



EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

April 26, 2017

GOV. MSG. NO. 1112

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Twenty-Ninth State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Joseph M. Souki,
Speaker and Members of the
House of Representatives
Twenty-Ninth State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

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

This is to inform you that on April 26, 2017, the following bill was signed into law:

SB1218 SD1

RELATING TO STATUTORY REVISION:
AMENDING VARIOUS PROVISIONS OF THE
HAWAII REVISED STATUTES AND THE
SESSION LAWS OF HAWAII FOR THE
PURPOSES OF CORRECTING ERRORS AND
REFERENCES, CLARIFYING LANGUAGE, AND
DELETING OBSOLETE OR UNNECESSARY
PROVISIONS
ACT 012 (17)

Sincerely,

DAVID Y. IGE
Governor, State of Hawai'i

Approved by the Governor

on APR 26 2017
THE SENATE
TWENTY-NINTH LEGISLATURE, 2017
STATE OF HAWAII

ACT 012
S.B. NO. 1218
S.D. 1

A BILL FOR AN ACT

RELATING TO STATUTORY REVISION: AMENDING VARIOUS PROVISIONS OF THE HAWAII REVISED STATUTES AND THE SESSION LAWS OF HAWAII FOR THE PURPOSES OF CORRECTING ERRORS AND REFERENCES, CLARIFYING LANGUAGE, AND DELETING OBSOLETE OR UNNECESSARY PROVISIONS.

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

1 SECTION 1. Sections 88-15, 171-22, 171-36(a)(2), 171-
2 73(7), 171-93(4), 205-4.5(b), 206E-101, 249-6, 323D-13(b), 334-
3 72, 363-11, 412:5-305(a)(1), 412:6-306(a)(1), 412:7-306(a)(1),
4 412:8-301(a)(1), 412:10-502(a)(1), 447-1.5(e), 448-1(2), 448-
5 9.6(e), 516-35.1, 516-63, and 516-91, Hawaii Revised Statutes,
6 are amended by substituting the term "Department of Veterans
7 Affairs" wherever the term "Veterans Administration", "Veterans'
8 Administration", or "veterans administration", or similar term,
9 appears, as the context requires.

10 SECTION 2. Section 23G-14, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "§23G-14 Publication of supplements. As soon as possible
13 after the close of each regular session of the legislature, the
14 revisor of statutes, subject to section 23G-15, shall prepare
15 for publication a cumulative [~~peeket-part~~] supplement to the



1 last revision of the laws of Hawaii. The supplement shall
2 contain all laws of a general and permanent nature enacted at
3 any session of the legislature subsequent to the last revision
4 of the laws and not included therein and a cumulative index of
5 the material. The material in the supplement shall be arranged
6 in the same order as like material is arranged in the last
7 revision, shall show all sections repealed or amended, and shall
8 be annotated to decisions and opinions subsequent to those
9 included in the last revision."

10 SECTION 3. Section 28-152, Hawaii Revised Statutes, is
11 amended by amending subsection (f) to read as follows:

12 "(f) Notwithstanding any law to the contrary, no member
13 shall be liable in any civil action founded upon a statute or
14 the case law of this State, for damage, injury, or loss caused
15 by or resulting from the member's performance of [+]or[+]
16 failure to perform any duty that is required or authorized to be
17 performed by a person holding the position to which the member
18 was appointed, unless the member acted with a malicious or
19 improper purpose, except when the plaintiff in a civil action is
20 the State."



1 SECTION 4. Section 37-68, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§37-68 Responsibilities of agencies. Under rules as may
4 be prescribed by the director of finance with the approval of
5 the governor:

6 (1) Each agency assigned the task of developing programs
7 and preparing program and financial plans, budgetary
8 requests, and program performance reports shall
9 develop the programs and prepare the plans, requests,
10 and reports and submit ~~[the same]~~ them to the director
11 of finance at times, on forms, and in a manner as the
12 director may prescribe. For informational purposes,
13 the University of Hawaii shall submit its program and
14 financial plans, budgetary requests, and program
15 performance reports to the legislature at the same
16 time the university submits them to the director of
17 finance. Where new programs are being proposed, each
18 agency shall demonstrate that the program:

19 (A) Is an appropriate function of state government;
20 and, ~~[as applicable]~~



1 (B) [Can] As applicable, can be implemented by the
2 public sector as cost-effectively as the private
3 sector while meeting the same plans, goals,
4 objectives, standards, measures of effectiveness,
5 wage, salary, conditions of employment, and
6 employee benefit programs of the State;

7 (2) Each agency administering state programs and each
8 agency responsible for the formulation of programs and
9 the preparation of program and financial plans,
10 budgetary requests, and program performance reports[7]
11 shall furnish the department of budget and finance all
12 documents and information as the department may from
13 time to time require. Each agency shall make
14 available all documents and information, as may be
15 requested, to the legislature and any member or
16 committee of either house of the legislature;

17 (3) The director of finance or any employee of the
18 department of budget and finance, when duly
19 authorized, for the purpose of securing information,
20 shall have access to and may examine any books,
21 documents, papers, or records of any agency;



1 (4) Each agency submitting a capital improvement project
2 proposal shall furnish the department of budget and
3 finance with an estimate of operational costs for the
4 proposed capital improvement project and all documents
5 that support the estimate of operational costs. Each
6 agency shall make available all documents and related
7 information, as may be requested, to the legislature
8 and any member or committee of either house.

9 The director of finance shall provide a summary
10 of this information in the multi-year program and
11 financial plan and budget submitted to the legislature
12 before the regular session of each odd-numbered year
13 and the supplemental budget submitted to the
14 legislature before the regular session of each even-
15 numbered year; and

16 (5) Each agency responsible for operating or maintaining a
17 state-owned building, facility, or other improvement
18 shall furnish the department of budget and finance
19 with an estimate of the deferred maintenance costs for
20 the building, facility, or other improvement.



1 The director of finance shall provide a summary
2 of this information in the multi-year program and
3 financial plan and budget submitted to the legislature
4 before the regular session of each odd-numbered year
5 and the supplemental budget submitted to the
6 legislature before the regular session of each even-
7 numbered year.

8 For the purposes of this paragraph, "deferred
9 maintenance costs" means the costs to catch up on the
10 repair and maintenance of the state-owned building,
11 facility, or other improvement that has been delayed
12 past the ordinarily scheduled repair and maintenance
13 cycle. The department of budget and finance may
14 further refine this definition in its instructions to
15 the agencies furnishing the information."

16 SECTION 5. Section 87A-34, Hawaii Revised Statutes, is
17 amended by amending subsection (a) to read as follows:

18 "(a) This section shall apply to state and county
19 contributions to the fund for employees specified in paragraph
20 ~~[(1)-(E)]~~ (1) (D) of the definition of "employee" in section 87A-1.
21 who:



- 1 (1) Were hired on or before June 30, 1996; and
2 (2) Retired after June 30, 1984, with fewer than ten years
3 of credited service, excluding sick leave."

4 SECTION 6. Section 87A-36, Hawaii Revised Statutes, is
5 amended by amending subsection (c) to read as follows:

6 "(c) The State, through the department of budget and
7 finance, and the counties, through their respective departments
8 of finance, shall pay to the fund:

- 9 (1) For retired employees based on the self plan with ten
10 or more years but fewer than fifteen years of service,
11 a monthly contribution equal to one-half of the base
12 medicare or non-medicare monthly contribution set
13 forth under section 87A-33(b);

- 14 (2) For retired employees based on the self plan with at
15 least fifteen but fewer than twenty-five years of
16 service, a monthly contribution equal to seventy-five
17 per cent of the base medicare or non-medicare monthly
18 contribution set forth under section 87A-33(b);

- 19 (3) For retired employees based on the self plan with
20 twenty-five or more years of service, a monthly
21 contribution equal to ~~[one hundred]~~ one hundred per



cent of the base medicare or non-medicare monthly contribution set forth under section 87A-33(b); and

- (4) One-half of the monthly contributions for the employee-beneficiary or employee-beneficiary with dependent-beneficiaries upon the death of the employee, as defined in paragraph ~~[(1)-(E)]~~ (1)(D) of the definition of "employee" in section 87A-1.

If both husband and wife are employee-beneficiaries, the total contribution by the State or county shall not exceed the monthly contribution for two supplemental medicare self or non-medicare self plans, as appropriate."

SECTION 7. Section 88-211, Hawaii Revised Statutes, is amended to read as follows:

"§88-211 Definitions. For the purposes of this part:

~~[(1) The term "wages" means all remuneration for employment as defined herein, including the cash value of all remuneration paid in any medium other than cash, except that the term shall not include that part of the remuneration which, even if it were for "employment" within the meaning of the Federal~~



1 ~~Insurance Contributions Act, would not constitute~~
2 ~~"wages" within the meaning of that Act,~~

3 ~~(2) The term "employment" means any service performed by~~
4 ~~an employee in the employ of the State, or any~~
5 ~~political subdivision thereof, for such employer~~
6 ~~except~~

7 ~~(A) Service which in the absence of an agreement~~
8 ~~entered into under this part would constitute~~
9 ~~"employment" as defined in the Social Security~~
10 ~~Act, or~~

11 ~~(B) Service which under the Social Security Act may~~
12 ~~not be included in an agreement between the State~~
13 ~~and the Department of Health and Human Services~~
14 ~~entered into under this part. Service which~~
15 ~~under the Social Security Act may be included in~~
16 ~~an agreement only upon certification by the~~
17 ~~governor in accordance with section 218(d)(3) of~~
18 ~~that Act shall be included in the term~~
19 ~~"employment" if and when the governor issues,~~
20 ~~with respect to such service, a certificate to~~



1 ~~the Secretary of Health and Human Services~~

2 ~~pursuant to section 88-219,~~

3 ~~(3) The term "employee" includes an officer of the State~~
4 ~~or political subdivision thereof,~~

5 ~~(4) The term "state agency" means the executive director~~
6 ~~of the state employees' retirement system,~~

7 ~~(5) The term "Secretary of Health and Human Services"~~
8 ~~includes an individual to whom the Secretary of Health~~
9 ~~and Human Services has delegated any of the~~
10 ~~Secretary's functions under the Social Security Act~~
11 ~~with respect to coverage under the Act of employees of~~
12 ~~the states and territories and their political~~
13 ~~subdivisions,~~

14 ~~(6) The term "political subdivision" includes an~~
15 ~~instrumentality of the State, of one or more of its~~
16 ~~political subdivisions, or of the State and one or~~
17 ~~more of its political subdivisions, but only if the~~
18 ~~instrumentality is a juristic entity which is legally~~
19 ~~separate and distinct from the State or subdivision~~
20 ~~and only if its employees are not by virtue of their~~



1 ~~relation to the juristic entity employees of the State~~
2 ~~or subdivision;~~

3 ~~(7) The term "Social Security Act" means the Act of~~
4 ~~Congress approved August 14, 1935, chapter 531, 49~~
5 ~~Statutes At Large 620, officially cited as the "Social~~
6 ~~Security Act", (including regulations and requirements~~
7 ~~issued pursuant thereto), as such Act has been and may~~
8 ~~from time to time be amended;~~

9 ~~(8) The term "Federal Insurance Contributions Act" means~~
10 ~~subchapter A of chapter 9 of the federal Internal~~
11 ~~Revenue Code of 1939 and subchapters A and B of~~
12 ~~chapter 21 of the federal Internal Revenue Code of~~
13 ~~1954, as such Codes have been and may from time to~~
14 ~~time be amended; and the term "employee tax" means the~~
15 ~~tax imposed by section 1400 of the Code of 1939 and~~
16 ~~section 3101 of the Code of 1954.]~~

17 "Employee" includes an officer of the State or political
18 subdivision thereof.

19 "Employment" means any service performed by an employee in
20 the employ of the State, or any political subdivision thereof,
21 for that employer, except:



- 1 (1) Service that, in the absence of an agreement entered
2 into under this part, would constitute "employment" as
3 defined in the Social Security Act; or
- 4 (2) Service that under the Social Security Act may not be
5 included in an agreement between the State and the
6 Department of Health and Human Services entered into
7 under this part. Service that under the Social
8 Security Act may be included in an agreement only upon
9 certification by the governor in accordance with
10 section 218(d)(3) of that Act shall be included in the
11 term "employment" if and when the governor issues,
12 with respect to the service, a certificate to the
13 Secretary of Health and Human Services pursuant to
14 section 88-219.

15 "Federal Insurance Contributions Act" means subchapter A of
16 chapter 9 of the Internal Revenue Code of 1939 and subchapters A
17 and B of chapter 21 of the Internal Revenue Code of 1954, as
18 those Codes have been and may from time to time be amended; and
19 the term "employee tax" means the tax imposed by section 1400 of
20 the Code of 1939 and section 3101 of the Code of 1954.



1 "Political subdivision" includes an instrumentality of the
2 State, of one or more of its political subdivisions, or of the
3 State and one or more of its political subdivisions, but only if
4 the instrumentality is a juristic entity that is legally
5 separate and distinct from the State or subdivision and only if
6 its employees are not by virtue of their relation to the
7 juristic entity employees of the State or subdivision.

8 "Secretary of Health and Human Services" includes an
9 individual to whom the Secretary of Health and Human Services
10 has delegated any of the Secretary's functions under the Social
11 Security Act with respect to coverage under the Act of employees
12 of the states and territories and their political subdivisions.

13 "Social Security Act" means the Act of Congress approved
14 August 14, 1935, chapter 531, 49 Statutes At Large 620,
15 officially cited as the "Social Security Act", (including
16 regulations and requirements issued pursuant thereto), as that
17 Act has been and may from time to time be amended.

18 "State agency" means the executive director of the state
19 employees' retirement system.

20 "Wages" means all remuneration for employment as defined in
21 this section, including the cash value of all remuneration paid



1 in any medium other than cash, except that the term shall not
2 include that part of the remuneration that, even if it were for
3 "employment" within the meaning of the Federal Insurance
4 Contributions Act, would not constitute "wages" within the
5 meaning of that Act."

6 SECTION 8. Section 103-55, Hawaii Revised Statutes, is
7 amended by amending subsection (c) to read as follows:

8 "(c) This section shall apply to all contracts to perform
9 services in excess of \$25,000, including contracts to supply
10 ambulance service and janitorial service.

