



1 the circuit within which the minor resides, it shall  
2 be lawful for a person under the age of sixteen years,  
3 but in no event under the age of fifteen years, to  
4 marry, subject to section -2;

5 (3) Neither party has at that time any lawful spouse  
6 living; neither party has entered into a civil union  
7 that has not been dissolved;

8 (4) Consent of neither party to the civil union has been  
9 obtained by force, duress, or fraud;

10 (5) Neither of the parties is a person afflicted with any  
11 loathsome disease concealed from, and unknown to, the  
12 other party; and

13 (6) The parties joined in a civil union shall have duly  
14 obtained a license for that purpose from the agent  
15 appointed to grant civil union licenses.

16 § -2 **Definition of civil union.** Whenever used in the  
17 statutes or other laws of Hawaii, "civil union" means the union  
18 licensed under section -1.

19 § -3 **Consent of parent or guardian.** Whenever any person  
20 who is under the age of eighteen is to enter into a civil union,  
21 the written consent of his or her parents, or guardian or other  
22 person in whose care and custody he or she may be, shall



1 accompany the application for a civil union license. No license  
2 shall be issued to any minor who is under the jurisdiction of  
3 the family court without the written consent of a judge of the  
4 court.

5       **§ -4 Contracted without the State.** Any marriage  
6 recognized under chapter 572 as a marriage, and any civil union,  
7 domestic partnership, or a substantially similar contractual  
8 arrangement that meets the requisites set forth in this chapter  
9 and is legal in the jurisdiction where contracted shall be held  
10 legal in the courts of this State as a civil union.

11       **§ -5 Right of domicile, sex or marital status.** The  
12 right of an individual to be or to become a resident domiciled  
13 in this State shall not be denied or abridged because of the  
14 sex, civil union status, or marital status of the individual.  
15 The residence of one spouse does not establish the residence of  
16 the other spouse, which shall be determined by the same factors  
17 that apply in determining the residence of any other individual  
18 capable of having an independent residence.

19       **§ -6 Civil union license; agent to grant; fee.** (a) The  
20 department of health shall appoint, and at its pleasure remove,  
21 one or more suitable persons as agents authorized to grant  
22 marriage and civil union licenses under this chapter in each



1 judicial circuit. The agents may issue marriage and civil union  
2 licenses from any state facility when deemed necessary by the  
3 director. Any agent appointed under this subsection and  
4 receiving an application for a marriage or civil union license  
5 shall collect from the applicant for the license \$60, of which  
6 the agent, except those provided for in subsection (b), shall  
7 retain \$9 for the agent's benefit and compensation and shall  
8 remit \$51 to the director of health. Upon the receipt of  
9 remittances under this subsection, the director of health shall  
10 deposit:

- 11 (1) \$32 for each license issued to the credit of the  
12 general fund of the State;
- 13 (2) \$4.50 for each license issued to the credit of the  
14 spouse and child abuse special account established  
15 under section 346-7.5;
- 16 (3) \$4.50 for each license issued to the credit of the  
17 spouse and child abuse special account established  
18 under section 601-3.6; and
- 19 (4) \$10 for each license issued to the credit of the birth  
20 defects special fund established under section  
21 321-426.



1 (b) The department may appoint, as regular employees under  
2 the civil service and classification laws, the number of  
3 suitable persons as agents authorized to grant marriage and  
4 civil union licenses for whom provision has been made in the  
5 general appropriation act. In the case of these agents, the  
6 full amount collected from applicants shall be remitted to the  
7 director of health. Upon the receipt of remittances under this  
8 subsection, the director of health shall deposit:

9 (1) \$41 for each license issued to the credit of the  
10 general fund of the State;

11 (2) \$4.50 for each license issued to the credit of the  
12 spouse and child abuse special account established  
13 under section 346-7.5;

14 (3) \$4.50 for each license issued to the credit of the  
15 spouse and child abuse special account established  
16 under section 601-3.6; and

17 (4) \$10 for each license issued to the credit of the birth  
18 defects special fund established under section  
19 321-426.

