptible to ricocheting or exiting a person and fatally wounding another. Your Committee is also concerned about the availability of bullets which are designed to explode upon impact. These types of bullets are also prohibited by this bill.

Your Committee amended the bill to provide that in addition to someone who is under indictment, no person who has waived indictment for or has been convicted of a felony shall own or have in his possession or under his control any firearm or ammunition. Your Committee feels that a person who waives a grand jury indictment and is charged by way of complaint has the same status as one who is charged by grand jury indictment.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2467-82, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2467-82, S.D. 1, H.D. 1, C.D. 1.

Representatives Nakamura, Chun, Kawakami, Waihee and Liu,
Managers on the part of the House.

Senators Carpenter, Cobb and Yee,
Managers on the part of the Senate.

Conf. Com. Rep. 8-82 on S.B. No. 2550-82

The purpose of this bill is to amend Chapter 134, Hawaii Revised Statutes, relating to firearms and ammunition.

The bill provides that firearm registration forms shall be uniform throughout the State and deletes the requirement that a person must register the quantity and class of ammunition in his possession. Your Committee finds that ammunition is of an expendable nature and federal record keeping of handgun ammunition already exists.

The bill mandated the police departments to waive fingerprinting and photographing of applicants for permits to acquire firearms, whose fingerprints and photographs are already on file. Each chief of police was also mandated to issue permits to acquire firearms. Your Committee amended the bill by deleting the provision which mandated waiving of fingerprints and photographs so that the police can retain the discretion to re-take fingerprints or photographs if they feel it is necessary. Your Committee also deleted the provision which mandated each police chief to issue permits to acquire firearms.

The bill further provides for the exemption of federally licensed firearms dealers from the ten-day waiting period for permits to acquire firearms. Also exempted from the waiting period were persons who have previously obtained a firearms permit. Your Committee amended this provision to exempt, from this waiting period, only persons who have previously obtained a permit within a one year period.

The bill deleted the requirement under present law that a person obtain a hunting license for hunting or target shooting and that a minor also acquire a hunting license. Your Committee has amended the bill to retain these licensing requirements to maintain the proper safety of the public in the use of firearms. However, an amendment has been made to provide and clarify that a hunting license is not required for target shooting. In addition, the permit issued to minors shall be valid in all counties for a period of one year.

Your Committee has amended the bill to change the reference to Section 191-6 to specify Section 191-5 instead, because section 191-6 has been repealed.

Finally, your Committee has made technical, nonsubstantive amendments to the bill.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2550-82, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2550-82, S.D. 1, H.D. 1, C.D. 1.

Representatives Nakamura, Chun, Kawakami, Liu and Waihee,
Managers on the part of the House.

Senators Carpenter, Kawasaki and Uwaine,
Managers on the part of the Senate.

Conf. Com. Rep. 9-82 on H.B. No. 2359-82

The purpose of this bill is to appropriate funds to establish a statewide witness protection program, in the office of the Attorney General, or provide for the security and protection of government witnesses, potential government witnesses, and their relatives and associates. Official proceedings or investigations involving organized crime, racketeering activity or career criminal prosecutions are to be assigned greatest priority in the protection program.

Your Committee finds that there is an urgent need for a statewide witness protection program because of the growing complexity of combatting organized crime. It is intended that the Attorney General provide coordination of the program among county, state, and federal agencies.

Your Committee has amended this bill by changing the appropriated amount from $500,000 to $750,000.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2359-82, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2359-82, H.D. 1, S.D. 2, C.D. 1.

Representatives Nakamura, Kunimura, Andrews, Nakasato, Taniguchi, Waihee, Liu and Marumoto,
Managers on the part of the House.

Senators Yamasaki, Carpenter and Yee,
Managers on the part of the Senate.

Conf. Com. Rep. 10-82 on H.B. No. 2559-82

The purpose of this bill is to provide funds for the payment of a settlement negotiated by the State of Hawaii and Dillingham Corporation, doing business as Hawaiian Dredging and Construction Company ("HD&C"), involving a suit (Civil No. 59357) filed by Dillingham Corporation against the State of Hawaii in 1979.

The Department of Transportation contracted with HD&C in 1973 for a construction project on Interstate Route H-2, Waikakalaua Stream Bridge calling for 380 working days. The project actually took almost three years to complete and is the basis of HD&C's $1.8 million suit against the State. An extensive evaluation conducted during a joint analysis and negotiation procedure found that the State's errors, primarily in designs and plans, were responsible for 129 days of the delay.

The $520,000 appropriation will cover the negotiated settlement rather than engage in costly and time-consuming litigation. Also, the Federal Highway Administration has been asked to participate by reimbursing 90 per cent of the settlement amount paid by the State.

The appropriation is to lapse into the general fund on June 30, 1983.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2559-82, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2559-82, H.D. 1, S.D. 1, C.D. 1.

Representatives Nakamura, Kunimura, Shito, Waihee and Liu,
Managers on the part of the House.

Senators Yamasaki, Cayetano and Carpenter,
Managers on the part of the Senate.

Conf. Com. Rep. 11-82 on H.B. No. 1988-82

The purpose of this bill as received is to provide an annual deduction from gross income of $5,000 for contributions to an individual housing account, a trust account, for saving toward the downpayment on a first principal residence of a taxpayer.

The individual housing account established by this bill would operate much like an individual retirement account now allowed by state and federal income tax law.

A maximum of $5,000 a year could be contributed to the account and such contribution would be deductible from gross income while the interest thereon would be taxable in the year accrued. The total contribution to such an account would be for $25,000 over a period of not more than ten years. This amount would become taxable upon distribution. The moneys from the account would have to be used for the purchase of a first principal residence or would be taxed at extraordinary rates to prevent other use. Once purchased the residence must be lived in for a three year period or the taxpayer will be further penalized.

Upon further consideration, your Committee has amended the bill to provide that:

1) interest accrued from an individual housing account is no longer taxable in the year accrued but is treated in the same manner as contributions to the account.

2) the distribution from an individual housing account will not be taxable if it is used for a downpayment on a first principal residence in Hawaii.

3) the penalty imposed upon resale or transfer of a residence purchased with the distribution from an individual housing account has been extended from a three year period after purchase to indefinitely.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1988-82, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1988-82, H.D. 1, S.D. 1, C.D. 1.

Representatives Shito, Morioka, Chun, Honda and Lacy, Managers on the part of the House.

Senators Yamasaki, Anderson, Cayetano and Young, Managers on the part of the Senate.

Conf. Com. Rep. 12-82 on H.B. No. 2836-82

The purpose of this bill is to provide a vehicle with which to regulate the activities of mortgage servicing agents or entitites.

There are no provisions under current law which regulate in any way the activities of mortgage servicing agents. Your Committee notes that mortgage servicing is a commonly utilized service among lenders/mortgagees. Mortgagees, who are often out-of-state purchasers of loans made in Hawaii, usually contract with a local servicing agent to collect installment payments from the mortgagors and to allocate each payment for the proper expenses as well as transmitting the principal and interest payment to the mortgagee. Your Committee notes that while the mortgagor may make timely installment payments pursuant to the loan agreement, it is the servicing agent who ultimately allocates the installment for the payment of real property taxes, insurance, lease rental, association fees, and other assessments included in the installment payment.

Although there have been no adjudicated failures or unfair and deceptive conduct on the part of any mortgage servicing agent, recent events indicate a need for some form of regulation and assurance of financial intergrity of such agents in order to fully protect the interests of consumers.

This bill provides homeowners with some protection against failure of mortgage servicing agents to properly deal with their funds by requiring bonding of such agents, a physical presence in the State and recordkeeping. The bill also provides penalties for failure to comply with the requirements imposed.

Your Committee therefore agrees with the purpose of the bill and have amended it as follows:

(1) To provide that the amount of the bond required shall be $25,000 until July 1, 1983. After July 1, 1983, the amount shall be $50,000.

(2) To provide that the trust account required to be established by this bill must have its funds placed in a federally insured depository institution.

(3) To provide that the persons affected by the provisions of this bill shall have 90 days from the effective date of the bill's approval within which to comply with the requirements.

Your Committee agrees that the bill will provide a frame work for effective regulation and prevention of loss on the part of the mortgagors.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2836-82, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2836-82, H.D. 1, S.D. 1, C.D. 1.

Representatives Blair, Honda, Shito and Liu,
Managers on the part of the House.

Senators Cobb, Henderson and Uwaine,
Managers on the part of the Senate.

Conf. Com. Rep. 13-82 on H.B. No. 2606-82

The purpose of this bill is to direct the Department of Social Services and Housing to notify the County Prosecutors and Police Chiefs whenever a prisoner is admitted to participate in a work furlough, conditional release or other similar program in writing thirty days prior to the commencement of the program. This bill further provides that moneys earned from employment under such programs be first used to satisfy a restitution order and then to reimburse the State. Any moneys remaining shall be held in trust for the committed person.

Your Committee has made the following amendments to this bill:

(1) The requirement that moneys earned be first used to satisfy a restitution order before any other expenses is deleted.

(2) The list of expenses for which the State is to be reimbursed is replaced by room and board.

(3) Moneys remaining after expenses have been paid is to be held in an individual account for the committed person rather than in trust.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2606-82, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2606-82, H.D. 2, S.D. 1, C.D. 1.

Representatives Honda, Hashimoto, Kawakami, Shito and Medeiros,
Managers on the part of the House.

Senators Carpenter, Kuroda and Uwaine,
Managers on the part of the Senate.

Conf. Com. Rep. 14-82 on H.B. No. 1553

The purposes of this bill are to require an offeror of a take-over bid, as defined by Section 417E-1(7), Hawaii Revised Statutes, to compensate a dissenting stockholder in the event of a merger or consolidation caused by the offeror as a result of the take-over bid, and to more strictly regulate the merger of subsidiaries of the same corporation.

Dissenting stockholders are not provided a right to compensation in mergers resulting from take-over bids under current law. This bill would fix the compensation payable by an offeror to dissenting stockholders at the difference between the maximum amount paid by the offeror for shares in its bid and the fair market value of the dissenting shares at the time of the merger or consolidation. This bill would also provide dissenting stockholders protection for a period of two years after the initial take-over bid.

Your Committee finds that this bill will prevent situations where stockholders feel compelled to sell their shares because a premium take-over bid price per share is offered and fair market value is likely to be depressed in the event of an eventual take-over and merger. Unfair and inequitable take-overs and mergers may be minimized by this bill.

Your Committee has amended the bill by deleting reference to the provisions relating to the merger of subsidiaries of corporations since the substance of the proposed changes are the subject matter of another bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1553, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1553, H.D. 1, S.D. 1, C.D. 1.

Representatives Blair, Hirono, Taniguchi and Ikeda,
Managers on the part of the House.

Senators Cobb, Henderson and Uwaine,
Managers on the part of the Senate.

Conf. Com. Rep. 15-82 on H.B. No. 2183-82

The purpose of this bill is to transfer the powers and duties of the Marine Affairs Coordinator to the Department of Planning and Economic Development.

Your Committee finds that if Hawaii is to capitalize on the immediate and long-term opportunities to develop and utilize marine resources, the total efforts of the State's planning, research, development, and promotion of the marine environment need to be effectively addressed.

Your Committee, upon consideration, has amended the bill by adding a new section to Chapter 201 to appropriately assign the powers relating to and the responsibilities for marine affairs of the State to the Department of Planning and Economic Development.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2183-82, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2183-82, H.D. 1, S.D. 1, C.D. 1.

Representatives Matsuura, Fukunaga, G. Hagino, Kawakami, Kobayashi, Takamine and Narvaes,
Managers on the part of the House.

Senators Henderson, Machida and Yee,
Managers on the part of the Senate.

Conf. Com. Rep. 16-82 on H.B. No. 2377-82

The purpose of this bill is to protect the right to continue farming operations in the State of Hawaii by limiting the circumstances under which agricultural operations may be considered a nuisance.

This bill protects the right of legitimate farmers to continue farming despite urban encroachment in their areas by providing that a court or other official cannot declare a farming operation a nuisance if certain specific conditions are met by the farming operation.

Your Committee, upon further consideration, has made the following amendments to H.B. No. 2377-82, H.D. 1, S.D. 1:

(1) The phrase "by county" has been inserted on page 2, line 7, after the word "zoned" to clarify the definition of a farming operation.

(2) The definition of nuisance has been amended by deleting references to Chapter 342, Hawaii Revised Statutes, relating to environmental quality, and inserting "provided that nothing in this Chapter shall in any way restrict or impede the authority of the State to protect the public health, safety, and welfare."

(3) On page 3, lines 11-12, deleted the phrase "Notwithstanding any other law to the contrary,".

(4) On page 3, lines 11-12, deleted references to Chapter 342, Hawaii Revised Statutes.

(5) On page 4, lines 8-11, deleted the section on "public support".

(6) Other technical, non-substantive amendments.

Your Committee is in accord with the intent and purpose of H.B. No. 2377-82, H.D. 1,

S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2377-82, H.D. 1, S.D. 1, C.D. 1.

Representatives Takamine, Honda, Kawakami, Waihee and Monahan,
Managers on the part of the House.

Senators Carpenter, Ajifu, Cobb and Soares,
Managers on the part of the Senate.

Conf. Com. Rep. 17-82 on H.B. No. 2679-82

The purpose of this bill is to amend Act 22, First Special Session Laws of Hawaii, 1981, by increasing the appropriations for appointments of legal counsel made by the courts for indigent defendants in criminal and related cases.

Act 22 of the First Special Session Laws of Hawaii, 1981, appropriated $400,000 for each of the fiscal years 1981-1982 and 1982-1983. This bill would increase the appropriation to $600,000 for each fiscal year.

Your Committee finds that increased appropriations are needed because Act 22 also increased the allowable compensation for services rendered by court appointed counsel. Costs of increased fees, together with increased numbers of court appointments, exceeding previous estimates, have resulted in rapid depletion of appropriated funds. However, your Committee finds that the amounts appropriated by this bill are insufficient for current needs. Previous testimony indicated that at the current rate of expenditure, previous appropriations for fiscal year 1981-1982 will be depleted by mid-March, and an estimated $300,000 is needed to cover costs through July 1, 1982. Present trends indicate that caseloads for fiscal year 1982-1983 will be even greater than those for the current fiscal year, thereby necessitating an additional appropriation of $400,000 for that fiscal year. Accordingly, your Committee has amended the bill to provide appropriations of $700,000 for fiscal year 1981-1982 and $800,000 for fiscal year 1982-1983.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2679-82, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2679-82, S.D. 1, C.D. 1.

Representatives Nakamura, Kunimura, Kawakami, Waihee and Liu,
Managers on the part of the House.

Senators Yamasaki, Carpenter and Uwaine,
Managers on the part of the Senate.

Conf. Com. Rep. 18-82 on H.B. No. 2826-82

The purpose of this bill is to change the method of admitting mentally retarded persons to Waimano Training School and Hospital from the present commitment procedure to guardianship and voluntary admission procedures. This bill further amends Chapter 560, Hawaii Revised Statutes, to provide that the Family Court has authority to grant the guardian the power to apply for voluntary admission to Waimano.

Present law provides for admission to Waimano Training School and Hospital through the Family Court civil commitment procedure and requires that the Director of Health serve as guardian for any person admitted to the facility.

Your Committee finds that a guardianship procedure for adults is more appropriate than civil commitment in providing for the care of mentally retarded persons through institutionalization. Mentally retarded persons are generally admitted to Waimano because they lack the ability to care for themselves in the community and can benefit from institutional programs. The emphasis at Waimano is not upon coercive confinement due to dangerousness but upon placement in an optimum care setting.

This bill provides for voluntary admission of an adult by a legally appointed guardian who has been specifically authorized by court order to apply for admission to Waimano. Application for voluntary admission of a minor may be filed by a parent or person having legal custody of the minor, as similarly provided under current law. The Family Court, in establishing the need for a guardian, would ascertain that a person

is mentally retarded, in need of institutional care, and is incapable of independent self-managagement. The Director of Health may be appointed as guardian only when no other suitable person is available.

Basic eligibility criteria for admission to Waimano are not changed, in that a committee consisting of a physician, a clinical psychologist, and a social worker must certify that a person is mentally retarded, incapable of independent self-support and self-management, and currently in need of institutionalization. However, authority to approve or reject applications for admission, currently vested in the Family Court, is shifted to the Director of Health. The Director must determine that no less restrictive alternative exists before approving an application for admission. A re-examination and redetermination of the need for institutionalization is required at least annually.

Your Committee has amended page 8, line 19 of the bill by inserting the word "family" before "court" in order to specify that the Family Court has jurisdiction to award a guardian with the authority to voluntarily admit a ward to Waimano.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2826-82, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2826-82, H.D. 1, S.D. 1, C.D. 1.

Representatives Nakamura, Honda, Liu, Shito and Taniguchi,
Managers on the part of the House.

Senators Carpenter, George and Kuroda,
Managers on the part of the Senate.

Conf. Com. Rep. 19-82 on H.B. No. 2313-82

The purpose of this bill is to amend sections 286G-2 and 286G-3 of the Hawaii Revised Statutes by adjusting the amount of the fine levied on traffic offenses for the driver education and training fund.

Testimony received from the Administrative Director of the Courts indicated that present annual operating costs of the program exceed annual revenues; unexpended funds from previous years, which have been used to cover the shortfalls, will be depleted during the current fiscal year. An increase in the fine amount from the present one dollar to three dollars is needed to assure that current revenues will be sufficient to cover costs of the program.

Your Committee finds that the requested adjustment is justified and has amended this bill by increasing the amount of the fine levied on traffic offenses for the driver education and training fund from two dollars to three dollars.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2313-82, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2313-82, H.D. 2, S.D. 1, C.D. 1.

Representatives Nakamura, Nakasato, Andrews, Baker, Dods, G. Hagino, Liu and Marumoto,
Managers on the part of the House.

Senators Yamasaki, Abercrombie and George,
Managers on the part of the Senate.

Conf. Com. Rep. 20-82 on H.B. No. 2870-82

The purpose of this bill is to add a new section to Chapter 481B, Hawaii Revised Statutes, which would regulate the business practices of sensitivity-awareness groups.

Presently, business organizations dealing with the concept of sensitivity-awareness, self-awareness, understanding of self and others, and related subjects, are not regulated in any manner.

Your Committee notes that certain business practices of certain sensitivity-awareness groups should be subject to regulation. Your Committee notes that recruitment of participants for sessions or programs along with the payment of substantial deposits

are sometimes made when the subject is most vulnerable to persuasion which may account for a cancellation rate higher than would otherwise be the case.

Your Committee feels that because of the nature of the sensitivity-awareness group's influence upon individuals who attend sessions or seminars, explicit assurances of equitable business practices should be provided.

Your Committee has amended the bill by clarifying that full refunds are subject to costs incurred by the sensitivity-awareness group, up to the lesser of $50 or 20 per cent of the price of the course, as a result of the person's initial deposit and commitment to attend.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2870-82, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2870-82, H.D. 1, S.D. 1, C.D. 1.

Representatives Blair, Taniguchi, Waihee and Liu,
Managers on the part of the House.

Senators Cobb, Uwaine and Saiki,
Managers on the part of the Senate.

Conf. Com. Rep. 21-82 on H.B. No. 2444-82

The purpose of this bill is to clarify which persons are authorized to determine that a person is dead and which persons are authorized to certify cause of death.

The current provisions under section 327C-1, Hawaii Revised Statutes, limit persons who can determine that an individual is dead to doctors of medicine licensed under Chapter 453, Hawaii Revised Statutes. Thus, doctors of osteopathy and commissioned medical officers of the United States Army, Navy, Marine Corps or Public Health Service and doctors of medicine licensed in another State, cannot legally determine that an individual is dead although they are authorized to certify the cause of death under Chapter 338.

This bill amends section 327C-1, to permit medical or osteopathic physicians, licensed under Chapters 453 or 460, Hawaii Revised Statutes, or those excepted from licensure requirements by section 453-2(3) to determine that a person is dead.

This bill amends Section 338-1(6) which currently includes naturopaths in the definition of "physician". Department of Health findings indicate that naturopaths are not qualified to certify causes of death. Accordingly, Section 338-1(6) has been amended in this bill to delete naturopaths from the definition of "physician" and the definition was also amended to conform with revisions to section 327C-1 as specified in this bill.

Sections 442-17 and 455-8 presently authorize chiropractors and naturopaths, respectively, to certify causes of death. This bill deletes references to certification of the cause of death by chiropractors and naturopaths on the basis that neither are qualified to certify the cause of death or to determine that a person is dead.

Your Committee has made a technical, non-substantive amendment to the bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2444-82, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2444-82, S.D. 1, C.D. 1.

Representatives Nakamura, Baker, Chun, Shito and Liu,
Managers on the part of the House.

Senators Cayetano, Saiki and Toyofuku,
Managers on the part of the Senate.

Conf. Com. Rep. 22-82 on H.B. No. 2813-82

The purpose of this bill is to amend the requirements necessary for an applicant to qualify for a special management area minor permit or a special management area use permit by raising the dollar cutoff for such permits from $25,000 to $100,000. Addi-

tionally, the bill substitutes the more precisely defined term "valuation" for the presently used term "total cost or fair market value". The bill also directs the Department of Planning and Economic Development to conduct a statewide survey and overall assessment of how Chapter 205A, Hawaii Revised Statutes, has affected development projects impacted by the law.

Your Committee finds that the $25,000 cutoff between "minor" and "major" permits was established by the legislature in 1975. It was an attempt to distinguish between those projects with significant impact on the shoreline and those of less significance. Since that time, however, development costs have risen steadily, and $25,000 is no longer an appropriate dollar cutoff for minor construction. Raising this dollar amount would rectify this situation and enable administrators to better meet the intent of the statute.

A related problem is the requirement that the "total cost or fair market value" of the development be used as a basis for determining whether a permit is minor or not. This gives little guidance as to what items shojld be considered in cost computation and has led to confusion and attempts to circumvent the intent of the law. Substituting the more precisely defined term "valuation" for the vague and difficult to interpret phrase "total cost or fair market value" would significantly strengthen the statute.

Your Committee has amended H.B. No. 2813-82, H.D. 1, S.D. 1, by establishing $65,000 as the dollar cutoff for special management area minor permits or special management area use permits. Although construction and development costs have risen since 1975 when the original $25,000 cutoff figure was legislatively established, increasing that dollar amount to $100,000 does not appear to be justified at this time.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2813-82, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2813-82, H.D. 1, S.D. 1, C.D. 1.

Representatives Baker, Fukunaga, Matsuura, Okamura and Isbell,
Managers on the part of the House.

Senators Henderson, Uwaine and Yee,
Managers on the part of the Senate.

Conf. Com. Rep. 23-82 on S.B. No. 2350-82

The purpose of this bill is to allow restitution agreements between a school principal and a pupil or the pupil's parent or guardian where damages do not exceed $5,000.

The bill would also allow a district superintendent to review an agreement made by a principal and at the district superintendent's discretion, refer the case to the Attorney General. In cases where damages exceed $5,000, the district superintendent must refer the case to the Attorney General.

Your Committee finds that school vandalism is costly to Hawaii taxpayers and even partial figures indicate costs of almost $1 million per year for the last four years as a result of vandalism. Your Committee further finds that this situation cannot be tolerated and the pupils responsible for vandalism and their parents or guardians, rather than the taxpayers, should be responsible for such costs.

Your Committee notes that, at the district superintendent level, a good faith effort should be made to make restitution on any matter referred by a principal. However, your Committee finds that, failing restitution, it should be made absolutely clear that the district superintendent has the capacity and authority to refer the matter to the Attorney General for action.

Your Committee also finds that, because of the serious nature of school vandalism, reports should be made to the Board of Education by the Department of Education on an annual basis concerning damages, settlements and results.

Your Committee has amended the bill to lower the limit on agreements for restitution and, concurrently, lower the limit on matters which must be referred to the Attorney General for action. Your Committee feels this is a more realistic dollar figure based on the provisions of the bill.

Your Committee has further amended the bill by deleting the words "Hawaii Revised

Statutes" after reference to Section 577-3 on pages 3 and 4 of the bill. The amendment is to conform to recommended drafting style and has no substantive effect.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2350-82, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2350-82, H.D. 2, C.D. 1.

Representatives Toguchi, Hirono, Say, Taniguchi and Isbell,
Managers on the part of the House.