11 This section shall not apply to:

12 (1) Managerial, supervisory, or clerical personnel[-];

13 (2) Contracts for supplies, materials, or printing[-];

14 (3) Contracts for utility services[-];

15 (4) Contracts to perform personal services under

16 ~~[paragraphs (2), (3), (12), and (15) of section 76-16,~~

17 ~~paragraphs (7), (8), and (9) of section 46-33, and~~

18 ~~paragraphs (7), (8), and (12) of section 76-77.]~~

19 section 46-33(7), (8), and (9), section 76-16(b)(2),

20 (3), (12), and (15), and section 76-77(7), (8), and

21 (12);



(5) Contracts for professional services~~[-]~~;

(6) Contracts to operate refreshment concessions in public
parks, or to provide food services to educational
institutions~~[-]~~;

(7) Contracts to provide transportation services for
school children~~[-]~~; or

(8) Contracts with nonprofit institutions."

SECTION 9. Section 183D-66, Hawaii Revised Statutes, is
amended by amending subsection (e) to read as follows:

"(e) To the extent permitted under federal law, none of
the prohibitions set forth in this section shall apply if:

(1) The covered animal species part or product is part of
a bona fide antique; provided that:

(A) The antique status of ~~[such-a]~~ the part or
product is established by the owner or seller
thereof with historical documentation showing the
antique to be not less than one hundred years
old;

(B) The covered animal species part or product is
less than twenty per cent by volume of ~~[such-an]~~
the antique; and



(C) The covered animal species part or product is a fixed component or components of a larger manufactured item and is not, in its current form, the primary source of value of the item;

(2) The distribution of the covered animal species part or product is:

(A) For a bona fide educational or scientific purpose; or

(B) To or from a museum;

(3) The distribution of the covered animal species part or product is to a legal beneficiary of an estate, trust, or other inheritance;

(4) The covered animal species part or product is less than twenty per cent by volume of a gun, knife, or musical instrument, including without limitation string instruments and bows, wind and percussion instruments, and pianos, if the owner or seller provides historical documentation showing the item was manufactured no later than 1975 and the covered animal species part or product is a fixed component or components of a larger manufactured item and is not,



1 in its current form, the primary source of value of
2 the item;

3 (5) The sale, offer for sale, purchase, trade,
4 [†]possession[†] with intent to sell, or barter of the
5 covered animal species part or product is expressly
6 authorized by federal law or permit; or

7 (6) The activity is authorized under section 183D-6."

8 SECTION 10. Section 188-70, Hawaii Revised Statutes, is
9 amended by amending subsections (b), (c), and (d) to read as
10 follows:

11 "(b) Any person violating section 188-23, is guilty of a
12 class C felony and shall be sentenced pursuant to chapter 706;
13 provided that the environmental court, in addition to any term
14 of imprisonment or any other terms and conditions of probation,
15 shall order the defendant to pay a fine of not less than \$1,000.
16 Notwithstanding section 706-669 and any other law to the
17 contrary, any person in violation of [~~subsection (b)~~] section
18 188-23(b), as a first offense, shall be sentenced to a mandatory
19 minimum period of imprisonment without possibility of parole
20 [~~for~~] of thirty days. Repeat offenders shall be sentenced
21 pursuant to chapter 706.



1 (c) The environmental court may require the defendant to
2 complete an aquatic resources educational class administered by
3 the department of land and natural resources in addition to or
4 in lieu of paying all or any part of any monetary fine
5 authorized by this section.

6 (d) The environmental court may direct the defendant to
7 perform community service as administered by the department of
8 land and natural resources in lieu of paying any monetary fine
9 authorized by this section."

10 SECTION 11. Section 201H-110, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "[~~+~~]§201H-110[~~+~~] Loans; default. The corporation may
13 [~~renegotiate,~~];

14 (1) Renegotiate, refinance, or foreclose any loan in
15 default[~~-~~];

16 (2) [~~The corporation may waive~~] Waive any default or
17 consent to the modification of the terms of any loan
18 or security agreement[~~-~~];

19 (3) [~~The corporation may commence~~] Commence any action to
20 protect or enforce any right conferred upon it by any



1 law, mortgage, insurance policy, contract, or other
2 agreement [-];

3 (4) [~~The corporation may bid~~] Bid for and purchase the
4 property secured by the loan at any foreclosure or
5 other sale, or acquire or take possession of the
6 property secured by the loan [-]; and

7 (5) [~~The corporation may operate,~~] Operate, manage, lease,
8 dispose of, or otherwise deal with the property
9 secured by the loan."

10 SECTION 12. Section 201M-6, Hawaii Revised Statutes, is
11 amended by amending subsection (b) to read as follows:

12 "(b) Upon submission of the petition, the agency shall
13 forward a copy of the petition to the board, as notification of
14 a petition filed under this chapter. The agency shall promptly
15 consider the petition and may seek advice and counsel regarding
16 the petition from the appropriate departmental advisory
17 committee on small business. Within sixty days after the
18 submission of the petition, the agency shall determine whether
19 the impact statement or the public hearing addressed the actual
20 and significant impact on small business. The agency shall
21 submit a written response of the agency's determination to the



1 [small-business-review] board within sixty days after receipt of
2 the petition. If the agency determines that the petition merits
3 the adoption, amendment, or repeal of a rule, it may initiate
4 proceedings in accordance with section 91-3."

5 SECTION 13. Section 201M-8, Hawaii Revised Statutes, is
6 amended by amending subsection (b) to read as follows:

7 "(b) Subsection (a) shall not apply:

8 (1) When a small business fails to exercise good faith in
9 complying with the statute or rules;

10 (2) When a violation involves wilful or criminal conduct;

11 (3) When a violation results in serious health and safety
12 impacts;

13 (4) To violations of chapters 6E, 180, 180C, 181, 182,
14 183, 183C, 183D, 186, 187A, 188, 188F, 189, 190, 190D,
15 195, 195D, 195F, 205, 205A, 340A, 340E, 341, 342B,
16 342C, 342D, 342E, 342F, 342G, 342H, 342I, 342J, 342L,
17 and 342P;

18 (5) To violations of sections 200-9(b) [~~and (e),~~] to (d),
19 200-24(4), 200-37, and 200-38; or

20 (6) To violations of administrative rules promulgated
21 pursuant to section [†]200-4(a)(6)[†]; except for



1 rules pertaining to matters listed in section [f]200-
2 4(a)(6)(A), (B), (C), and (D) [f]."

3 SECTION 14. Section 202-2, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§202-2 Duties of council. In accordance with P.L. 113-
6 128 (29 U.S.C. section 3111), the workforce development council
7 shall assist the governor in:

8 (1) The development, implementation, and modification of
9 the state plan consistent with P.L. 113-128 (29 U.S.C.
10 section 3112);

11 (2) The review of statewide policies, statewide programs,
12 and recommendations on actions that should be taken by
13 the State to align workforce development programs in a
14 manner that supports a comprehensive and streamlined
15 workforce development system in the State, including
16 consideration of programs and activities of one-stop
17 partners that are not core programs;

18 (3) The development and continuous improvement of the
19 workforce development system in the State;

20 (4) The development and updating of comprehensive state
21 performance accountability measures, including state



1 adjusted levels of performance, to assess the
2 effectiveness of the core programs in the State as
3 required under P.L. 113-128 (29 U.S.C. section
4 3141(b));

5 (5) The identification and dissemination of information on
6 best practices for the effective operation of one-stop
7 centers, and the development of effective local boards
8 and effective training programs;

9 (6) The development and review of statewide policies
10 affecting the coordinated provision of services
11 through the State's one-stop delivery system;

12 (7) The development of strategies for technological
13 improvements to facilitate access to, and improve the
14 quality of, services and activities provided through
15 the one-stop delivery system;

16 (8) The development of strategies for aligning technology
17 and data systems across one-stop partner programs to
18 enhance service delivery and improve efficiencies in
19 reporting on performance accountability measures,
20 including the design and implementation of common
21 intake, data collection, case management information,



1 and performance accountability measurement and
2 reporting processes, and the incorporation of local
3 input into [such] the design and implementation, to
4 improve coordination of services across one-stop
5 partner programs;

- 6 (9) The development of allocation formulas for the
7 distribution of funds for employment and training
8 activities for adults, and youth workforce investment
9 activities, to local areas as permitted under P.L.

10 113-128 (29 U.S.C. sections 3163(b)(3), 3173(b)(3));

- 11 (10) The preparation of annual reports as described in P.L.
12 113-128 (29 U.S.C. section 3141(d));

- 13 (11) The development of the statewide workforce and labor
14 market information system described in the Wagner-
15 Peyser Act (29 U.S.C. section 491-2(e));

- 16 (12) The development of [such] other policies as may
17 promote statewide objectives for, and enhance the
18 performance of, the workforce development system;

- 19 (13) Creating public awareness and understanding of the
20 State's workforce development plans, policies,
21 programs, and activities, and promoting the plans,



1 policies, programs, and activities as economic
2 investments;

3 (14) Submitting annual reports of the council's activities
4 and recommendations to the governor and the
5 legislature, and posting the annual reports
6 electronically on the council's website no later than
7 twenty days before the convening of each regular
8 session. Annual reports shall include:

9 (A) The status of the comprehensive state plan for
10 workforce development; and

11 (B) Information regarding the workforce development
12 programs offered throughout the State, the number
13 of individuals placed in high-demand or high-
14 growth employment through workforce development
15 programs by departments, the type or category of
16 employment garnered, and allocations of state,
17 federal, and other funding to achieve placements
18 into higher-skilled jobs;

19 (15) Evaluating the state workforce development plan in
20 terms of how its purposes, goals, and objectives have
21 been carried out throughout the State;



- 1 (16) Providing technical assistance to local workforce
2 development boards and other similar organizations;
3 (17) Carrying out required functions and duties related to
4 workforce development of any advisory body required or
5 made optional by federal legislation;
6 (18) The review and certification of local workforce
7 development boards and plans prepared by local
8 workforce development boards for the use of federal
9 workforce development funds as provided in P.L. 113-
10 128 (29 U.S.C. section 3122(b)-(c)); and
11 (19) Commenting on the measures taken pursuant to section
12 122(c)(17) of the Carl D. Perkins Career and Technical
13 Education Act of 2006, P.L. 109-270."

14 SECTION 15. Section 205-2, Hawaii Revised Statutes, is
15 amended by amending subsection (d) to read as follows:

16 "(d) Agricultural districts shall include:

- 17 (1) Activities or uses as characterized by the cultivation
18 of crops, crops for bioenergy, orchards, forage, and
19 forestry;
20 (2) Farming activities or uses related to animal husbandry
21 and game and fish propagation;



1 (3) Aquaculture, which means the production of aquatic
2 plant and animal life within ponds and other bodies of
3 water;

4 (4) Wind generated energy production for public, private,
5 and commercial use;

6 (5) Biofuel production, as described in section
7 205-4.5(a)(16), for public, private, and commercial
8 use;

9 (6) Solar energy facilities; provided that:

10 (A) This paragraph shall apply only to land with soil
11 classified by the land study bureau's detailed
12 land classification as overall (master)
13 productivity rating class B, C, D, or E; and

14 (B) Solar energy facilities placed within land with
15 soil classified as overall productivity rating
16 class B or C shall not occupy more than ten per
17 cent of the acreage of the parcel, or twenty
18 acres of land, whichever is lesser, unless a
19 special use permit is granted pursuant to section
20 205-6;



- 1 (7) Bona fide agricultural services and uses that support
2 the agricultural activities of the fee or leasehold
3 owner of the property and accessory to any of the
4 above activities, regardless of whether conducted on
5 the same premises as the agricultural activities to
6 which they are accessory, including farm dwellings as
7 defined in section 205-4.5(a)(4), employee housing,
8 farm buildings, mills, storage facilities, processing
9 facilities, photovoltaic, biogas, and other small-
10 scale renewable energy systems producing energy solely
11 for use in the agricultural activities of the fee or
12 leasehold owner of the property, agricultural-energy
13 facilities as defined in section 205-4.5(a)(17),
14 vehicle and equipment storage areas, and plantation
15 community subdivisions as defined in section
16 205-4.5(a)(12);
- 17 (8) Wind machines and wind farms;
- 18 (9) Small-scale meteorological, air quality, noise, and
19 other scientific and environmental data collection and
20 monitoring facilities occupying less than one-half
21 acre of land; provided that these facilities shall not



1 be used as or equipped for use as living quarters or
2 dwellings;

3 (10) Agricultural parks;

4 (11) Agricultural tourism conducted on a working farm, or a
5 farming operation as defined in section 165-2, for the
6 enjoyment, education, or involvement of visitors;
7 provided that the agricultural tourism activity is
8 accessory and secondary to the principal agricultural
9 use and does not interfere with surrounding farm
10 operations; and provided further that this paragraph
11 shall apply only to a county that has adopted
12 ordinances regulating agricultural tourism under
13 section 205-5;

14 (12) Agricultural tourism activities, including overnight
15 accommodations of twenty-one days or less, for any one
16 stay within a county; provided that this paragraph
17 shall apply only to a county that includes at least
18 three islands and has adopted ordinances regulating
19 agricultural tourism activities pursuant to section
20 205-5; provided further that the agricultural tourism
21 activities coexist with a bona fide agricultural



1 activity. For the purposes of this paragraph, "bona
2 fide agricultural activity" means a farming operation
3 as defined in section 165-2;

4 (13) Open area recreational facilities;

5 (14) Geothermal resources exploration and geothermal
6 resources development, as defined under section 182-1;

7 (15) Agricultural-based commercial operations, including:

8 (A) A roadside stand that is not an enclosed
9 structure, owned and operated by a producer for
10 the display and sale of agricultural products
11 grown in Hawaii and value-added products that
12 were produced using agricultural products grown
13 in Hawaii;

14 (B) Retail activities in an enclosed structure owned
15 and operated by a producer for the display and
16 sale of agricultural products grown in Hawaii,
17 value-added products that were produced using
18 agricultural products grown in Hawaii, logo items
19 related to the producer's agricultural
20 operations, and other food items; and



1 (C) A retail food establishment owned and operated by
2 a producer and permitted under [~~title 11, chapter~~
3 ~~12 of the rules of the department of health~~]
4 chapter 11-50, Hawaii administrative rules, that
5 prepares and serves food at retail using products
6 grown in Hawaii and value-added products that
7 were produced using agricultural products grown
8 in Hawaii.