20 (c) Every agent appointed under this section may  
21 administer the oaths required by this chapter to be taken.



1 (d) The department or its authorized agents shall furnish  
 2 to each applicant for a marriage license a brochure explaining  
 3 rubella, the risks of infection with rubella during pregnancy,  
 4 and how to seek testing and immunization. The department or its  
 5 authorized agents shall also furnish to each applicant for a  
 6 marriage license information, to be provided by the department,  
 7 relating to population stabilization, family planning, birth  
 8 control, fetal alcohol and drug syndromes, and acquired immune  
 9 deficiency syndrome, including the availability of anonymous  
 10 testing for human immunodeficiency virus infection at alternate  
 11 test sites; provided that the information is available.

12 (e) In addition to the fee prescribed under subsection  
 13 (a), the agent, except those provided for in subsection (b),  
 14 shall collect from the applicant for the license a surcharge of  
 15 \$5, of which the agent shall retain the full amount for the  
 16 agent's additional benefit and compensation.

17 § -7 **Application; license; limitations.** To secure a  
 18 license to enter into a civil union, the persons applying for  
 19 the license shall appear personally before an agent authorized  
 20 to grant marriage and civil union licenses and shall file with  
 21 the agent an application in writing. The application shall be  
 22 accompanied by a statement signed and sworn to by each of the



1 persons, setting forth: the person's full name, date of birth,  
2 social security number, residence; their relationship, if any;  
3 the full names of parents; and that all prior marriages, civil  
4 unions, or domestic partnerships, if any, have been dissolved by  
5 death or dissolution. If all prior marriages, civil unions, and  
6 domestic partnerships have been dissolved by death or  
7 dissolution, the statement shall also set forth the date of  
8 death of the last prior spouse or the date and jurisdiction in  
9 which the last decree of dissolution was entered. Any other  
10 information consistent with the standard marriage or civil union  
11 certificate as recommended by the Public Health Service,  
12 National Center for Health Statistics, may be requested for  
13 statistical or other purposes, subject to approval of and  
14 modification by the department of health; provided that the  
15 information shall be provided at the option of the applicant and  
16 no applicant shall be denied a license for failure to provide  
17 the information. The agent shall indorse on the application,  
18 over the agent's signature, the date of the filing thereof and  
19 shall issue a license that shall bear on its face the date of  
20 issuance. Every license shall be of full force and effect for  
21 thirty days commencing from and including the date of issuance.



1 After the thirty-day period, the license shall become void and  
2 no marriage ceremony shall be performed thereon.

3 It shall be the duty of every person, legally authorized to  
4 grant marriage and civil union licenses, to immediately report  
5 the issuance of every civil union license to the agent of the  
6 department of health in the district in which the license is  
7 issued, setting forth all facts required to be stated in the  
8 manner and on any form as the department may prescribe.

9 § -8 **Persons under age.** Whenever any person who is  
10 under the age of eighteen, whose parents are dead, or who is a  
11 ward of a family court, applies for a civil union license, he or  
12 she shall set forth in the statement accompanying the  
13 application, the name of his or her guardian or of any other  
14 person in whose care and custody he or she may be.

15 § -9 **Applicant apparently under age.** If any applicant  
16 for a civil union license appears to any agent to be under the  
17 age of eighteen years, the agent shall, before granting a civil  
18 union license, require the production of a certificate of birth  
19 or other satisfactory proof showing the age of the applicant.

20 § -10 **Private solemnization not unlawful.** Nothing in  
21 this chapter shall be construed to render unlawful, or otherwise  
22 affirmatively punishable at law, the solemnization of



1 relationships by religious organizations; provided that nothing  
2 in this section shall be construed to confer any of the  
3 benefits, burdens, or obligations under the laws of the State  
4 through the private solemnization.

