
A BILL FOR AN ACT

RELATING TO STATUTORY REVISION: AMENDING OR REPEALING 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. Section 5-7.7, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[+]§5-7.7[+] **Aloha order of merit location.** There shall
4 be set aside within the [~~Honolulu~~] Daniel K. Inouye
5 International Airport an area to exhibit commemorative displays
6 honoring members of the order. The displays may include
7 likenesses of members and descriptions of the meritorious
8 achievements of each member."

9 SECTION 2. Section 102-11, Hawaii Revised Statutes, is
10 amended by amending subsection (b) to read as follows:

11 "(b) All security provided under this section shall:

12 (1) Be conditioned on the full and faithful performance of
13 the contract in accordance with the terms and intent
14 thereof;



1 (2) Be in an amount not less than two months' rental and
2 other charges, if any, required under the contract;
3 provided that any contract for the sale and delivery
4 of [~~in bond~~] in-bond merchandise at [~~Honolulu~~] the
5 Daniel K. Inouye International Airport shall require a
6 bond in an amount not less than four months of the
7 highest minimum annual rental guaranty required under
8 the contract; and

9 (3) By its terms inure to the benefit of the State or of
10 the county, as the case may be."

11 SECTION 3. Section 142-72, Hawaii Revised Statutes, is
12 amended to read as follows:

13 **"§142-72 Procedure, if owner believes impounding illegal.**

14 If the owner of any animal taken up for trespass[~~7~~] has reason
15 to believe that the taking up or impounding of the animal was
16 illegal, or if [~~he~~] the owner regards the claim for damages or
17 expenses as excessive, [~~he~~] the owner may have [~~his~~] the owner's
18 animal returned to [~~him~~] the owner upon [~~his~~] the owner's
19 delivering to the landowner or to the pound keeper, if the
20 animal has been impounded, a certificate from any district judge
21 of the circuit, stating that [~~he~~] the owner has deposited with



1 the judge the amount claimed by the landowner, together with the
2 pound fees, if any, or a good and sufficient bond for the same
3 and the costs of an action before [~~him~~] the judge."

4 SECTION 4. Section 201B-4, Hawaii Revised Statutes, is
5 amended by amending subsection (b) to read as follows:

6 "(b) The board shall be subject to the procedural
7 requirements of section 92-4, and this authorization shall be in
8 addition to the exceptions listed in section 92-5, to enable the
9 [~~authority~~] board to respect the proprietary requirements of
10 enterprises with which it has business dealings."

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

13 "(b) The board shall consist of eleven members, who shall
14 be appointed by the governor pursuant to section 26-34[~~7~~];
15 provided that:

16 (1) Three members shall be appointed from a list of
17 nominees submitted [~~+~~]by[~~+~~] the president of the
18 senate;

19 (2) Three members shall be appointed from a list of
20 nominees submitted by the speaker of the house of
21 representatives;



1 (3) Two members shall be appointed from a list of nominees
2 submitted by the board;

3 (4) Two members shall be appointed by the governor;

4 (5) The director of business, economic development, and
5 tourism, or the director's designated representative,
6 shall serve as an ex officio, voting member of the
7 board;

8 (6) The appointments shall reflect representation of a
9 variety of businesses in the State;

10 (7) No more than two members shall be representatives from
11 the same type of business; and

12 (8) There shall be at least one representative from each
13 county.

14 For the purposes of paragraphs (1) and (2), nominations shall be
15 solicited from small business organizations, state and county
16 chambers of commerce, and other interested business
17 organizations."

18 SECTION 6. Section 205A-22, Hawaii Revised Statutes, is
19 amended by amending the definition of "department" to read as
20 follows:



1 "Department" means the planning department in the counties
2 of Kauai, Maui, and Hawaii[~~7~~] and the department of [~~land~~
3 ~~utilization~~] planning and permitting in the city and county of
4 Honolulu, or other appropriate agency as designated by the
5 county councils."

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

8 "**§206-5 Declaration of development areas.** (a) Whenever
9 the board of land and natural resources, after due notice and
10 public hearing, [~~the time and place of which have been duly~~
11 ~~given by public notice in the city and county of Honolulu on at~~
12 ~~least three different days, the last notice being not less than~~
13 ~~five days before the date of hearing,~~] finds that [~~in any~~
14 ~~locality on the island of Oahu~~] an acute shortage of residential
15 fee simple property exists in any locality on the island of Oahu
16 and that the shortage of residential fee simple holdings cannot
17 practicably be alleviated within the reasonably near future by
18 means other than those provided under this chapter, the board
19 may declare a suitable area, not less than ten contiguous acres
20 in extent, as a development area. The development area shall be
21 reasonably accessible to persons in the locality and shall



1 consist of lands suitable for a development project. The time
2 and place of the public hearing shall be given by public notice
3 in the city and county of Honolulu on at least three different
4 days, the last notice being not less than five days before the
5 date of the hearing. Any finding of fact[7] by the board, if
6 supported by a preponderance of evidence, shall be conclusive in
7 any suit, action, or proceeding.