Senators Abercrombie, Cayetano and Kobayashi,
Managers on the part of the Senate.

Conf. Com. Rep. 24-82 on S.B. No. 2353-82

The purpose of this bill is to establish a voluntary job-sharing pilot project in the public library system.

Job sharing is the voluntary equal division of one full-time permanent position between two employees on a job-sharing team, each performing one half of the work required for the permanent position. The two half-time positions resulting from the division of one full-time position would constitute two job-sharing positions. The merits of job-sharing have been cited in reports by the Legislative Auditor, the Board of Education, and the Department of Personnel Services.

Your Committee finds that the Department of Education's job-sharing pilot project has been effective in achieving its objectives. Your Committee, therefore, finds that a job-sharing pilot project should be established for librarians within the public library system.

Your Committee has amended the bill, which required that all job-sharing teams be composed of one permanent and one newly hired employee, to allow permanent employees to fill both positions in a job-sharing team. This amendment, however, limits the number of full-time positions divided between two permanent employees to twenty-five. The purpose of this amendment is to provide the Board of Education with greater flexibility in implementing this pilot project.

Your Committee has also amended the bill by hyphenating "job-sharing", where used as an adjective, to maintain consistent spelling. In the Conference Draft these corrections appear on page 1, lines 10 and 11, and page 6, line 18.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2353-82, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2353-82, S.D. 1, H.D. 2, C.D. 1.

Representatives Kiyabu, Toguchi, Albano, Takitani and Anderson,
Managers on the part of the House.

Senators Abercrombie, Kuroda and Saiki,
Managers on the part of the Senate.

Conf. Com. Rep. 25-82 on S.B. No. 1697

The purpose of this bill is to provide for the extension of the job-sharing pilot project in the department of education.

Your Committee finds that the job-sharing pilot project, which was implemented in 1978-79, has gained widespread support. However, before your Committee recomends converting this project to a permanent program, your Committee finds that the number of positions now permitted, should be increased and further examination of pairing two tenured employees should continue. Extension of the program through the 1983-84 academic year should provide ample time to evaluate these changes in the pilot project.

Your Committee has amended the bill by requiring the Legislative Auditor to monitor and evaluate only the changes proposed in this bill rather than the entire job-sharing concept and project which have already been done in the past.

Your Committee has also made technical changes which have no substantive effect.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1697, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1697, S.D. 1, H.D. 2, C.D. 1.

Representatives Kiyabu, Toguchi, Albano, Takitani and Anderson,
Managers on the part of the House.

Senators Abercrombie, Carpenter and Soares,
Managers on the part of the Senate.

Conf. Com. Rep. 26-82 on S.B. No. 2765-82

The purpose of this bill is to increase the amount of the performance bond for contracts made with the State or counties from the present two months' rental to not less than two months' rental except for contracts for the sale and delivery of in-bond merchandise at Honolulu International Airport where the bond required will be not less than six months of the highest minimum annual rental guaranty. The present bond of two months' rental is not sufficient for the orderly preparation, advertising and award of major contracts.

Your Committee upon further consideration has made the following amendments to S.B. No. 2765-82, S.D. 1, H.D. 2.

(1) For all contracts other than in-bond merchandise, the performance bond required will be in an amount not less than two months' rental and other charges, if any.

(2) For in-bond merchandise contracts the bond required will be in an amount not less than four months of the highest minimum annual rental guaranty.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2765-82, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2765-82, S.D. 1, H.D. 2, C.D. 1.

Representatives Dods, Kiyabu, Andrews, de Heer, Nakasato, Waihee, Anderson and Marumoto,
Managers on the part of the House.

Senators George, Kobayashi and Kuroda,
Managers on the part of the Senate.

Conf. Com. Rep. 27-82 on S.B. No. 2561-82

The purpose of this bill is to safeguard a condominium's funds against misuse or misappropriation by those persons handling the funds.

Currently, the bonding requirement for a managing agent is $25,000, while self-managed projects are required to carry a $10,000 bond. Your Committee finds that the current fidelity bond requirements are inadequate, considering the amounts of money entrusted and the range in sizes of projects and management companies.

This bill proposes to require a $50,000 fidelity bond for each of the managing agent's condominium management contracts. The bill further proposes that evidence of fidelity bonds be provided by the managing agent to the real estate commission. Self-managed projects would have their bonding requirement increased from $10,000 to $50,000.

Your Committee upon further consideration, including local industry practice, has amended S.B. No. 2561-82, S.D. 1, H.D. 1, as follows:

(1) The bonding requirements in both subsections (b) and (c) have been restated as a formula of $250 multiplied by the number of units covered by the bond. Minimum and maximum amounts of bond have been set respectively at $10,000 and $50,000.

This flexible approach will accommodate protection for larger projects while not overburdening smaller managing agents or self-managed projects.

(2) The formula in subsection (b) provides that the aggregate number of units,

covered by an agent's several management contracts, be used in determining the agent's minimum bonding requirement. Since a single maximum of $50,000 applies, this allows a single fidelity bond to provide blanket coverage for all of an agent's projects.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2561-82, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2561-82, S.D. 1, H.D. 1, C.D. 1.

Representatives Blair, Kawakami, Shito and Medeiros,
Managers on the part of the House.

Senators Cobb, Uwaine and Yee,
Managers on the part of the Senate.

Conf. Com. Rep. 28-82 on H.B. No. 2057-82

The purpose of this bill is to amend Chapter 328 of the Hawaii Revised Statutes to clarify certain provisions regarding the sale of drugs.

This bill would effectively change the existing law by: 1) providing a definition of "principal labeler" and setting forthe the responsibility of a principal labeler upon the recall of a drug; 2) defining an "agent" of a dispenser and the permissible duties of the agent in informing consumers about equivalent drug products; 3) specifying the conditions under which a dispenser may or may not substitute an equivalent drug product; 4) requiring prescription labels for generic drugs to state the name or commonly accepted abbreviation of the principal labeler of the drug; and 5) changing the content of the State Drug Formulary and providing for the establishment of fees for the distribution thereof.

Under this bill, no substitution of an equivalent drug product would be permitted upon an initial or original oral prescription, whereas substitution would be permitted upon an oral refill if the prior written prescription allowed such substitution. Additionally, regardless of what may be written on the prescrition about substitutions, no substitution would be allowed when an oral instruction to that effect is given by a prescriber or his authorized employee.

Upon further review, your Committee feels that in the interest of the consumer, substitution of an equivalent drug product should be permitted on a broad basis. Additionally, your Committee firmly believes that there is a strong public policy interest in providing the consumer with as much information as is practicable in relation to drug product selection, through disclosures as to the nature of the drug which is being substituted. Accordingly, your Committee has made the following amendments to H.B. No. 2057-82, H.D. 1, S.D. 1:

(1) Section 328-92 (b) has been amended to allow substitution upon an initial or original oral prescription unless the prescriber or his authorized employee orally orders "no substitution", and to clarigy those instances in which a dispenser may or may not substitute an equivalent drug product.

(2) Section 328-93 has been amended to require that the prescription label for a generic drug reflect the brand name of the drug for which the generic drug is being substituted.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2057-82, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2057-82, H.D. 1, S.D. 1, C.D. 1.

Representatives Segawa, Blair, Ige, Shito and Liu,
Managers on the part of the House.

Senators Cobb, Cayetano and Saiki,
Managers on the part of the Senate.

Conf. Com. Rep. 29-82 on H.B. No. 791

The purpose of this bill is to expand the applicability of the Housing Loan and Mortgage Program to include persons who own vacant residential property.

Your Committee finds that there are a number of families, particularly on the Neighbor Islands and in rural Oahu, who own vacant lots and as a result, are ineligible for Hula Mae loans although they would qualify in all other respects. Largely because of the prohibition on ownership of property, past Hula Mae bond issues have been used primarily for mortgage loans on Oahu. Your Committee feels that a more equitable distribution of mortgage funds among the various counties is desirable.

Your Committee wishes to emphasize that ownership of land will not give a person an unfair advantage over other Hula Mae applicants as the vacant lot will be considered as an asset subject to asset limitations of the Hula Mae program.

Upon further consideration, your Committee has made the following amendments to H.B. No. 791, H.D. 1, S.D. 1:

1) The definition of "eligible borrower" has been amended to provide that the borrower or the borrower's spouse does not own any interest in a "principal residence" within or without the State and has not owned a principal residence within the three years immediately prior to the application for an eligible loan.

2) The definition of "eligible loan" has been amended to mean a loan for the permanent financing of a dwelling unit. This amendment clarifies that a Hula Mae loan is for the permanent financing of a dwelling unit rather than for its construction. The use of Hula Mae loans for interim construction financing is prohibited under the Federal Mortgage Subsidy Bond Tax Act of 1980.

3) The Section governing eligible loans for vacant parcels has been deleted.

4) The act will be repealed on July 1, 1984.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 791, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 791, H.D. 1, S.D. 1, C.D. 1.

Representatives Shito, Honda, Levin, Segawa and Lacy,
Managers on the part of the House.

Senators Young, Ajifu and Holt,
Managers on the part of the Senate.

Conf. Com. Rep. 30-82 on H.B. No. 2947-82

The purpose of this bill is to support the development of animal agriculture and aquaculture in Hawaii by appropriating funds for an aquaculture and live-stock feeds production program in Hawaii.

The cost of feed, and the additional costs associated with shipping from the mainland United States to Hawaii either feed or the ingredients required to make it, significantly affects the profitability of animal agriculture and aquaculture in Hawaii. Research is needed to develop a successful program to utilize marginal land and sea water to grow new crops and create a source of low cost ingredients for the feed industry.

The Oceanic Institute has, with the help of past funding, developed the technical staff, equipment, and facilities required to perform such research. Your Committee feels that adequate funding is now necessary to utilize the work already done and for the Oceanic Institute to successfully perform the research proposed by this bill.

While this bill, as received, appropriates $200,000 for such research, your Committee finds that additional funds are necessary to allow the Oceanic Institute to adequately perform such research on an aquaculture and live-stock feeds production program.

For this reason, your Committee, upon further consideration, has amended this bill by appropriating $300,000.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2947-82, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2947-82, H.D. 2, S.D. 1, C.D. 1.

Representatives Takamine, Kiyabu, Fukunaga, G. Hagino and Hashimoto,
Managers on the part of the House.

Senators Yamasaki, Ajifu and Henderson,
Managers on the part of the Senate.

Conf. Com. Rep. 31-82 on H.B. No. 2936-82

The purposes of this bill are to allow industrial loan companies to charge up to twenty-four per cent per year interest on open-end loans made or committed between May 31, 1980 and July 1, 1985, to retain to the extent that the maximum interest rate allowed is not exceeded, loan fees or points paid by borrowers who prepay their loans, and to permit the more economical and efficient method of extending rather than redocumenting loans that were made prior to May 31, 1980, and which mature between that date and July 1, 1985.

Act 197, Session Laws of Hawaii 1980, increased the maximum interest rate that can be charged on closed-end loans made or committed after May 31, 1980 and prior to July 1, 1985, to twenty-four per cent per year. It is unclear, however, whether the present law permits the interest charged on open-end loans to be adjusted up to the twenty-four per cent rate. This bill would clarify that the interest rate charged on open-end loans made between May 31, 1980 and July 1, 1985 may be increased up to a twenty-four per cent maximum, provided that the borrower is given fifteen days prior notice of the increase.

Your Committee has amended this provision by extending the period required for notice to consumer borrowers to thirty days and eliminating any notice requirement for commercial borrowers. Your Committee feels that notice in the commercial borrowing situation is not necessary since commercial entities should be deemed to be able to understand the loan transaction and any modifications to the interest rate that may be contained therein.

Presently the law is silent as to the refundability of loan fees (commonly called "points") in the event of early repayment in full. This bill would allow industrial loan companies to retain points and fees to the extent that the maximum rate of interest allowed is not exceeded when the points are calculated as interest on the loan, even if the borrower pays off the loan prior to maturity.

Your Committee has amended this portion of the bill by deleting the proposed amendments relating to the non-refundability of points and retaining the present language. Your Committee notes that the present practice among lenders is to calculate the points charged into the interest rate upon origination of the loan and therefore do not exceed the permitted rate upon pre-payment of the loan.

Similarly, present law does not contain any provision regarding interest rate limits for loans which were made prior to May 31, 1980, which mature prior to July 1, 1985 and which are to be extended. Borrowers are therefore forced to re-contract and re-document such loans in order to obtain an interest rate in excess of 18 percent and borrowers incur the resulting fees for re-documenting. This bill will save borrowers such extra costs by allowing simple extensions of these loans.

Your Committee notes that the effect of this bill is not to allow industrial loan companies to charge any higher interest rates than they otherwise would charge. If a loan is rewritten and redocumented as required under the present law, or extended as provided for by this bill, the rate of interest would be subject to negotiation between the lender and borrower. This bill merely allows for a more economical method of refinancing a loan made prior to May 31, 1980.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2936-82, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2936-82, H.D. 1, S.D. 1, C.D. 1.

Representatives Blair, Baker, Chun and Liu,
Managers on the part of the House.

Senators Cobb, Henderson and Uwaine,
Managers on the part of the Senate.

Conf. Com. Rep. 32-82 on H.B. No. 1948-82

The purpose of this bill is to improve the agricultural loan program by amending Section 155-9, Hawaii Revised Statutes, as follows:

(1) Permit the Board of Agriculture to authorize its chairperson to approve loans where the requested amount plus any principal balance on existing loans to the applicant does not exceed $25,000 in State funds.

(2) Provide that the maximum amount for classes A, C, D, and F loans allowed to an individual applicant shall also apply to any loan application submitted by a partnership, corporation, or other entity and for the purpose of determining whether the maximum amount to any individual will be exceeded, the amount of outstanding loans to any such entities in which such individual has a legal or equitable interest in excess of twenty per cent shall be taken into account.

(3) Provide class D emergency loans for emergencies other than those presently listed in the statute as determined by the Board of Agriculture.

(4) Provide that the maximum amount and period for class D emergency loans be determined by the Board of Agriculture.

(5) Increase the maximum amount on class E loans to cooperatives and corporations from $250,000 to $500,000 or eighty per cent of the cost of the project, whichever is the lesser, on capital improvement loans and from $150,000 to $300,000 on operating loans.

(6) Increase the maximum amount on class F loans for initial loans to new farmer programs from $75,000 or ninety per cent of the cost of the project to $100,000 or eighty-five per cent of the cost of the project, whichever is the lesser.

This bill also appropriates $1,500,000 for fiscal year 1981-1982 and $3,500,000 for fiscal year 1982-1983 to the agricultural loan revolving fund.

Presently, an individual can apply for a loan as a qualified individual and also seek additional loans as a partnership or corporation, and that individual may indirectly benefit from loans in excess of the maximum amounts for each class of loan. The provision described in item (2) above will prevent any individual from obtaining more than the maximum amount on each class of loan.

The provisions described in items (3) and (4) above will allow the Board of Agriculture flexibility in responding to emergencies.

Your Committee finds that segments of the agriculture industry, particularly the sugar, dairy and papaya segments, are experiencing emergencies at this time and are in urgent need of state assistance. Emergency situtations require immediate action if the problems are to be speedily and effectively rectified with only minimum loss. This bill expands the Department of Agriculture's authority to make emergency loans and is necessary to cope with the current emergencies of the agriculture industry. This bill also appropriates moneys for fiscal years 1981-1982 and 1982-1983 from which loans may be made.

Under the normal legislative process, this bill would have to pass Final Reading after passage of the supplemental appropriations bill. The Constitution of the State of Hawaii, however, allows a bill which contains an appropriation to pass before the supplemental appropriations bill if the Governor recommends immediate passage. The Governor has recommended this bill for immediate passage in recognition of the fact that farmers require emergency farm loans immediately, because of current emergencies.

For this reason, your Committee, upon consideration, has amended H.B. No. 1948-82, H.D. 2, S.D. 1 by inserting a new section into the bill, to be numbered section 1, which contains legislative findings and purpose and a recommendation by the Governor for immediate passage in accordance with Article VII, section 9, of the Constitution of the State of Hawaii.

Your Committee has also amended the emergency loans section of this bill by amending section 155-9(4), Hawaii Revised Statutes to provide that the Board of Agriculture shall require that any settlement or moneys received by qualified farmers as a result of such an emergency shall first be applied to the repayment of such an emergency loan made under chapter 155, Hawaii Revised Statutes.

Your Committee has further amended this bill for purposes of consistency by re-numbering the remaining sections of the bill.

Your Committee has further amended H.B. No. 1948-82, H.D. 2, S.D. 1, by appropriating $3,000,000 for fiscal year 1981-1982 and $3,000,000 for fiscal year 1982-1983.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1948-82, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1948-82, H.D. 2, S.D. 1, C.D. 1.

Representatives Takamine, Kiyabu, Morioka, Okamura and Isbell,
Managers on the part of the House.

Senators Yamasaki, Ajifu and Henderson,
Managers on the part of the Senate.

Conf. Com. Rep. 33-82 on H.B. No. 2838-82

The purposes of this bill are 1) to extend the state mortgage loan guarantee program for low- and moderate- income households to "shell" homes and 2) to make an appropriation to be paid into the state mortgage guarantee fund.

The existing state mortgage guarantee program in Chapter 359G, Hawaii Revised Statutes, provides a state guarantee of twenty-five percent of the principal loan amount for self-help housing units. This bill would increase the state guarantee from twenty-five to one hundred percent of the loan amount, and would extend the program to "shell" homes. The "shell" housing concept, which refers to units which are habitable but unfinished and can be completed or expanded, has been gaining in popularity as housing becomes increasingly unaffordable to Hawaii's residents.

Upon further consideration, your Committee has amended this bill by appropriating out of the general revenues of the State of Hawaii the sum of $400,000 instead of $250,000 for the fiscal year 1982-1983.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2838-82, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2838-82, H.D. 1, S.D. 1, C.D. 1.

Representatives Shito, Kunimura, Honda, Ige, Levin, Nakasato, Segawa, Toguchi, Lacy and Liu,
Managers on the part of the House.

Senators Yamasaki, Ajifu and Young,
Managers on the part of the Senate.

Conf. Com. Rep. 34-82 on H.B. No. 2201-82

The purposes of this bill are 1) to allow the Hawaii Housing Authority to issue tax exempt revenue bonds under the Hula Mae program to finance home improvement loans and 2) to make a "housekeeping" amendment to Section 356-212 relating to the payment and security of revenue bonds.

In 1979, the Legislature enacted the Housing Loan and Mortgage Act to permit the issuance of revenue bonds for the permanent financing of single-family homes. This bill would extend the successful Hula Mae program to cover permanent financing for home improvements which refers to any alterations, repairs or improvements to existing housing units to improve their basic livability.

The "housekeeping" amendment to the Housing Loan and Mortgage Act would relieve the Hawaii Housing Authority of the burdensome obligation of assigning and delivering to the trustee each mortgage note and the related mortgage for each mortgage loan purchased under the Hula Mae program. The proposed new section 356-206(d) would provide adequate assurance to bondholders that the pledge made by the authority on behalf of the bondholders is a perfected and enforceable pledge.

Upon further consideration, your Committee has amended the bill by:

1) Changing the aggregate principal amount of revenue bonds which may

be issued by the Hawaii housing authority pursuant to part III, chapter 39, and part II, chapter 356, Hawaii Revised Statutes, from $1,000,000 to $9,000,000.

2) Changing the expiration date of the Act to December 31, 1983.

3) Making other nonsubstantive amendments.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2201-82, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2201-82, H.D. 2, S.D. 1, C.D. 1.

Representatives Shito, Kunimura, Albano, Chun, Honda, Ige, Kobayashi, Levin, Lacy and Wong,
Managers on the part of the House.

Senators Yamasaki, Anderson and Young,
Managers on the part of the Senate.

Conf. Com. Rep. 35-82 on H.B. No. 2477-82

The purpose of this bill is to clarify the hazardous waste management responsibilities of the Department of Health by authorizing the director of Health to regulate and permit facilities that treat, store, and dispose of hazardous waste. The bill also authorizes the Director of Health to impose financial responsibility requirements on facilities that treat, store, or dispose of hazardous waste.

Your Committee finds that under current law there are no statutory provisions regarding hazardous waste management in the State. Because of the potentially dangerous effects of hazardous waste, proper procedures for the treatment, storage, transfer, and disposal of such materials are essential.

After careful consideration your Committee has amended H.B. No. 2477-82, H.D. 1, S.D. 1, by changing the definition of "hazardous waste" on pages 10-11, paragraph 6. The definition of "hazardous waste" has been amended to conform to the definition of "hazardous waste" as defined by the federal Resource Conservation and Recovery Act of 1976, as amended.

The amended definition on pages 10-11, paragraph (6) of this bill reads as follows:

"(6)"Hazardous waste" [includes, but is not limited to such items as plastics, explosives, acids, caustics, chemicals, poisons, drugs, asbestos fibers, pathogenic wastes from hospitals, sanitoriums, nursing homes, clinics, and veterinary hospitals, waste from slaughterhouses, poultry processing plants and the like.] means hazardous waste as defined in the Resource Conservation and Recovery Act of 1976 (Public Law 94-580, 42 U.S.C. 6901, et. seq.), as amended."

Other technical nonsubstantive corrections have also been made to the bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2477-82, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2477-82, H.D. 1, S.D. 1, C.D. 1.

Representatives Baker, Fukunaga, Kiyabu, Okamura and Monahan,
Managers on the part of the House.

Senators Kobayashi, Cobb and Mizuguchi,
Managers on the part of the Senate.

Conf. Com. Rep. 36-82 on H.B. No. 2408-82

The purpose of this bill is to amend Chapter 410, Hawaii Revised Statutes, State Chartered Credit Unions, to conform with the Federal Credit Union Act.

Since enactment of the Hawaii Credit Union Act in 1973, rapid changes in federal financial regulations have made it increasingly outdated. Therefore, this bill will accomplish a major modernization of Chapter 410.

Some of the major amendments that the bill proposes are to allow credit union boards to set their own interest rate ceilings for loans and to allow credit unions to participate in electronic funds transfer systems, and offer credit and debit card services, and negotiable instruments to their members. In addition, the bill would allow for the establishment of a corporate credit union under the State Act.

Your Committee has made numerous technical amendments and corrections to the bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2408-82, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2408-82, H.D. 1, S.D. 1, C.D. 1.

Representatives Blair, Honda, Kawakami and Ikeda,
Managers on the part of the House.

Senators Cobb, Kuroda and Soares,
Managers on the part of the Senate.

Conf. Com. Rep. 37-82 on S.B. No. 2399-82

The purpose of this bill is to establish separate offices for the bank examiner and insurance commissioner, each to be placed within the Department of Regulatory Agencies for administrative purposes.

Under present law, the Director of Regulatory Agencies is deemed the bank examiner and insurance commissioner. This has resulted in an overly centralized administration of the regulated industries. Additionally, the size and importance of the financial institution and insurance industries have markedly increased in importance, size, and complexity.

Your Committee agrees with the intent of the bill to establish separate offices for the examiner and commissioner, each to be included within the Department of Regulatory Agencies as separate offices within the jurisdiction of the Director.

Your Committee upon further consideration has amended this bill by deleting the first sentence in Section 19 of the bill, which refers to S.B. No. 2759-82. Your Committee understands and intends that the salary of the bank examiner shall not be more than the maximum salary of first deputies to department heads.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2399-82, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2399-82, S.D. 2, H.D. 2, C.D. 1.

Representatives Blair, Kunimura, Kiyabu, Morioka and Wong,
Managers on the part of the House.

Senators Yamasaki, Cobb and Machida,
Managers on the part of the Senate.

Conf. Com. Rep. 38-82 on H.B. No. 2767-82

The purpose of this bill is to statutorily establish a new form of educational resource to provide schools with greater authority, responsibility, and means to plan, budget, administer, and be held accountable for programs which address their unique needs.

Your Committee recognizes that each school has its own special strengths and weaknesses and that in certain matters, the individual school is the best arbiter of its educational priorities and needs. Your Committee therefore supports and recommends the system of educational resources provided by this bill which would equitably distribute discretionary funding to the schools, with positions from the Instructional Resource Augmentation Program also included to be used to meet the unique needs of the elementary schools.