5       **§ -11 License to solemnize.** It shall not be lawful for  
6 any person to perform the marriage ceremony within the State  
7 without first obtaining from the department of health a license  
8 to solemnize civil unions.

9       **§ -12 Requisites for license to perform the**  
10 **solemnization.** A license to solemnize marriages and civil  
11 unions may be issued to, and the rite may be performed and  
12 solemnized by any minister, priest, or officer of any religious  
13 denomination or society who has been ordained or is authorized  
14 to solemnize civil unions according to the usages of such  
15 denomination or society, or any religious society not having  
16 clergy but providing solemnization in accordance with the rules  
17 and customs of that society, or any justice or judge or  
18 magistrate, active or retired, of a state or federal court in  
19 the State, upon presentation to the person or society of a civil  
20 union license, as prescribed by this chapter. The person or  
21 society may receive the price stipulated by the parties or the  
22 gratification tendered. Nothing in this section shall be



1 construed to require a person licensed to perform a marriage or  
2 civil union ceremony.

3       §   -13   **Record of solemnization; reported by whom;**

4 **certified copies.** (a) Recordkeeping. Every person authorized  
5 to solemnize a civil union shall make and preserve a record of  
6 every civil union by the person solemnized, comprising the names  
7 of the parties joined, their place of residence, and the date of  
8 their union.

9       Every person authorized to perform solemnizations, who  
10 neglects to keep a record of any solemnization shall be fined  
11 \$50.

12       (b) Reported by whom. It shall be the duty of every  
13 person, legally authorized to perform the solemnization  
14 ceremony, to report within three business days every  
15 solemnization, performed by the person, to the agent of the  
16 department of health in the district in which the solemnization  
17 takes place setting forth all facts required to be stated in a  
18 standard certificate of civil union, the form and contents of  
19 which shall be prescribed by the department of health.

20       (c) Certified copies of certificate of civil union. The  
21 department of health shall deliver one certified copy of the  
22 certificate of solemnization or the contents or any part thereof



1 as provided in section 338-13 to the persons joined. The  
2 certificate shall be prima facie evidence of the fact of a civil  
3 union in any proceeding in any court.

4 The department of health shall upon request, furnish to any  
5 applicant additional certified copies of the certificate of  
6 civil union or any part thereof.

7 Copies of the contents of any certificate on file in the  
8 department, certified by the department shall be considered for  
9 all purposes the same as the original.

10 The department may prescribe reasonable fees, if any, to be  
11 paid for certified copies of certificates.

12 **§ -14 Revocation or suspension of licenses to solemnize.**

13 Any license to solemnize civil unions issued pursuant to section  
14 -12 may be revoked or suspended by the department of health,  
15 if the holder of the license has failed to comply with the  
16 applicable provisions of this chapter or of the rules of the  
17 department of health.

18 **§ -15 Delivery of records to department of health;**

19 **penalty.** Whenever any agent authorized to grant marriage and  
20 civil union licenses ceases to be an agent, or is directed to do  
21 so by the department of health, or leaves the State, the agent  
22 shall deliver to the department all the agent's records of civil



1 union licenses. Upon the death of any agent the records shall  
2 be delivered to the department by the agent's personal  
3 representative or other legal representative.

4 Whenever any person holding a license to perform the  
5 solemnization ceremony is directed to do so by the department,  
6 or whenever the license is canceled or otherwise terminated or  
7 upon the departure from the State of the person, the person  
8 shall deliver to the department all the person's records of  
9 solemnizations, or upon the death of the person the records  
10 shall be delivered to the department by the person's personal  
11 representative, or other legal representative.

12 Any person violating this section shall be fined not more  
13 than \$500.

14 § -16 **Rules.** The director of health may make rules  
15 necessary or appropriate to carry out the provisions of this  
16 chapter.