8 (b) All development areas shall be compatible with any
9 general plan for the long-range development of land in the
10 political subdivision concerned under the terms of chapter [~~201,~~
11 ~~part II,~~] 225M and shall conform to and with all subdivision and
12 zoning ordinances and requirements of the political
13 subdivision."

14 SECTION 8. Section 206E-123, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§206E-123 Loans; default.** The authority may
17 [~~renegotiate,~~]:

18 (1) Renegotiate, refinance, or foreclose any loan in
19 default[7];



H.B. NO. 2183

1 (2) [~~The authority may waive~~] Waive any default or consent
2 to the modification of the terms of any loan or
3 security agreement[~~-~~];

4 (3) [~~The authority may commence~~] Commence any action to
5 protect or enforce any right conferred upon it by any
6 law, mortgage, insurance policy, contract, or other
7 agreement[~~-~~];

8 (4) [~~The authority may bid~~] Bid for and purchase the
9 property secured by the loan at any foreclosure or
10 other sale[~~-~~] or acquire or take possession of the
11 property secured by the loan[~~-~~]; and

12 (5) [~~The authority may operate,~~] Operate, manage, lease,
13 dispose of, or otherwise deal with the property
14 secured by the loan."

15 SECTION 9. Section 235-7, Hawaii Revised Statutes, is
16 amended by amending subsection (e) to read as follows:

17 "(e) There shall be disallowed as a deduction the amount
18 of interest paid or accrued within the taxable year on
19 indebtedness incurred or continued[~~-~~] to purchase or carry:



- 1 (1) ~~[to purchase or carry bonds]~~ Bonds the interest upon
2 which is excluded from gross income by subsection (a);
3 or
4 (2) ~~[to purchase or carry property]~~ Property owned without
5 the State, or to carry on trade or business without
6 the State, if the taxpayer is a person taxable only
7 upon income from sources in the State."

8 SECTION 10. Section 235-110.7, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§235-110.7 Capital goods excise tax credit.** (a) There
11 shall be allowed to each taxpayer subject to the tax imposed by
12 this chapter a capital goods excise tax credit, which shall be
13 deductible from the taxpayer's net income tax liability, if any,
14 imposed by this chapter for the taxable year in which the credit
15 is properly claimed.

16 The amount of the tax credit shall be determined by the
17 application of the following rates against the cost of the
18 eligible depreciable tangible personal property used by the
19 taxpayer in a trade or business and placed in service within
20 Hawaii after December 31, 1987. For calendar years beginning
21 after:



1 (1) December 31, 1987, the applicable rate shall be three
2 per cent;

3 (2) December 31, 1988, the applicable rate shall be four
4 per cent;

5 (3) December 31, 2008, the applicable rate shall be zero
6 per cent; and

7 (4) December 31, 2009, and thereafter, the applicable rate
8 shall be four per cent.

9 For taxpayers with fiscal taxable years, the applicable
10 rate shall be the rate for the calendar year in which the
11 eligible depreciable tangible personal property used in the
12 trade or business is placed in service within Hawaii.

13 In the case of a partnership, S corporation, estate, or
14 trust, the tax credit allowable is for eligible depreciable
15 tangible personal property [~~which~~] that is placed in service by
16 the entity. The cost upon which the tax credit is computed
17 shall be determined at the entity level. Distribution and share
18 of credit shall be determined by rules.

19 In the case of eligible depreciable tangible personal
20 property for which a credit for sales or use taxes paid to
21 another state is allowable under section 238-3(i), the amount of



1 the tax credit allowed under this section shall not exceed the
2 amount of use tax actually paid under chapter 238 relating to
3 [~~such~~] the tangible personal property.

4 If a deduction is taken under section 179 (with respect to
5 election to expense certain depreciable business assets) of the
6 Internal Revenue Code of 1954, as amended, no tax credit shall
7 be allowed for that portion of the cost of property for which
8 the deduction was taken.