Your Committee affirms that the overall purpose of this resource system is to augment regular instruction and other educational services at the discretion of the schools beyond the level normally attainable through the basic program allotments. More specifically, the system is intended to promote the equitable distribution of educational resources statewide, to strengthen the scope of decision making and increase flexibility in resource

allocation at the school level, and to provide a systematic method of conforming resource allocation to the unique needs of individual schools and to changing school priorities.

Your Committee declares as legislative intent that, beginning with the executive budget submission for the 1983-85 biennium, the Department of Education shall include and display its recommended appropriations for the School Priority Fund as a Level V program under EDN 106. Your Committee further notes that the district reserve provided for in this bill will ensure that the resources of the School Priority Fund may be used to supplement the existing appropriation for the Hawaii English Program.

Your Committee has amended this bill by:

(1) Re-inserting "for elementary schools and for secondary" on page 2, line 25, which was inadvertently deleted in Senate Draft 2 of this bill.

(2) Deleting the provision on page 3, lines 4-9, authorizing the Superintendent of Education to withhold up to five percent of the School Priority Fund moneys for a state reserve. Your Committee believes that the district reserve provided in the bill will offer sufficient flexibility to deal with special contingencies which may be encountered in implementing the fund.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2767-82, H.D. 3, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2767-82, H.D. 3, S.D. 2, C.D. 1.

Representatives Kiyabu, Toguchi, Aki, Albano, Andrews, Hashimoto, Say, Tungpalan, Marumoto and Monahan,
Managers on the part of the House.

Senators Yamasaki, Abercrombie and Yee,
Managers on the part of the Senate.

Conf. Com. Rep. 39-82 on H.B. No. 2778-82

The purpose of this bill is to set forth in statutes the department of health's responsibility for certain related services and to identify more specifically the role of the department of health in providing these services, such as occupational therapy, physical therapy, school health services, mental health and medical services for diagnostic or evaluative purposes to exceptional children.

Your Committee finds that the bill would emphasize the responsibility of the State of Hawaii for special education students and to more clearly delineate the roles of the department of health and the department of education in support of handicapped children.

Presently, the law only provides that the department of health may provide certain services. This bill would require the department to do so.

Your Committee amended the bill by adding the proviso that services be provided "within the funds available". Your Committee has also amended this bill to make technical corrections of a non-substantive nature.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2778-82, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2778-82, H.D. 2, S.D. 1, C.D. 1.

Representatives Toguchi, Say, Kobayashi, Ige and Lacy,
Managers on the part of the House.

Senators Abercrombie, Cayetano, Ajifu and Carpenter,
Managers on the part of the Senate.

Conf. Com. Rep. 40-82 on H.B. No. 2295-82

The purpose of the bill is to limit the number of boards and commissions subject to sunset review under Chapter 26H, Hawaii Revised Statutes, to eight per year.

Chapter 26H, Hawaii Revised Statutes, provides for groups of regulatory boards and commissions to be repealed yearly unless affirmative action is taken by the legislature to extend the existence of the boards and commissions scheduled for repeal. The next

group of boards and commissions is scheduled to be repealed as of December 31, 1983.

This bill would limit the number of boards and commissions reviewed each year to a maximum of eight in order to ensure that the Legislative Auditor and the Department of Regulatory Agencies are not overburdened in any one year.

In keeping with the general intent of the bill to improve the sunset review process, your Committee has amended the bill to reorganize the schedule of programs for review and has added four existing regulatory programs to the review cycle that are not presently subject to the sunset review process. These programs are: Factory Built Housing, Solar Energy Device Dealers, Travel Agencies, and Commercial Employment Agencies. Your Committee has also deleted the limitation of eight programs reviewed per year as the review schedule proposed by this bill has no more than six programs for review per year.

Your Committee on Conference is in accord with the intent and prupose of H.B. No. 2295-82, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2295-82, H.D. 1, S.D. 1, C.D. 1.

Representatives Blair, Chun, Hirono and Ikeda,
Managers on the part of the House.

Senators Cobb, Soares and Uwaine,
Managers on the part of the Senate.

Conf. Com. Rep. 41-82 on H.B. No. 2511-82

The purpose of this bill is to establish a compliance resolution fund from which the Director of Regulatory Agencies could expend moneys for hiring and training needed personnel.

A study done by the Legislative Auditor relating to the handling of consumer complaints was critical of the regulated industries programs. Your Committee believes that at least part of the problem that the Department of Regulatory Agencies faces is lack of staffing to adequately process all consumer complaints satisfactorily.

This bill would establish funding for the hiring of the necessary staff to process complaints through the periodic assessment of fees from licensees.

The bill also authorizes the use of surpluses in existing departmental funds or board or commission special funds to provide start-up moneys for the immediate hiring of necessary staff.

Your Committee believes that the Department will be faced with multiple problems in order to adequately deal with the deficiencies pointed out by the Auditor's report. Your Committee therefore believes that this bill will provide the Department with a resource that it needs to reorganize its procedures for handling consumer complaints.

Your Committee has retained the safeguard provision requiring the Director to submit an annual accounting of the fund and the collection and allocation of funds thereof, to the governor and legislature. Your Committee agrees that this provision will provide the supervision necessary to ensure that the fund is administered in the manner intended.

Your Committee has also retained the concept of placing an expiration date on the life of the fund. Your Committee has, however, extended that date until July 1, 1987, in order to allow the Department sufficient time to gather experience in the administration of the fund.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2511-82, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2511-82, H.D. 2, S.D. 2, C.D. 1.

Representatives Blair, Hirono, Ikeda, Kunimura, Kiyabu, Albano, Andrews, Fukunaga, G. Hagino, Hashimoto, Kobayashi, Levin, Morioka, Nakasato , Okamura, Lacy, Marumoto, Narvaes and Wong,
Managers on the part of the House.

Senators Yamasaki, Cobb and Machida,
Managers on the part of the Senate.

Conf. Com. Rep. 42-82 on S.B. No. 2513-82

The purpose of this bill is to require every person who operates an electric light or power business as a public utility regardless of whether or not the utility's franchise provides for a payment of a tax based on the gross receipts to the county in which it operates, to file a statement with the director of finance in the county in which the utility operates. The statement will reflect all gross receipts received by the utility from all electric light or power furnished to consumers during the preceding calendar year. The utility must pay to the director 2-1/2 per cent of the gross receipts. This bill would provide for a uniform franchise tax rate of 2-1/2 per cent for every county throughout the State of Hawaii.

The purpose of a utility's franchise is to benefit utility customers by granting utilities the right to use public easements for their services to utility customers without having to apply for separate rights-of-way whenever a need arises for such right. In order to allow for uniform treatment of the franchise by all counties to all utility consumers in Hawaii, the passage of this bill is imperative.

Your Committee upon further consideration has made the following amendments to S.B. No. 2513-82, S.D. 1, H.D. 2. Your Committee felt that the bill as presently drafted was confusing as it might be interpreted as allowing a county to not only tax the utility 2-1/2 per cent pursuant to statute, but also collect any other franchise tax the utility and county might have agreed to pursuant to a previous agreement. Your Committee has amended the bill to correct this possible misinterpretation, and accordingly it is the intent of the Committee that the 2-1/2 per cent of gross receipts is the maximum amount collectible by the county whether by statute, agreement or a combination of both.

Your Committee concurs with the House amendment to Section 3 in that the utility needs this extra period of time in order to prepare the necessary data if an increase in the payment to the county is effected by this bill.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2513-82, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2513-82, S.D. 1, H.D. 2, C.D. 1.

Representatives Blair, Kunimura, Kiyabu, Morioka and Wong,
Managers on the part of the House.

Senators Yamasaki, Soares and Cobb,
Managers on the part of the Senate.

Conf. Com. Rep. 43-82 on H.B. No. 2407-82

The purpose of this bill is to prohibit the issuance, renewal or transfer of a liquor license unless the applicant does not owe any federal taxes.

Under present law, applicants must present a certificate to the liquor commission issued by the Department of Taxation, certifying payment of all state taxes. This bill would extend that requirement to taxes owed to the federal government and for which a judgment exists.

Your Committee notes that the present provision has aided the Tax Department in the collection of taxes, and therefore feels that the same assistance can be provided to the Internal Revenue Service for the collection of federal taxes.

While in agreement with the intent of the bill to assist in the collection of delinquent taxes, your Committee has amended the bill by requiring that the certificate show that no delinquent taxes are owing rather than showing only that no judgments for delinquent taxes exist.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2407-82, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2407-82, H.D. 1, S.D. 1, C.D. 1.

Representatives Blair, Hirono, Taniguchi, Liu, Kunimura, Kiyabu, Albano, Andrews, Fukunaga, G. Hagino, Hashimoto, Kobayashi, Levin, Morioka, Nakasato, Okamura, Lacy, Marumoto, Narvaes and Wong,
Managers on the part of the House.

Senators Yamasaki, Cobb and Henderson,
Managers on the part of the Senate.

Conf. Com. Rep. 44-82 on H.B. No. 2331-82

The purpose of this bill is to establish pre-qualification requirements for persons seeking to bid in auctions of State agricultural or pasture leases.

Your Committee has amended the bill by deleting sub-section (1) on line 3 of page 2 of the bill. This amendment will delete mention of any residence requirement to eliminate any question as to constitutionality of the bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2331-82, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2331-82, H.D. 1, S.D. 1, C.D. 1.

Representatives Sakamoto, G. Hagino, Okamura, Takamine and Narvaes,
Managers on the part of the House.

Senators Ajifu, Kobayashi and Young,
Managers on the part of the Senate.

Conf. Com. Rep. 45-82 on H.B. No. 509

The purpose of this bill is to provide life insurers with alternate methods for the fixing of maximum interest rates chargeable on life insurance policy loans.

Presently, insurance companies may charge up to eight per cent per annum on life insurance policy loans. The bill would allow life insurers to periodically vary the maximum interest rate chargeable on life insurance policy loans by reference to an index of long term corporate bonds as published by Moody's Investors Service, or alternately by the rate used in determining the policy's cash surrender value plus one per cent per annum.

The bill also provides that the maximum rate chargeable shall be fixed at least annually for such policies and requires the insurer to notify the policyholder of the actual rate and any changes thereto.

Your Committee notes that this portion of the bill is patterned after the model law which was adopted unanimously by the National Association of Insurance Commissioners in December 1980. Further, your Committee has been informed that in 1981, the model law was enacted or approved in 20 states.

Your Committee notes that the effect of the artificially low ceiling on interest rates on policy loans in a high interest rate environment results in a substantial increase in policy loans and creates serious cash flow problems for the industry. The diversion of investment funds to low interest policy loans results in less investment income to the detriment of policy-holders. Your Committee believes that allowing life insurance companies to make a reasonable rate of return on policy loans will help to keep the cost of insurance lower than it would otherwise be.

This bill also adds a provision limiting the rate of interest charged on a policy loan to ten per cent for policies with a face amount of $50,000 or less. Your Committee has however, amended the bill by deleting this requirement and instead requiring that all life insurers offer fixed rate policies at eight per cent as a condition to offering variable rate policies in the State.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 509, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 509, H.D. 1, S.D. 1, C.D. 1.

Representatives Blair, Dods, Hirono and Ikeda,
Managers on the part of the House.

Senators Cobb, Henderson and Uwaine,
Managers on the part of the Senate.

Conf. Com. Rep. 46-82 on H.B. No. 2890-82

The purpose of this bill is to maintain parity between industrial loan companies and savings and loans in the area of premiums allowed to customers.

Your Committee notes that one of the original intentions behind the enactment of Chapter 408A, Hawaii Revised Statutes, was to conform certain rates and practices of industrial loan companies to those of savings and loans. The rules governing savings and loans have since changed, however, which has resulted in a difference with regard to premiums which may be offered by each kind of institution.

This bill would correct this disparity by treating premiums offered by industrial loan companies as advertising expenses instead of interest.

Your Committee has amended the bill by adding a specific reference to the limitation on interest contained in Section 408A-28(a), for purposes of clarity.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2890-82, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2890-82, S.D. 1, C.D. 1.

Representatives Blair, Baker, Chun and Liu,
Managers on the part of the House.

Senators Cobb, Kuroda and Soares,
Managers on the part of the Senate.

Conf. Com. Rep. 47-82 on H.B. No. 1653

The purpose of this bill is to clarify the percentage of votes required to amend the declarations or bylaws of condominium associations under chapter 514A, Hawaii Revised Statutes.

Your Committee notes that there are various ambiguities in the present voting requirements under section 514A-11(11) and 514A-82(11). Presently, the law does not specify the percentage of votes required to amend a declaration, and is unclear about whether the percentage required to amend the bylaws pertains to all owners or to those present at a meeting for that purpose.

This bill would require seventy-five per cent of all apartment owners of an association to approve an amendment to a declaration. Votes may be taken at an association meeting in person, by proxy, or by mail. The bill also deletes the requirement that bylaws be annexed to and made a part of the declaration. Otherwise, the stricter requirement for amending the declaration may supersede the specific provision relating to bylaws.

Nothing in this bill requires personal attendance at association meetings to vote on amendments to a declaration or the bylaws. Apartment owners may continue to vote in person or by proxy as presently provided by statute. Further, nothing in this bill prevents an association, if it so desires, from specifying a higher percentage than is required by this bill to amend a declaration or the bylaws.

Your Committee has amended the bill to allow the bylaws to be amended by the approval of not less than sixty-five per cent of all apartment owners. Your Committee believes that the present requirement of seventy-five per cent was too restrictive, especially in large associations.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1653, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1653, H.D. 1, S.D. 1, C.D. 1.

Representatives Blair, Hirono, Shito and Medeiros,
Managers on the part of the House.

Senators Cobb, Uwaine and Yee,
Managers on the part of the Senate.

Conf. Com. Rep. 48-82 on H.B. No. 2192-82

The purpose of this bill is to clarify and amend certain requirements for corporate filings with the Department of Regulatory Agencies, to clarify the existence of the Department's rule making authority with respect to corporations, and to more strictly regulate the mergers of certain subsidiaries of the same corporation.

Presently, certificates of an increase or reduction of capital or capital stock, of an amendment of the corporate articles or charter, and of an extension of the duration of the articles or charter must be signed by two officers of the corporation. This bill would clarify that these certificates, required to be filed with the Department, cannot be signed by only one person who is a dual officer of the corporation.

Current law also requires all corporations to file by March 31 of each year corporate exhibits, stating each corporations's state of affairs as of the preceding December 31. This bill would extend the filing deadline to June 30 so that the Department of Regulatory Agencies is not inundated with these filings in such a short span of time.

This bill, as received, would also specifically state in Chapters 416 and 418 the Department's rule making authority with respect to corporations.

Presently, subsidiaries of a parent corporation merge under general statutory provisions relating to mergers. The merger of subsidiary corporations, however, because of the very nature of their "familial" relationship should be more carefully regulated.

This bill would require a corporations's subsidiaries to follow procedures similar to those relating to mergers between a parent corporation and its subsidiary.

It should be noted that these provisions only apply to situations where the parent corporation owns at least ninety per cent of the outstanding shares of each class of stock of the subsidiaries to be merged.

Your Committee has made a technical, non-substantive amendment to the bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2192-82, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2192-82, S.D. 1, C.D. 1.

Representatives Blair, Hirono, Taniguchi and Ikeda,
Managers on the part of the House.

Senators Cobb, Henderson and Uwaine,
Managers on the part of the Senate.

Conf. Com. Rep. 49-82 on H.B. No. 2348-82

The purpose of this bill is to provide law enforcement agencies a reasonable opportunity to investigate and recover stolen precious or semi-precious metals and gems.

Your Committee is aware that secondhand jewelry and precious or semi-precious metals are particularly difficult to recover when stolen because they are easily altered or disassembled, such as through a melting process. The vagueness of the present statutory provisions relating to secondhand dealers has hampered the investigation and recovery of stolen jewelry and property which may be sold to businesses engaged in buying and selling precious metals and gems.

This bill will require licensed dealers of precious or semi-precious metals or gems to maintain specific records regarding all articles received. It will also allow law enforcement agencies to inspect a dealer's records required to be kept for the purpose of identifying and recovering stolen property.

The bill also requires dealers of precious or semi-precious metals or gems to retain the articles for a ten day period. A violation of the proposed chapter is deemed to be a misdemeanor.

Your Committee agrees with the intent of the bill to provide law enforcement officials a tool with which to recover stolen material and has therefore amended the bill as follows:

(1) The definitions of precious or semi-precious metals and gems have been amended to delete reference to secondhand or previously owned items.

(2) Add the requirement that the price paid by a dealer for a certain item be retained by the dealer as a record of transaction.

(3) Require that the metal or gem purchased by a dealer be retained in the county where purchased instead of at the dealer's place of business. The concern of your Committee is that the purchased items be kept in an area easily inspected by county law enforcement officials and at the same time adequately protect dealers.

(4) The section on inspections permitted is amended to allow the county police departments to inspect the items purchased by the dealer as well as the records. Your Committee feels that this will aid law enforcement officials in a more substantial manner than the inspection of only dealers' records.

Your Committee has also made technical amendments to the bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2348-82, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2348-82, H.D. 1, S.D. 2, C.D. 1.

Representatives Blair, Kawakami, Waihee and Medeiros,
Managers on the part of the House.

Senators Carpenter, Cobb and George,
Managers on the part of the Senate.

Conf. Com. Rep. 50-82 on S.B. No. 2638-82

The purpose of this bill is to require any seller, lessor, broker or agent of real property located in flood hazard areas to timely notify prospective buyers, lessees or tenants that the property lies within the boundaries of a designated flood hazard area.

This bill would provide protection for prospective buyers, lessees and tenants prior to occupying or acquiring an interest in property located within the boundaries of special flood hazard areas as designated on FIA (Flood Insurance Administration) maps promulgated by the United States Department of Housing and Urban Development.

Your Committee upon further consideration has made the following amendments to S.B. No. 2638-82, S.D. 1, H.D. 1:

(1) On page 1, lines 14-16, added the words,"; provided that notification shall not be required in the case of a rental lease or rental agreement, the term of which is less than one year", after the word, "property".

(2) A new section 2 regarding failure to notify has been added to the bill and reads as follows:

"The failure of any seller, lessor, broker, or agent to notify prospective buyers, lessees, and tenants prior to any sale or lease of property cannot be used to invalidate an otherwise valid contract".

(3) A penalty section has also been added to the bill and reads as follows:

"Any person who violates this chapter shall be fined not less than $100 nor more than $500".

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2638-82, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2638-82, S.D. 1, H.D. 1, C.D. 1.

Representatives Blair, Honda, Shito and Medeiros,
Managers on the part of the House.

Senators Cobb, Kuroda and George,
Managers on the part of the Senate.

Conf. Com. Rep. 51-82 on S.B. No. 65

The purposes of this bill are to define land trust ownership more clearly and to require a trustee to disclose the names of the beneficiaries of a trust in certain circumstances involving the real property held in trust.

The bill requires a trustee to disclose the names of present beneficiaries of a trust in response to the service of a complaint or similar court pleading. Disclosure by the trustee of the identity of every beneficiary is also required upon notice of violation of an ordinance, rule, regulation or law relating to the property held in trust. Your Committee amended this provision by specifying that the disclosure by the trustee shall be made to the governmental agency giving notice of the violation or responsible for enforcement of the regulation or law.

The bill also required the trustee to disclose the beneficiaries before the trustee enters into any contract with the state or county government, which involves the land trust property. Your Committee amended this provision by requiring that the disclosure be included as part of the contract rather than to require disclosure before the contract is made in order to avoid the potential for abuse arising from disclosure.

Disclosure of the beneficiaries is further necessary where an application is made to a governmental agency for a permit or license relating to the land which is the subject of the land trust.

Your Committee also amended the bill by deleting the provision which provides that the names of the beneficiaries shall be a matter of public record, from subsection (c) relating to notice of violation of the law; subsection (d) relating to a contract involving the land, with the state or county government; and subsection (e) relating to an application made to a govermental agency for a permit or license regarding the land. Your Committee feels that sufficient disclosure is made through the recorded conveyance document provided for in subsection (a).

Finally, the bill provides that trustees shall not be liable for disclosing the names of beneficiaries pursuant to statutory requirements.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 65, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 65, S.D. 1, H.D. 1, C.D. 1.

Representatives Blair, Hirono, Taniguchi and Ikeda,
Managers on the part of the House.

Senators Carpenter, Cobb and Kobayashi,
Managers on the part of the Senate.

Conf. Com. Rep. 52-82 on H.B. No. 2888-82

The purpose of this bill is to define the geographic areas where time sharing is allowed.

Specifically, the bill: (1) retains the legislative delegation of authority to county governments to enact appropriate zoning and land use restriction for the control of time share units, time share plans, and transient vacation rentals; (2) allows time sharing in hotels and projects wholly designated for time sharing in their declarations and bylaws, if they are in areas zoned for hotel, transient vacation rentals, or resort use; and (3) prohibits further time sharing in residential units projects, and buildings unless their bylaws and declarations specifically and explicitly so authorize and unless they are situated in areas appropriately zoned.

Section 514E-5 presently allows time sharing in hotels without reference to the zoning of their locations. This bill will allow time sharing in hotels only if they are located in areas appropriately zoned by the county government. Hotels not so located may otherwise cause time sharing intrusion into areas not appropriate for that use.

This bill also attempts to keep time sharing in mixed use buildings at its presents level by requiring that time share holdings in such buildings may subsequently be increased only upon the specific amendment of the declaration and bylaws of such buildings.

Your Committee agrees with the general intent of the bill to limit time sharing in areas in which it would be a non-conforming use pursuant to county zoning and has therefore

amended the bill by adding language which specifically provides that counties must approve time sharing in a hotel which is presently operated as a non-conforming use, before such time sharing is permitted.

Your Committee notes that the substance of this bill, as amended, is to continue the original intent of time sharing regulation to refer the question of time sharing use, to the local law and processes of the respective counties for resolution. It is the intention of your Committee that before such a hotel presently existing as a permissible non-conforming use is allowed to be used for time sharing, the county in which such hotel is located must, in accordance with its local processes, explicitly confirm that the local law permits or does not prohibit this use as an existing permissible non-conforming use, or make this use a permissible one. It is not the intention of your Committee to have state law influence the resolution of these issues either for or against allowing time sharing, or to prescribe the processes by which each county makes these determinations.

Your Committee on Conference is in accord with the intent and purpose on H.B. No. 2888-82, H.D. 1, S.D. 1, as amended herein, and recommends that is pass Final Reading in the form attached hereto as H.B. No. 2888-82, H.D. 1, S.D. 1, C.D. 1.

Representatives Blair, Dods, Honda, Shito and Medeiros,
Managers on the part of the House.

Senators Cobb, Kuroda and Saiki,
Managers on the part of the Senate.

Conf. Com. Rep. 53-82 on H.B. No. 2332-82

The purpose of this bill is to establish a minimum base term for State lands leased for intensive agricultural and pasture uses.

As passed in H.D. 1, the bill specified that the minimum lease period would be 15 years. As passed by the Senate in the Senate draft, the figure was changed to 20 years.

Your Committee, after much discussion, has decided that 15 years minimum should be agreed to and has amended the bill to that extent.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2332-82, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2332-82, H.D. 1, S.D. 1, C.D. 1.

Representatives Sakamoto, G. Hagino, Okamura, Takamine and Narvaes,
Managers on the part of the House.

Senators Ajifu, Henderson and Yamasaki,
Managers on the part of the Senate.

Conf. Com. Rep. 54-82 on S.B. No. 400

The purpose of this bill is to raise the allowable maximum rate of interest for certain transactions.

Presently, banks, savings and loans, and industrial loan companies are exempted from general interest and usury provisions and make loans at interest rates which substantially exceed those set by chapter 478, Hawaii Revised Statutes. Other transactions, such as retail installment contracts and credit card transactions are also exempted. Other businesses, however, are limited to twelve per cent interest on their written contracts. This provides an "incentive" for their customers to default on contracts, in effect financing purchases at an advantageous rate of interest. Besides creating cash flow problems for businesses, losses result because inventory and other expenses are often financed through lending institutions charging prevailing rates.

This bill amends section 478-8, Hawaii Revised Statutes, relating to interest and usury by raising present interest limits on transactions between merchants to eighteen per cent per annum.

This bill also amends section 478-1, Hawaii Revised Statutes, by raising the allowable

interest note for unwritten contracts from six per cent to ten per cent a year. This change is made in order to more accurately reflect the cost of money.