9 The owner of an agricultural-based commercial
10 operation shall certify, upon request of an officer or
11 agent charged with enforcement of this chapter under
12 section 205-12, that the agricultural products
13 displayed or sold by the operation meet the
14 requirements of this paragraph; and

15 (16) Hydroelectric facilities as described in section
16 205-4.5(a)(23).

17 Agricultural districts shall not include golf courses and golf
18 driving ranges, except as provided in section 205-4.5(d).

19 Agricultural districts include areas that are not used for, or
20 that are not suited to, agricultural and ancillary activities by
21 reason of topography, soils, and other related characteristics."



1 SECTION 16. Section 205-4, Hawaii Revised Statutes, is
2 amended by amending subsection (e) to read as follows:

3 "(e) Any other provisions of law to the contrary
4 notwithstanding, agencies and persons may intervene in the
5 proceedings in accordance with this subsection.

6 (1) The petitioner, the office of planning, and the county
7 planning department shall in every case appear as
8 parties and make recommendations relative to the
9 proposed boundary change[-];

10 (2) All departments and agencies of the State and of the
11 county in which the land is situated shall be admitted
12 as parties upon timely application for
13 intervention[-];

14 (3) All persons who have some property interest in the
15 land, who lawfully reside on the land, or who
16 otherwise can demonstrate that they will be so
17 directly and immediately affected by the proposed
18 change that their interest in the proceeding is
19 clearly distinguishable from that of the general
20 public shall be admitted as parties upon timely
21 application for intervention[-];



1 (4) All other persons may apply to the commission for
2 leave to intervene as parties. Leave to intervene
3 shall be freely granted~~[7]~~; provided that the
4 commission or its hearing officer, if one is
5 appointed, may deny an application to intervene when
6 in the commission's or hearing officer's sound
7 discretion it appears that:

8 (A) ~~[the]~~ The position of the applicant for
9 intervention concerning the proposed change is
10 substantially the same as the position of a party
11 already admitted to the proceeding; and

12 (B) ~~[the]~~ The admission of additional parties will
13 render the proceedings inefficient and
14 unmanageable.

15 A person whose application to intervene is denied may
16 appeal ~~[such]~~ the denial to the circuit court pursuant
17 to section 91-14~~[7]~~; and

18 (5) The commission ~~[shall]~~, pursuant to chapter 91, shall
19 adopt rules governing the intervention of agencies and
20 persons under this subsection. ~~[Such]~~ The rules shall
21 without limitation establish:



1 (A) ~~[the]~~ The information to be set forth in any
2 application for intervention;

3 (B) ~~[time]~~ The limits within which ~~[such]~~
4 applications shall be filed; and

5 (C) ~~[reasonable]~~ Reasonable filing fees to accompany
6 ~~[such]~~ applications."

7 SECTION 17. Section 206-1, Hawaii Revised Statutes, is
8 amended by amending the definition of "government" to read as
9 follows:

10 "Government" shall have the ~~[respective]~~ meaning set forth
11 in section 201H-1."

12 SECTION 18. Section 206-6, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "§206-6 Acquisition of land within a development area.

15 (a) After the declaration of a development area, the board of
16 land and natural resources may acquire a parcel or parcels of
17 land, which it shall thereafter designate for the appropriate
18 development project or projects within the area. If necessary
19 lands cannot reasonably be acquired by voluntary transaction,
20 the board may institute eminent domain proceedings to acquire
21 the land and improvements; provided that negotiations for the



1 acquisition by voluntary transaction shall not be required
2 before the institution of eminent domain proceedings. The board
3 ~~[shall]~~, within twelve months ~~[next]~~ following its designation,
4 shall acquire or institute eminent domain proceedings to acquire
5 the lands so designated. If the lands are not acquired or
6 eminent domain proceedings are not instituted within the twelve
7 month period, ~~[it]~~ the board shall reimburse the owner of the
8 lands so designated for out-of-pocket expenses of appraisal,
9 survey, and ~~[attorney]~~ attorney's fees ~~[as]~~ that the owner may
10 have incurred as a result of the designation.

11 (b) Subject to the restrictions in ~~[the following~~
12 ~~section,]~~ section 206-7, the board may acquire for development
13 projects any lands suitable for residential use or suitable for
14 such use or uses upon subdivision and development. The board
15 may also acquire, in connection with the development projects,
16 lands necessary for roads, sidewalks, parks, schools, utilities,
17 and playground and recreational facilities~~[, and]~~; rights to
18 water and access~~[. The board may also acquire, in connection~~
19 ~~with the development projects,]~~ and lands for business use
20 where the use is reasonably necessary to provide services to the
21 prospective occupants of the projects. Plans and specifications



1 for projects shall include provisions for roads, sidewalks,
2 parks, schools, utilities, playground and recreational
3 facilities, and other appropriate improvements, so that they
4 will be suitable for disposition as hereinafter provided."

5 SECTION 19. Section 206-7, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "\$206-7 Property [~~which~~] that shall not be acquired for
8 development projects. (a) In declaring development areas, and
9 acquiring land therein, the board of land and natural resources
10 shall avoid disturbing existing uses [~~which~~] that are in accord
11 with the highest use permitted under any existing zoning
12 ordinance in the political subdivision concerned.

13 (b) The board shall not acquire for development projects:

14 (1) Lands already developed and improved as business or
15 industrial areas where use of the lands for
16 residential purposes or as a part of a development
17 project would be economically unsound or where an
18 undue hardship would be suffered by the community
19 through loss of service because of the acquisition;

20 (2) Lands already in use for residential purposes by the
21 owner thereof or by a lessee holding a lease with an



1 original term of twenty years or more, except where
2 the acquisition of parts of the lands is reasonably
3 necessary for the proper development of a project, but
4 in no case shall any part of the lands be taken where
5 the taking will reduce the parcel to less than three
6 acres in extent;

7 (3) Lands in the process of subdivision and development
8 where the owner or the owner's agent has provided that
9 at least fifty per cent of the lots to be sold shall
10 be sold in fee simple, prepared subdivision and
11 construction plans, arranged for financing, and
12 applied to government agencies and otherwise taken
13 [~~such~~] steps [~~as~~] that may be appropriate for the
14 construction of the proposed development in good faith
15 and filed an affidavit with the board to that effect;

16 or

17 (4) Lands used or to be used as sites for churches,
18 private or parochial schools, clubs, meeting houses,
19 or other private uses of a community, civic, social,
20 or religious nature;



1 provided that portions of the lands mentioned under paragraphs
2 (1), (2), (3), and (4) [~~of this section~~], or interests therein,
3 may be taken to provide access and utility easements where no
4 other reasonable means of access or utility easements are
5 available.

6 (c) In acquiring agricultural land for a development
7 project, where the land though used for agricultural purposes is
8 not being used in accord with the highest use permitted under
9 any existing zoning ordinance, the board shall exercise all
10 reasonable care not to jeopardize the agricultural enterprise
11 concerned. If, however, the board finds that the land is
12 necessary for a development project, [~~it~~] the board may provide
13 assistance, monetary or otherwise, in relocating the enterprise
14 elsewhere or pay [~~such~~] damages to the owner or operator of
15 [~~such~~] the enterprise [~~as~~] that will reasonably compensate the
16 owner or operator for the owner's or operator's loss, if the
17 owner or operator has not already been so compensated under a
18 lease agreement, or both."

19 SECTION 20. Section 206-10, Hawaii Revised Statutes, is
20 amended by amending subsection (b) to read as follows:



1 "(b) Any original purchaser intending to sell ~~[such]~~ any
2 lot and improvements within the five-year period shall first
3 notify the board in writing of the original purchaser's
4 intention. The notice shall specify the original purchaser's
5 address and shall expressly offer to sell ~~[such]~~ the property to
6 the board at a price ~~[which]~~ that shall not exceed the sum of
7 the:

8 (1) ~~[the original]~~ Original cost of the land~~[7]~~; and

9 (2) ~~[the replacement]~~ Replacement value, less depreciation
10 at the rates used for real property tax purposes, of
11 all buildings and improvements thereon, to be
12 determined by three appraisers; one appointed by the
13 board, one appointed by the owner, and the third by
14 the two appraisers so appointed, the cost to be borne
15 equally by the parties.

16 Within thirty days after the receipt of the notice, the board
17 ~~[shall]~~ in writing shall notify the original purchaser at the
18 specified address ~~[so specified]~~ whether it elects to exercise
19 the option. If the board refuses, or fails within the thirty-
20 day period, to reply to the offer, the original purchaser may
21 sell the property to any other person free from any price



1 restrictions~~[7]~~; provided that if the board elects to purchase,
2 the board shall ~~[thereupon]~~ use its best efforts to redispense of
3 ~~[it]~~ the property as soon as practicable subject to the lien of
4 any mortgage, to a qualified and responsible person who will
5 assume the obligation of mortgage and debt secured thereby."

6 SECTION 21. Section 206-11, Hawaii Revised Statutes, is
7 amended by amending subsection (c) to read as follows:

8 "(c) Nothing in this chapter shall be construed as
9 limiting the power of the board~~[+---(1)]~~ to vest in an obligee
10 the right, in the event of a default by the ~~[board]~~:

11 (1) Board or by the purchaser, to take possession of a
12 development project or lot or cause the appointment of
13 a receiver thereof, free from all the restrictions
14 imposed by this chapter; or

15 ~~(2) [to vest in the obligee the right, in the event of a~~
16 ~~default by the purchaser,]~~ Purchaser, to acquire title
17 to a lot or the property mortgaged by the purchaser
18 free from all the restrictions imposed by this
19 chapter."

20 SECTION 22. Section 206E-2, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§206E-2 Definitions. As used in this chapter, the
2 following ~~[words and]~~ terms ~~[shall]~~ have the following meanings,
3 unless the context ~~[shall indicate another or]~~ indicates a
4 different meaning or intent:

5 ~~[(1)]~~ "Authority" means the Hawaii community development
6 authority established by section 206E-3.

7 ~~[(2)]~~ "County" means any county of the State.

8 ~~[(3)]~~ "Local governing body" means the county council.

9 ~~[(4)]~~ "Project" means a specific work or improvement,
10 including real and personal properties, or any interest therein,
11 acquired, owned, constructed, reconstructed, rehabilitated, or
12 improved by the authority, including a ~~[residential]~~ commercial
13 project, a redevelopment project, or a ~~[commercial]~~ residential
14 project, all as defined ~~[herein,]~~ as follows, or any combination
15 thereof, which combination shall hereinafter be called and known
16 as a "multipurpose project".

17 ~~[(A)] "Residential project" means a project or that~~
18 ~~portion of a multipurpose project, including~~
19 ~~residential dwelling units, designed and intended~~
20 ~~for the purpose of providing housing and such~~



1 ~~facilities as may be incidental or appurtenant~~
2 ~~thereto,~~

3 ~~(B) "Redevelopment project" means an undertaking for~~
4 ~~the acquisition, clearance, replanning,~~
5 ~~reconstruction, and rehabilitation or a~~
6 ~~combination of these and other methods, of an~~
7 ~~area for a residential project, for an incidental~~
8 ~~commercial project, and for other facilities~~
9 ~~incidental or appurtenant thereto, pursuant to~~
10 ~~and in accordance with this chapter. The terms~~
11 ~~"acquisition, clearance, replanning,~~
12 ~~reconstruction, and rehabilitation" shall include~~
13 ~~renewal, redevelopment, conservation,~~
14 ~~restoration, or improvement, or any combination~~
15 ~~thereof,~~

16 ~~(C) "Commercial project" means an undertaking~~
17 ~~involving commercial or light industrial~~
18 ~~development, which includes a mixed use~~
19 ~~development where commercial or light industrial~~
20 ~~facilities may be built into, adjacent to, under~~
21 ~~or above residential units.] As used in this~~



1 definition:

2 (1) "Commercial project" means an undertaking involving
3 commercial or light industrial development, which
4 includes a mixed-use development where commercial or
5 light industrial facilities may be built into,
6 adjacent to, under, or above residential units;

7 (2) "Redevelopment project" means an undertaking for the
8 acquisition, clearance, replanning, reconstruction,
9 and rehabilitation, or a combination of these and
10 other methods, of an area for a residential project,
11 for an incidental commercial project, and for other
12 facilities incidental or appurtenant thereto, pursuant
13 to and in accordance with this chapter. The terms
14 "acquisition, clearance, replanning, reconstruction,
15 and rehabilitation" shall include renewal,
16 redevelopment, conservation, restoration, or
17 improvement, or any combination thereof; and

18 (3) "Residential project" means a project or that portion
19 of a multipurpose project, including residential
20 dwelling units, designed and intended for the purpose



1 of providing housing and any facilities as may be
2 incidental or appurtenant thereto.

3 ~~[(5)]~~ "Project cost" means the total of all costs incurred
4 by the authority in carrying out all undertakings ~~[which]~~ that
5 it deems reasonable and necessary for the development of a
6 project, including but not limited to: studies; surveys; plans;
7 specifications; architectural, engineering, or any other
8 development related services; acquisition of land and any
9 improvement thereon; site preparation and development;
10 construction; reconstruction; rehabilitation; the necessary
11 expenses in administering the chapter; the cost of financing the
12 project; and relocation costs.

13 ~~[(6)]~~ "Public agency" means any office, department, board,
14 commission, bureau, division, public corporation agency, or
15 instrumentality of the federal, state, or county government.

16 ~~[(7)]~~ "Public facilities" includes streets, utility and
17 service corridors, and utility lines where applicable,
18 sufficient to adequately service developable improvements in the
19 district, sites for schools, parks, parking garage, sidewalks,
20 pedestrian ways, and other community facilities. "Public
21 facilities" shall also include public highways, as defined by



1 statute, storm drainage systems, water systems, street lighting
2 systems, off-street parking facilities, and sanitary sewerage
3 systems.