9 (b) If the capital goods excise tax credit allowed under
10 subsection (a) exceeds the taxpayer's net income tax liability,
11 the excess of credit over liability shall be refunded to the
12 taxpayer; provided that no refunds or payment on account of the
13 tax credit allowed by this section shall be made for amounts
14 less than \$1.

15 All claims for tax credits under this section, including
16 any amended claims, must be filed on or before the end of the
17 twelfth month following the close of the taxable year for which
18 the credits may be claimed. Failure to comply with the
19 foregoing provision shall constitute a waiver of the right to
20 claim the credit.



1 (c) Application for the capital goods excise tax credit
2 shall be upon forms provided by the department of taxation.

3 (d) Sections 47 (with respect to dispositions of section
4 38 property and the recapture percentages) of the Internal
5 Revenue Code of 1954, as amended, as of December 31, 1984, and
6 280F as operative for this chapter (with respect to limitation
7 on investment tax credit and depreciation for luxury
8 automobiles; limitation where certain property used for personal
9 purposes) of the Internal Revenue Code of 1954, as amended,
10 shall be operative for purposes of this section.

11 (e) As used in this section, the definition of section 38
12 property (with respect to investment in depreciable tangible
13 personal property) as defined by section 48(a)(1)(A), (a)(1)(B),
14 (a)(3), (a)(4), (a)(7), (a)(8), (a)(10)(A), (b), (c), (f), (l),
15 (m), and (s) of the Internal Revenue Code of 1954, as amended as
16 of December 31, 1984, is operative for the purposes of this
17 section only.

18 (f) As used in this section:

19 "Cost" means the:

20 (1) [~~the actual~~] Actual invoice price of the tangible
21 personal property~~]~~; or



1 (2) ~~[the basis]~~ Basis from which depreciation is taken
2 under section 167 (with respect to depreciation) or
3 from which a deduction may be taken under section 168
4 (with respect to accelerated cost recovery system) of
5 the Internal Revenue Code of 1954, as amended,
6 whichever is less.

7 "Eligible depreciable tangible personal property" is
8 section 38 property as defined by the operative provisions of
9 section 48 and having a depreciable life under section 167 or
10 for which a deduction may be taken under section 168 of the
11 ~~[federal]~~ Internal Revenue Code of 1954, as amended.

12 "Placed in service" means the earliest of the following
13 taxable years:

- 14 (1) The taxable year in which, under the:
- 15 (A) Taxpayer's depreciation practice, the period for
16 depreciation; or
- 17 (B) Accelerated cost recovery system, a claim for
18 recovery allowances~~[+]~~,
- 19 with respect to ~~[such]~~ the property begins; or



1 (2) The taxable year in which the property is placed in a
2 condition or state of readiness and availability for a
3 specifically assigned function.

4 "Purchase" means an acquisition of property.

5 "Tangible personal property" means tangible personal
6 property [~~which~~] that is placed in service within Hawaii after
7 December 31, 1987, and the purchase or importation of which
8 resulted in a transaction [~~which~~] that was subject to the
9 imposition and payment of tax at the rate of four per cent under
10 chapter 237 or 238. "Tangible personal property" does not
11 include tangible personal property [~~which~~] that is an integral
12 part of a building or structure or tangible personal property
13 used in a [~~foreign-trade~~] foreign-trade zone, as defined under
14 chapter 212."

15 SECTION 11. Section 237-27, Hawaii Revised Statutes, is
16 amended by amending subsection (a) to read as follows:

17 "(a) As used in this section:

18 [~~(1)~~] "Petroleum products" means petroleum[~~τ~~]; any
19 distillate, fraction, or derivative of petroleum[~~τ~~]; natural gas
20 or its components[~~τ~~]; gas manufactured from a petroleum
21 product[~~τ~~]; and any product derived from the gas or from the



1 manufacture thereof, such as benzene, xylene, toluene,
2 acetylene, tars, components of tars, and ammonia.

3 ~~[(2)]~~ "Refiner" means any person who, in the State, engages
4 in the business of refining petroleum products and is taxable
5 under this chapter, upon the value or gross proceeds of sales of
6 the petroleum products resultant from the business. A person
7 who is engaged in business as a refiner and also in other
8 business shall be deemed a refiner only in respect of the
9 business that produces the products included in the measure of
10 the tax imposed by this chapter.

