

# S.B. NO. 1392

JAN 22 2007

## A BILL FOR AN ACT

RELATING TO ENHANCED PENALTIES FOR SECURITIES VIOLATIONS  
COMMITTED AGAINST ELDERS.

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

1 SECTION 1. Chapter 485, Hawaii Revised Statutes, is  
2 amended by adding two new sections to be appropriately  
3 designated and to read as follows:

4 "§485- Additional administrative penalties for  
5 securities violations committed against elders. If a person  
6 commits a violation under this chapter and the violation is  
7 directed toward, targets, or is committed against a person who  
8 at the time of the violation is sixty-two years of age or older,  
9 the commissioner, in addition to any other administrative  
10 penalty, may impose an administrative penalty not to exceed  
11 \$50,000 for each violation.

12 §485- Additional civil penalties for securities  
13 violations committed against elders. If a person commits a  
14 violation under this chapter and the violation is directed  
15 toward, targets, or is committed against a person who at the  
16 time of the violation is sixty-two years of age or older, a  
17 court, in addition to any other civil penalty, may impose a  
18 civil penalty not to exceed \$50,000 for each violation."

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1 SECTION 2. Chapter 485A, Hawaii Revised Statutes, is  
2 amended by adding two new sections to be appropriately  
3 designated and to read as follows:

4 "§485A- Additional administrative penalties for  
5 securities violations committed against elders. If a person  
6 commits a violation under this chapter and the violation is  
7 directed toward, targets, or is committed against a person who  
8 at the time of the violation is sixty-two years of age or older,  
9 the commissioner, in addition to any other administrative  
10 penalty, may impose an administrative penalty not to exceed  
11 \$50,000 for each violation.

12 §485A- Additional civil penalties for securities  
13 violations committed against elders. If a person commits a  
14 violation under this chapter and the violation is directed  
15 toward, targets, or is committed against a person who at the  
16 time of the violation is sixty-two years of age or older, a  
17 court, in addition to any other civil penalty, may impose a  
18 civil penalty not to exceed \$50,000 for each violation."

19 SECTION 3. New statutory material is underscored.

20 SECTION 4. This Act shall take effect upon its approval;  
21 provided that section 2 shall take effect on July 1, 2008.  
22

23 INTRODUCED BY: \_\_\_\_\_

BY REQUEST

JUSTIFICATION SHEET

DEPARTMENT: Commerce and Consumer Affairs.

TITLE: A BILL FOR AN ACT RELATING TO ENHANCED PENALTIES FOR SECURITIES VIOLATIONS COMMITTED AGAINST ELDERS.

PURPOSE: To increase protections for elders by adding enhanced civil and administrative penalties for securities violations committed against elders.

MEANS: Add two new sections to chapter 485, Hawaii Revised Statutes (HRS), and two new sections to new chapter 485A, HRS.

JUSTIFICATION: Elders or "seniors" are frequent targets, as well as victims, of securities fraud.

Attempts to defraud seniors are particularly deplorable since seniors often are retired, have to live off their life's savings, and may be more vulnerable than other investors.

Increased monetary penalties for securities violations against elders are being sought to deter this particularly reprehensible conduct.

The increased penalties are patterned after existing enhanced penalties for violations or crimes committed against elders in sections 444-10.7, 480-13.5, and 706-660.2, HRS.

This bill proposes to amend chapters 485 and 485A in two respects: (1) enhance the administrative penalties under Hawaii securities law; and (2) enhance the civil penalties that apply to matters that are referred to a court.

Impact on the public: This bill increases the protection of seniors against securities

fraud by allowing the Department and courts to impose additional monetary penalties.

Impact on the department and other agencies:

This bill will increase the penalties that the Department may impose against persons who commit securities fraud against elders. Overall, however, this bill will not significantly affect the Department's other regulatory responsibilities with respect to securities enforcement.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: CCA-111

OTHER AFFECTED  
AGENCIES: None.

EFFECTIVE DATE: Section 1: Upon approval;  
Section 2: July 1, 2008, the effective date of chapter 485A, HRS.