4 ~~[-8-]~~ "Qualified person" includes any individual,
5 partnership, corporation, or any public agency~~[-]~~ possessing the
6 competence, expertise, experience, and resources, including
7 financial, personnel, and tangible resources, required for the
8 purposes of the project and ~~[such]~~ other qualifications as may
9 be deemed desirable by the authority in administering ~~[the]~~ this
10 chapter.

11 ~~[-9-]~~ "Real property" means lands, structures, and
12 interests in land, including lands under water and riparian
13 rights, space rights, and air rights and any and all other
14 things and rights usually included within the term. Real
15 property also means any and all interests in ~~[such]~~ the property
16 less than full title, such as easements, incorporeal
17 hereditaments, and every estate, interest, or right, legal or
18 equitable, including terms for years and liens thereon by way of
19 judgments, mortgages, or otherwise."

20 SECTION 23. Section 206J-12, Hawaii Revised Statutes, is
21 amended as follows:



1 1. By amending subsections (d) and (e) to read:

2 "(d) [~~Should~~] If any bond issued under this chapter or any
3 coupon appertaining thereto [~~become~~] is mutilated or [~~be~~] lost,
4 stolen, or destroyed, the development corporation may cause a
5 new bond or coupon of like date, number, and tenor to be
6 executed and delivered in exchange and substitution for, and
7 upon the cancellation of [~~such~~] the mutilated bond or coupon, or
8 in lieu of and in substitution for, [~~such~~] the lost, stolen, or
9 destroyed bond or coupon. [~~Such~~] The new bond or coupon shall
10 not be executed or delivered until the holder of the mutilated,
11 lost, stolen, or destroyed bond or coupon:

12 (1) [~~has~~] Has paid the reasonable expense and charges in
13 connection therewith[~~7~~];

14 (2) [~~in~~] In the case of a lost, stolen, or destroyed bond
15 or coupon, has filed with the development corporation
16 or its fiduciary evidence satisfactory to the
17 development corporation or its fiduciary that [~~such~~]
18 the bond or coupon was lost, stolen, or destroyed and
19 that the holder was the owner thereof[~~7~~]; and

20 (3) [~~has~~] Has furnished indemnity satisfactory to the
21 development corporation.



1 (e) The development corporation in its discretion may
2 provide that CUSIP identification numbers shall be printed on
3 ~~[such]~~ bonds. ~~[In the event such]~~ If CUSIP identification
4 numbers are imprinted on any ~~[such]~~ bonds:

- 5 (1) ~~[no such]~~ No CUSIP identification number shall
6 constitute a part of the contract evidenced by the
7 particular bond upon which it is imprinted~~[,]~~; and
8 (2) ~~[no]~~ No liability shall attach to the development
9 corporation or any officer or agent thereof, including
10 any fiscal agent, paying agent, or registrar for
11 ~~[such]~~ any bonds by reason of ~~[such]~~ any CUSIP
12 identification numbers or any use made thereof,
13 including any use thereof made by the development
14 corporation~~[,]~~ or any ~~[such]~~ officer~~[,]~~ or ~~[any such~~
15 ~~agent,]~~ agent thereof, or by reason of any inaccuracy,
16 error, or omission with respect thereto or in such
17 use.

18 The development corporation in its discretion may require that
19 all costs of obtaining and imprinting ~~[such]~~ CUSIP
20 identification numbers shall be paid by the purchaser of ~~[such]~~
21 the bonds. For the purposes of this subsection, the term "CUSIP



1 identification numbers" means the numbering system adopted by
2 the Committee for Uniform Security Identification Procedures
3 formed by the Securities Industry Association."

4 2. By amending subsection (i) to read:

5 "(i) The development corporation may issue bonds for the
6 purpose of refunding any bonds then outstanding and issued under
7 this chapter whether or not ~~[such]~~ the outstanding bonds have
8 matured or are then subject to redemption. The development
9 corporation may issue bonds for the combined purposes of:

10 (1) ~~[finaneing]~~ Financing or refinancing the cost of a
11 project, improvement, or expansion thereof~~[7]~~; and

12 (2) ~~[refunding]~~ Refunding bonds ~~[which]~~ that shall
13 theretofore have been issued under this chapter and
14 shall then be outstanding, whether or not ~~[such]~~ the
15 outstanding bonds have matured or are then subject to
16 redemption.

17 Nothing in this subsection shall require or be deemed to require
18 the development corporation to elect to redeem or prepay bonds
19 being refunded, or to redeem or prepay bonds being refunded
20 ~~[which]~~ that were issued, in the form customarily known as term
21 bonds in accordance with any sinking fund installment schedule



1 specified in any proceedings authorizing the issuance thereof,
2 or, [~~in the event~~] if the development corporation elects to
3 redeem or prepay any [~~such~~] bonds, to redeem or prepay as of any
4 particular date or dates. The issuance of [~~such~~] bonds, the
5 maturities and other details thereof, the rights and remedies of
6 the holders thereof, and the rights, powers, privileges, duties,
7 and obligations of the development corporation with respect to
8 the bonds, shall be governed by the foregoing provisions of this
9 chapter insofar as the same may be applicable."

10 SECTION 24. Section 207-11, Hawaii Revised Statutes, is
11 amended by amending the definition of "foreign lender" to read
12 as follows:

13 ""Foreign lender" means [~~(A)~~ "a"]:

14 (1) "A depository institution" as defined in section
15 501(a)(2) of the federal Depository Institutions
16 Deregulation and Monetary Control Act of 1980, a "real
17 estate investment trust" as defined in the Internal
18 Revenue Code, an insurance company, the principal
19 office of which is in another state, whether
20 incorporated or unincorporated and whether acting in



1 its individual capacity or in a fiduciary capacity[~~7-B~~
2 the];

3 (2) The trustee or trustees from time to time in office of
4 any employee benefit plan[~~7-(C)-a~~];

5 (3) A lender approved by the Secretary of the United
6 States Department of Housing and Urban Development for
7 participation in any mortgage insurance program under
8 the National Housing Act[~~7-(D)-any~~];

9 (4) Any corporation of which all of the capital stock
10 (except the directors' qualifying shares) is owned by
11 one or more foreign lenders specified in [~~(A)~~, ~~(B)~~],
12 paragraphs (1), (2), and [~~(C)~~], (3); and [~~(E)~~-any]

13 (5) Any corporation of which all of the capital stock
14 (except for the directors' qualifying shares) is owned
15 by one or more foreign lenders specified in [~~(D)~~, ~~but~~]
16 paragraph (4);

17 provided that the term "foreign lender" does not include any
18 financial services loan company licensed under article 9 of
19 chapter 412."

20 SECTION 25. Section 207-12, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§207-12 Exemptions and immunities. A foreign lender
2 ~~[which]~~ that:

3 (1) ~~[does]~~ Does not maintain a place of business in this
4 State~~[,]~~;

5 (2) ~~[conducts]~~ Conducts its principal activities outside
6 this State~~[,]~~; and

7 (3) ~~[complies]~~ Complies with this part,

8 does not by engaging in this State in any or all of the
9 activities specified in section 207-13, violate the laws of this
10 State relating to doing business or doing a banking, trust, or
11 insurance business, or become subject to chapter 412, 414, or
12 431, or become subject to any taxation ~~[which]~~ that would
13 otherwise be imposed for doing business in or doing a banking,
14 trust, or insurance business in, or having gross income or
15 receipts from sources in, property in, or the conduct of any
16 activity in, this State, or become subject to any taxation under
17 chapter 235, 237, or 241, and no income or receipts of any
18 foreign lender arising out of any of the activities specified in
19 ~~[the following]~~ section 207-13 shall constitute income from
20 sources in, property in, or activities conducted in this State
21 for the purposes of any tax imposed by this State~~[, provided]~~



1 ~~that nothing~~. Nothing in this part shall be construed to
2 exempt the real property of a foreign lender from taxation to
3 the same extent, according to its value, as other real property
4 is taxed, or to preclude the inclusion of the dividends or other
5 income from foreign lenders in the income of individuals taxable
6 under chapter 235 to the same extent as is included dividends
7 and other income from domestic lenders; ~~and~~ provided ~~further~~
8 that if any ~~such~~ foreign lender shall acquire any property in
9 this State in enforcement of the rights of the foreign lender in
10 the event of a default by any borrower, as permitted by section
11 207-13(4), then commencing one year after title to ~~such~~ that
12 property has vested in the foreign lender, the rents or other
13 receipts received by the foreign lender from, and the proceeds
14 of sale by the foreign lender of, ~~such~~ that property shall be
15 subject to taxation under chapters 235 and 237 in the same
16 manner and to the same extent as if the rents, other receipts,
17 or proceeds were received by a resident of this State; and
18 provided further that if any ~~such~~ foreign lender shall
19 otherwise acquire any property in this State or engage in any
20 business or activities in this State not specified in section
21 207-13, then the rents and other receipts received by the



1 foreign lender from [~~such~~] that property and the proceeds of
2 sale by the foreign lender of [~~such~~] that property and all
3 income and receipts from the foreign lender's business or
4 activities in this State not specified in section 207-13 shall
5 be subject to taxation under chapters 235 and 237 in the same
6 manner and to the same extent as if [~~such~~] the rents, other
7 receipts, proceeds, and income were received by a resident of
8 this State, but [~~such~~] the other activities and business shall
9 not deprive the foreign lender of the immunities and exemptions
10 from taxation [~~hereinabove stated~~] provided in this section with
11 respect to the activities specified in section 207-13."

12 SECTION 26. Section 207-13, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "§207-13 Permitted activities. The activities referred to
15 in [~~the preceding~~] section 207-12 are:

- 16 (1) Making loans;
17 (2) Receiving security for loans;
18 (3) Acquiring, by assignment or otherwise, partial or
19 entire interests in loans or in security for loans;
20 (4) Servicing (but servicing only by or through
21 individuals who are residents of, or corporations



1 doing business in, this State), collecting, enforcing,
2 or otherwise realizing upon loans or upon security for
3 loans or upon interests therein; and taking, holding,
4 and disposing of any property acquired (whether by
5 purchase at any sale pursuant to foreclosure by suit
6 or foreclosure under power of sale, or by foreclosure
7 by entry, or by conveyance in lieu of foreclosure) in
8 enforcement of the rights of the foreign lender in the
9 event of default by any borrower; and

10 (5) Empowering agents and servants or in connection with,
11 and entering into and performing contracts, and doing
12 other acts and things necessary or appropriate for or
13 preliminary or incident to, any of the foregoing
14 activities, but not maintaining any office in this
15 State for the conduct of any such activities."

16 SECTION 27. Section 209-2, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "§209-2 ~~[Governor's determination.]~~ State disaster;
19 determination by governor. (a) After ~~[the occurrence of]~~ any
20 sudden and extraordinary event ~~[which]~~ that causes losses and
21 suffering, the governor shall make a determination as to whether



1 a state disaster has occurred and thereafter may declare a state
2 disaster for the entire State or any portion thereof. In making
3 this determination, the governor shall consider whether the
4 effect on the health and living standards of a substantial
5 number of persons and the effect on the economy of the State are
6 of such a nature[7] as to warrant assistance from the state
7 government.

8 (b) The governor [may], in [the] a proclamation, may
9 designate the whole or any part of the State eligible for the
10 relief provided for in this chapter and unless otherwise
11 provided herein may authorize any or all of the relief measures
12 provided for in parts II, III, and IV [~~of this chapter~~]."

13 SECTION 28. Section 211F-5.7, Hawaii Revised Statutes, is
14 amended by amending subsection (b) to read as follows:

15 "(b) Moneys in the fund shall be expended by the
16 corporation [te]:

17 (1) [~~Provide~~] To provide seed capital for and venture
18 capital investments in private sector and federal
19 projects for research, development, testing, and
20 implementation of the Hawaii renewable hydrogen
21 program, as set forth in section 196-10; and



1 (2) For any other purpose deemed necessary to carry out
2 the purposes of section 196-10."

3 SECTION 29. Section 214-2, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "\$214-2 Funds, allotment, and expenditure. Money allotted
6 under this chapter by the State shall be available to the
7 several counties; provided that no part of state or county
8 moneys shall be expended for capital improvement projects
9 [~~which~~] that are not a part of the general plan of the State[~~7~~]
10 or [~~which~~] that will not reasonably contribute to the economic
11 development of the county. The determination of:

12 (1) [~~the~~] The extent of participation by the State[~~7~~]; and

13 (2) [~~what~~] What capital improvement projects shall
14 reasonably contribute to the economic development of a
15 county,

16 shall be made by the governor, taking into consideration the
17 State's goal for specific segments of its general plan and the
18 financial position of the county."

19 SECTION 30. Section 225M-3, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "§225M-3 Cooperation. (a) The office of planning shall
2 seek the widest possible cooperation from public and private
3 agencies and individuals and the federal government to achieve
4 the purposes of this chapter. [~~It~~] The office of planning shall
5 work closely with and assist the counties in the promotion of
6 coordinated state and county planning.

7 (b) Every state department, county agency, or other public
8 or private [~~agencies~~] agency or [~~individuals~~] individual
9 providing planning programs and services shall be encouraged to
10 participate actively in the activities of the office of
11 planning. The executive heads of all state departments and
12 agencies shall cooperate with the office of planning by
13 providing information as the governor and the director of
14 business, economic development, and tourism [~~+~~]deem[~~+~~] necessary
15 for the effective discharge of its duties.

16 (c) Nothing in this chapter shall be deemed to delegate or
17 detract in any way from the functions, powers, and duties
18 conferred by law on any state or county department or agency [~~of~~
19 ~~the State or county~~]."

20 SECTION 31. Section 231-2, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§231-2 Taxation districts. For the purpose of taxation,
2 the State is divided into the following four districts[~~,-viz.-~~]:

3 [~~(a)~~] (1) The city and county of Honolulu, to be called
4 the first district;

5 [~~(b)~~] (2) The counties of Maui and Kalawao, to be called
6 the second district;

7 [~~(c)~~] (3) The county of Hawaii, to be called the third
8 district; and

9 [~~(d)~~] (4) The county of Kauai, to be called the fourth
10 district."

11 SECTION 32. Section 231-11, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "§231-11 Police to aid assessing or collecting officers.