Further, this bill exempts purchase money junior mortgages and sub-agreements of sale from the general usury restriction in order to provide sellers and purchasers of real property more flexibility in financing arrangements.

Your Committee upon further consideration has amended the bill as follows:

(1) The provisions relating to sub-agreements of sale, purchase money junior liens and merchant transactions were amended by adding a "drop dead" date of June 30, 1985.

(2) Page 5, line 4, the word "between" after "transactions" was changed to "of" and page 5, lines 7 and 8, the words "and between merchants" was deleted. The purpose of these amendments is to allow transactions between merchants and consumers to fall under the provisions of this subsection and to not limit it to transactions between merchants.

(3) A clause was added to subsection (h) to exclude regulated moneylenders.

(4) A new section 3 was added, being section 3 of H.B. No. 2404-82, H.D. 1, S.D. 1. This amendment is for "housekeeping" purposes.

(5) A new section 4 was added to exempt securities regulated by the Uniform Securities Act (Modified) from the provisions of chapter 478 and to limit the interest rate of such securities to eighteen per cent a year.

(6) The effective date was amended to specifically prevent agreements made prior to the effective date of this bill from being affected by any provision of the bill.

(7) Technical nonsubstantive amendments were made to conform this bill to recommended drafting style.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 400, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 400, S.D. 1, H.D. 1, C.D. 1.

Representatives Blair, Honda, Shito and Medeiros,
Managers on the part of the House.

Senators Cobb, Uwaine and Henderson,
Managers on the part of the Senate.

Conf. Com. Rep. 55-82 on S.B. No. 2388-82

The purpose of this bill is to amend the definition of "apartment" in chapter 514A.

Your Committee upon further consideration including extensive and careful consultation with condominium law practitioners, has amended the bill by reverting to Senate Draft 1 with certain changes thereto. The Senate Draft, as changed herein, revises chapter 514A as it relates to: amendment of the declaration; certain contents of the bylaws; charges, costs, and fees recoverable for violation of the declaration, bylaws, and other rules or in actions brought on association claims; inclusion of those charges, costs, and fees in the association's lien on the subject apartment; and the required consent for certain modifications to apartments and for changes in designation of parking stalls.

The changes, with references to item, page, and line designations as they appear in the Senate Draft, are:

(1) On page 4, lines 22-24 the proposed language, "which shall include the requirement of approval by seventy-five per cent of the apartment owners", has been deleted.

(2) On page 5, lines 21-22, the words, "Notwithstanding any provision of the declaration, apartment", have been bracketed for repeal, and the word, "Apartment", added to replace them.

(3) On page 6, lines 16 and 22, the words, "or bylaws", have been inserted

after the word, "declaration". The proposed language beginning with the words, "If the declaration..." on page 6, line 22 and ending on page 7, line 2 with the word, "expenses.", has been deleted.

(4) On pages 7 and 8, items 6 and 7 have been deleted.

(5) On page 9, items 8 and 9 have been renumbered as 6 and 7 respectively and the following changes made:

(a) On line 4, the bracket before the word "No" has been removed.

(b) On line 5, the words "modification of or" have been bracketed.

(c) On line 5, the word "to" has been bracketed for repeal, and the word "of" added to replace it.

(d) On line 6, the words "to the declaration," and "amendment" have been bracketed.

(e) On line 7, the bracket after the word "recorded" has been removed.

(6) On page 15, line 4, the proposed language, "available in Hawaii" has been deleted.

(7) On page 16, item 10 has been deleted and item 11 has been renumbered to become item 8.

(8) On page 17, items 12 and 13 have been renumbered to become items 9 and 10.

(9) Also on page 17, the following changes have been made:

(a) The new language on line 11", as determined by the board of directors,", has been deleted.

(b) On line 13, the words, "unanimous" and "all" have been bracketed, and the words "percentage of" have been inserted before the words, "other apartment".

(c) On line 14, the words "necessary to amend the declaration" have been inserted after the word "owners".

(d) On line 23, "(a)" has been inserted after "514A-90".

(10) On page 19, subsection (b) has been deleted along with item 14, which ends on page 20, line 7.

(11) On page 20, item 15 has been deleted and item 16 has been renumbered to become item 11.

(12) On page 21, line 12 the words, "any person who is", have been deleted, a comma has been inserted before the word, "occupant", and the words, "or any" and "of an apartment", have been bracketed.

(13) On page 21, line 19, the brackets around the words "costs and" have been removed.

(14) On page 21, line 20 the brackets around the words "including reasonable attorney's" have been removed and the proposed language "legal costs, and attorneys'" has been deleted.

(15) On page 22, a new SECTION 3 has been inserted to read as follows: "The substantive provisions of this Act shall amend any other conflicting Act enacted by the regular session of 1982, but nonsubstantive amendments made by this Act shall not supersede any substantive amendments made by any other Act enacted by the regular session of 1982".

(16) On page 22, SECTIONS 3 and 4 have been renumbered to become SECTIONS 4 and 5.

Your Committee on Conference is in accord with the intent and purpose of S.B. No.

2388-82, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2388-82, S.D. 1, H.D. 1, C.D. 1.

Representatives Blair, Kawakami, Shito and Medeiros,
Managers on the part of the House.

Senators Cobb, Uwaine and Yee,
Managers on the part of the Senate.

Conf. Com. Rep. 56-82 on S.B. No. 2346-82

The purpose of this bill is to allow the Governor to control the amount of tax revenues spent to educate federally connected students in public schools if the amount of available federal funds paid pursuant to title 20, United States Code, section 238 is unsatisfactory. The bill authorizes the Governor to enter into negotiations with the appropriate agency or entity of the Federal government for the purpose of securing a reasonable portion of the cost incurred by the State to provide federally connected students with an education comparable to that provided to the children of its residents.

The federal impact aid program, as provided in Public Law 81-874, was enacted in 1950 to provide federal financial assistance to local school districts to help offset their cost of educating federally connected students, including children of members of the armed forces on active duty or who resided on federal property. The Legislature finds that federal funds received under the impact aid program cover only a small portion of the total cost of educating federally connected students in the public schools. The demands of educating these students places a particularly acute burden on the State's limited financial resources in light of the constitutionally mandated ceiling on State operating expenditures.

An attempt to recover a reasonable share of the State's cost of educating these children is, therefore, an effort to address an extremely serious fiscal problem which would adversely affect all students, regardless of whether they are federally connected.

Your Committee recognizes the contributions, both financial and social, from the presence of federally connected personnel in our community life. Your Committee finds that every child, including federally connected students, should be assured of uninterrupted access to a free public education. Your Committee also finds that it is the responsibility of the federal government to fund a reasonable share of the costs thus incurred by the State in providing that education.

Title 20, United States Code, section 241 provides that:

"(a) In the case of children who reside on Federal property--

(1) if no tax revenues of the State or any political subdivision thereof may be expended for the free public education of such children; or

(2) if it is the judgment of the Commissioner, after he has consulted with the appropriate State educational agency, that no local educational agency is able to provide suitable free public education for such children.

the Commissioner shall make such arrangements (other than arrangements with respect to the acquisition of land, the erection of facilities, interest, or debt service) as may be necessary to provide free public education for such children. Such arrangements to provide free public education may also be made for children of members of the Armed Forces on active duty, if the schools in which free public education is usually provided for such children are made unavailable to them as a result of official action by State or local governmental authority and it is the judgment of the Commissioner, after he has consulted with the appropriate State educational agency, that no local educational agency is able to provide suitable free public education for such children. To the maximum extent practicable, the local educational agency, or the head of the Federal department or agency, with which any arrangement is made under this section, shall take such action as may be necessary to ensure that the education provided pursuant to such arrangement is comparable to free public education provided for children in comparable communities in the State, ..."

Your Committee has amended the bill to provide that the Board of Education shall present a bill and demand payment from the appropriate agency or entity of the federal government for educational fees relating to federally connected students. Your Committee has further amended the bill to provide that if the federal government fails to make such payment or arrangements for payment by a specified date, the State shall declare as policy that no tax revenues of the State may be expended for the free public education of federally connected school age children and that the federal government shall assume full responsibility for the education of these children under the provisions of 20 U.S.C. Section 241 on September 30 of the year in which the federal government fails to make payment. Your Committee has also amended the definition of "federally connected student" to conform to the criteria of 20 U.S.C. Section 241.

Your Committee considered a question raised about potential conflict between this bill and section 298-5(a), Hawaii Revised Statutes, which in dealing with school vandalism, prohibits assessments against pupils. Since this bill does not create any assessment against any pupil, your Committee finds and intends no conflict and therefore makes no provision in the bill relating to section 298-5(a).

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2346-82, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2346-82, S.B. 2, H.D. 2, C.D. 1.

Representatives Kunimura, Toguchi, Hashimoto, Matsuura and Lacy,
Managers on the part of the House.

Senators Yamasaki, Abercrombie and Kuroda,
Managers on the part of the Senate.

Conf. Com. Rep. 57-82 on S.B. No. 2145-82

The purpose of this bill is to assure that private employers who encourage their employees to participate in ridesharing arrangements will not be held liable for injuries sustained by ridesharing participants. Questions about such liability have been a major impediment to employer-sponsored ridesharing programs in the past.

Your Committee upon further consideration has amended S.B. No. 2145-82, S.D. 1, H.D. 1, by combining the provisions of subsections 2(a) and 2(b) into one section. This amendment was made in order to clarify and better express the bill's intent to establish a statutory proscription of employers' liability for their encouragement of ridesharing programs, without otherwise altering existing law.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2145-82, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2145-82, S.D. 1, H.D. 1, C.D. 1.

Representatives Dods, D. Hagino, Tungpalan, Waihee and Medeiros,
Managers on the part of the House.

Senators George, Uwaine and Cobb,
Managers on the part of the Senate.

Conf. Com. Rep. 58-82 on H.B. No. 3119-82

The purpose of this bill as introduced is to add a new section to Chapter 46, Hawaii Revised Statutes, to allow group living in any real property zoned for residential use provided that there are no more than eight unrelated persons and two managers and that the facility meets the Department of Social Services and Housing's licensing requirements.

The present county zoning laws prohibit the cohabitation of more than five unrelated adults in a residential facility regardless of the special housing needs of the individuals. The economic and social pressures on the elderly, handicapped, and developmentally or totally disabled persons often make it difficult for them to locate and maintain an appropriate living situation without the option of group living.

The House Committees on Housing and Public Assistance and Human Services made amendments to the bill as follows:

1. deleted all references to totally disabled persons;

2. added "under sections 346-121 through 346-124" after "housing" on page 1, line 13 of the bill;

3. amended the definitions for elderly, handicapped, and developmentally disabled by deleting the contents of subsection (b) of the bill and replacing it with the following:

   "(b) For the purposes of this section, "elderly person", "handicapped person", and "developmentally disabled person" means an adult who is in need of minimal protective oversight care in the adult's daily living activities. The resident shall be capable of taking appropriate action for his or her own safety under emergency conditions.";

4. added a new subsection (c):

   "(c) The department of social services and housing shall establish rules pursuant to Chapter 91 for the purposes of this section.";

5. made technical, nonsubstantive amendments.

The Senate Committee on Housing and Hawaiian Homes amended the bill and its purpose to allow group living in residential areas of elderly, handicapped, developmentally disabled, and totally disabled person provided that the facility is properly licensed and provides housing for not more than eight such persons and two managers.

Those amendments are as follows:

1. added a section defining the intent of the proposed program to read as follows:

   "Findings and purpose. Present law limits the number of residents in special group homes to a level which is economically unfeasible. This Act, by allowing eight unrelated adults to live in a group home, will allow special needs people a chance to live independently in their own community.";

2. amended sections of the Hawaii Revised Statutes which require the Director of Health and the Department of Social Services and Housing to adopt rules for the licensing of care homes and adult boarding homes, respectively, by adding a proviso that such rules in areas zoned for residential use shall allow group living, as defined by the bill;

3. added a new section to county zoning law disallowing any prohibition on such group living in areas zoned for residential use;

4. changed the effective date to September 1, 1982.

Your Committee on Conference made further amendments to the bill as follows:

1. deleted reference to eight unrelated persons in the findings and purpose clause of the bill because it is the intent of your Committee to exempt the different special group homes (care homes, adult family boarding homes, and independent group residences) from the cohabitation limitation of up to five unrelated adults imposed by the present county zoning laws;

2. deleted all references to "managers" and replaced them with "home operator and facility staff";

3. amended section 321-15.6(b)(2) to allow up to five persons living in a family care home. The present Department of Health regulations provide for two types of care home facilities: a family care home, which includes up to four residents, and a residential care home, which allows from five or more residents;

4. clarified section 46-4(d) to include group living facilities licensed by the

State as provided for under sections 321-15.6, 346-91 or 346-122 (care homes, adult family boarding homes, and independent group residences, respectively);

5. made technical, nonsubstantive amendments.

The purpose of these amendments is to address the different group living facilities licensed by the Department of Social Services and Housing and the Department of Health. Your Committee is cognizant of the special needs of the elderly, the handicapped, the developmentally, and the totally disabled persons who are at different levels of functioning and who require different levels of care. However, economic and social pressures make it difficult for them to locate and maintain an appropriate living situation. Group living will allow them to live independently in their own community.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3119-82, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3119-82, H.D. 1, S.D. 1, C.D. 1.

Representatives Shito, Chun, Ige, Kobayashi and Lacy,
Managers on the part of the House.

Senators Young, Abercrombie and Ajifu,
Managers on the part of the Senate.

Conf. Com. Rep. 59-82 on H.B. No. 2176-82

The purpose of this bill is to enable the Board of Land and Natural Resources to more effectively act against those who encroach upon public lands. The bill provides for penalties for encroachment, including a fine, the payment of administrative costs incurred in the enforcement of the law against those who encroach, and the payment of damages.

The bill also permits the Board to set, charge and collect interest charges on delinquent leases, sales, or other accounts administered by the department.

The House draft of this bill provided for a mandatory imposition of the fines, administrative costs, and the payment of damages. The Senate draft changed the mandatory feature to a discretionary one.

Your Committee has amended this bill to make the imposition of the penalties mandatory.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2176-82, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2176-82, H.D. 2, S.D. 1, C.D. 1.

Representatives Sakamoto, Baker, Hirono, Okamura and Monahan,
Managers on the part of the House.

Senators Henderson, Carpenter and Kuroda,
Managers on the part of the Senate.

Conf. Com. Rep. 60-82 on S.B. No. 2147-82

The purpose of this bill is to amend the Hawaii Revised Statutes to provide for increased penalties for persons convicted of driving a vehicle while under the influence of intoxicating liquor.

The bill provided that a person convicted of a first offense or for an offense not preceded within two years of a previous conviction, of driving under the influence of intoxicating liquor shall be sentenced to an educational or counseling program and 72 hours of community service work. Your Committee amended the bill by providing that a person convicted of a first offense or for an offense not preceded within four years of a previous conviction shall be sentenced to a fourteen-hour minimum alcohol abuse rehabilitation program, and to two of the following three penalties: (1) 72 hours of community service; (2) thirty-day suspension of license; (3) 48 hours of imprisonment. Your Committee felt that the increased period from two to four years is consistent with the concept of a stricter penalty for drunk driving.

The bill provided that for an offense occurring within two years of a prior drunk driving conviction, the sentence imposed shall be a fine between $250 and $1,000, and

ten days imprisonment or a ninety-day suspension of license. Your Committee amended this provision by providing that the sentence for an offense occurring within four years of a prior conviction shall include two of the following three penalties: (1) a fine between $250 and $1,000 or community service work for a period between 72 hours and 150 hours; (2) ninety-day suspension of license; (3) imprisonment for a period between two days and ten days. Your Committee decided that an imprisonment period from two to ten days would emphasize to the offender and the courts the seriousness of the offense and at the same time retains the discretion with the judge regarding the length of imprisonment to impose.

The bill also provided that the sentence imposed for an offense occurring within two years of two prior convictions shall be a fine between $500 and $1,000, imprisonment for a period between 30 days and 180 days, and revocation of the driver's license. Your Committee amended this provision to provide that the sentence imposed for an offense within four years of two prior convictions shall be set at: (1) a fine between $500 and $1,000; (2) revocation of license for a period between one year and five years; and (3) imprisonment for a period between ten days and 180 days.

Your Committee further amended the bill by including a provision that prohibits a person whose license has been revoked as a result of a drunk driving conviction, from applying for a new driver's license for the period of time specified by the court.

The bill further provides that for a person convicted of driving while his license is suspended or revoked, a fine between $250 and $1,000 or imprisonment for not more than one year shall be imposed.

Finally, your Committee amended the bill to provide that a person who improperly refuses to submit to a blood or breath test to determine alcohol content shall have his license revoked for a period of twelve months instead of the present law of six months.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2147-82, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2147-82, S.D. 2, H.D. 1, C.D. 1.

Representatives Nakamura, Blair, Hirono, Taniguchi and Liu,
Managers on the part of the House.

Senators Carpenter, George and Uwaine,
Managers on the part of the Senate.

Conf. Com. Rep. 61-82 on H.B. No. 2318-82

The purpose of this bill is to mandate that the Intake Service(ISC) be the primary agency responsible for providing services to volunteer referrals and to admitted persons; correctional diagnostic and evaluation services for deversionary determinations; pre-sentence investigations and post-sentence correctional prescription program planning for Section 353-1.3 which established the Intake Service Center Board.

Under this bill, the Intake Service Center will be given the responsibilities that the Hawaii Correctional Master Plan had envisioned. Other criminal justice system agencies will also be responsible in furnishing pertinent information to the ISC to enable them to carry-out their duties.

Your Committee finds that coordination and cooperation among the agencies in the criminal justice system is mandatory for the system to be effective against crime. Numerous debates have transpired over the question of whether the ISC should remain with the Department of Social Services and Housing or be transferred to the Judiciary. This question remains unanswered.

Resolutions have been introduced in both the House and Senate addressing the need for a study on the re-organization of the Corrections Division and other related agencies. Specifically, these resolutions are H.R. 350 and S.R. 124.

Your Committee finds that the issue of the placement of the Intake Service Centers should be held in abeyance until studies called for by H.R. 350 and S.R. 124 have been completed.

Your Committee upon further consideration has deleted the amendments to the Intake Service Center and has retained the provision to repeal the Intake Service Center Board.

The repeal of the Intake Service Center Board was agreed upon due to the conflicts that have existed among the board members. These conflicts have prevented the Board from exercising their duties to determine policies and to make decisions for the operations of the Intake Service Center. This situation has hampered the Director of the Intake Service Center from developing positive directions for the centers. In addition, the Intake Service Center Board has suggested in the past to end its existence. On March 5, 1982, the Board voted on this suggestion and among the nine members present, seven voted in favor, 1 opposed and 1 abstained. This was the first meeting where the Board had a quorum.

Your Committee has further amended this bill by giving the State Executive Director of the Intake Service Center the responsibility to set the policies, directions, priorities, and procedures for the operation of the Inatke Service Centers. These responsibilities are now held by the Intake Service Center Board, which is to be eliminated by this bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2318-82, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2318-82, S.D. 1, C.D. 1.

Representatives Honda, Hashimoto, Kawakami, Shito and Medeiros,
Managers on the part of the House.

Senators Carpenter, Uwaine, Anderson and Soares,
Managers on the part of the Senate.

Conf. Com. Rep. 62-82 on S.B. No. 2531-82

The purpose of this bill is to amend Section 383-7, 386-1, 392-5 and 393-5, Hawaii Revised Statutes, which would exclude coverage for a vacuum cleaner dealer performing services solely by way of commission.

The present laws require every employer to provide wage-loss and medical benefits for all eligible employees. However, a conflict between state and federal laws in regards to vacuum cleaner dealers has existed. The federal government has issued a ruling (Revenue Ruling 55-734; Doc #7851109) declaring vacuum cleaner dealers are not employees under the federal law while under state laws no such exemption exists for these dealers. Therefore, due to the federal ruling, employers make no contributions to federal unemployment insurance and are not required to withhold federal income tax or social security tax.

Under state labor laws the dealer is not considered an independent contractor and therefore the employer must make contributions to the state unemployment fund and is required to withhold state income tax.

Additionally, the current status of the law has created confusion under the state taxation laws. Because the salesperson is treated as an independent contractor under federal laws and an employee under state laws, all commissions he receives are subject to a four per cent general excise tax and must be paid by the company. Thus, recordkeeping requirements for employers are difficult and has created a state of confusion as to the status of independent contractors.

Your Committee upon further consideration has made the following amendment to S.B. No. 2531-82, S.D. 1, H.D. 1 by amending the definition of vacuum cleaner dealer to read as follows:

Service performed by a vacuum cleaner salesman for an employing unit, if all such services performed by the individual for such employing unit are performed for remuneration solely by way of commission.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2531-82, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2531-82, S.D. 1, H.D. 1, C.D. 1.

Representatives D. Hagino, Albano, Say, Tungpalan and Medeiros,
Managers on the part of the House.

Senators Uwaine, Abercrombie and Henderson,
Managers on the part of the Senate.

Conf. Com. Rep. 63-82 on H.B. No. 2177-82

The purpose of this bill is to permit the State to recover administrative costs and damages in addition to a fine in cases where a person is found to be in violation of regulations regarding permitted use of lands in forest and water reserve zones.

In recent years, the State has been forced to expend large amounts of time and money to enforce its rules and regulations against alleged violators.

The House draft of this bill made the imposition of the penalties mandatory. The Senate draft made this feature discretionary.

Your Committee, upon further consideration, has amended the bill to make the imposition of the penalties mandatory.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2177-82, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2177-82, H.D. 1, S.D. 1, C.D. 1.

Representatives Sakamoto, Baker, Hirono, Okamura and Monahan,
Managers on the part of the House.

Senators Henderson, Saiki and Uwaine,
Managers on the part of the Senate.

Conf. Com. Rep. 64-82 on H.B. No. 3136-82

The purpose of this bill is to clarify existing legislation which authorizes the Aloha Tower Development Corporation to redevelop the Aloha Tower complex.

In addition to clarifying existing legislation, earlier drafts of this bill had authorized the State Director of Finance to make loans to the Aloha Tower Development Corporation to cover predevelopment costs. Senate Draft I deleted the loan provision as being inappropriate.

Your Committee has amended the bill, adding a new Section 7, which appropriates $500,000 to the Aloha Tower Corporation for predevelopment costs. This is done here to assure a direct relationship between the substance of the bill and the means to carry out its intent.

Your Committee has also changed the effective date of the bill to July 1, 1982. This is to clarify the intent that fiscal year 1982-1983 moneys are being appropriated.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3136-82, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3136-82, H.D. 2, S.D. 1, C.D. 1.

Representatives Sakamoto, Fukunaga, Hashimoto, Kawakami and Monahan,
Managers on the part of the House.

Senators Yamasaki, George and Henderson,
Managers on the part of the Senate.

Conf. Com. Rep. 65-82 on H.B. No. 3078-82

The purpose of this bill is to require sales agents and acquisition agents who solicit or encourage others to attend time share presentations to have a real estate salesman's or broker's license. It is also intended to require the director to adopt regulations governing the activities of sales and acquisition agents.

This bill is also intended to protect purchases of time share interests by requiring that their funds be placed in escrow until closing. It is also intended to insure that before the closing of escrow occurs, adequate arrangements are made to pay any existing mortgages and any future mortgages which may encumber the time share units.

Section 1 of the bill provides an index which is intended to make the bill easier to read and understand. Section 2 of the bill prohibits sales agents or acquisition agents

from soliciting or encouraging others to attend a time share presentation without a real estate license except as otherwise provided by rules and regulations adopted by the director. It goes on to provide that the director must adopt rules and regulations and specifies the parameters of some of those rules. Among other things, they must strictly regulate and discourage the use of telephone solicitation of guests in hotels. They must also permit the use of acquisition agents not licensed under chapter 467 to man a booth for the purpose of inviting persons to attend a time share sales presentation or a related entertainment function. In most cases, these persons would be covered by a blanket bond posted by the acquisition agent or sales agent who employed them. The director may elect to adopt a simplified registration procedure for these acquisition agents.