17 **PART II. PROPERTY CONTRACTS, DEBTS, AND LIABILITIES**

18 § -21 **Presumption of separate property.** There is a  
19 rebuttable presumption that all property, both real and  
20 personal, acquired in the name of either of the civil union  
21 partners, without regard to the time of acquisition thereof, is



1 the separate property of the person in the name of whom the same  
2 has been acquired.

3       §    **-22 Contracts.** Any person may make contracts, oral  
4 and written, sealed and unsealed, with her or his civil union  
5 partner, or any other person, in the same manner as if she or he  
6 were sole.

7       An agreement between civil union partners providing for  
8 periodic payments for the support and maintenance of one civil  
9 union partner by the other, or for the support, maintenance, and  
10 education of children of the parties, when the agreement is made  
11 in contemplation of divorce or judicial separation, is valid  
12 provided that the agreement shall be subject to approval by the  
13 court in any subsequent proceeding for divorce or judicial  
14 separation and that future payments under an approved agreement  
15 shall nevertheless be subject to increase, decrease, or  
16 termination from time to time upon application and a showing of  
17 circumstances justifying a modification thereof.

18       All contracts made between civil union partners, whenever  
19 made, and not otherwise invalid because of any other law, shall  
20 be valid to order the conveyance.

21       §    **-23 Not liable for partner's debts.** A party to a  
22 civil union is not liable for the debts of the other; nor is a



1 person's property liable to be taken on execution or other  
2 process against that person's civil union partner.

3       **§ -24 Liabilities.** Both parties of a civil union,  
4 whether joined in this State or in some other jurisdiction, and  
5 residing in this, shall be bound to maintain, provide for, and  
6 support one another during their union, and shall be liable for  
7 all debts contracted by one another for necessities for  
8 themselves, one another, or their family during the civil union;  
9 provided that when a support or maintenance obligation, however  
10 designated, is imposed upon a person under chapter 580 or any  
11 other law, the amount of the obligation shall be determined by  
12 the appropriate court on the basis of factors enumerated in  
13 section 580-47(a).

14       **§ -25 Separate property.** The real and personal property  
15 of a civil union partner shall remain that person's separate  
16 property, free from the management, control, debts, and  
17 obligations of the other civil union partner; and a civil union  
18 partner may receive, receipt for, hold, manage, and dispose of  
19 property, real and personal, in the same manner as if that  
20 spouse were sole.

21       **§ -26 May be personal representative, guardian, trustee,**  
22 **or other fiduciary.** A civil union partner may be a personal



1 representative, guardian, trustee, custodian, or other fiduciary  
2 and may bind the person's self and the estate the person  
3 represents without any act or assent on the part of the person's  
4 civil union partner.

5       §    -27   **Persons as sureties.** All persons, upon attaining  
6 their majority, and having the necessary property qualifications  
7 as by law required, may act, serve, and be sureties on all bonds  
8 and undertakings required under the laws of the State.

9       §    -28   **Suits by and against.** A party to a civil union  
10 contract may sue and be sued in the same manner as if the person  
11 were sole. This section shall be construed to authorize tort  
12 suits between civil union partners.

13       §    -29   **Settlement not invalidated.** Nothing contained in  
14 this part shall invalidate any civil union settlement or  
15 contract.

16               **PART III. PROPERTY CONTRACTS, DEBTS, AND LIABILITIES**

17       §    -30   **Outside of chapter 572, all references to marital**  
18 **status shall apply equally to civil unions.** Every reference in  
19 the Hawaii Revised Statutes to "marriage", "married," "husband,"  
20 "wife," or "spouse," shall apply equally to "civil unions,"  
21 "civil union contracts," or "civil union partners.""

22               SECTION 2. New statutory material is underscored.



1 SECTION 3. This Act shall take effect upon its approval.

2  
INTRODUCED BY:                     Calvin K. Boy                      
                    Frank Quinn                    

JAN 20 2007



**Report Title:**

Civil Unions

**Description:**

Authorizes civil unions. Provides civil unions with same requisites, rights, and responsibilities as provided for marriages under Chapter 572.