14 The director of taxation or any assessing or collecting officer
15 of the department of taxation, when resisted or impeded in the
16 exercise of [~~his~~] the director's or assessing or collecting
17 officer's office, may require any police officer to aid [~~him~~]
18 the director or assessing or collecting officer in the discharge
19 of [~~his~~] the director's or assessing or collecting officer's
20 duties, and if any [~~such~~] police officer refuses to render aid



1 ~~[he]~~, the police officer shall be deemed guilty of a
2 misdemeanor."

3 SECTION 33. Section 231-15.5, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§231-15.5 Disclosure by return preparers. (a) Any
6 person who is engaged in the business of preparing, or providing
7 services in connection with the preparation of, tax returns or
8 any person who, for compensation, prepares any ~~[such]~~ tax return
9 for any other person and ~~[who]~~, without the written consent or
10 request of ~~[such other]~~ the person~~[, discloses]~~ for whom the
11 return is prepared:

12 (1) Discloses any information furnished to ~~[him]~~ the
13 return preparer or person providing services for~~[,]~~ or
14 in connection with~~[,]~~ the preparation of any ~~[such]~~
15 return; or ~~[uses any such]~~

16 (2) Uses the information for any purpose other than to
17 prepare~~[,]~~ or assist in preparing any ~~[such]~~ return,
18 shall be guilty of a misdemeanor~~[,]~~ and, upon conviction
19 thereof, shall be fined not more than \$1,000 or imprisoned not
20 more than one year, or both.



1 (b) Except as otherwise provided, this section shall not
2 apply to a disclosure of information if ~~[such]~~ the disclosure is
3 made pursuant to section 231-3 or ~~[pursuant to]~~ an order of a
4 court."

5 SECTION 34. Section 231-37, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "\$231-37 Neglect of duty, etc., misdemeanor. Any officer
8 of the department of taxation, the state director of finance,
9 any person duly authorized by the director of taxation, or any
10 police officer, on whom duties are imposed under this chapter,
11 who wilfully fails or refuses or neglects to perform faithfully
12 any duty or duties ~~[of him]~~ as required by this chapter, shall
13 be deemed guilty of a misdemeanor."

14 SECTION 35. Section 231-59, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "[+] \$231-59 [+] Procedure additional. The setoff procedure
17 authorized by sections 231-53 to ~~[231-57]~~ 231-57.5 is in
18 addition to and not in substitution of any other remedy
19 available by law."

20 SECTION 36. Section 231-62, Hawaii Revised Statutes, is
21 amended by amending subsection (a) to read as follows:



1 "(a) Upon enforcement or foreclosure by the State, in any
2 manner whatsoever, of any state tax lien on real property, all
3 state taxes of whatsoever nature and howsoever accruing and due
4 at the time of the foreclosure sale from the taxpayer against
5 whose property the tax lien is so enforced or foreclosed shall
6 be satisfied as far as possible out of the proceeds of the sale
7 remaining after payment of the:

8 (1) ~~[the costs]~~ Costs and expenses of the enforcement and
9 foreclosure, including a title search, if any~~[7]~~i

10 (2) ~~[the amount]~~ Amount of subsisting state tax liens on
11 real property~~[7]~~i and

12 (3) ~~[the amount]~~ Amount of any recorded liens against the
13 property,

14 in the order of their priority."

15 SECTION 37. Section 232-3, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "§232-3 Grounds of appeal, real property taxes. In the
18 case of a real property tax appeal, no taxpayer or county shall
19 be deemed aggrieved by an assessment, nor shall an assessment be
20 lowered or an exemption allowed, unless there is shown:



(1) Assessment of the property exceeds by more than twenty per cent the ratio of assessment to market value used by the director of taxation as the real property tax base~~[7-0x]~~i;

(2) Lack of uniformity or inequality, brought about by illegality of the methods used or error in the application of the methods to the property involved~~[7-0x]~~i;

(3) Denial of an exemption to which the taxpayer is entitled and for which the taxpayer has qualified~~[7]~~i;
or

(4) Illegality, on any ground arising under the Constitution or laws of the United States or the laws of the State (in addition to the ground of illegality of the methods used, mentioned in ~~[clause]~~ paragraph (2))."

SECTION 38. Section 233-2, Hawaii Revised Statutes, is amended to read as follows:

"§233-2. Same: application of taxes. In the event of the adoption of a rule or regulation pursuant to section 233-1:



(1) The person, firm, corporation, or the like, who is the subject of the rule or regulation and thereafter engages or continues in the business of selling tangible personal property shall be:

(A) ~~[shall be deemed]~~ Deemed to be selling the ~~[same]~~ property to the persons or entities who would be the buyers if, in fact, ~~[such]~~ the representatives, distributors, dealers, salespersons, peddlers, canvassers, carriers, truckers, or the like were employees~~[]~~ i

(B) ~~[shall be deemed]~~ Deemed to be the employer of the persons classed by ~~[such]~~ the rule or regulation as employees~~[]~~ i and

(C) ~~[shall be subject]~~ Subject to all of the liabilities, duties, and obligations of the sellers and employers under the tax laws administered by the department of taxation~~[]~~ i

(2) The persons so classed as employees shall:

(A) ~~[shall not]~~ Not be deemed to be buying ~~[such]~~ the property or reselling the ~~[same,]~~ property;



1 (B) ~~[shall be]~~ Be deemed to be the employees of the
2 person so deemed an employer[~~7~~]; and

3 (C) ~~[shall be]~~ Be subject to all of the liabilities,
4 duties, and obligations of employees, under the
5 tax laws administered by the department[~~7~~]; and

6 (3) The rule or regulation of the department shall:

7 (A) ~~[shall provide]~~ Provide for the collection, in
8 lieu of withholding, of taxes levied upon the
9 persons so classed as employees in cases in which
10 the persons themselves retain, from receipts
11 handled by them, their fees, charges,
12 commissions, markups, percentages, or other
13 remuneration[~~7~~];

14 (B) ~~[shall designate]~~ Designate the fees, charges,
15 commissions, markups, percentages, or other
16 remuneration[~~7~~] constituting the taxable
17 compensation of the [~~person~~] persons classed as
18 employees[~~7~~]; and

19 (C) ~~[shall contain such]~~ Contain other provisions
20 ~~[as]~~ that may be necessary or proper to
21 effectuate this chapter."



1 SECTION 39. Section 235-1, Hawaii Revised Statutes, is
2 amended by amending the definitions of "legal service plan",
3 "person totally disabled", and "resident" to read as follows:

4 "Legal service plan" [~~("Plan")~~] or "plan" means a plan in
5 which the cost of the services are paid by a member or by some
6 other person or organization in the member's behalf. A legal
7 service plan is a plan by which legal services are rendered to
8 members identifiable in terms of some common interest. A plan
9 shall provide:

10 [~~(A)~~] (1) That individual members shall be afforded
11 freedom of choice in the selection of their own
12 attorney or attorneys to provide legal services under
13 [~~such~~] the plan~~[-]~~; and

14 [~~(B)~~] (2) For the payment of equal amounts for the cost
15 of services rendered without regard to the identity of
16 the attorney or attorneys selected by the plan member
17 or members. No plan shall otherwise discriminate on
18 the basis of [~~such~~] the selection.

19 "Person totally disabled" means a person who is totally and
20 permanently disabled, either physically or mentally, which



1 results in the person's inability to engage in any substantial
2 gainful business or occupation.

3 The disability shall be certified to by a:

- 4 (1) [~~a physician~~] Physician or osteopathic physician
5 licensed under chapter 453[~~7~~];
6 (2) [~~a qualified~~] Qualified out-of-state physician who is
7 currently licensed to practice in the state in which
8 the physician resides[~~7~~]; or
9 (3) [~~a commissioned~~] Commissioned medical officer in the
10 United States Army, Navy, Marine Corps, or Public
11 Health Service, engaged in the discharge of [~~one's~~]
12 the officer's official duty.

13 Certification shall be on forms prescribed by the department of
14 taxation.

15 "Resident" means every:

- 16 (1) [~~every individual~~] Individual domiciled in the
17 State[~~7~~]; and
18 (2) [~~every other~~] Other individual, whether domiciled in
19 the State or not, who resides in the State. To
20 "reside" in the State means to be in the State for
21 other than a temporary or transitory purpose. Every



1 individual who is in the State more than two hundred
2 days of the taxable year in the aggregate shall be
3 presumed to be a resident of the State. This
4 presumption may be overcome by evidence satisfactory
5 to the department of taxation that the individual
6 maintains a permanent place of abode outside of the
7 State and is in the State for a temporary or
8 transitory purpose. No person shall be deemed to have
9 gained or lost a residence simply because of the
10 person's presence or absence in compliance with
11 military or naval orders of the United States, or
12 while engaged in aviation or navigation, or while a
13 student at any institution of learning."

14 SECTION 40. Section 235-5.5, Hawaii Revised Statutes, is
15 amended by amending subsection (b) to read as follows:

16 "(b) For purposes of this section, the term "individual
17 housing account" means a trust created or organized in Hawaii
18 for the exclusive benefit of an individual, or, in the case of a
19 married individual, for the exclusive benefit of the individual
20 and spouse jointly, but only if the written governing instrument
21 creating the trust meets the following requirements:



- (1) Contributions shall not be accepted for the taxable year in excess of \$5,000 (or \$10,000 in the case of a joint return) or in excess of \$25,000 for all taxable years, exclusive of interest paid or accrued;
- (2) The trustee is a bank, a savings and loan association, a credit union, or a depository financial services loan company, chartered, licensed, or supervised under federal or state law, whose accounts are insured by the Federal Deposit Insurance Corporation, the National Credit Union Administration, or any agency of this State or any federal agency established for the purpose of insuring accounts in these financial institutions. The financial institution must actively make residential real estate mortgage loans in Hawaii;
- (3) The assets of the trust shall be invested only in fully insured savings or time deposits. Funds held in the trust may be commingled for purposes of investment, but individual records shall be maintained by the trustee for each individual housing account holder ~~[which]~~ that show all transactions in detail;



1 (4) The entire interest of an individual or married couple
2 for whose benefit the trust is maintained shall be
3 distributed to the individual or couple not later than
4 one hundred twenty months after the date on which the
5 first contribution is made to the trust;

6 (5) Except as provided in subsection (g), the trustee
7 shall not distribute the funds in the account unless
8 ~~[it]~~ the trustee:

9 (A) ~~[verifies]~~ Verifies that the money is to be used
10 for the purchase of a first principal residence
11 located in Hawaii, and provides that the
12 instrument of payment is payable to the
13 mortgagor, construction contractor, or other
14 vendor of the property purchased; or

15 (B) ~~[withholds]~~ Withholds an amount equal to ten per
16 cent of the amount withdrawn from the account and
17 remits this amount to the director within ten
18 days after the date of the withdrawal. The
19 amount ~~[se]~~ withheld shall be applied to the
20 liability of the taxpayer under subsections (c)
21 and (e); and



(6) If any amounts are distributed before the expiration of three hundred sixty-five days from the date on which a contribution is made to the account, the trustee shall so notify in writing the taxpayer and the director. If the trustee makes the verification required in paragraph (5) (A), then the department shall disallow the deduction under subsection (a) and subsections (c), (e), and (f) shall not apply to that amount. If the trustee withholds an amount under paragraph (5) (B), then the department shall disallow the deduction under subsection (a) and subsection (e) shall apply, but subsection (c) shall not apply."

SECTION 41. Section 235-34, Hawaii Revised Statutes, is amended to read as follows:

"§235-34 Compensation; where paid. Compensation is paid in this State if:

- (1) The individual's service is performed entirely within the State; ~~[or]~~
- (2) The individual's service is performed both within and without the State, but the service performed without



1 the State is incidental to the individual's service
2 within the State; or

3 (3) Some of the service is performed in the State and:

4 (A) [~~the~~] The base of operations or, if there is no
5 base of operations, the place from which the
6 service is directed or controlled is in the
7 State[~~7~~]; or

8 (B) [~~the~~] The base of operations or the place from
9 which the service is directed or controlled is
10 not in any state in which some part of the
11 service is performed, but the individual's
12 residence is in this State."

13 SECTION 42. Section 235-36, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "§235-36 Apportionment; sales factor; tangible personalty.
16 Sales of tangible personal property are in this State if:

17 (1) The property is delivered or shipped to a purchaser,
18 other than the United States government, within this
19 State regardless of the f.o.b. point or other
20 conditions of the sale; or



(2) The property is shipped from an office, store,
warehouse, factory, or other place of storage in this
State and the:

(A) [~~the purchaser~~] Purchaser is the United States
government; or

(B) [~~the taxpayer~~] Taxpayer is not taxable in the
state of the purchaser."