Section 3 provides that the developer must establish an escrow account with a bank, savings and loan association, trust company, or licensed escrow depository here in Hawaii. All funds, negotiable instruments, and purchase money contracts (such as a retail installment sales contract) received from buyers must be deposited in the escrow account until closing. "Negotiable instruments" is defined in section 3 of the bill to mean any checks, promissory notes or other documents which are negotiable instruments within the meaning of Article III of the Uniform Commercial Code.

There is a limited exception to the general rule which permits a developer or a sales agent to hold the buyers downpayment check until after the expiration of the 5-day cancellation period provided in section 514A-8, or any cancellation period in favor of the buyer contained in the sales contract. This is based on your committee's understanding that escrow depositories are not likely to agree to establish escrow accounts for buyers who are still in the rescission period because the administrative burden is substantial and all parties go unpaid. To be sure that the developer or sales agent do not misappropriate the buyers funds, however, under this exception the developer or sales agent may only retain checks or other negotiable instruments which are specifically made payable to the escrow agent or to the trustee of a trust arrangement established under this bill. The developer or sales agent may also retain any non-negotiable instrument such as a retail installment sales contract or any instrument which can be negotiated but which a successor cannot enforce against the purchaser as a holder in due course. A "holder in due course" is someone who would be able to enforce, for example, a promissory note against a buyer without being subject to any defenses the buyer may have against the developer. By restricting this exception to instruments in which successors are not "holders in due course", any misuse of the note will be borne by a successor holder, not by the purchasers.

This section also provides that if the law of the place where the sale of the time share interest took place requires it, an escrow account may be established in that jurisdiction rather than in Hawaii. In such case, the director will have the authority to review and approve the qualifications of the escrow agent and the form and content of the escrow agreement.

Section 4 of the Act establishes the conditions under which the purchaser's funds may be released from escrow without a closing. It permits the escrow agent to disburse the buyers funds when a contract is cancelled or in the event of a default. Subsection (4) parallels section 514A-67 of the Horizontal Property Act which permits the disbursement of buyers funds to pay the costs of construction. A developer will not be permitted to use buyers funds for construction until he files a copy of the executed construction contract and a copy of the executed performance and labor and material payment bonds insuring that all amounts due under the construction contract, including change orders up to 10%, and all other costs of construction will be paid.

Section 5 provides conditions under which buyers funds may be disbursed upon closing. Subsections (a) and (b) establish that upon closing, the funds will be disbursed according to the requirements of the financial arrangements made by the developer to protect the buyers from foreclosure of mortgages existing at the time of the closing and later mortgages made by the developer. The following are examples of the problems your committee perceived and intended this bill to prevent.

Suppose the buyer pays $10,000 for the right to use a condominium apartment for the next 40 years. Suppose that the condominium apartment already has a mortgage loan on it. If the developer does not use the buyers money to pay off the mortgage, the lender may foreclose. If that happens, the apartment will be sold and the buyer will lose the right to use the apartment plus he won't get his $10,000 back. This is an example of how an existing mortgage can be foreclosed so as to cut out the buyers right to use.

Your Committee understands that up to 3,000 buyers in the Paradise Palms time share

plan may lose their money because inadequate arrangements were made to prevent the type of foreclosure described in the preceding paragraph. In the Paradise Palms case, the developer had purchased several apartments for the time share plan on an agreement of sale. When the agreements of sale were not paid off, the sellers foreclosed, leaving the time share purchasers without any place to stay.

Another circumstance which your committee considered is this one. Suppose again that the developer sells the buyer the right to use a condominium apartment for the next 40 years. The buyer pays his $10,000. Fifteen years later, the developer takes out a mortgage. He fails to pay it and the lender forecloses. If the time share plan is a time share use plan, the buyer simply has the right to use the apartment. Accordingly, under the law, the lender can foreclose the mortgage and the buyer will lose his right to use the property. Generally this occurs only in time share use plans.

Subsection (b) of section 5 of the bill provides that notwithstanding any other provisions of the chapter, buyers' funds may not be released from escrow until the purchaser's right of cancellation has expired. This section then adds a very useful provision which established that a buyer's cancellation will be effective if it is delivered to the developer within the 5-day cancellation period or if it is received by the developer after that time, but is postmarked on a day falling within the 5-day cancellation period.

Section 6 of the bill defines a number of terms which are necessary to clarify and establish a manner in which the bill works. Your committee did not define the term "closing" in the bill. Typically, in an ownership plan, closing occurs when the ownership interest is conveyed to the purchaser. In a time share use plan, closing would occur when a time share unit is conveyed to the trustee or the owner's association to accomodate the new member. If the developer retains title to the time share unit, closing would occur when all of the required conditions to closing had been satisfied and a time share unit is added to the program to accommodate the new members. If alternative arrangements for protecting buyers are established, your committee the director must use her discretion to pinpoint the acts which must occur and conditions which must be fulfilled at closing.

Section 7 of the bill contains the requirement that adequate arrangements be made to pay any existing or future mortgages or other blanket liens before the buyers funds can be given to the developer. There are undoubtedly a number of ways in which the buyers can be protected from foreclosure of mortgages. This bill permits three, and gives the director the discretion to accept alternative arrangements, particularly when the director is dealing with a time share plan which is operating in more than one state and has several sets of statutory or regulatory requirements to comply with. Your committee understands that California, Florida, and presumably other states which are regulating time sharing are also providing their departments of real estate the discretion to permit alternative buyer protections to be established.

One approach permitted by section 7 of the bill is the "non-disturbance agreement" approach. Where there is an existing mortgage, the lender already has rights to foreclose the property. Your committee did not think it would not be wise to pass a law changing those existing rights, even if it could be done constitutionally. A non-disturbance agreement does not change the lender's rights without its consent.

A non-disturbance agreement works as follows: The developer approaches the lender and asks him to sign a "non-disturbance agreement". That is a document in which the lender agrees that if the mortgage is foreclosed, the rights of the buyers of time share interests will not be disturbed. In other words, the lender can foreclose, but the buyers will continue to have the right to use the property just as though the lender had not foreclosed. This means that anyone who purchases the property at a foreclosure sale will take it subject to all the rights of the time share owners. The lender may, in return, require that the contracts with the time share buyers provide that if the lender forecloses, the buyers payments will be given to the lender in place of the developer. Section 8 of the bill specifically spells out the effect of recording a non-disturbance agreement.

In some cases, a lender may not be willing to sign a non-disturbance agreement. If that happens, this proposed bill permits the developer to make other arrangements to insure the payment of the mortgage. The surety bond route requires that the developer post a bond in an amount equal to 110% of the money owed on the mortgage. As an alternative, the developer may post a letter of credit providing for payment of the amount due under the blanket lien. Your committee understands that surety bonds and letters of credit may be difficult for developers to obtain, so it is unlikely that developers will use these with great regularity. However, there may be some developers who are able to use these alternatives. In that case, the director should be empowered to accept such assurance

of payment as satisfactory protection from existing mortgages.

If the developer is unable to get the lender to sign a non-disturbance agreement, and the developer is also unable to post a bond or letter of credit, there is yet another way in which an existing lien can be dealt with so as to adequately protect the buyer's interest. This involves establishing a trust arrangement in which the time share units are transferred to a trustee.

Most buyers do not pay cash for their time share interests. Rather, they pay the downpayment in cash and sign either a note and mortgage or an agreement of sale or an installment sales contract obligating them to pay the balance due. When taken in the aggregate, these notes, agreements of sale, and contracts can provide a substantial source of income to pay down existing mortgages. The trust approach is based on this fact.

Section 7 of the bill provides that the developer may establish a trust and deposit in the trust notes, agreements of sale or contracts which obligate the buyers to pay the balance of their purchase price. The requirements for the trust and the trustee's qualifications are spelled out in sections 11-14. Under section 12, all payments made by the purchasers would be paid to the trustee. The trustee would then use the money paid by the purchasers to pay the regular monthly payments due under the mortgage and to establish a sinking fund to pay off the balance of the mortgage when it becomes due.

To make this sort of approach work, it is necessary that the developer put in the trust notes, agreements of sale, or contracts which will produce enough money to pay the total amount due under the mortgage. In that regard, sections 12 and 13 of the bill restrict the developer from closing the sale of any time share interest until enough buyers have signed notes, agreements of sale, or contracts sufficient to total the amount necessary to pay the mortgage.

Becasue payment of the blanket liens under the trust approach depends on the buyers paying their monthly payments, your committee was concerned that such an arrangement might be construed as a risk capital security under Chapter 485. To avoid this, subsection (c) was included in section 7 of the bill.

Section 10 of the bill establishes general requirements for the trust instrument. Among other things, it requires that the time share owners association expressly be made a third-party beneficiary of the trust. This way the association may act on behalf of the owners in enforcing the provisions of the trust. It prohibits the trustee from further encumbering the time share unit; this will protect buyers from foreclosure of liens placed on the property after closing.

Section 11 of the bill establishes requirements for trustees. It specifically requires that the trustee be a bank, savings and loan association or trust company meeting the requirements of rules adopted by the director. Also, the trustee must post a fidelity bond and maintain errors and omissions insurance as required by rules adopted by the director. It should be noted that the trustee need not be a Hawaii entity. This is because some multi-state projects may use out-of-state trustees, such as the Bank of California, and so long as the trustee is financially sound and responsible, the director should be willing to approve it.

Your Committee notes that in some occasions, some developers may have difficulty in convincing a single trustee to handle both the title holding functions and the collection functions of a lien payment trust. Under such circumstances, your Committee would have no objection to the use of two trustees, one for title holding purposes and one to operate as a collection agent. Alternatively, a single title holding trustee could contract with another entity to handle collection work, and so long as the trustee is ultimately responsible for the collection agent's handling of the purchaser's funds, the arrangement would be satisfactory. Accordingly, occasionally in the bill references are made to the trustee and its collection agent. Finally, in the case of time share plans with units in several states, it may be necessary to have more than one title holding trustee if the law of such states requires the trustee to be a local trust company.

Section 12 establishes detailed requirements which must be met if the trust approach is to be used to pay existing mortgages or other blanket liens, as specified in greater detail. It requires the developer to deposit assets which equal or exceed 110 per cent of the money owed on the mortgages or other blanket liens. Also, it requires the trustee to retain in the trust a reserve fund in an amount at all times sufficient to pay three

months successive monthly installments on the mortgages, and if installments are due less frequently than monthly, then enough to make the next six months installment. It also requires that the trustee establish a sinking fund to pay any balloon payments or any similar amounts due under any mortgage or other blanket lien. Also, it requires that the trustee pay all real property taxes, assessments, and insurance premiums. It permits the trustee to disburse funds from the trust and establishes that they may only be disbursed first to the payment of real property taxes and lease rent, second to current payments due on the blanket liens and any sinking fund established for them, next to the trustee and its collection agent, and finally to the developer and its sales agents.

Section 14 of the Act gives the developer the option to switch from a trust approach to a non-disturbance agreement or surety bond or letter of credit approach at future dates.

Section 15 authorizes the Director of Regulatory Agencies to approve alternative arrangements for purchaser protection in meeting the requirements of section 7. This is because many time share plans operate in more than one state and sometimes have properties in several countries. This makes it impossible, or at least impractical, for your Committee to address every conceivable problem which may crop up in multi-state or multi-national time share developments. Accordingly, the director should be given flexibility to accept alternative arrangements which adequately protect the buyers under the circumstances.

The use of alternative arrangements may prove worthwhile in numerous situations which do not necessarily involve multi-state developments. For example, suppose the owner of the hotel wishes to convert a portion of the hotel to time sharing purposes. In such circumstances, the hotel may have a large existing mortgage and it may not be practical to convey the hotel to a trust. Under those circumstances, the director might, for example, require that the hotel owner issue individual leases for rooms in the time share plan and either have those leases run in favor of a trustee, or convey the leasehold to the owner's association and record a notice of time share plan on the leasehold interest in the units. Then, the developer would have to make some arrangements with the existing lien holder either for the release of those units from the mortgage, or for subordination to the buyer's rights. Your Committee understands that a lender is not likely to agree to subordinate its rights to the rights of buyers easily, and it fully expects that in many circumstances, this will require the developer to pay a release price to the mortgagee in order to obtain the subordination and non-disturbance agreement or release from the blanket mortgage. Nevertheless, when it comes to weighing the protection of the purchaser's interest versus the interest of the developer in avoiding paying such amounts, the Committee has made the value judgment that protection of the buyer's interest is paramount.

Another circumstance in which an alternative arrangement may arise is that where a developer of a time share plan in condominium units wishes to establish a lien payment trust, but does not want to convey the units to a trustee before the time share interests are sold, for fear of triggering the due on sale clause under the existing mortgage. Under those circumstances, your Committee could easily envision an alternative arrangement which contemplated the recording of a notice of time share plan on the unit as well as the establishment of a lien payment trust without conveying title to trustee. Various other combinations of the protections provided in this bill, as well as numerous other alternative arrangements could be discussed in this committee report, but suffice it to say that your Committee will leave the matter to the discretion of the director. To be sure that the director has adequate resources to consider a proposed alternative arrangement, however, your Committee has added a section to the bill which permits the director to hire competent counsel to examine the proposed arrangements. Many attorneys in the State, especially those experienced in the condominium development and construction lending fields, would be capable of reviewing a proposed alternative structure. In some cases, the attorney may need the assistance of other professionals such as accountants or financial analysts to provide supporting information and opinions upon which the attorney's opinion will be based. Your Committee has made provision for this.

Section 16 of the bill establishes requirements for surety bonds and letters of credit posted as security for the payment of any blanket liens. Section 17 requires the establishment of an owners association for the protection of the time share owners. Section 18 defines the scope of the act as it applies to in-state and out-of-state sales.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3078-82, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3078-82, H.D. 1, S.D. 1, C.D. 1.

Representatives Blair, Baker, Dods, Shito and Medeiros,
Managers on the part of the House.

Senators Cobb, Kuroda and Saiki,
Managers on the part of the Senate.

Conf. Com. Rep. 66-82 on H.B. No. 2230-82

The purpose of this bill is to establish that the rate payable by the public utility to the producer of non-fossil generated electricity shall be in conformance with the rules promulgated by the Public Utilities Commission (PUC) entitled "Standards for Small Power Production and Cogeneration."

Your Committee finds that the State remains inordinately dependent upon imported petroleum and must rely on this fuel to meet over ninety per cent of its energy needs. The energy security and economic stability of the State dictate that the State take action to further encourage the development and utilization of indigenous non-fossil fuels.

An important incentive necessary to promote and encourage the development and commercialization of sources capable of producing and supplying electricity generated from non-fossil fuels is an assurance that these suppliers are paid an equitable rate for their non-fossil fuel generated electricity. This bill would help provide such an assurance.

After careful consideration your Committee has amended H.B. No. 2230-82, H.D. 1, S.D. 1, by establishing that the rate for purchase of firm energy, as defined in Section 6-74-1 of the rules promulgated by the PUC entitled "Standards for Small Power Production and Cogeneration," in effect as of February 18, 1982, shall not be less than one hundred per cent of the estimated avoided costs as defined by Section 6-74-17, subject to Section 6-74-23, of the aforementioned rules.

Your Committee considered seriously the desire of the City and County of Honolulu for their requested minimum price of ninety per cent of avoided cost in order to better compute the returns on facilities such as HPOWER. Unfortunately, your Committee was unable to come to an agreement that would fully satisfy both the aims of the City and County of Honolulu and the intent of your Committee to provide an incentive to cogenerators of firm power generally. However, it is the strong belief of your Committee that the prospective HPOWER plan should be able to earn a return in excess of ninety per cent of avoided cost.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2230-82, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2230-82, H.D. 1, S.D. 1, C.D. 1.

Representatives Baker, Blair, Kawakami, Takamine and Isbell,
Managers on the part of the House.

Senators Soares, Anderson and Campbell,
Managers on the part of the Senate.

Conf. Com. Rep. 67-82 on S.B. No. 1287

The purpose of this bill is to propose a number of amendments to Part II, chapter 88, Hawaii Revised Statutes, relating to the Employees' Retirement System. The amendments are the result of a directive from the System's Board of Trustees to review the statutes governing the System, and are intended to clarify the existing law as well as to fill certain gaps.

Your Committee upon further consideration has made the following amendments to S.B. No. 1287, S.D. 1, H.D. 1.

(1) Section 88-62 was amended by reinserting the word "accumulated" to modify the word "contributions" in each of the three instances where it was deleted, and reinserted the words "member did not withdraw his accumulated" where they were deleted.

(2) Section 88-96 was amended by reinserting the word "accumulated" to modify the word "contributions" in each of the three instances where it was deleted.

(3) The effective date of this Act was changed to July 1, 1982.

(4) Two typographical, nonsubstantive changes were made.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1287, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1287, S.D. 1, H.D. 1, C.D. 1.

Representatives Takitani, Kunimura, de Heer, Nakasato and Lacy,
Managers on the part of the House.

Senators Yamasaki, Uwaine and Young,
Managers on the part of the Senate.

Conf. Com. Rep. 68-82 on S.B. No. 544

The purpose of this bill is to lower the general excise tax rate on producers engaged in the business of mariculture.

Your Committee finds that this bill, as received, does not adequately address the current inequities imposed by the general excise tax in this area. Under current law, industrial producers pay only a wholesale general excise tax rate on their raw materials whereas persons engaged in farming and aquaculture--the farming or ranching of aquatic or marine species--must pay the full retail general excise tax rate on most of their raw materials. The bill, as received, does not specify that sales of materials or equipment to the agricultural and aquacultural industries shall be considered wholesale sales. Therefore, it is conceivable that members of the agricultural and aquacultural industries will have to pay the retail portion of the general excise tax instead of the wholesale portion of the tax in the purchase price of their materials or equipment.

Your Committee therefore has amended the bill as follows:

(1) By deleting the words "mariculture" and "maricultural" in lines 7 and 9, of section 1 of the bill, respectively, and inserting the word "aquaculture".

(2) By designating as Section 2 of the bill an amendment to section 237-4, Hawaii Revised Statutes, to specify that wholesale sales include sales of materials or commodities to a licensed agricultural or aquaculture producer or agricultural or aquacultural cooperative association which are to be incorporated by the producer or cooperative association into a finished or saleable product to be sold and not otherwise used by the producer or cooperative association, including materials or commodities essential to the planting, growth, nurturing, and production of agricultural or aquacultural commodities.

(3) By inserting as Section 3 of the bill a boilerplate provision stipulating that this bill shall supersede any other conflicting bills enacted by the regular session of 1982 only with respect to the substantive amendments of this bill.

(4) By renumbering the existing sections of the bill.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 544, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 544, S.D. 2, H.D. 1, C.D. 1.

Representatives Matsuura, Kunimura, Kawakami, Morioka, Okamura, Takamine, Isbell and Monahan,
Managers on the part of the House.

Senators Yamasaki, Young and Ajifu,
Managers on the part of the Senate.

Conf. Com. Rep. 69-82 on H.B. No. 2092-82

The purpose of this bill is to amend Chapter 287, Hawaii Revised Statutes, to conform inconsistencies in the chapter and to clarify the applicability of section 287-20, Hawaii Revised Statutes.

Your Committee upon consideration has amended this bill to direct the fees collected for traffic abstract reports to the state general fund.

Your Committee made wording changes in Section 6, subsection (2) to read:

"(2) Conviction of adjudication under Part V of Chapter 571 by reason of any moving violation offense involving a motor vehicle [in motion] if the motor vehicle is in any manner involved in an accident in which any person is killed or injured, or in which damage to property results to an apparent extent in excess of $300 [.] and there are reasonable grounds for the administrator to believe that the defendant is at fault."

Your Committee has also amended Section 7, line 2 of the bill to add:

"within one year of the effective date of this Act,"

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2092-82, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2092-82, H.D. 2, S.D. 1, C.D. 1.

Representatives Blair, Albano, Andrews, Dods, Fukunaga, G. Hagino, Hashimoto, Hirono, Kiyabu, Kobayashi, Kunimura, Levin, Nakasato, Okamura, Taniguchi, Ikeda, Lacy, Marumoto, Narvaes, Wong and Morioka,
Managers on the part of the House.

Senators George, Cobb and Kobayashi,
Managers on the part of the Senate.

Conf. Com. Rep. 70-82 on S.B. No. 2955-82

Your Committee has amended S.B. No. 2955-82, S.D. 2, H.D. 2, to reflect the position that where feasible the counties should be responsible for providing emergency medical services. The feasibility is dependent on the population of a county because of the large fixed costs inherent in providing emergency medical service. Your Committee notes that the cost of an ambulance station on Maui is virtually the same as on Oahu. Yet the busiest station (Kahului) had only 1,201 emergency calls in 1980, whereas the busiest station on Oahu had 5,870 calls. Therefore, your Committee fixed responsibilities and funding on the basis of the ability of the respective counties to provide emergency medical services.

The bill would provide a payment of 100 per cent of direct costs in the first year and 80 per cent each year thereafter of operating emergency medical services to counties with a population of 200,000 or more. At the same time these counties would be able to collect fees for services and keep the resulting revenue. Counties with a population of less than 200,000 operating emergency medical services would receive a state payment of 100 per cent of direct costs and for indirect costs as defined in the bill. In such counties that do not operate emergency medical services the State may operate or contract out the operation of such services.

Your Committee has amended the bill as follows:

1. Changing the purpose clause to clarify that funding for emergency ambulance services is also included.

2. Clarifying that the reassigned function of emergency medical services is only for counties with a population of 200,000 or more.

3. Modifying the findings and purpose clause of part XVIII of chapter 321, Hawaii Revised Statutes, to eliminate the reference to "statewide" in describing the emergency medical services system.

4. Refining the definition of direct costs by excluding the costs of billing and collecting.

5. Changing the definition of "emergency medical services" by eliminating the word "perceived" in regard to need and adding "psychological" sickness as a condition that may need emergency medical services.

6. Refining the definition of "indirect costs".

7. More clearly establishing the functions and duties of the department of health in section 321-224, Hawaii Revised Statutes.

8. Eliminating the function of coordinating and allocating emergency medical resources in widespread emergencies such as natural disasters.

9. Deleting the reference to "statewide" and "state" in section 321-225, Hawaii Revised Statutes, when referring to the emergency medical services advisory committee and its functions and instead referring to "emergency medical services".

10. Clarifying that each of the consumer and allied health profession members of the advisory committee shall represent a separate county.

11. Deleting section 321-226, Hawaii Revised Statutes, "Emergency medical services and systems, standards".

12. Specifying in section 321-228, Hawaii Revised Statutes, that counties with a population of less than 200,000 may apply to operate emergency medical services or the State may operate or contract with a private agency to provide such services. Clarifying that only counties with a population of 200,000 or more shall implement emergency medical services or contract for the provision of such services. Specifically excluded is training of personnel as a responsibility for such county.

13. Clarifying in section 321-232 that the State shall establish and collect reasonable fees for services rendered by the State as well as the counties or private agencies. Deleting the requirement of section 321-232, Hawaii Revised Statutes, which specified that all revenues collected by the department of health and the respective counties be deposited into the state general fund. Added in its place provisions which (1) place the responsibility on the department of health for collecting fees in counties with a population of less than 200,000 with the resulting revenues deposited in the state general fund and (2) place the responsibility for collecting fees on the respective counties with a population of 200,000 or more with the resulting revenues deposited into such counties' general fund.

14. Adding a provision to section 321-232, Hawaii Revised Statutes, which would allow the department of health to withhold funds if ambulance report forms are inadequately completed.

15. Emphasizing that ambulance services will not be denied to any person by removing the provision from section 321-232, Hawaii Revised Statutes, and creating a new section 321-233, Hawaii Revised Statutes, solely for that reason.

16. Deleting provisions in section 321-232, Hawaii Revised Statutes, related to actions to be taken on the non-payment of fees.

17. Revising the provisions regarding grants-in-aid to counties by changing the term "grant-in-aid" to "funding" and by providing counties with a population of 200,000 or more a payment of 100 per cent of direct costs in fiscal year 1983 and 80 per cent in each year thereafter. Counties with a population of less than 200,000 which operate an emergency medical services system shall receive a payment equal to 100 per cent of direct costs and for indirect costs as defined in section 321-222, Hawaii Revised Statutes.

18. Adding a new section 6 of the bill which would require that the City and County of Honolulu provide status reports in 1984 and 1985.

19. Nonsubstantive, technical amendments have also been made.

The department of health should submit a tentative negotiated cost and funding request to the legislature prior to each fiscal contract year.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2955-82, S.D. 2, H.D. 2, C.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2955-82, S.D. 2, H.D. 2, C.D. 2.

Representatives Segawa, Chun, Ige, Kobayashi and Lacy,
Managers on the part of the House.

Senators Yamasaki, Cayetano and Saiki,
Managers on the part of the Senate.

Conf. Com. Rep. 71-82 on S.B. No. 2926-82

The purpose of this bill is to provide funding for the continued operation of nine substance abuse programs for the last quarter of fiscal year 1981-1982.

The Statewide Services Grant for community-based drug abuse treatment services which the State currently receives from the National Institute on Drug Abuse will terminate on March 31, 1982. This bill will help to minimize the severe impact of the loss of federal drug treatment funds to the State. The State has appropriated the matching share of this grant for the past four years, including approximately $85,521 remaining for the period April 1, 1982 through June 30, 1982.

Your Committee upon further consideration has made the following amendments to S.B. No. 2926-82, S.D. 1, H.D. 2.

1. Deleted the phrase "for the purpose it was" after the word "funds" on page 2, line 6.

2. Changed the word "re-appropriate" on page 2, line 12 to "release" and changed the word "shall" to "may" on page 2, line 18.

3. Deleted the listing of each agency and the amounts appropriated for each.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2926-82, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2926-82, S.D. 1, H.D. 1, C.D. 1.

Representatives Segawa, Chun, Honda, Kobayashi and Wong,
Managers on the part of the House.

Senators Yamasaki, Cayetano and Uwaine,
Managers on the part of the Senate.

Conf. Com. Rep. 72-82 on H.B. No. 3092-82

The purpose of this bill is to ensure an equitable and fair election system in Hawaii by clarifying and confirming that a reapportionment commission shall, after being duly constituted, continue in existence until it has completed a reapportionment plan and an election is held thereunder.

Section 2, Article IV of the Hawaii Constitution provides in part that:

"Members of the commission shall hold office until each reapportionment plan becomes effective or until such time as may be provided by law".

Presently no statutory law provides for any other term of office for the commission members other than as provided in Section 2, Article IV, of the State Constitution, that the members shall hold office until the plan becomes effective. In considering and enacting H.B. No. 7 implementing Section 4, Article III, of the State Constitution (which has since been redesignated as Section 2, Article IV), and in particular Section 1 (which is now §25-1, Hawaii Revised Statutes), the Hawaii Legislature in 1969 noted as follows:

"No amendment was made to section 1 of the bill. This section provides for the appointment, certification, office and term of the members of the commission in the manner prescribed in section 4, Article III, of the State Constitution. The Constitution is precise and detailed in this respect, and your Committee believes it sufficient to set forth the manner of appointment, certification, etc., by reference without statutory elaboration thereof." (1969 House Journal at page 625)

Inasmuch as the legislature never intended to provide, by statute, any other term of office than as set forth in Section 2, Article IV, so much of Section 25-2(a), Hawaii Revised Statutes, which provides in part that "the final legislative reapportionment plan...shall, upon publication, become effective as of the date of filing" was never intended to be and cannot be, construed to define the constitutional intent of when a plan becomes effective. The plain meaning of a reapportionment plan which becomes effective under the constitution is one that is valid and capable of being legally implemented and operative. And, inherent in the use of the word "effective" under Section 25-2(a), Hawaii Revised Statutes, is that the plan is valid and capable of being legally implemented

and operative. Thus, under existing constitutional and statutory provisions, the legislative intent has always been that a reapportionment commission is not discharged simply upon a reapportionment plan being filed and published if such a plan is found to be invalid and neither capable of being legally implemented nor operative for any election.

In order to clarify and confirm this intent the bill provides that members of the commission shall hold office until a general election is held under a reapportionment plan of the commission, commencing with the 1981 reapportionment year.

Your Committee has amended the bill to provide an additional alternative to allow a reapportionment commission to devise a reapportionment plan by providing that a new commission is constituted under Article IV, section 2 of the State Constitution, which provides for constituting a new reapportionment commission when reapportionment is required by court order.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3092-82, H.D. 1, S.D. 1, C.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3092-82, H.D. 1, S.D. 1, C.D. 2.

Representatives Nakamura, Hirono, Kawakami, Waihee and Liu,
Managers on the part of the House.

Senators Carpenter, Cayetano and Yee,
Managers on the part of the Senate.

Conf. Com. Rep. 73-82 on S.B. No. 2269-82

The purpose of this bill is to make an appropriation from the general fund to the office of the Attorney General to finance personnel training programs of the state and county criminal justice agencies.

Your Committee finds that personnel engaged in combatting crime must be specially trained in order to develop the expertise and skills necessary to effectively combat and deter criminal activity.

Your Committee has amended the bill by requiring that $30,000 of the $300,000 appropriated for the criminal justice training fund shall be expended for the training of county prosecutors in skills required for the effective prosecution of persons charged with the offense of rape.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2269-82, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2269-82, S.D. 2, H.D. 2, C.D. 1.

Representatives Kunimura, Nakamura, Andrews, Kawakami,
Nakasato, Waihee, Liu and Marumoto,
Managers on the part of the House.

Senators Yamasaki, Carpenter and Kawasaki,
Managers on the part of the Senate.

Conf. Com. Rep. 74-82 on S.B. No. 2760-82

The purpose of this bill is to authorize the sale of special purpose revenue bonds to assist retail and wholesale businesses under the provisions of chapter 39A, part V, Hawaii Revised Statutes, relating to assistance to industrial enterprises.

Your Committee has determined that small business in this State has suffered heavily in recent years, and finds that it is appropriate and in the public interest that the power to issue special purpose revenue bonds be exercised to provide some relief to this important sector of our community.

Your Committee has amended this bill by changing the appropriated amount of $20,000,000 to $2,500,000, by specifically designating the recipient of the special purpose revenue bond proceeds as required by law, by deleting Section 2 and renumbering the remaining sections accordingly, by removing the reference to rules adopted under chapter 91 and by substituting the appropriate Hawaii Revised Statute citation in Section 3.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2760-82, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2760-82, S.D. 2, H.D. 1, C.D. 1.

Representatives Kunimura, Hirono, Kiyabu, Sakamoto and Wong,
Managers on the part of the House.

Senators Yamasaki, Kuroda and Henderson,
Managers on the part of the Senate.

Conf. Com. Rep. 75-82 on S.B. No. 2904-82

The purpose of this bill is to create a state water commission, and to establish guidelines for the commission to use in the formulation of a state water code.

Your Committee finds that the State, pursuant to Article XI, section 7 of the Constitution of the State of Hawaii, has an obligation to protect, control, and regulate the use of Hawaii's water resources for the benefit of its people by establishing conservation, quality, and use policies; defining beneficial and reasonable uses; protecting water resources and related environments; establishing criteria for water use priorities; safeguarding existing water uses; and establishing procedures for regulating all water uses. The formulation and enactment of a state water code is necessary to implement this constitutional provision. In order to accomplish this constitutional mandate, your Committee finds that a comprehensive review of the numerous issues relating to Hawaii's water resources should be conducted by a specially designated study group.

Your Committee upon further consideration has made the following amendments to S.B. No. 2904-82, S.D. 1, H.D. 2.

(1) The membership of the commission was changed by deleting as members the chairman of the board of agriculture, the dean of the college of tropical agriculture of the University of Hawaii, and three appointees by the governor, and by adding a provision that the president of the senate and the speaker of the house of representatives shall jointly appoint five members to the commission, which shall include two members of the general public, one each to represent major water users, the Hawaii Farm Bureau Federation, and major land owners.

(2) The commission is established within the office of the legislative reference bureau for administrative purposes.

(3) The office of the legislative reference bureau, instead of the department of land and natural resources, is designated as the expending agency.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2904-82, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2904-82, S.D. 1, H.D. 2, C.D. 1.

Representatives Sakamoto, Kiyabu, Andrews, Fukunaga, Hashimoto, Kawakami, Morioka, Nakasato, Isbell and Marumoto,
Managers on the part of the House.

Senators Yamasaki, Abercrombie, Ajifu and Henderson,
Managers on the part of the Senate.

Conf. Com. Rep. 76-82 on S.B. No. 2955-82

Your Committee has amended S.B. No. 2955-82 , S.D. 2, H.D. 2, C.D. 1, to make further technical corrections.

Because of the importance of this bill, your Committee wishes to reiterate the discussion presented in the prior conference committee report on this bill.

Your Committee has amended S.B. No. 2955-82, S.D. 2, H.D. 2, to reflect the position that where feasible the counties should be responsible for providing emergency medical services. The feasibility is dependent on the population of a county because of the large fixed costs inherent in providing emergency medical service. Your Committee notes that the cost of an ambulance station on Maui is virtually the same as on Oahu. Yet the busiest station (Kahului) had only 1,201 emergency calls in 1980, whereas the busiest

station on Oahu had 5,870 calls. Therefore, your Committee fixed responsibilities and funding on the basis of the ability of the respective counties to provide emergency medical services.

The bill would provide a payment of 100 per cent of direct costs in the first year and 80 per cent each year thereafter of operating emergency medical services to counties with a population of 200,000 or more. At the same time these counties would be able to collect fees for services and keep the resulting revenue. Counties with a population of less than 200,000 operating emergency medical services would receive a state payment of 100 per cent of direct costs and for indirect costs as defined in the bill. In such counties that do not operate emergency medical services the State may operate or contract out the operation of such services.

Your Committee has amended the bill as follows:

1. Changing the purpose clause to clarify that funding for emergency ambulance services is also included.

2. Clarifying that the reassigned function of emergency medical services is only for counties with a population of 200,000 or more.

3. Modifying the findings and purpose clause of part XVIII of chapter 321, Hawaii Revised Statutes, to eliminate the reference to "statewide" in describing the emergency medical services system.

4. Refining the definition of direct costs by excluding the costs of billing and collecting.

5. Changing the definition of "emergency medical services" by eliminating the word "perceived" in regard to need and adding "psychological" sickness as a condition that may need emergency medical services.

6. Refining the definition of "indirect costs".

7. More clearly establishing the functions and duties of the department of health in section 321-224, Hawaii Revised Statutes.

8. Eliminating the function of coordinating and allocating emergency medical resources in widespread emergencies such as natural disasters.

9. Deleting the reference to "statewide" and "state" in section 321-225, Hawaii Revised Statutes, when referring to the emergency medical services advisory committee and its functions and instead referring to "emergency medical services".

10. Clarifying that each of the consumer and allied health profession members of the advisory committee shall represent a separate county.

11. Deleting section 321-226, Hawaii Revised Statutes, "Emergency medical services and systems, standards".

12. Specifying in section 321-228, Hawaii Revised Statutes, that counties with a population of less than 200,000 may apply to operate emergency medical services or the State may operate or contract with a private agency to provide such services. Clarifying that only counties with a population of 200,000 or more shall implement emergency medical services or contract for the provision of such services. Specifically excluded training of personnel as a responsibility for such county.

13. Clarifying in section 321-232 that the State shall establish and collect reasonable fees for services rendered by the State as well as the counties or private agencies. Deleting the requirement of section 321-232, Hawaii Revised Statutes, which specified that all revenues collected by the department of health and the respective counties be deposited into the state general fund. Added in its place provisions which (1) place the responsibility on the department of health for collecting fees in counties with a population of less than 200,000 with the resulting revenues deposited in the state general fund and (2) place the responsibility for collecting fees on the respective counties with a population of 200,000 or more with the resulting revenues deposited into such counties' general fund.

14. Adding a provision to section 321-232, Hawaii Revised Statutes, which would allow the department of health to withhold funds if ambulance report forms are inadequately completed.

15. Emphasizing that ambulance services will not be denied to any person by removing the provision from section 321-232, Hawaii Revised Statutes, and creating a new section 321-233, Hawaii Revised Statutes, solely for that reason.

16. Deleting provisions in section 321-232, Hawaii Revised Statutes, related to actions to be taken on the non-payment of fees.

17. Revising the provisions regarding grants-in-aid to counties by changing the term "grant-in-aid" to "funding" and by providing counties with a population of 200,000 or more a payment of 100 per cent of direct costs in fiscal year 1983 and 80 per cent in each year thereafter. Counties with a population of less than 200,000 which operate an emergency medical services system shall receive a payment equal to 100 per cent of direct costs and for indirect costs as defined in section 321-222, Hawaii Revised Statutes.

18. Adding a new section 6 of the bill which would require that the City and County of Honolulu provide status reports in 1984 and 1985.

19. Nonsubstantive, technical amendments have also been made.

The department of health should submit a tentative negotiated cost and funding request to the legislature prior to each fiscal contract year.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2955-82, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2955-82, S.D. 2, H.D. 2, C.D. 1.

Representatives Segawa, Chun, Ige, Kobayashi and Lacy,
Managers on the part of the House.

Senators Yamasaki, Cayetano and Saiki,
Managers on the part of the Senate.

Conf. Com. Rep. 77-82 on H.B. No. 3143-82

The purpose of this bill is to clarify certain provisions relating to the Hawaii Community Development Authority's (HCDA) powers and rules, and to provide HCDA with specific authorization for the implementation of the Kaka'ako Community Development District Plan and Rules.

Your Committee, upon further consideration, has amended the bill to:

(1) Clarify the language of the bill with regard to provisions relating to the district-wide improvement program. The amended language was formulated in consultation with and under the advice of the State's bond counsel.

(2) Amend the expanded boundary provision of the bill to exclude part of the area makai of Ala Moana Boulevard.

(3) Clarify the provision which authorizes HCDA to perform necessary district-related infrastructure construction and relocation activities outside of the Kaka'ako Community Development District.

(4) Establish a Reserved Housing Loan Program to assist purchasers of the reserved housing units which are expected to be built in the Kaka'ako Community Development District.

Your Committee also made technical, non-substantive amendments to the bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3143-82, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3143-82, H.D. 2, S.D. 1, C.D. 1.

Representatives Sakamoto, Albano, de Heer, Fukunaga, G. Hagino, Kawakami, Kiyabu, Morioka, Isbell and Wong,
Managers on the part of the House.

Senators Yamasaki, Abercrombie, Henderson and Young,
Managers on the part of the Senate.

Conf. Com. Rep. 78-82 on S.B. No. 2978-82

The purposes of this bill, as received, are to establish a Hawaii cancer fund, to be administered by the Hawaii Cancer Commission, for the purposes of receiving and expending funds for the acquisition and dispensing of the anti-viral agent interferon and to appropriate state general fund revenues to provide a grant-in-aid to the Hawaii Cancer Commission for fiscal year 1982-83 for establishing the fund.

The bill, as received, appropriates an unspecified amount of state general fund revenues for a grant-in-aid to the Hawaii Cancer Commission for the 1982-83 fiscal year. Upon further consideration, your Committee finds that a $950,000 appropriation is appropriate for the purposes of the bill and therefore designates that such amount be appropriated by the bill.

Your Committee, upon further consideration, has further amended the bill as follows:

(1) By specifying that the appropriation shall be lapsed on June 30, 1985.

(2) By specifying in Section 2 of the bill that such funds shall also be used for the research and development of a clinical interferon-biological response modifier program.

(3) By adding a provision requiring the commission to submit an annual report to the governor and the legislature twenty days prior to the convening of the 1983, 1984, and 1985 legislative sessions.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2978-82, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2978-82, S.D. 1, H.D. 2, C.D. 1.

Representatives Segawa, Aki, Kobayashi, Lacy and Levin,
Managers on the part of the House.

Senators Yamasaki, Cayetano and Kawasaki,
Managers on the part of the Senate.

Conf. Com. Rep. 79-82 on H.B. No. 2400-82 (Majority)

The purpose of this bill is to amend section 236-5, Hawaii Revised Statutes, by repealing the tax rates and exemptions for spousal transfers under the state inheritance tax and by substituting in its place an unlimited exclusion for any property or income transferred to a surviving spouse.

Your Committee has amended this bill to increase the amount of exempt interest passing to the surviving spouse from the present $100,000 to $300,000 and lower the tax liability of direct line beneficiaries by increasing their exemption to $150,000 from the present $50,000. No changes are proposed for taxing the interests passing to other beneficiaries.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2400-82, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2400-82, S.D. 1, C.D. 1.

Representatives Kunimura, Kiyabu, Albano, Andrews, Fukunaga, G. Hagino, Hashimoto, Kobayashi, Levin, Morioka, Nakasato, Okamura, Lacy, Marumoto, Narvaes and Wong,
Managers on the part of the House.
(Representative Levin did not concur.)

Senators Yamasaki, Anderson, Kawasaki and Yee,
Managers on the part of the Senate.

Conf. Com. Rep. 80-82 on S.B. No. 2816-82

The purpose of this bill is to facilitate implementation of Act 207, Session Laws of Hawaii 1981, which established standards for the making or awarding of grants, subsidies, and purchases of service by the State.

Your Committee has amended the bill by deleting the section amending the definition of purchase of service as the amendment would have removed virtually all purchases of service from the requirements of Act 207.

Your Committee prefers to retain the existing statutory definition of purchase of service in Act 207 and has therefore also deleted from the definition the exclusion of professional health services and other personal services provided by an individual on an hourly or contractual basis.

Your Committee has also deleted the section of the bill which amended those qualifying standards, as it is unnecessary for the purposes of this bill since it contained no substantive amendments and renumbered the bill accordingly.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2816-82, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2816-82, S.D. 2, H.D. 2, C.D. 1.

Representatives Takitani, Kunimura, Kiyabu, Taniguchi and Medeiros,
Managers on the part of the House.

Senators Yamasaki, Abercrombie and Kawasaki,
Managers on the part of the Senate.

Conf. Com. Rep. 81-82 on H.B. No. 2907-82

The purpose of this bill is to require the department of social services and housing to provide personal care services to eligible individuals.

This bill is to prevent the unnecessary institutionalization of individuals with physical or mental illnesses who are unable to adequately care for themselves, but who do not need the degree of care provided by nursing facilities. Some individuals with physical or mental illnesses cannot live in independent settings without custodial care assistance. These individuals are often placed in nursing facilities for lack of better alternatives. Personal care services will enable some of these individuals to remain in their homes by making available periodic custodial care services sufficient for their needs.

Your Committee has amended this bill by appropriating the sum of $500,000 for the purposes of this bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2907-82, H.D. 2, S.D.2 as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2907-82, H.D. 2, S.D. 2, C.D. 1.

Representatives Kunimura, Chun, Ige, Kobayashi and Lacy,
Managers on the part of the House.

Senators Yamasaki, Saiki and Uwaine,
Managers on the part of the Senate.

Conf. Com. Rep. 82-82 on H.B. No. 2312-82

The purpose of this bill is to provide supplemental appropriations to the Judiciary for the fiscal year 1982-83.

Your Committee has assessed the Judiciary's operating request and has appropriated $2,460,720 of general funds to support a broad range of judicial functions.

The increased cost of providing judicial support services is addressed with increased funding for legal fees, foster care placements and new alternative adult treatment services. Nine positions and $198,931 are provided to implement the juvenile intake agency.

Thus far, the Judiciary has taken significant strides in the development of a competent security program. In part, this is due to the implementation of a comprehensive training component. While your Committee recognizes that the need for twenty security guard positions will be realized upon the completion of the circuit court complex in fiscal year 1983-84, it has included these positions with three month funding to allow for the training of new security guards. In addition, eight law enforcement officer positions have been funded to assume the prisoner transport function.

The addition of management analysis capabilities, your Committee feels will further promote the Judiciary's objective of maintaining an efficient and effective administration.

Further, your Committee commends the Judiciary for taking the necessary steps to review, analyze, and improve the Judiciary's financial management system. Phase I of a 4-year project is nearing completion and includes the central accounting system, procurement procedures, records and other asset management aspects. Subsequent phases will address small estates and guardianships, budgeting, program evaluation, program analysis, and divisional fiscal procedures.

The costs of both the additional and new appropriations for capital improvement projects amount to $15,776,000, as shown in Section 3 and Section 5 of this bill and will be funded by general obligation bonds.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2312-82, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2312-82, H.D. 1, S.D. 1, C.D. 1.

Representatives Kunimura, Kiyabu, Albano, Andrews, Fukunaga, G. Hagino, Hashimoto, Kobayashi, Levin, Morioka, Nakasato, Okamura, Lacy, Marumoto, Narvaes and Wong,
Managers on the part of the House.

Senators Yamasaki, Anderson, Abercrombie, Ajifu, Campbell, Carpenter, Cayetano, Henderson, Kawasaki, Saiki, Yee and Young,
Managers on the part of the Senate.

Conf. Com. Rep. 83-82 on H.B. No. 2113-82

The purpose of this bill as received is to provide for the development of an elderly rental housing project in cooperation with the nonprofit Ewa Housing Foundation by making an appropriation to the rental assistance fund created by Act 111, Session Laws of Hawaii 1981.

Act 111, Session Laws of Hawaii 1981, established a rental assistance fund to enable the Hawaii housing authority to assist owners of rental housing accommodations in maintaining their rental rates at levels appropriate for low- and moderate-income individuals and families.

The funds appropriated by this bill would be invested and the earnings used to make rental assistance payments to owners of eligible rental housing projects, thereby reducing the rents paid by eligible tenants. The principal amount of the rental assistance fund would be preserved.

Upon further consideration, your Committee has amended this bill to provide that "the sum appropriated by this Act shall be expended by the Hawaii housing authority for the purposes of the rental assistance fund."

Your Committee intends, however, that this appropriation be expended on the development of an elderly housing project in cooperation with the nonprofit Ewa Housing Foundation.

Your Committee has changed the effective date of the act to "upon its approval."

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2113-82, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2113-82, H.D. 2, S.D. 2, C.D. 1.

Representatives Shito, Kiyabu, Chun, Hashimoto, Honda, Ige, Kobayashi, Toguchi, Lacy and Liu,
Managers on the part of the House.

Senators Yamasaki, Holt, Uwaine and Young,
Managers on the part of the Senate.

Conf. Com. Rep. 84-82 on H.B. No. 3078-82

The purpose of this bill is to require sales agents and acquisition agents who solicit or encourage others to attend time share presentations to have a real estate salesman's or broker's license. It is also intended to require the director to adopt regulations governing the activities of sales and acquisition agents.

This bill is also intended to protect purchases of time share interests by requiring that their funds be placed in escrow until closing. It is also intended to insure that before the closing of escrow occurs, adequate arrangements are made to pay any existing mortgages and any future mortgages which may encumber the time share units.

Section 1 of the bill provides an index which is intended to make the bill easier to read and understand. Section 2 of the bill prohibits sales agents or acquisition agents from soliciting or encouraging others to attend a time share presentation without a real estate license except as otherwise provided by rules and regulations adopted by the director. It goes on to provide that the director must adopt rules and regulations and specifies the parameters of some of those rules. Among other things, they must strictly regulate and discourage the use of telephone solicitation of guests in hotels. They must also permit the use of acquisition agents not licensed under chapter 467 to man a booth for the purpose of inviting persons to attend a time share sales presentation or a related entertainment function. In most cases, these persons would be covered by a blanket bond posted by the acquisition agent or sales agent who employed them. The director may elect to adopt a simplified registration procedure for these acquisition agents.

Section 3 provides that the developer must establish an escrow account with a bank, savings and loan association, trust company, or licensed escrow depository here in Hawaii. All funds, negotiable instruments, and purchase money contracts (such as a retail installment sales contract) received from buyers must be deposited in the escrow account until closing. "Negotiable instruments" is defined in section 3 of the bill to mean any checks, promissory notes or other documents which are negotiable instruments within the meaning of Article III of the Uniform Commercial Code.

There is a limited exception to the general rule which permits a developer or a sales agent to hold the buyer's downpayment check until after the expiration of the 5-day cancellation period provided in section 514E-8, or any cancellation period in favor of the buyer contained in the sales contract. This is based on your Committee's understanding that escrow depositories are not likely to agree to establish escrow accounts for buyers who are still in the rescission period because the administrative burden is substantial and all parties go unpaid. To be sure that the developer or sales agent does not misappropriate the buyer's funds, however, under this exception the developer or sales agent may only retain checks or other negotiable instruments which are specifically made payable to the escrow agent or to the trustee of a trust arrangement established under this bill. The developer or sales agent may also retain any non-negotiable instrument such as a retail installment sales contract or any instrument which can be negotiated but which a successor cannot enforce against the purchaser as a holder in due course. A "holder in due course" is someone who would be able to enforce, for example, a promissory note against a buyer without being subject to any defenses the buyer may have against the developer. By restricting this exception to instruments in which successors are not "holders in due course", any misuse of the note will be borne by a successor holder, not by the purchasers.