SECTION 43. Section 235-51, Hawaii Revised Statutes, is
amended as follows:

1. By amending subsection (a) to read:

"(a) There is hereby imposed on the taxable income of
every:

(1) [~~every taxpayer~~] Taxpayer who files a joint return
under section 235-93; and

(2) [~~every surviving~~] Surviving spouse,
a tax determined in accordance with the following table:

In the case of any taxable year beginning after
December 31, 2001:

| If the taxable income is: | The tax shall be: |
|---------------------------|-------------------------|
| Not over \$4,000 | 1.40% of taxable income |
| Over \$4,000 but | \$56.00 plus 3.20% of |



| | | |
|----|-------------------|--------------------------|
| 1 | not over \$8,000 | excess over \$4,000 |
| 2 | Over \$8,000 but | \$184.00 plus 5.50% of |
| 3 | not over \$16,000 | excess over \$8,000 |
| 4 | Over \$16,000 but | \$624.00 plus 6.40% of |
| 5 | not over \$24,000 | excess over \$16,000 |
| 6 | Over \$24,000 but | \$1,136.00 plus 6.80% of |
| 7 | not over \$32,000 | excess over \$24,000 |
| 8 | Over \$32,000 but | \$1,680.00 plus 7.20% of |
| 9 | not over \$40,000 | excess over \$32,000 |
| 10 | Over \$40,000 but | \$2,256.00 plus 7.60% of |
| 11 | not over \$60,000 | excess over \$40,000 |
| 12 | Over \$60,000 but | \$3,776.00 plus 7.90% of |
| 13 | not over \$80,000 | excess over \$60,000 |
| 14 | Over \$80,000 | \$5,356.00 plus 8.25% of |
| 15 | | excess over \$80,000. |

16 In the case of any taxable year beginning after
 17 December 31, 2006:

| | | |
|----|---------------------------|-------------------------|
| 18 | If the taxable income is: | The tax shall be: |
| 19 | Not over \$4,800 | 1.40% of taxable income |
| 20 | Over \$4,800 but | \$67.00 plus 3.20% of |
| 21 | not over \$9,600 | excess over \$4,800 |



| | | |
|----|-------------------|--------------------------|
| 1 | Over \$9,600 but | \$221.00 plus 5.50% of |
| 2 | not over \$19,200 | excess over \$9,600 |
| 3 | Over \$19,200 but | \$749.00 plus 6.40% of |
| 4 | not over \$28,800 | excess over \$19,200 |
| 5 | Over \$28,800 but | \$1,363.00 plus 6.80% of |
| 6 | not over \$38,400 | excess over \$28,800 |
| 7 | Over \$38,400 but | \$2,016.00 plus 7.20% of |
| 8 | not over \$48,000 | excess over \$38,400 |
| 9 | Over \$48,000 but | \$2,707.00 plus 7.60% of |
| 10 | not over \$72,000 | excess over \$48,000 |
| 11 | Over \$72,000 but | \$4,531.00 plus 7.90% of |
| 12 | not over \$96,000 | excess over \$72,000 |
| 13 | Over \$96,000 | \$6,427.00 plus 8.25% of |
| 14 | | excess over \$96,000." |

15 2. By amending subsection (e) to read:

16 "(e) Any taxpayer, other than a corporation, acting as a
17 business entity in more than one state who is required by this
18 chapter to file a return may elect to report and pay a tax of .5
19 per cent of ~~[its]~~ the taxpayer's annual gross sales if the:

20 (1) ~~[where the taxpayer's]~~ Taxpayer's only activities in
21 this State consist of sales; ~~[and]~~



(2) ~~[who]~~ Taxpayer does not own or rent real estate or tangible personal property; and

(3) ~~[whose]~~ Taxpayer's annual gross sales in or into this State during the tax year is not in excess of \$100,000."

SECTION 44. Section 235-61, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) As used in this section:

~~[(1) "Wages" means wages, commissions, fees, salaries, bonuses, and every and all other kinds of remuneration for, or compensation attributable to, services performed by an employee for the employee's employer, including the cash value of all remuneration paid in any medium other than cash and the cost of living allowances and other payments included in gross income by section 235-7(b), but excluding income excluded from gross income by section 235-7 or other provisions of this chapter,~~

~~(2)]~~ "Employee" includes an officer or elected official, or any other employee~~[+]~~.



1 [~~(3)~~] "Employer" means [~~(A)~~ ~~the~~]:

2 (1) The person or government for whom an individual
3 performs or performed any service, of whatever nature,
4 as the employee of [~~such~~] that person or government [~~7~~
5 and ~~(B)~~ ~~the~~];

6 (2) The person having control of the payment of the wages
7 if the employer as heretofore defined does not have
8 control thereof [~~7~~]; and [~~(C)~~ ~~any~~]

9 (3) Any person subject to the jurisdiction of the State
10 and paying wages on behalf of an employer as
11 heretofore defined if the employer is not subject to
12 the jurisdiction of the State;

13 provided that the term employer shall not include any government
14 that is not subject to the laws of the State except as, and to
15 the extent that, it consents to the application of sections 235-
16 61 to 235-67 to it.

17 "Wages" means wages, commissions, fees, salaries, bonuses,
18 and every and all other kinds of remuneration for, or
19 compensation attributable to, services performed by an employee
20 for the employee's employer, including the cash value of all
21 remuneration paid in any medium other than cash and the cost-of-



1 living allowances and other payments included in gross income by
2 section 235-7(b), but excluding income excluded from gross
3 income by section 235-7 or other provisions of this chapter."

4 2. By amending subsection (c) to read:

5 "(c) For each withholding period (whether weekly,
6 biweekly, monthly, or otherwise) the amount of tax to be
7 withheld under this section shall be at a rate [~~which,~~] that,
8 for the taxable year, will yield the tax imposed by section 235-
9 51 upon each employee's annual wage, as estimated from the
10 employee's current wage in any withholding period, but for the
11 purposes of this subsection of the rates provided by section
12 235-51 the maximum to be taken into consideration shall be eight
13 per cent. The tax for the taxable year shall be calculated upon
14 the following assumptions:

15 (1) That the employee's annual wage, as estimated from the
16 employee's current wage in the withholding period,
17 will be the employee's sole income for the taxable
18 year;

19 (2) That there will be no deductions therefrom in
20 determining adjusted gross income;



1 (3) That in determining taxable income there shall be a
2 standard deduction allowance, which shall be an amount
3 equal to one exemption (or more than one exemption if
4 so prescribed by the director) unless the taxpayer:

5 (A) [~~the taxpayer is~~] Is married and the taxpayer's
6 spouse is an employee receiving wages subject to
7 withholding[~~ing~~]; or

8 (B) [~~the taxpayer has~~] Has withholding exemption
9 certificates in effect with respect to more than
10 one employer.

11 For the purposes of this section, any standard
12 deduction allowance under this paragraph shall be
13 treated as if it were denominated a withholding
14 exemption;

15 (4) That in determining taxable income there also will be
16 deducted the amount of exemptions and withholding
17 allowances granted to the employee in the computation
18 of taxable income, as shown by a certificate to be
19 filed with the employer as provided by subsection (f);
20 and



(5) If it appears from the certificate filed pursuant to subsection (f) that the employee, under section 235-93, is entitled to make a joint return, that the employee and the employee's spouse will so elect."

3. By amending subsection (e) to read:

"(e) The department, by rule, may require the deduction and withholding of tax from any remuneration or compensation paid for or attributable to services that are not subject to the general excise tax imposed by chapter 237, whether or not ~~such~~ a withholding is provided for hereinabove. Every person so required to deduct and withhold tax, or from whom tax is required to be deducted and withheld, shall be subject to sections 235-61 to 235-67, and every person so required to deduct and withhold tax shall be deemed an employer for the purposes of this chapter.

The department, by rule, may exempt any employer from the requirement of deduction and withholding of taxes, even though the requirement is imposed by this section, if and to the extent that the department finds the requirement unduly onerous or impracticable of enforcement."



1 SECTION 45. Section 235-101, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) It shall be the duty of every person who is required
4 by section 235-92 to make a return, to report to the department,
5 as to any taxable year governed by this chapter, if:

6 (1) ~~[the]~~ The amount of taxable income as returned to the
7 United States is changed, corrected, or adjusted by an
8 officer of the United States or other competent
9 authority~~[, or]~~ ;

10 (2) ~~[a]~~ A change in taxable income results from a
11 renegotiation of a contract with the United States or
12 a subcontract thereunder~~[, or]~~ ;

13 (3) ~~[a]~~ A recomputation of the income tax imposed by the
14 United States under the Internal Revenue Code results
15 from any cause~~[, or]~~ ; or

16 (4) ~~[an]~~ An amended income tax return is made to the
17 United States.

18 The report shall be made within ninety days after the change,
19 correction, adjustment, or recomputation is finally determined
20 or the amended return is filed, as the case may be. The report
21 required by this subsection shall be made in the form of an



1 amendment of the person's return filed under this chapter. The
2 amended return shall be accompanied by a copy of the document
3 issued by the United States under paragraphs (1) to (3). The
4 statutory period for the assessment of any deficiency or the
5 determination of any refund attributable to this report shall
6 not expire before the expiration of one year from the date the
7 department is notified by the taxpayer or the Internal Revenue
8 Service, whichever is earlier, of [~~such a~~] the report in
9 writing. Before the expiration of this one-year period, the
10 department and the taxpayer may agree in writing to the
11 extension of this period. The period so agreed upon may be
12 further extended by subsequent agreements in writing made before
13 the expiration of the period previously agreed upon."

14 SECTION 46. Section 235-110.8, Hawaii Revised Statutes, is
15 amended by amending subsection (g) to read as follows:

16 "(g) As provided in section 42(e), rehabilitation
17 expenditures shall be treated as a separate new building and
18 their treatment under this section shall be the same as in
19 section 42(e). The definitions and special rules relating to
20 credit period in section 42(f) and the definitions and special



1 rules in section 42(i) shall be operative for the purposes of
2 this section."

3 SECTION 47. Section 236E-5, Hawaii Revised Statutes, is
4 amended by amending subsection (b) to read as follows:

5 "(b) The Internal Revenue Code, so far as made operative
6 by this chapter, is a statute adopted and incorporated by
7 reference. The Internal Revenue Code shall be applied using
8 changes in nomenclature and other language, including the
9 omission of inapplicable language, where necessary to effectuate
10 the intent of this section. References to the following terms
11 in the Internal Revenue Code shall have the following meanings:

12 ~~[(1) "Secretary or his delegate" means the director of~~
13 ~~taxation or the director's duly authorized~~
14 ~~subordinates; and~~

15 ~~-(2)]~~ "Interest at the underpayment rate" or "interest at the
16 overpayment rate" means the interest rate set forth in section 231-
17 39(b)(4) or section 231-23(d)(1), as the case may be.

18 "Secretary or his delegate" means the director of taxation or
19 the director's duly authorized subordinates."



1 SECTION 48. Section 237-1, Hawaii Revised Statutes, is
2 amended by amending the definition of "legal service plan" to
3 read as follows:

4 ""Legal service plan" [~~("Plan")~~] or "plan" means a plan in
5 which the cost of the services are paid by a member or by some
6 other person or organization in the member's behalf. A legal
7 service plan is a plan by which legal services are rendered to
8 members identifiable in terms of some common interest. A plan
9 shall provide:

10 [~~(A)~~] (1) That individual members shall be afforded
11 freedom of choice in the selection of their own
12 attorney or attorneys to provide legal services under
13 [~~such~~] the plan[~~-~~]; and

14 [~~(B)~~] (2) For the payment of equal amounts for the cost
15 of services rendered without regard to the identity of
16 the attorney or attorneys selected by the plan member
17 or members. No plan shall otherwise discriminate on
18 the basis of [~~such~~] the selection."

19 SECTION 49. Section 237-2, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "§237-2 "Business", "engaging" in business, defined. As
2 used in this chapter:

3 "Business" [~~as used in this chapter,~~] includes all
4 activities (personal, professional, or corporate) [~~7~~] engaged in
5 or caused to be engaged in with the object of gain or economic
6 benefit either direct or indirect, but does not include casual
7 sales.

8 [~~The term "engaging" as used in this chapter~~] "Engaging",
9 with reference to engaging or continuing in business [~~also~~],
10 includes the exercise of corporate or franchise powers."

11 SECTION 50. Section 237-39, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "§237-39 Audits; procedure, penalties. (a) For the
14 purpose of verification or audit of a return made by the
15 taxpayer, or where there is reasonable ground to believe that
16 any return made is so deficient as not to form the basis of a
17 satisfactory assessment of the tax, or for the purpose of making
18 an assessment where no return has been made, the department of
19 taxation or the Multistate Tax Commission pursuant to chapter
20 255, or the authorized representative thereof, may examine all
21 account books, bank books, bank statements, records, vouchers,



1 taxpayer's copies of federal tax returns, and any and all other
2 documents and [evidenees] evidence having any relevancy to the
3 determination of the gross income or gross proceeds of sales of
4 any taxpayer as required to be returned under this chapter and
5 may summon or require the attendance of the person by or for
6 whom the return, if any, has been made or whose tax is being
7 assessed, and any employee of the person, and may summon or
8 require the attendance of any person having knowledge in the
9 premises, naming the time and place in the summons, and may
10 require the production of any books, statements, or other
11 [evidenees] evidence open to [his] examination, and may take
12 testimony in reference to any [sueh] matter relevant to the
13 gross income or gross proceeds of sales of the taxpayer for the
14 period under consideration, with power to require that the
15 person so called and appearing shall be interrogated under oath
16 and to administer the oath.

17 **(b)** If the department determines that any gross income or
18 gross proceeds of sales liable to the tax have not been
19 assessed, the department may assess the same as provided in
20 sections 237-36 and 237-38.



1 (c) Any individual knowingly giving false testimony under
2 oath at any [such] hearing before the department shall be guilty
3 of perjury and shall be punished as provided by law.

4 (d) Any person refusing or neglecting to obey any summons
5 issued by the department, and any individual appearing and
6 refusing to testify under oath, shall be fined \$50 for the first
7 offense and \$100 for each succeeding offense."

8 SECTION 51. Section 237-44, Hawaii Revised Statutes, is
9 amended as follows:

10 1. By amending subsection (a) to read:

11 "(a) As used in this section:

12 [~~1~~] "Admission" means the amount paid for admission to
13 any place, including admission by season ticket or subscription,
14 and also includes the amount paid for seats and tables, reserved
15 or otherwise, and other similar accommodations.

16 [~~2~~] "Cabaret" means any roof garden, cabaret, or other
17 similar place furnishing a public performance, by or for any
18 patron or guest who is entitled to be present during any portion
19 of the performance, including any room in any hotel, restaurant,
20 hall, or other public place where music and dancing privileges
21 or any other entertainment are afforded the patrons in



1 connection with the serving or selling of food, refreshment, or
2 merchandise.

3 ~~[-(3)-]~~ "Transient taxpayer" refers to any person subject to
4 the tax imposed by this chapter who has no permanent place of
5 business in the State."

6 2. By amending subsection (d) to read:

7 "(d) Whenever a transient taxpayer is engaged in business
8 at any place for which admissions are charged, or at any cabaret
9 whether or not admissions are charged, the person engaging the
10 transient taxpayer shall collect from ~~[him]~~ the transient
11 taxpayer, by withholding or otherwise, the tax levied by this
12 chapter on the transient taxpayer, shall hold the ~~[same]~~ tax in
13 trust for the State, and shall return and pay over the ~~[same]~~
14 tax to the proper collecting officer of the State in the manner
15 and at the time required by this chapter, for the account of the
16 transient taxpayer~~[; in the event of his failure]~~. If the
17 person fails to do so ~~[he]~~, the person shall be liable to pay to
18 the State the amount of the tax levied by this chapter on the
19 transient taxpayer, together with penalties and interest as
20 provided by law. The amount of the liability may be collected
21 from the guarantee fund, if any, or may be assessed against and



1 collected from the person so becoming liable in the same manner
2 as if the tax had been levied upon ~~[him-]~~ the person."