This section also provides that if the law of the place where the sale of the time share interest took place requires it, an escrow account may be established in that jurisdiction rather than in Hawaii. In such case, the director will have the authority to review and approve the qualifications of the escrow agent and the form and content of the escrow agreement.

Section 4 of the Act establishes the conditions under which the purchaser's funds may be released from escrow without a closing. It permits the escrow agent to disburse the buyer's funds when a contract is cancelled or in the event of a default. Subsection (4) parallels section 514A-67 of the Horizontal Property Act which permits the disbursement of buyers' funds to pay the costs of construction. A developer will not be permitted to use buyers' funds for construction until he files a copy of the executed construction contract and a copy of the executed performance and labor and material payment bonds insuring that all amounts due under the construction contract, including change orders up to 10%, and all other costs of construction will be paid.

Section 5 provides conditions under which buyers' funds may be disbursed upon closing. Subsections (a) and (b) establish that upon closing, the funds will be disbursed according to the requirements of the financial arrangements made by the developer to protect the buyers from foreclosure of mortgages existing at the time of the closing and later mortgages made by the developer. The following are examples of the problems your Committee perceived and intended this bill to prevent.

Suppose the buyer pays $10,000 for the right to use a condominium apartment for

the next 40 years. Suppose that the condominium apartment already has a mortgage loan on it. If the developer does not use the buyer's money to pay off the mortgage, the lender may foreclose. If that happens, the apartment will be sold and the buyer will lose the right to use the apartment plus he won't get his $10,000 back. This is an example of how an existing mortgage can be foreclosed so as to cut out the buyer's right to use.

Your Committee understands that up to 3,000 buyers in the Paradise Palms time share plan may lose their money because inadequate arrangements were made to prevent the type of foreclosure described in the preceding paragraph. In the Paradise Palms case, the developer had purchased several apartments for the time share plan on an agreement of sale. When the agreements of sale were not paid off, the sellers foreclosed, leaving the time share purchasers without any place to stay.

Another circumstance which your Committee considered is this one. Suppose again that the developer sells the buyer the right to use a condominium apartment for the next 40 years. The buyer pays his $10,000. Fifteen years later, the developer takes out a mortgage. He fails to pay it and the lender forecloses. If the time share plan is a time share use plan, the buyer simply has the right to use the apartment. Accordingly, under the law, the lender can foreclose the mortgage and the buyer will lose his right to use the property. Generally this occurs only in time share use plans.

Subsection (b) of section 5 of the bill provides that notwithstanding any other provisions of the chapter, buyers' funds may not be released from escrow until the purchasers's right of cancellation has expired. This section then adds a very useful provision which establishes that a buyer's cancellation will be effective if it is delivered to the developer within the 5-day cancellation period or if it is received by the developer after that time, but is postmarked on a day falling within the 5-day cancellation period.

Section 6 of the bill defines a number of terms which are necessary to clarify and establish a manner in which the bill works. Your Committee did not define the term "closing" in the bill. Typically, in an ownership plan, closing occurs when the ownership interest is conveyed to the purchaser. In a time share use plan, closing would occur when a time share unit is conveyed to the trustee or the owner's association to accommodate the new member. If the developer retains title to the time share unit, closing would occur when all of the required conditions to closing had been satisfied and a time share unit is added to the program to accommodate the new members. If alternative arrangements for protecting buyers are established, the director must use her discretion to pinpoint the acts which must occur and conditions which must be fulfilled at closing.

Section 7 of the bill contains the requirement that adequate arrangements be made to pay any existing or future mortgages or other blanket liens before the buyer's funds can be given to the developer. There are undoubtedly a number of ways in which the buyers can be protected from foreclosure of mortgages. This bill permits three, and gives the director the discretion to accept alternative arrangements, particularly when the director is dealing with a time share plan which is operating in more than one state and has several sets of statutory or regulatory requirements to comply with. Your Committee understands that California, Florida, and presumably other states which are regulating time sharing are also providing their departments of real estate the discretion to permit alternative buyer protections to be established.

One approach permitted by section 7 of the bill is the "non-distrubance agreement" approach. Where there is an existing mortgage, the lender already has rights to foreclose the property. Your Committee did not think it would not be wise to pass a law changing those existing rights, even if it could be done constitutionally. A non-disturbance agreement does not change the lender's rights without its consent.

A non-disturbance agreement works as follows: The developer approaches the lender and asks him to sign a "non-disturbance agreement". That is a document in which the lender agrees that if the mortgage is foreclosed, the rights of the buyers of time share interests will not be disturbed. In other words, the lender can foreclose, but the buyers will continue to have the right to use the property just as though the lender had not foreclosed. This means that anyone who purchases the property at a foreclosure sale will take it subject to all the rights of the time share owners. The lender may, in return, require that the contracts with the time share buyers provide that if the lender forecloses, the buyers' payments will be given to the lender in place of the developer. Section 8 of the bill specifically spells out the effect of recording a non-disturbance agreement.

In some cases, a lender may not be willing to sign a non-disturbance agreement.

If that happens, this proposed bill permits the developer to make other arrangements to insure the payment of the mortgage. The surety bond route requires that the developer post a bond in an amount equal to 110% of the money owed on the mortgage. As an alternative, the developer may post a letter of credit providing for payment of the amount due under the blanket lien. Your Committee understands that surety bonds and letters of credit may be difficult for developers to obtain, so it is unlikely that developers will use these with great regularity. However, there may be some developers who are able to use these alternatives. In that case, the director should be empowered to accept such assurance of payment as satisfactory protection from existing mortgages.

If the developer is unable to get the lender to sign a non-disturbance agreement, and the developer is also unable to post a bond or letter of credit, there is yet another way in which an existing lien can be dealt with so as to adequately protect the buyer's interest. This involves establishing a trust arrangement in which the time share units are transferred to a trustee.

Most buyers do not pay cash for their time share interests. Rather, they pay the downpayment in cash and sign either a note and mortgage or an agreement of sale or an installment sales contract obligating them to pay the balance due. When taken in the aggregate, these notes, agreements of sale, and contracts can provide a substantial source of income to pay down existing mortgages. The trust approach is based on this fact.

Section 7 of the bill provides that the developer may establish a trust and deposit in the trust notes, agreements of sale or contracts which obligate the buyers to pay the balance of their purchase price. The requirements for the trust and the trustee's qualifications are spelled out in sections 11-14. Under section 12, all payments made by the purchasers would be paid to the trustee. The trustee would then use the money paid by the purchasers to pay the regular monthly payments due under the mortgage and to establish a sinking fund to pay off the balance of the mortgage when it becomes due.

To make this sort of approach work, it is necessary that the developer put in the trust notes, agreements of sale, or contracts which will produce enough money to pay the total amount due under the mortgage. In that regard, sections 12 and 13 of the bill restrict the developer from closing the sale of any time share interest until enough buyers have signed notes. agreements of sale, or contracts sufficient to total the amount necessary to pay the mortgage.

Because payment of the blanket liens under the trust approach depends on the buyers paying their monthly payments, your Committee was concerned that such an arragement might be construed as a capital security under Chapter 485. To avoid this, subsection (c) was included in section 7 of the bill.

Section 10 of the bill establishes general requirements for the trust instrument. Among other things, it requires that the time share owners association expressly be made a third-party beneficiary of the trust. This way the association may act on behalf of the owners in enforcing the provisions of the trust. It prohibits the trustee from further encumbering the time share unit; this will protect buyers from foreclosure of liens placed on the property after closing.

Section 11 of the bill establishes requirements for trustees. It specifically requires that the trustee be a bank, savings and loan association or trust company meeting the requirements of rules adopted by the director. Also, the trustee must post a fidelity bond and maintain errors and omissions insurance as required by rules adopted by the director. It should be noted that the trustee need not be a Hawaii entity. This is because some multi-state projects may use out-of-state trustees, such as the Bank of California, and so long as the trustee is financially sound and responsible, the director should be willing to approve it.

Your Committee notes that in some instances, some developers may have difficulty in convincing a single trustee to handle both the title holding functions and the collection functions of a lien payment trust. Under such circumstances, your Committee would have no objection to the use of two trustees, one for title holding purposes and one to operate as a collection agent. Alternatively, a single title holding trustee could contract with another entity to handle collection work, and so long as the trustee is ultimately responsible for the collection agent's handling of the purchaser's funds, the arrangement would be satisfactory. Acccordingly, occasionally in the bill references are made to the trustee and its collection agent. Finally, in the case of time share plans with units in several states, it may be necessary to have more than one title holding trustee if

the law of such states requires the trustee to be a local trust company.

Section 12 establishes detailed requirements which must be met if the trust approach is to be used to pay existing mortgages or other blanket liens, as specified in greater detail. It requires the developer to deposit assets which equal or exceed 110% of the money owed on the mortgages or other blanket liens. Also, it requires the trustee to retain in the trust a reserve fund in an amount at all times sufficient to pay three months successive monthly installments on the mortgages, and if installments are due less frequently than monthly, then enough to make the next six months installment. It also requires that the trustee establish a sinking fund to pay any balloon payments or any similar amounts due under any mortgages or other blanket lien. Also, it requires that the trustee pay all real property taxes, assessments, and insurance premiums. It permits the trustee to disburse funds from the trust and establishes that they may only be disbursed first to the payment of real property taxes and lease rent, second to current payments due on the blanket liens and any sinking fund established for them, next to the trustee and its collection agent, and finally to the developer and its sales agents.

Section 14 of the Act gives the developer the option to switch from a trust approach to a non-disturbance agreement or surety bond or letter of credit approach at future dates.

Section 15 authorizes the Director of Regulatory Agencies to approve alternative arrangements for purchaser protection in meeting the requirements of section 7. This is because many time share plans operate in more than one state and sometimes have properties in several countries. This makes it impossible, or at lease impractical, for your Committee to address every conceivable problem which may crop up in multi-state or multi-national time share developments. Accordingly, the director should be given flexibility to accept alternative arrangements which adequately protect the buyers under the circumstances.

The use of alternative arrangements may prove worthwhile in numerous situations which do not necessarily involve multi-state developments. For example, suppose the owner of the hotel wishes to convert a portion of the hotel to time sharing purposes. In such circumstances, the hotel may have a large existing mortgage and it may not be practical to convey the hotel to a trust. Under those circumstances, the director might, for example, require that the hotel owner issue individual leases for rooms in the time share plan and either have those leases run in favor of a trustee, or convey the leasehold to the owner's association and record a notice of time share plan on the leasehold interest in the units. Then, the developer would have to make some arrangements with the existing lien holder either for the release of those units from the mortgage, or for subordination to the buyer's rights. Your Committee understands that a lender is not likely to agree to subordinate its rights to the rights of buyers easily, and it fully expects that in many circumstances, this will require the developer to pay a release price to the mortgagee in order to obtain the subordination and non-disturbance agreement or release from the blanket mortgage. Nevertheless, when it comes to weighing the protection of the purchaser's interest versus the interest of the developer in avoiding paying such amounts, your Committee has made the value judgment that protection of the buyer's interest is paramount.

Another circumstance in which an alternative arrangement may arise is that where a developer of a time share plan in condominium units wishes to establish a lien payment trust, but does not want to convey the units to a trustee before the time share interests are sold, for fear of triggering the due on sale clause under the existing mortgage. Under those circumstances, your Committee could easily envision an alternative arrangement which contemplated the recording of a notice of time share plan on the unit as well as the establishment of a lien payment trust without conveying title to the trustee. Various other combinations of the protections provided in this bill, as well as numerous other alternative arrangements could be discussed in this committee report, but suffice it to say that your Committee will leave the matter to the discretion of the director. To be sure that the director has adequate resources to consider a proposed alternative arrangement, however, your Committee has added a section to the bill which permits the director to hire competent counsel to examine the proposed arrangements. Many attorneys in the State, especially those experienced in the condominium development and construction lending fields, would be capable of reviewing a proposed alternative structure. In some cases, the attorney may need the assistance of other professionals such as accountants or financial analysts to provide supporting information and opinions upon which the attorney's opinion will be based. Your Committee has made provision for this.

Section 16 of the bill establishes requirements for surety bonds and letters of credit

posted as security for the payment of any blanket liens. Section 17 requires the establishment of an owners association for the protection of the time share owners. Section 18 defines the scope of this act as it applies to in-state and out-of-state sales.

Your Committee has amended Section 13 of the bill to deal with the situation where the developer owns an entire hotel or condominium or cooperative project and has a single large blanket lien on the project as a whole. In such cases, the requirements under Section 12 that the developer fully fund the lien payment deposit with assets equal to 110 percent of the blanket lien before closing impose a de facto pre-sale requirement which may involve the sale of up to half of the time share interests in the whole project.

To avoid this, your Committee has added what is now subsection (c) to Section 13 of the bill. This subsection permits the developer of a time share plan such as that described above to pledge his equity in the buildings to the buyers as security for the performance by the developer of his obligations to the buyers under the time share plan. If, for example, the developer defaults in his obligation to pay the blanket liens, upon the sale of the building in foreclosure, the buyers would be entitled to receive any proceeds from the foreclosure sale remaining after the payment of the blanket liens.

As a condition to being permitted to use this approach, the developer must first establish that at least 25 percent of the appraised value of the building is free from encumbrances. In other words, any mortgages or other blanket liens on the timeshare units, when taken in the aggregate, may have a maximum loan to value ratio of 75 percent; the remaining 25 percent of the value is pledged to the buyers. In determining the appraised value of the building, the appraiser shall base his evaluation on the non-time share use to which the building was put before it was converted to time share use.

The developer must then sign and record a mortgage of the 25 percent of unencumbered value to the owner's association or a trustee. Alternatively, when the developer transfers the property to a trustee, a share of the beneficial interest in the trust representing the 25 percent of the value of the project would be held for the benefit of or transferred to the association on behalf of the owners. In either case, the developer's rights to the project and his equity in it must be subordinate to the rights of the owners.

The final condition to the use of this approach requires the developer to present to the director a statement of program of financing and cash flow ananlysis demonstrating to the satisfaction of the director that the developer will have enough money to make all payments on the blanket liens until the project is sold out. Obviously, the developer cannot rely solely on sales proceeds since income from sales will probably rise at a gradual pace.

If the developer satisfies the foregoing conditions, the amount of the lien payment deposit is reduced from 110 percent of the balance due under the blanket lien to a 110 percent of a pro-rata share of the balance due. The "pro-rata share" is computed by comparing the number of time share units for the use of which the sale of time share interest has closed to the total number of time share units in the project. For example, in a floating use time share plan with 100 time share units, before the developer closed the sale of the first 51 weeks, he would have to post purchase money contracts or other assets in the lien payment trust. The value of these assets would equal 1/100 of the blanket lien multiplied by 110 percent. When the next 51 weeks are sold, before closing, the trust assets would have to increased to 2/100 of the blanket lien balance, multiplied by 110 percent. On the third unit, 3/100 would be required, multiplied by 110 percent, and so forth.

When the trust assets reach 110/100 (110 percent) of the lien balance, the developer may switch from the subsection (c) election to a subsection (b) approach, and thereupon, the mortgage on the 25 percent of the appraised value pledged to the buyers may be released.

Your Committee has also reduced the installment payment reserve requirement to a pro-rata share when the developer elects to go the subsection (c) route under Section 13.

Your Committee has changed the effective date of the Act to September 1, 1982, for programs registered on or after that date, and to January 1, 1983 for programs registered before September 1, 1982. Your Committee expects the director to hav adopted rules and regulations as necessary to fully implement the provisions of this Act in time to handle filings made before September 1, 1982.

Finally,, your Committee amended Section 15 of the bill to give the director the discretion

to determine when to hire an attorney to review a developer's proposal for alternative arrangements. In some case, alternative arrangement proposals may become fairly standardized, so there would be no point in requiring a complete review of repeat proposals once they have been thoroughly reviewed and approved on the first use, unless experience dictates that an approved proposal is no longer satisfactory, or is subject to abuse or should otherwise be reconsidered.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3078-82, H.D. 1, S.D. 1, C.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3078-82, H.D. 1, S.D. 1, C.D. 2.

Representatives Blair, Baker, Dods, Shito and Medeiros,
Managers on the part of the House.

Senators Cobb, Kuroda and Saiki,
Managers on the part of the Senate.

Conf. Com. Rep. 85-82 on H.B. No. 2070-82

The purpose of this bill is to appropriate or authorize, as the case may be, supplementary funds to various programs for the fiscal biennium 1981-83.

This bill amends the 1981 General Appropriations Act, and as amended by your Committee, it provides for additional general fund resources in the amount of $21.2 million and special fund resources in the amount of $8.7 million to meet the needs of operating programs.

Inasmuch as action on the 1982-83 capital improvements budget was deferred in the 1981 legislative session, the bill also provides for $228.7 million in capital improvement appropriations for the next fiscal year. Of this total, $73.3 million is in general obligation bond resources to be repaid directly by the general fund, $16.8 million is in general obligation bond resources to be reimbursed by special funds, and $1.7 million is in general fund cash.

While the State's financial health is in reasonably good condition, several compelling conditions require that the Legislature steer a prudent and conservative course in providing for additional outlays.

First, the State's tax revenue performance may not hold up to original estimates. The March 1982 general fund tax collections were down 12.6 percent from what they were a year ago, and on a cumulative basis through March, the total general fund tax revenues had increased by only five percent over the previous year's comparable period.

Second, with the federal 1983 budget still being deliberated upon by Congress and the fate of the President's proposals for A New Federalism still not known, the full effects of changes in national funding policies as they relate to State programs have not completely emerged. However, their potential effects loom large, and State resources must be safeguarded and conserved to meet the contingencies which are almost certain to occur.

Third, the national recession which is continuing has had its effects on the State's economy, and if it continues unabated for any prolonged period, the condition of jobs and income in Hawaii can be expected to worsen.

Fourth, inordinately high interest rates in the national money markets have disrupted the State's capital improvements financial plan. Even if the State is successful in re-entering the long term borrowing market, all signs indicate that borrowed funds will be harder to come by and that the State will be required to pay interest rates which are likely to increase debt service costs dramatically.

All of the foregoing conditions combine to present a persuasive reason why the Legislature must strike a delicate--though necessary--balance between providing resources to meet the more critical and urgent needs and safeguarding the State's financial condition. Your Committee believes that it has struck this balance in this bill and the other appropriation measures which have been recommended for passage. It is confident that at least over the short term, priority program needs will be met and the State's fiscal integrity will be protected.

In the remainder of this report, your Committee summarizes some of the important

program appropriation recommendations which have been made in this supplemental appropriations bill.

ECONOMIC DEVELOPMENT

The prolonged national recession underscores the importance of strengthening the State's economic base. Hawaii, while not affected as severely as some other states, has experienced declines in the visitor industry and problems in the sugar and pineapple industry--industries which are the mainstay of our economy.

Aid to sugar and pineapple. As evidenced by our constitution, the people of our State are committed to the promotion of agriculture. Sugar and pineapple have long been the backbone of Hawaii's agricultural economy, but have recently experienced major problems which threaten the life of these industries. The announced closing of Puna Sugar was unexpected, but it pointed out the fragile nature of our agricultural economy, which is affected by numerous and complex factors beyond our control. To aid the sugar industry, $3 million for sugar research and development and $2 million in loans for independent sugar growers have been appropriated in separate bills.

In this bill, $200,000 in State funds is provided for the promotion of fresh pineapples in the western United States and western Canada. These funds, which are to be matched dollar for dollar by the pineapple industry, will be used for a media campaign aimed at increasing consumption of fresh Hawaiian pineapple. Your Committee agrees that a fresh Hawaiian pineapple advertising and promotion program represents the best means of increasing the viability of Hawaii's pineapple industry which is faced with tremendous world competition and a glut of canned pineapple on the market.

The dairy and pineapple industries. Other agricultural industries have been adversely affected very recently--the dairy industry due to the recent heptachlor crisis, and the papaya industry over California's restriction on crops treated with EDB. In a separate bill, a total of $6 million is appropriated to meet these crises by way of loans to farmers who have experienced financial setbacks.

Diversified agriculture. The State is committed to the continued growth and development of diversified agriculture. Monies have been provided for the promotion of locally grown crops both here and on the mainland. Local consumption of truck crops such as lettuce, tomatoes and celery have the potential of being increased; also, there appears to be great potential for mainland markets for nursery crops such as dendrobiums. Funds are also provided for finding solutions to the marketing problems experienced by papaya and anthuriums.

Plant pest control. Hawaii's climate, while advantageous to tthe growing of many crops, also provides an ideal environment for many plant pests. Fruit flies have long plagued many farmers. Recently, the papaya industry was thrown into a crisis when California refused to accept crops treated with EDB, a chemical pesticide used to control fruit flies. Recognizing the problems that pests present to the success of agriculture, funds have been provided for fruit fly research and for upgrading of the Department of Agriculture's biological control research facilities. It is intended that fruit fly research include the purchase and dissemination of a chemical, currently approved by the Food and Drug Administration, which baits and kills male fruit flies without endangering other insects or plants. Other chemical pest control methods, however, pose ecological and environmental disadvantages, making biological control of pests imperative. To this end, funds have been provided to enable the Department of Agriculture to upgrade and expand its green house facilities and insectary to allow for the expansion of the biological control program.

Puna Sugar alternatives. The announced closing of Puna Sugar Company has caused concern about the impact it would have upon the sugar workers, their families and the community. Your Committee has therefore provided funds for a study of the possibilities of alternative crops being grown in Puna, and also of non-agricultural uses of the Puna Sugar lands. Another study will be aimed at assisting displaced sugar workers in finding other employment.

The fishing industry. Aquatic activities are important to Hawaii and present great economic potential. Funds are therefore provided for a study of the feasibility of having a fishing fleet support facility on Midway, and for the development of a procedure for testing fish for toxicity.

Tourism. Although the number of tourists have declined over the past two years, the visitor industry continues to be of primary importance to the economic welfare of our

State. Although it is too early to know the full effect of the Hawaii '82 promotion program, advertising is known to be a necessity for attracting visitors to our islands. One million dollars has been appropriated for the promotion of tourism in many parts of the world, such as Korea, Singapore, Taiwan, Hong Kong and the continental United States. This amount supplements an appropriation made last year for the promotion in Japan of Hawaii as a visitor destination.

EMPLOYMENT

Your Committee recognizes that the slowing economy already has and will continue to have a significant impact on employment in Hawaii. It has provided for a long-range approach to dealing with the tightening job market by continuing the job statistics collection program and the career resource centers which are available to high school students, thereby assisting these eventual job-seekers to make meaningful career decisions. Your Committee has also provided funds for the continuation of Quick Kokua, a program that creates a model which assists students in planning for post-secondary education or entering the job market.

TRANSPORTATION

The need to establish a general aviation airport remains a controversial issue. Because your Committee recognizes that Wheeler Air Force Base is no longer a realistic alternative, funds have been provided for a general aviation airport at Dillingham Field.

HEALTH

Salary increase for nurses. Your Committee is concerned with the critical shortage of registered professional nurses and has provided funds for a salary increase to act as an inducement for the recruitment and retention of these professionals.

Response to federal cutbacks. The loss of federal funding has had a serious impact on such health programs as family planning, health care services, mental health, support for mental retardation and child development programs. Your Committee has provided funds to maintain services which would otherwise be eliminated due to the decrease in federal support.

Emergency Medical Services. Funds have been provided to continue the responsibility of the City and County of Honolulu for the operation of the Emergency Medical Service (EMS) system. The Department of Health will continue to monitor and coordinate the statewide system. The City and County of Honolulu also retains the responsibility of operating the Honolulu billing and collection system under which receipts will accrue to the county general fund. Your Committee has also provided funds for the upgrading of the MEDICOM communications system on Oahu; to subsidize the FY 1982-83 anticipated ambulance service contract shortfalls for the counties of Hawaii, Kauai and Maui; for other current expenses attributed to unanticipated increases in ambulance quarters lease agreements at Lihue, Hanalei and Molokai; contracted data processing; and insurance for state-owned ambulances.

SOCIAL SERVICES

Funds have been provided to the Department of Social Services and Housing to expand the small group homes program to the neighbor islands with the intent to prevent premature and unnecessary institutionalization. Your Committee has also provided funds for a feasibility study by the Department of Social Services and Housing on the nursing home without walls program due to a need for a community based alternative to the institutionalization of the functionally disabled and those elderly who are frail. The nursing home without walls program is intended to provide home health services, personal care services, homemaker services, chore services, and other appropriate services to eligible recipients in order to help maintain them in noninstitutional settings.

LOWER EDUCATION

Early intervention for school success. Funds are included for an early intervention program which is designed to prevent school failure through early identification of each child's developmental skills and learning style and more timely remediation of learning difficulties. More specifically, it entails having entering kindergarteners and first graders with learning problems to undergo five days of screening to determine their levels of skill in terms of language, motor development and auditory and visual perception; providing professional training for teachers so that they may acquire skills and compe-

tence to effectively deal with all children, including the talented and the learning disabled, and assigning a hundred master teachers on the basis of one teacher per kindergarten class for one entire school day per week to give direct services to the students. Through early identification and remediation of learning disabilities, children with such handicaps should be discovered and helped at an early stage and their opportunity to achieve school success should be vastly improved.

School Priority Fund. Reaffirming its belief that each individual school, as a unique entity, is best able to determine its own needs and program priorities, your Committee has included an appropriation for the establishment of the School Priority Fund. It is intended to promote the equitable distribution of educational resources to supplement the regular instructional program on a statewide basis; to strengthen the scope of decision-making and increase flexibility in resource allocation at the school level; and to provide a systematic method of conforming resource allocation to the unique needs of individual schools and to ever-chaning school priorities. The special needs appropriation for FY 1982-83 has been assigned to this fund, as are portions ofthe superintendent's reserve, the Hawaii English Program and the Leeward Reading Program appropriations for FY 1982-83. To ensure that schools receive approximately $25 per student, $1,692,375 of new monies has been provided.

Five hundred twenty-seven teacher positions from the Instructional Resource Augmentation/3-on-2 program have also been included in the School Priority Fund. Beginning in September 1983, these resources are to be reallocated to schools on the basis of student enrollment. A two-year time frame has been allowed to minimize disruption to ongoing programs during the period of transition.

Artists-in-the-schools. A total art education program requires two dimensions: the acquisition of skills in and knowledge of the various art forms and participation in experiences representative of those art forms. Funds are provided for the Artists-in-the-Schools program which will afford students the opportunity to observe and interact with professional artists and performers in learning situations. Specifically, a visiting artist who acquaints students with an art form on a one-time basis is provided for each of the 55 secondary schools, and a resident artist who works with students for a more extended period in a classroom situation is provided for each of the seven school districts for both the elementary and secondary level schools.

ROTC. Funds have been appropriated for the expansion of the Junior ROTC program. Presently, five schools, i.e., Farrington, Leilehua, McKinley, Roosevelt and Waianae, have one Army unit each. Because negotiations with the federal authorities have been successfully completed, beginning in September, 1982, Kailua and Radford High Schools will have an Air Force and Navy JROTC unit, respectively.

Impact Aid Funds. Having received confirmation that the remaining entitlement of federal Impact Aid Funds will not be forthcoming until September 1982, your Committee has made the necessary adjustments to ensure that teacher salary costs for the basic instructional program will be met. The adjustments include additional general funds for salaries ($5,060,057) for FY 1981-82 and a reduction in the FY 1981-82 federal appropriation for salaries and fringe benefits ($6,093,827). Fringe benefit costs have been assigned to other program areas.

Career Opportunities Program. An appropriation of $197,000 is provided to continue the Career Opportunities Program as administered by the University of Hawaii Community Colleges Employment Training Office. The Employment Training Office provides a job oriented career opportunities program for secondary school students who need and are seeking alternatives to traditional curriculum offerings. The program provides job skills such as body and fender work, auto mechanics, clerical skills and food preparation to those students in the Oahu District who desire to learn those vocational skills taught in the Employment Training Program.

HIGHER EDUCATION

Your Committee has included $2,551,205 in general fund resources and 23.15 FTE new positions to meet higher education needs. These funds are provided to meet various emergency needs, especailly the deficit of funds to pay for electricity costs and the reduction in federal fund support.

The $3,178,596 appropriated for FY 1981-82 will meet the existing electricity deficit, and $988,444 is provided in 1982-83 FY to meet anticipated deficits. While your Committee is encouraged by the actions taken by the University to conserve electricity, it believes that a more thorough analysis of the billing system can lead to further savings.

Because higher education has not been immune to the drastic cutback of funds at the federal level, your Committee has provided additional funds to offset the loss of federal support in the School of Medicine, the College of Tropical Agriculture and Human Resources, the Water Resources Research Center, and the Vocational Education Program.

To address the critical nursing shortage on the Neighbor Islands, your Committee has provided funds for ICU/CCU critical care nursing and for summer clinical care training. In addition, personnel is provided to coordinate the nursing program at Maui Community College.

Your Committee is also concerned about the need to provide more equity of instruction and educational services among college campuses in the statewide system. Therefore, seven position counts and general funds are provided to the UH-Hilo campus to boost its general education program, the developing agriculture farm laboratory at Panaewa and the continuing education program.

Finally, while your Committee is supportive of higher education, it is also deeply concerned about the growing size of the University's systemwide support service. Adjusting existing resources in this program area, your Committee has deleted ten unspecified position counts and $204,000 from academic and institutional support services. The intent of this adjustment is to encourage the University to internally reallocate its support service resources to handle its priority needs.

PUBLIC SAFETY

Your Committee has continued funding of Misdemeanant Pilot and Community Service Restitution Programs which provide a service to the community by preventing the unnecessary incarceration of certain individuals. In other decisions to promote public safety, your Committee has: (1) strengthened the planning office in the Corrections Division of the Department of Social Services and Housing by transferring funds and positions to form a statewide coordination of all correctional facilities; (2) recognized the importance of PROMIS (Prosecutors Management Information System) in the Intake Service Center as being necessary to ensure available, updated information on individuals within the judicial system; and (3) allocated funds for 67 additional adult correctional officers to help alleviate the problem of insufficient staffing in correctional facilities.

GOVERNMENT-WIDE SUPPORT

Aid to counties for coastal zone management. The coastal zone management program is another victim of the massive cutbacks in federal funds. However, your Committee agrees that the program should be continued, at least at its current level, to assure orderly and thoughtful development of the State's coastal areas. Since the counties play an indispensable role in the management of these coastal areas, your Committee has provided State support to the counties to carry out the special management area permit function mandated by the coastal zone management law.

Workers compensation. The Executive has recently alerted the Legislature to an anticipated shortage of funds in the workers compensation account for State employees for both the current and upcoming fiscal years. Funds have been provided to cover these anticipated deficits; however, there is great concern over the rapidly rising costs of workers compensation insurance. Your Committee strongly urges the Executive to closely monitor expenditures from this account; to seek means of reducing the State's liability for workers compensation in the future; and to advise the Legislature on these matters.

Statewide accounting system. Funds have been provided for the installation and implementation of the Hawaii/FAMIS project -- an effort to shift the central accounting system from a manual system to a computer-based system. This system will increase the reporting capabilities of the central accounting system, and provide for timely and accurate data on revenues and expenditures. These capabilities are essential in effectively managing the State's financial affairs and are important in attaining and retaining a favorable bond rating.

Kaka'ako Development. Your Committee has also authorized the issuance of general obligation bonds to finance the implementation of the Kaka'ako Community Development District Plan. The initial implementation phase will include improvements such as the upgrading of roadways, sewerage, drainage, water, and electrical systems.

GRANTS-IN-AID

Your Committee has provided a total of $7.957 million in fiscal year 1982-83 for grants-in-aid to private agencies. Your Committee believes that the services provided by these agencies serve a useful public purpose and in many instances, perform a service which the State would be required to provide if private providers did not exist.

However, your Committee is seriously concerned about the appropriateness of the Legal Aid Society's involvement in environmental class action suits such as H-3 and Kahoolawe. It is your Committee's belief that the Society should concentrate its efforts on providing legal services to those individuals who are unable to afford such services rather than involving themselves in "championing" causes such as environmental issues. In light of this concern, the Society's funding has been reduced by the pro-rata share of funds spent on environmental class action suits.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2070-82, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2070-82, H.D. 1, S.D. 1, C.D. 1.

Representatives Kunimura, Kiyabu, Albano, Andrews, Fukunaga, G. Hagino, Hashimoto, Kobayashi, Levin, Morioka, Nakasato, Okamura, Lacy, Marumoto, Narvaes and Wong,
Managers on the part of the House.

Senators Yamasaki, Anderson, Abercrombie, Ajifu, Campbell, Cayetano, Henderson, Kawasaki, Saiki, Yee and Young,
Managers on the part of the Senate.

Conf. Com. Rep. 86-82 on S.B. No. 2829-82

The purpose of this bill is to provide appropriations for specific capital improvement projects throughout the state.

Your Committee has amended this bill to include funds to be used by the various counties for water resource development projects.

Your Committee has further amended this bill by adding a new section which lapses partially or in entirety, capital improvement projects made by Act 214, SLH 1979 and Act 300, SLH 1980. These projects have been identified as low priority or have been deferred such that reductions will not have an adverse impact on the planned capital improvement program.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2829-82, H.D. 1, as amended herein, and recommends it pass Final Reading in the form attached hereto as S.B. No. 2829-82, H.D. 1, C.D. 1.

Representatives Kunimura, Kiyabu, Albano, Andrews, Fukunaga, G. Hagino, Hashimoto, Kobayashi, Levin, Morioka, Nakasato, Okamura, Lacy, Marumoto, Narvaes and Wong,
Managers on the part of the House.

Senators Yamasaki, Anderson, Abercrombie, Campbell, Cayetano, Kawasaki, Young, Ajifu, Henderson, Saiki and Yee,
Managers on the part of the Senate.

Conf. Com. Rep. 87-82 on S.B. No. 732

The purpose of this bill is to authorize the issuance of general obligation bonds to finance projects authorized in H.B. No. 2070-82, H.D. 1, S.D. 1, C.D. 1, Making Appropriations for the fiscal biennium July 1, 1981 to June 30, 1983, H.B. No. 2312-82, H.D. 1, S.D. 1, C.D. 1, Relating to the Judiciary Budget and S.B. No. 2829-82, H.D. 1, C.D. 1, Relating to Capital Improvement Projects and to finance the settlement authorized in H.B. No. 2559-82, H.D. 1, S.D. 1, C.D. 1, Making an Appropriation for payment of settlement between the State of Hawaii and Dillingham Corporation DBA Hawaiian Dredging and Construction Company.

The bill includes the declaration of findings required by the clause in Article VII, Section 13, of the State Constitution which states:

"Effective July 1, 1980, the legislature shall include a declaration of findings in every general law authorizing the issuance of general obligation bonds that the total amount of principal and interest estimated for such bonds and for all bonds authorized and unissued and calculated for all bonds issued and outstanding, will not cause the debt limit to be exceeded at the time of issuance."

The effect of the foregoing constitutional requirement is that the legislature must take into account the debt service on all bonds that count against the debt limit, including outstanding bonds, authorized bonds which are yet to be issued, and bonds authorized in the Act, and demonstrate that the constitutional debt limit will not be exceeded at the time the bonds are issued.

The required declaration in Section 1 of the bill sequentially is as follows:

Paragraph 1 sets forth the basic constitutional provision governing state debt.

Paragraph 2 shows the actual debt limit applicable for fiscal year 1981-82 and estimates of the debt limit for fiscal year 1982-83 to fiscal year 1984-85.

Paragraph 3 shows the debt service requirements from fiscal year 1982-83 to fiscal year 1988-89 for outstanding general obligation bonds which must be counted against the debt limit.

Paragraph 4 states the amount of authorized but unissued general obligation bonds as of December 31, 1981 and the amount of general obligation bonds authorized by this bill.

Paragraph 5 shows the schedule for proposed general obligation bond issuance and states the assumptions concerning bond maturities.

Paragraph 6 states that the total amount of general obligation bonds which the State proposes to issue is an amount sufficient to meet the requirements of all authorized unissued bonds and the bonds authorized by this bill.

Paragraph 7 notes that certain reimbursable general obligation bonds can be excluded, and while the amount of such excluded bonds cannot be precisely determined for each issuance, the legislature makes the conservative estimate that 10 per cent of each issuance is excludable.

Paragraph 8 presents a display which compares the debt limit applicable at the time of each proposed bond issue with the greatest debt service amount resulting from each issue.

Paragraph 9 establishes the overall and concluding finding that the total amount of principal and interest estimated for the general obligation bonds authorized by this bill and for all bonds authorized and unissued and calculated for all bonds issued and outstanding, will not cause the debt limit to be exceeded at the time of issuance.

In making the declaration to support the authorization of bonds in this bill, your Committee has followed the cautionary guidelines expressed by the State's bond counsel who has advised:

"A court will not necessarily sustain findings of a legislative body which are merely a recitation of the requirements of a constitution or a statute. Consequently, we believe that the legislature must establish a reasonable basis for the finding that the estimated debt service...will not cause the debt limit to be exceeded at the time of issuance. We believe prudence requires the basis to be conservative in order to eliminate any allegation that the legislature first made the finding and worked back to assumptions which were consistent with such finding."

Your Committee understands that the declaration of findings in this bill fully follows the bond attorney's cautionary guidelines.

Your Committee has amended the declaration of findings in Section 1 to conform to the amount of general obligation bonds authorized by this bill.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 732, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 732, S.D. 1, H.D. 1, C.D. 1.

Representatives Kunimura, Albano, Andrews, Fukunaga, G. Hagino, Hashimoto, Kiyabu, Kobayashi, Levin, Morioka, Nakasato, Okamura, Lacy, Marumoto, Narvaes and Wong, Managers on the part of the House.

Senators Yamasaki, Abercrombie, Campbell, Cayetano, Kawasaki, Young, Ajifu, Anderson, Henderson, Saiki and Yee, Managers on the part of the Senate.

Conf. Com. Rep. 88-82 on S.B. No. 2759-82

The purposes of this bill are to (1) increase the salaries or maximum salaries of certain executive branch officers, justices, judges, and certain judicial officers, and certain officers of legislative service agencies; (2) prohibit the State and counties from providing salary adjustments or increases to certain state and county officers or employees where the adjustment or increase constitutes a mandatory or automatic adjustment or increase which is, directly or indirectly, dependent upon and related to negotiated salary increases received by civil service or noncivil service employees covered by collective bargaining; and (3) create an advisory public officers and employees compensation review commission to review the compensation or salaries of certain specified categories of noncivil service state and county employees and recommend a compensation schedule for such employees.

Your Committee has made the following amendments to this bill as received:

(1) Salaries of justices, judges, officers of legislative service agencies, and executive branch officers, with certain exceptions, who are covered by this bill have been increased by eight, instead of ten, per cent effective July 1, 1982. The salary increase of ten per cent retroactive to July 1, 1981 for these officers in the bill, as received, has been retained. The increases in the bill, as amended, represent a compromise between the positions of both Houses, and are fair and equitable to the officers involved and affordable by the State.

(2) The salaries of the Chairmen of the Public Utilities Commission, Hawaii Public Employment Relations Board, and Labor and Industrial Relations Appeals Board, Chief Negotiator, and Stadium Manager have been increased to the same level as the salary of a first deputy to a department head effective July 1, 1982. The increase of ten per cent retroactive to July 1, 1981 of the salaries of these officers has been retained. If the salaries of these officers were to be increased by ten per cent on July 1, 1982, the salaries would be the same as the salary of a department head. Although these officers have important responsibilities, your Committee does not feel that the responsibilities are as great as those of a department head. Thus, your Committee has increased the salaries to the same amount as the salary of a first deputy to a department head. This amendment reflects a perception of the level of responsibilities of these officers as compared to the level of responsibilities of a department head.

(3) The salaries of members other than the Chairmen of the Public Utilities Commission, Hawaii Public Employment Relations Board, and Labor and Industrial Relations Appeals Board have been increased by ten per cent retroactive to July 1, 1982. The salaries of these officers have been increased to the same level as the salary of a second deputy to a department head effective July 1, 1982. The salary of the Deputy Stadium Manager has also been increased to the same level as the salary of a second deputy effective July 1, 1982, but the increase of ten per cent retroactive to July 1, 1981 has been retained. The reasons for the change are similar to those specified in (2).

(4) The salary of the Executive Director of the Hawaii Housing Authority has been increased by ten per cent retroactive to July 1, 1981 and by eight per cent effective July 1, 1982. Under the bill, as received, the Executive Director would have received the same increases as a department head. The change has been made in the bill, as amended, because your Committee does not feel that the responsibilities of the Executive Director are equivalent to those of a department head.

(5) The salaries of the Administrative Director of the Courts and Deputy Administrative Director have been increased to the same levels as the salaries of an executive department head and first deputy, respectively, for both fiscal years. The linkage between the salary of the Administrative Director and the salary of the Deputy Administrative Director of the Courts has been deleted. These judicial officers have responsibilities equal to the responsibilities of an executive department head and first deputy. The amendments reflect this relationship.

(6) The date by which the Public Officers and Employees Compensation Review Commission is to report its recommendations has been changed from June 30, 1984 to June 30, 1983. The termination date of the Commission has also been similarly changed. The provision authorizing the expenditure of the Commission's appropriation during the fiscal year 1983-1984 has been deleted as no longer necessary. No change, however, has been made to the amount appropriated to the Commission. Your Committee feels that one year is sufficient time for the Commission to perform its work.

(7) New provisions have been added concerning the salaries of the Executive Director of the Office of Children and Youth and Special Assistant to the Governor for Agriculture. The salary of the Executive Director has been increased to the same amount as the salary of the Executive Director of the Office on Aging. The salary of the Special Assistant for Agriculture has been increased by ten per cent retroactive to July 1, 1981 and by eight per cent effective July 1, 1982.

(8) The repeal of the provisions concerning the salary of the Administrative Director for the Governor in the bill, as received, has been changed. Instead, the provisions have been retained, but the bill, as amended, provides that the salary shall be set statutorily and increases the salary by ten per cent retroactive to 1981 and by eight per cent effective July 1, 1982.

(9) The repeal of the provisions concerning the salary of the Federal Programs Coordinator in the bill, as received, has been changed. Instead, the provisions have been retained, but the bill, as amended, provides that the salary shall be set statutorily and increases the salary by ten per cent retroactive to July 1, 1981 and by eight per cent effective July 1, 1982.

(10) The increases in the salaries of the first deputies or assistants to heads of legislative service agencies in the bill, as received, have been changed. The bill, as amended, now provides that the salaries of these officers shall be the same as first deputy directors of department heads retroactive to July 1, 1981 and effective July 1, 1982.

(11) A new provision has been added which places a freeze on the salaries of county officers of the executive branch who are elected officers, department heads, first deputies to department heads, and certain officers in the mayors' offices. The purpose section to the new provision adequately explains the reasons for making the change.

The provision in the bill, as received, which prohibits the automatic or mandatory adjustment of salaries of exempt state and county officers based on salary adjustments under collective bargaining agreements of subordinate employees has been retained.

A new provision has also been added which reduces the amount of the grant-in-aid to any county which increases the salaries of the county officers described above by an amount equal to the increase of salaries.

These provisions are complementary, do not interfere with each other, and are severable. Your Committee feels that these three provisions are required if any one is challenged and found unconstitutional.

In addition, your Committee has made technical, nonsubstantive amendments to correct clerical errors.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2759-82, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2759-82, S.D. 1, H.D. 2, C.D. 1.

Representatives Takitani, Kunimura, Kiyabu, Say and Anderson,
Managers on the part of the House.

Senators Yamasaki, Carpenter, Uwaine, Young and Ajifu,
Managers on the part of the Senate.

Conf. Com. Rep. 89-82 on S.B. No. 732

Your Committee has amended S.B. No. 732, S.D. 1, H.D. 2, C.D. 1 by making further technical amendments.

Because of the importance of this bill, your Committee wishes to reiterate the discussion presented in the prior committee report on this bill.

The purpose of this bill is to authorize the issuance of general obligation bonds to finance projects authorized in H.B. No. 2070-82, H.D. 1, S.D. 1, C.D. 1, Making Appropriations for the fiscal biennium July 1, 1981 to June 30, 1983, H.B. No. 2312-82, H.D. 1, S.D. 1, C.D. 1, Relating to the Judiciary Budget and S.B. No. 2829-82, H.D. 1, C.D. 1, Relating to Capital Improvement Projects and to finance the settlement authorized in H.B. No. 2559-82, H.D. 1, S.D. 1, C.D. 1, Making an Appropriation for payment of settlement between the State of Hawaii and Dillingham Corporation DBA Hawaiian Dredging and Construction Company.

The bill includes the declaration of findings required by the clause in Article VII, Section 13, of the State Constitution which states:

"Effective July 1, 1980, the legislature shall include a declaration of findings in every general law authorizing the issuance of general obligation bonds that the total amount of principal and interest estimated for such bonds and for all bonds authorized and unissued and calculated for all bonds issued and outstanding, will not cause the debt limit to be exceeded at the time of issuance."

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In making the declaration to support the authorization of bonds in this bill, your Committee has followed the cautionary guidelines expressed by the State's bond counsel who has advised:

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Your Committee understands that the declaration of findings in this bill fully follows the bond attorney's cautionary guidelines.

Your Committee has amended the declaration of findings in Section 1 to conform to the amount of general obligation bonds authorized by this bill.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 732, S.D. 1, H.D. 1, C.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 732, S.D. 1, H.D. 1, C.D. 2.

Representatives Kunimura, Albano, Andrews, Fukunaga, G. Hagino, Hashimoto, Kiyabu, Kobayashi, Levin, Morioka, Nakasato, Okamura, Lacy, Marumoto, Narvaes and Wong, Managers on the part of the House.

Senators Yamasaki, Abercrombie, Campbell, Cayetano, Kawasaki, Young, Ajifu, Anderson, Henderson, Saiki and Yee, Managers on the part of the Senate.

SPECIAL COMMITTEE REPORT

Spec. Com. Rep. No. 1

Your Committee on Credentials begs leave to report that it has thoroughly considered the matter of the seating of the members of the House of Representatives of the Eleventh Legislature of the State of Hawaii, Regular Session of 1982, and finds that the following members are duly qualified to sit as members of the House of Representatives, to wit:

First District:	Andrew Levin
Second District:	Richard M. Matsuura Herbert A. Segawa
Third District:	Yoshito Takamine
Fourth District:	Virginia Isbell
Fifth District:	Mark J. Andrews William W. Monahan
Sixth District:	Herbert J. Honda Anthony P. Takitani
Seventh District:	Robert D. Dods Donna R. Ikeda
Eighth District:	Barbara Marumoto Frederick William Rohlfing
Ninth District:	Ted T. Morioka Calvin K.Y. Say
Tenth District:	Ken Kiyabu Bertrand Kobayashi
Eleventh District:	Kina'u Boyd Kamali'i Paul L. Lacy, Jr.
Twelfth District:	David M. Hagino Mazie Hirono
Thirteenth District:	Gerald de Heer Carol Fukunaga Brian T. Taniguchi
Fourteenth District:	Russell Blair Kathleen Stanley
Fifteenth District:	Byron W. Baker Michael Minoru Liu
Sixteenth District:	Dennis Masaru Nakasato Tony Narvaes
Seventeenth District:	Gene Albano John Waihee
Eighteenth District:	Connie C. Chun Tom Okamura
Nineteenth District:	Clarice Y. Hashimoto Eloise Yamashita Tungpalan
Twentieth District:	Daniel J. Kihano Mitsuo Shito

Twenty-First District:	James Aki Henry Haalilio Peters
Twenty-Second District:	Gerald T. Hagino Yoshiro Nakamura
Twenty-Third District:	Charles T. Toguchi
Twenty-Fourth District:	Marshall K. Ige Jimmy (Kimo) Wong
Twenty-Fifth District:	Whitney T. Anderson John J. Medeiros
Twenty-Sixth District:	Russell J. Sakamoto
Twenty-Seventh District:	Richard A. Kawakami Tony T. Kunimura Dennis R. Yamada

Signed by Representatives Nakamura, Blair, Andrews, Baker, Fukunaga, Honda, Ige, Takamine, Waihee, Narvaes and Wong.