3 SECTION 52. Section 238-13, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§238-13 Other provisions of general excise tax law
6 applicable. In respect of:

7 (1) ~~[the]~~ The examination of books and records and of
8 taxpayers and other persons~~[,]~~;

9 (2) ~~[procedure]~~ Procedure and powers upon failure or
10 refusal by a taxpayer to make a return or a proper
11 return~~[,]~~; and

12 (3) ~~[the]~~ The general administration of this chapter,
13 the director of taxation shall have all the rights and powers
14 conferred upon the director by the general excise tax law with
15 respect to taxes thereby or thereunder imposed; and, without
16 restriction upon these rights and powers, sections 237-8, 237-
17 30, 237-34, and 237-36 to 237-41 are hereby made applicable to
18 and with respect to the taxes and the taxpayers, tax officers,
19 and other persons, and the matters and things affected or
20 covered by this chapter, insofar as not inconsistent with this



1 chapter, in the same manner, as nearly as may be, as in similar
2 cases covered by the general excise tax law."

3 SECTION 53. Section 239-2, Hawaii Revised Statutes, is
4 amended by amending the definition of "net operating income" to
5 read as follows:

6 "[~~The~~ "net] "Net operating income" of a public utility
7 subject to the tax rate imposed by section 239-5(a) is the
8 operating revenues less the operating expenses and tax accruals,
9 including in the computation of [~~such~~] those revenues and
10 expenses, debits and credits arising from equipment rents and
11 joint facility rents. [~~In the event that,~~] If, but for this
12 sentence, deductions could not be had for expenses of services
13 because [~~such~~] the services were rendered by the same person or
14 persons constituting the public utility or could not be had for
15 income taxes, because [~~such~~] the taxes were levied against the
16 person or persons constituting the public utility in the
17 person's or their individual capacity and not as a separate
18 entity, there nevertheless shall be allowed as deductions in
19 computing the net operating income a:

20 [~~(A)~~] (1) [~~a reasonable~~] Reasonable allowance for the
21 value of personal services actually rendered~~[7]~~; and



1 ~~[-(B)-]~~ (2) ~~[such proportion]~~ Proportion of the actual
2 amount of income taxes, federal and state, ~~[as]~~ that
3 fairly represents the portion of the income so taxed
4 ~~[which]~~ that was derived from the public utility
5 business."

6 SECTION 54. Section 239-7, Hawaii Revised Statutes, is
7 amended by amending subsection (c) to read as follows:

8 "(c) The department shall prescribe the forms in which
9 returns shall be made, so as to reflect clearly the liability of
10 each public service company subject to this tax, and may provide
11 in the forms for ~~[such]~~ any additional information as it may
12 deem necessary. All provisions of the laws, not inapplicable
13 and not inconsistent with this chapter, relating to returns for
14 income tax purposes~~[7]~~ and the assessment (including additional
15 assessments), collection, and payment (in installments or
16 otherwise) of income taxes, and the powers and duties of the
17 department and the state director of finance in connection
18 therewith~~[7]~~ ; and relating to appeals from or other adjustments
19 of ~~[such]~~ assessments, limitation periods for assessments,
20 enforcement of attendance of witnesses, and the production of
21 evidence, examination of witnesses and records, the effect of



1 assessments, tax books, and lists and other official tax records
2 as evidence, delinquent dates and penalties, and the rights and
3 liabilities (civil and criminal) of taxpayers and other persons
4 in connection with any matters dealt with by chapter 235, are
5 made applicable to:

6 (1) [~~to the~~] The taxes and the assessment, payment, and
7 collection thereof, provided by this chapter [~~and~~];

8 (2) [~~to the~~] The department and the state director of
9 finance in connection with the taxes and the
10 assessment, payment, or enforcement of payment and
11 collection thereof [~~and~~]; and

12 (3) [~~to taxpayers~~] Taxpayers and other persons affected by
13 this chapter,

14 as the case may be. The provisions of chapter 235 regarding the
15 limitation period for assessment and refunds shall run from the
16 filing of the return for the taxable year, or the due date
17 prescribed for the filing of the return, whichever is later.

18 With respect to payments due to a county of the revenues
19 generated from the tax in excess of the four per cent rate
20 imposed under section 239-5(a), a county director of finance
21 shall be afforded [~~such~~] the rights and procedures of the



1 department in the enforcement of payment and collection of the
2 taxes assessed and levied under this chapter."

3 SECTION 55. Section 239-8, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§239-8 Allocation and apportionment. (a) The gross
6 income included in the measure of the tax, as defined in
7 ~~[subparagraphs (B)]~~ paragraphs (2) and ~~[(C)]~~ (3) of the
8 definition of "gross income" in section 239-2, shall be
9 determined by an allocation and separate accounting so far as
10 practicable.

11 (b) If under ~~[subparagraph (B)]~~ paragraph (2) of the
12 definition of "gross income" in section 239-2, an apportionment
13 of gross income is necessary, there shall be apportioned to the
14 State and included in the measure of the tax that proportion of
15 the total gross income, so requiring apportionment, ~~[which]~~ that
16 the direct cost of the transportation, conveyance, or
17 transmission designated in ~~[subparagraph (B)]~~ paragraph (2) of
18 the definition of "gross income" in section 239-2, bears to the
19 total direct cost of the transportation, conveyance, or
20 transmission the gross income from which requires apportionment.



1 (c) If under [~~subparagraph (C)~~] paragraph (3) of the
2 definition of "gross income" in section 239-2, an apportionment
3 of gross income is necessary, there shall be apportioned to the
4 State and included in the measure of the tax that proportion of
5 the total gross income, so requiring apportionment, [~~which~~] that
6 the total direct cost of the transportation, conveyance, or
7 transmission within the State bears to the total direct cost of
8 the transportation, conveyance, or transmission the gross income
9 from which requires apportionment."

10 SECTION 56. Section 241-1, Hawaii Revised Statutes, is
11 amended by amending the definitions of "financial corporation"
12 and "interbank broker" to read as follows:

13 "Financial corporation" means:

14 (1) [~~any~~] Any corporation, domestic or foreign, other than
15 a bank or building and loan association, [~~which~~] that
16 is a financial corporation within the meaning of
17 section 5219 of the Revised Statutes of the United
18 States, as amended (12 U.S.C. section 548), or other
19 similar law, doing business in the State and not
20 subject to the taxes imposed by chapter 235, but shall



1 not include an insurance company [~~which~~] that pays the
2 tax on premiums imposed by chapter 431[~~7~~]; and

3 (2) [~~an~~] An interbank broker doing business in the State
4 and not subject to the taxes imposed by chapter 235.

5 "Interbank broker" means a person, who for a fee,
6 brokerage, or other compensation, either directly or indirectly,
7 provides brokerage services as an intermediary or agent in
8 transactions between financial institutions where one financial
9 institution:

10 (1) [~~supplies~~] Supplies funds to another financial
11 institution by making a loan, placing funds in a
12 deposit account, or otherwise extending credit to the
13 other institution[~~7~~];

14 (2) [~~buys~~] Buys, sells, trades, or swaps currency,
15 commercial paper, banker's acceptances, negotiable
16 certificates of deposit, treasury bills, notes, or
17 bonds with another financial institution[~~7~~]; or

18 (3) [~~enters~~] Enters into interest rate swaps, forward rate
19 agreements, or interest rate futures contracts with
20 another financial institution.



1 ~~[A "financial"]~~ "Financial institution", as used in this
2 ~~[paragraph,]~~ definition, means a bank, a savings bank, a
3 building and loan association, a trust company, a financial
4 services loan company, an insurance company, a pension and
5 profit sharing trust, an investment company as defined in the
6 federal Investment Company Act of 1940, an Edge or Agreement
7 Corporation, an international banking facility, and similar
8 United States or foreign institutions."

9 SECTION 57. Section 244D-1, Hawaii Revised Statutes, is
10 amended by amending the definition of "cooler beverage" to read
11 as follows:

12 "Cooler beverage" means either a:

- 13 (1) ~~[a wine]~~ Wine cooler containing wine and more than
14 fifteen per cent added natural or artificial blending
15 material, such as fruit juices, flavors, flavorings,
16 or adjuncts, water (plain, carbonated, or sparkling),
17 colorings, or preservatives, and ~~[which]~~ that contains
18 less than seven per cent of alcohol by volume; or
19 (2) ~~[a malt]~~ Malt beverage cooler containing beer and
20 added natural or artificial blending material, such as
21 fruit juices, flavors, flavorings, colorings, or



1 preservatives, and ~~[which]~~ that contains less than
2 seven per cent of alcohol by volume."

3 SECTION 58. Chapter 249, Hawaii Revised Statutes, is
4 amended by amending the title of the part entitled "BICYCLES AND
5 MOPEDS" to read as follows:

6 "~~[+]~~BICYCLES AND MOPEDS~~[+]~~"

7 SECTION 59. Section 249-14, Hawaii Revised Statutes, is
8 amended by amending subsection (b) to read as follows:

9 "(b) An owner of a bicycle having two tandem wheels that
10 are less than twenty inches in diameter is not required to
11 register ~~[such]~~ that bicycle, but may do so to facilitate the
12 return of recovered stolen bicycles by payment of the
13 registration fee. The fee collected shall not be refunded or
14 prorated. Upon receipt of the fee, the director of finance
15 shall number and register each bicycle for which the fee is
16 paid, in the owner's name, and furnish the owner with a metallic
17 tag or decal for each bicycle, which shall be attached to the
18 bicycle ~~[or moped]~~. ~~[On bicycles the]~~ The decal shall be
19 affixed to a bicycle on the upright post attached to the
20 sprocket facing in the forward direction. Upon initial
21 registration by an owner or transferee, the director of finance



1 shall require proof of ownership and require the owner to
2 furnish verification of the serial number and description
3 contained in the proof of ownership and application for
4 registration. The metallic tags or decals shall be in a form as
5 the director of finance shall from time to time prescribe. It
6 shall be the duty of the director of finance of each county to
7 purchase a sufficient number of these tags or decals."

8 SECTION 60. Section 249-14.5, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "§249-14.5 New bicycles and mopeds. All new bicycles and
11 mopeds, otherwise requiring the payment of fees under section
12 249-14, held in stock for purposes of sale shall be exempt from
13 the fee. At the time of first sale, the dealer selling the new
14 bicycle or moped shall:

- 15 (1) Require the buyer to complete a license application
16 form furnished by the director of finance;
17 (2) Issue a copy of the completed form to the buyer; and
18 (3) Transmit a copy of the completed form to the director
19 of finance with the required fees [~~which~~] that the
20 dealer has collected from the buyer.



1 Upon receipt of the fee and the completed license application
2 form, the director of finance shall mail a license plate and
3 ~~[tags]~~ tag or ~~[emblems]~~ emblem for mopeds, or tag or decal for
4 bicycles, and certificate of registration to the registered
5 owner. Until the license plate and ~~[tags]~~ tag or ~~[emblems]~~
6 emblem for mopeds, or tag or decal for bicycles, is received,
7 the bicycle or moped owner shall keep a copy of the completed
8 application form upon the owner's person when riding the bicycle
9 or moped on a public street."

10 SECTION 61. Chapter 286, Hawaii Revised Statutes, is
11 amended by amending the title of part II to read as follows:

12 "PART II. ~~[+]INSPECTION OF VEHICLES AND MOPEDS[+]~~ "

13 SECTION 62. Section 304A-120, Hawaii Revised Statutes, is
14 amended by amending subsection (c) to read as follows:

15 "(c) All University of Hawaii students and employees shall
16 complete the training required under subsection (a)(1), (a)(2),
17 (a)(3), and (a)(4) or may be subject to fines, sanctions, or
18 other discipline, as deemed ~~[+]appropriate[+]~~ by the University
19 of Hawaii."



1 SECTION 63. Section 328-91, Hawaii Revised Statutes, is
2 amended by amending the definitions of "interchangeable
3 biological product" and "purple book" to read as follows:

4 ""Interchangeable biological product" means a biological
5 product approved by the director as substitutable by pharmacists
6 and included in the Hawaii list of equivalent generic [~~drugs~~]
7 drug products and interchangeable biological products.

8 "Purple Book" means the United States Food and Drug
9 Administration's [~~List~~] Lists of Licensed Biological Products
10 with Reference Product Exclusivity and Biosimilarity or
11 Interchangeability Evaluations" publication and its cumulative
12 supplements, which include [~~a-list~~] lists of licensed biological
13 products with biosimilarity and interchangeability evaluations."

14 SECTION 64. Section 328-96, Hawaii Revised Statutes, is
15 amended by amending subsection (b) to read as follows:

16 "(b) The director shall maintain an official record of,
17 and update as necessary, the Hawaii list of equivalent generic
18 [~~drugs~~] drug products and interchangeable biological products
19 electronically on the department's website, which shall be
20 accessible to pharmacists and other interested persons."



1 SECTION 65. Section 587A-3, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) The department or an authorized agency, as resource
4 family or permanent custodian, shall abide by the following
5 guiding principles and ensure that a child in foster care:

6 (1) Lives in a safe and healthy home, free from physical,
7 psychological, sexual, and other abuse;

8 (2) Has adequate:

9 (A) Food that is nutritious and healthy;

10 (B) Clothing;

11 (C) Medical care, dental and orthodontic services,
12 and corrective vision care; and

13 (D) Mental health services;

14 (3) Has supervised or unsupervised in-person, telephone,
15 or other forms of contact with the child's parents and
16 siblings while the child is in foster care, unless
17 prohibited by court order;

18 (4) Has in-person contact with the child's assigned child
19 protective services worker, guardian ad litem, and if
20 applicable, the child's probation officer;

21 (5) Meets with the presiding judge in the child's case;



1 (6) Is enrolled in a comprehensive health insurance plan
2 and, within forty-five days of out-of-home placement,
3 is provided with a comprehensive health assessment and
4 treatment as recommended;

5 (7) May freely exercise the child's own religious beliefs,
6 including the refusal to attend any religious
7 activities and services;

8 (8) Has a personal bank account and assistance in managing
9 the child's personal income consistent with the
10 child's age and development, unless safety or other
11 concerns require otherwise;

12 (9) Has the right to attend school and, if the child is
13 moved during a school year, has the right to complete
14 the school year at the same school, if practicable;

15 (10) Beginning at age twelve, is provided with age-
16 appropriate life skills training and a transition plan
17 for appropriately moving out of the foster care
18 system, as well as written information concerning
19 independent living programs, foster youth
20 organizations, transitional planning services, and
21 independent living case management programs that are



1 available to all children in foster care who are
2 twelve years of age or older and their resource
3 families; and

4 (11) May participate in extracurricular, enrichment,
5 cultural, and social activities; provided that the
6 child caring institution or resource caregiver
7 authorizes the participation in accordance with the
8 reasonable and prudent parent standard as defined in
9 title 42 United States Code section [4] 675(10) (A) [4]."

10 SECTION 66. Section 621-9, Hawaii Revised Statutes, is
11 amended as follows:

12 1. By amending subsection (a) to read:

13 "(a) Except as provided for in section 802-7, whenever a
14 witness subpoenaed on behalf of the State in a criminal case or
15 on behalf of a defendant at the expense of the State in a
16 criminal case is discharged, the clerk of the court shall issue
17 to [~~him~~] the witness, under seal of the court, a numbered
18 certificate from a book having a stub with like designations,
19 stating the name of the witness, when and where [~~he~~] the witness
20 was summoned or subpoenaed, the date of [~~his~~] the witness'
21 discharge, the number of miles necessarily traveled from [~~his~~]



1 the witness' place of residence to the place of holding court,
2 the number of days' service, and the amount due for
3 transportation and for service. The certificate, when correct,
4 must be so certified by the public prosecutor or county attorney
5 for witnesses subpoenaed on behalf of the State, and by the
6 public defender for witnesses subpoenaed on behalf of a
7 defendant, but no certificate shall be so certified unless
8 presented to ~~[him]~~ the public prosecutor, county attorney, or
9 public defender within twelve months after the date of issue.
10 Duly certified witness certificates shall be paid upon vouchers
11 approved by the state director of finance and warrants drawn by
12 the state comptroller."

13 2. By amending subsection (c) to read:

14 "(c) Each public prosecutor or county attorney and the
15 public defender shall submit to the state department of budget
16 and finance for inclusion in the department's budget request for
17 each fiscal biennium the amount required for each fiscal year
18 for expenses for witnesses subpoenaed by ~~[him]~~ the public
19 prosecutor, county attorney, or public defender and for
20 defendants and postconviction petitioners summoned on ~~[his]~~



1 behalf of, or required by ~~[him-]~~, the public prosecutor, county
2 attorney, or public defender."

3 SECTION 67. Section 633-33, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§633-33 Judgment for wages; oral examination; payment.

6 When a judgment in an action pursuant to this chapter is founded
7 in whole or in part on a claim for wages or personal services,
8 the court ~~[shall]~~, upon motion of the party obtaining judgment,
9 shall order the appearance of the party against whom the
10 judgment has been entered but not more often than once each week
11 for four consecutive weeks, for oral examination under oath as
12 to ~~[his]~~ the financial status of the party against whom the
13 judgment has been entered and ~~[his]~~ that party's ability to pay
14 the judgment, and the court shall make ~~[such]~~ supplementary
15 orders as seems just and proper to effectuate the payment of the
16 judgment upon reasonable terms."

17 SECTION 68. Section 651-8, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "§651-8 Amount levied on. The police officer shall attach
20 a sufficient amount of the property of the defendant if a
21 sufficient amount of property not exempt from execution can be



1 found, giving ~~[that]~~ preference to property to which the
2 defendant has an unquestionable title ~~[a preference over that]~~
3 over any property to which the defendant's title is doubtful.
4 The police officer ~~[shall]~~, as nearly as the circumstances of
5 the case will permit, shall levy upon property twenty per cent
6 greater in value than the amount ~~[which]~~ that the plaintiff in
7 the plaintiff's affidavit claims to be due. When property is
8 seized on attachment, the court may allow reasonable and just
9 compensation to the officer having charge ~~[thereof such~~
10 ~~compensation]~~ of the property for the officer's trouble and
11 expenses in keeping the ~~[same as is reasonable and just.]~~
12 property."

13 SECTION 69. Section 656-3, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "§656-3 Representation of another's credit, etc., when
16 actionable. No action shall be brought and maintained[7] to
17 charge any person upon, or by reason of, any representation or
18 assurance[7] made concerning the character, conduct, credit,
19 ability, trade, or dealings of another person, unless ~~[such]~~ the
20 representation or assurance is made in writing[7] and signed by
21 the party to be charged thereby, or by ~~[some]~~ a person[7]



1 ~~thereunto by the party lawfully authorized.]~~ lawfully authorized
2 by the party to sign."

3 SECTION 70. Section 662-6, Hawaii Revised Statutes, is
4 amended by amending subsection (b) to read as follows:

5 "[+] (b) [~~Sections~~] Section 661-2 [~~and 661-9~~] shall apply
6 to actions under this chapter."

7 SECTION 71. Section 663-9.1, Hawaii Revised Statutes, is
8 amended by amending subsection (a) to read as follows:

9 "(a) As used in this section:

10 [~~(1)~~] "~~Premises~~" ~~includes any building or portion thereof or~~
11 ~~any real property owned, leased, or occupied by the~~
12 ~~owner or harbinger of an animal.~~

13 ~~(2)~~] "Enter or remain unlawfully" means to be in or upon
14 premises when the person is not licensed, invited, or otherwise
15 privileged to be upon the premises. A person is not licensed or
16 privileged to enter or remain in or upon [a] premises if a
17 warning or warnings have been posted that are reasonably
18 adequate to warn other persons that an animal is present on the
19 premises. A person who, regardless of the person's intent,
20 enters or remains in or upon premises [~~which~~] that are at the
21 time open to the public does so with license and privilege



1 unless the person defies a lawful order not to enter or remain,
2 personally communicated to the person by the owner of the
3 premises or some other authorized person. A license or
4 privilege to enter or remain in a building [~~which~~] that is only
5 partly open to the public is not a license or privilege to enter
6 or remain in that part of the building [~~which~~] that is not open
7 to the public. A person who enters or remains upon unimproved
8 and apparently unused land[~~7-which~~] that is neither fenced nor
9 otherwise enclosed in a manner designed to exclude intruders[~~7~~]
10 does so with license and privilege, unless notice against
11 trespass is personally communicated to the person by the owner
12 of the land or some other authorized person, or unless notice is
13 given by posting in a conspicuous manner.

14 ~~[(3) The definitions of "intentionally" and "knowingly" as~~
15 ~~contained in sections 702-206(1) and 702-206(2) shall~~
16 ~~apply.]~~

17 "Intentionally" shall have the same meaning as in section
18 702-206(1).

19 "Knowingly" shall have the same meaning as in section 702-
20 206(2).



1 "Premises" includes any building or portion thereof or any
2 real property owned, leased, or occupied by the owner or
3 harborer of an animal."

4 SECTION 72. Section 663-10.5, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§663-10.5 Government entity as a tortfeasor; abolition of**
7 **joint and several liability.** (a) Any other law to the contrary
8 notwithstanding, including but not limited to sections 663-10.9,
9 663-11 to 663-13, 663-16, 663-17, and 663-31, in any case where
10 a government entity is determined to be a tortfeasor along with
11 one or more other tortfeasors, the government entity shall be
12 liable for no more than that percentage share of the damages
13 attributable to the government entity; provided that joint and
14 several liability shall be retained for tort claims relating to
15 the maintenance and design of highways pursuant to section 663-
16 10.9.

17 ~~[For purposes of this section, "government entity" means~~
18 ~~any unit of government in this State, including the State and~~
19 ~~any county or combination of counties, department, agency,~~
20 ~~institution, board, commission, district, council, bureau,~~
21 ~~office, governing authority, or other instrumentality of state~~



1 ~~or county government, or corporation or other establishment~~
2 ~~owned, operated, or managed by or on behalf of this State or any~~
3 ~~county.]~~

4 **(b)** For purposes of this section, the liability of a
5 government entity shall include its vicarious liability for the
6 acts or omissions of its officers and employees.

7 **(c)** For purposes of this section, "government entity"
8 means any unit of government in this State, including:

9 **(1)** The State;

10 **(2)** Any county or combination of counties, department,
11 agency, institution, board, commission, district,
12 council, bureau, office, governing authority, or other
13 instrumentality of state or county government; and

14 **(3)** Any corporation or other establishment owned,
15 operated, or managed by or on behalf of this State or
16 any county."

17 SECTION 73. Section 663-15.5, Hawaii Revised Statutes, is
18 amended by amending subsection (c) to read as follows:

19 "(c) The court may determine the issue of good faith for
20 purposes of subsection (a) on the basis of affidavits or
21 declarations served with the petition under subsection ~~[(a)],~~



1 (b) and any affidavits or declarations filed in response. In
2 the alternative, the court, in its discretion, may receive other
3 evidence at a hearing."

4 SECTION 74. Section 668-11, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "§668-11 Liens and ~~[incumbrances]~~ encumbrances. Where
7 partition is made of any property ~~[which]~~ that is subject as a
8 whole to any lien or ~~[incumbrance]~~ encumbrance, the court
9 ~~[may]~~, with the consent of the ~~[incumbrancer]~~ encumbrancer, may
10 apportion the ~~[incumbrance]~~ encumbrance against the separate
11 portions as partitioned to the parties, or if the property is
12 sold and the ~~[incumbrancer's]~~ encumbrancer's claim is due and
13 may be discharged by payment, the court may discharge the ~~[same]~~
14 claim out of the proceeds. Otherwise, unless the ~~[incumbrancer]~~
15 encumbrancer consents to receive payment, the court ~~[may]~~,
16 without disturbing or then making any adjudication as to the
17 ~~[incumbrance]~~ encumbrance, may sell, subject to the
18 ~~[incumbrance]~~ encumbrance, the property affected thereby; or if
19 any lien or ~~[incumbrance]~~ encumbrance is only upon the undivided
20 share or interest of any particular party, the court ~~[may]~~, by
21 ~~[its]~~ decree, may make the same a lien and charge only upon the



1 parcel of land partitioned to the party or a charge against the
2 party's share of the proceeds of sale thereof. In every case,
3 the property sold shall first be charged with its just
4 proportion of the costs of the partition in preference to the
5 lien or charge. Any party holding a lien or [~~incumbrance~~]
6 encumbrance and also having other securities, [~~may~~] in the
7 court's discretion, may be required to exhaust [~~such others~~] the
8 other securities before a distribution of the proceeds of sale
9 in partition, or the court may order a just deduction to be made
10 from the amount of the lien on the property on account of [~~such~~]
11 the other security."

12 SECTION 75. Section 668A-8, Hawaii Revised Statutes, is
13 amended by amending subsection (c) to read as follows:

14 "(c) The purchase price for each of the interests of a
15 cotenant that requested partition by sale is the value of the
16 entire parcel determined under section [~~+~~]668A-7[~~+~~] multiplied
17 by that cotenant's fractional ownership of the entire parcel."

18 SECTION 76. Act 48, Session Laws of Hawaii 2016, is
19 amended by amending section 14 to read as follows:

20 "SECTION 14. This Act shall take effect on August 1, 2016,
21 and shall be repealed on July 1, 2019; provided that sections



1 91-14, 174C-12, 183C-8, [~~206E-5.6(h)~~], 206E-5.6, 269-15.5, and
2 602-5(a), Hawaii Revised Statutes, shall be reenacted in the
3 form in which they read on the day prior to the effective date
4 of this Act."

5 SECTION 77. Act 76, Session Laws of Hawaii 2016, is
6 amended by amending section 5 to read as follows:

7 "SECTION 5. This Act shall take effect upon its approval;
8 provided that [~~section~~] sections 1 and 2 shall be applied
9 retroactively and shall be effective on and after January 1,
10 2016."

11 SECTION 78. Act 171, Session Laws of Hawaii 2016, is
12 amended by amending section 3 to read as follows:

13 "SECTION 3. Chapter 155, Hawaii Revised Statutes, is
14 amended by designating sections 155-1 to [~~155-14~~] 155-15 as part
15 I and inserting a title before section 155-1 to read as follows:

16 "PART I. AGRICULTURAL LOAN PROGRAM"

17 SECTION 79. Act 173, Session Laws of Hawaii 2016, is
18 amended by amending section 5 to read as follows:

19 "SECTION 5. This Act shall take effect on July 1, 2016;
20 provided that the amendments made to section [~~205-4.5(a)(23)~~],
21 205-4.5(a)(19) and (23), Hawaii Revised Statutes, by section 3



1 of this Act shall not be repealed when section 205-4.5, Hawaii
2 Revised Statutes, is reenacted on June 30, 2019, pursuant to
3 section 3 of Act 52, Session Laws of Hawaii 2014."

4 SECTION 80. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 81. This Act shall take effect upon its approval;
7 provided that:

8 (1) Section 46 shall be applied retroactively and shall be
9 effective on January 1, 2017; and

10 (2) Section 77 shall be applied retroactively and shall be
11 effective on June 20, 2016.

APPROVED this 26 day of APR, 2017





GOVERNOR OF THE STATE OF HAWAII

THE SENATE OF THE STATE OF HAWAII

Date: March 7, 2017
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Third Reading in the Senate of the Twenty-ninth Legislature of the State of Hawaii, Regular Session of 2017.


President of the Senate



Clerk of the Senate

**THE HOUSE OF REPRESENTATIVES
OF THE STATE OF HAWAII**

Date: April 7, 2017
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Third Reading in the House of Representatives of the Twenty-ninth Legislature of the State of Hawaii, Regular Session of 2017.


Speaker, House of Representatives


Clerk, House of Representatives