11 ~~[(3)]~~ "Refining" means:

12 ~~[(A)]~~ (1) Any process performed by a refiner that
13 includes a change in the character or properties
14 of a petroleum product through the application of
15 heat~~[-]~~; or

16 ~~[(B)]~~ (2) The compounding by a refiner of a petroleum
17 product with a product that has been refined by
18 the refiner by the process stated in ~~[clause~~
19 ~~(A)-]~~ paragraph (1)."

20 SECTION 12. Section 241-2, Hawaii Revised Statutes, is
21 amended by amending subsection (b) to read as follows:



- 1 "(b) Nothing in this chapter shall be construed to:
- 2 (1) [~~to exclude~~] Exclude the application of other taxes
- 3 imposed by the State or any political division thereof
- 4 on national banking associations[~~7~~] or their
- 5 activities, property, income, shares, or dividends
- 6 when [~~such~~] those taxes may be imposed in addition to
- 7 those authorized by [~~the above cited~~] section 5219 [~~of~~
- 8 ~~the~~], Revised Statutes[~~7~~] of the United States, as
- 9 amended (12 U.S.C. 548), or other similar law[~~7~~ or];
- 10 (2) [~~to exempt~~] Exempt the real property of national
- 11 banking associations from taxation to the same extent,
- 12 according to its value, as other real property is
- 13 taxed[~~7~~]; or
- 14 (3) [~~to preclude~~] Preclude the inclusion of the dividends
- 15 from national banking associations in the income of
- 16 individuals taxable under chapter 235 to the same
- 17 extent as are included dividends from domestic
- 18 corporations."

19 SECTION 13. Section 245-16, Hawaii Revised Statutes, is

20 amended by amending subsection (b) to read as follows:



1 "(b) This section shall not apply to the shipment of
2 cigarettes if any of the following conditions are met:

3 (1) The cigarettes are exempt from taxes as provided by
4 section 245-3(b) or are otherwise exempt from the
5 applicability of this chapter as provided by section
6 245-62;

7 (2) All applicable Hawaii taxes on the cigarettes are paid
8 in accordance with the requirements of this chapter;
9 or

10 (3) The person or entity engaged in the business of
11 selling, advertising, or offering cigarettes for sale
12 and transfer or shipment:

13 (A) Has fully complied with all of the requirements
14 of chapter 10A (commencing with section 375) of
15 title 15 of the United States Code, otherwise
16 known as the Jenkins Act; and

17 (B) Includes on the outside of the shipping container
18 an externally visible and easily legible notice
19 located on the same side of the shipping
20 container as the address to which the shipping
21 container is delivered stating as follows:



1 "CIGARETTES: HAWAII LAW PROHIBITS THE SALE OF
2 CIGARETTES TO INDIVIDUALS UNDER [~~EIGHTEEN~~
3 TWENTY-ONE YEARS OF AGE AND REQUIRES THE PAYMENT
4 OF ALL APPLICABLE TAXES. YOU ARE LEGALLY
5 RESPONSIBLE FOR ALL APPLICABLE UNPAID TAXES ON
6 THESE CIGARETTES.""

7 SECTION 14. Section 261-7, Hawaii Revised Statutes, is
8 amended by amending subsection (c) to read as follows:

9 "(c) The department shall enter into a contract with no
10 more than one person ("contractor") for the sale and delivery of
11 in-bond merchandise at [~~Honolulu~~] the Daniel K. Inouye
12 International Airport, in the manner provided by law. The
13 contract shall confer the right to operate and maintain
14 commercial facilities within the airport for the sale of in-bond
15 merchandise and the right to deliver to the airport in-bond
16 merchandise for sale to departing foreign-bound passengers.

17 The department shall grant the contract pursuant to the
18 laws of this State and may take into consideration:

19 (1) The payment to be made on in-bond merchandise sold at
20 [~~Honolulu~~] the Daniel K. Inouye International Airport



1 and on in-bond merchandise displayed or sold elsewhere
2 in the State and delivered to the airport;

3 (2) The ability of the applicant to comply with all
4 federal and state rules and regulations concerning the
5 sale and delivery of in-bond merchandise; and

6 (3) The reputation, experience, and financial capability
7 of the applicant.

8 The department shall actively supervise the operation of
9 the contractor to ensure its effectiveness. The department
10 shall develop and implement [~~such~~] guidelines as it may find
11 necessary and proper to actively supervise the operations of the
12 contractor, and shall include guidelines relating to the
13 department's review of the reasonableness of the contractor's
14 price schedules, quality of merchandise, merchandise assortment,
15 operations, and service to customers.

16 Apart from the contract described in this subsection, the
17 department shall confer no right upon nor suffer nor allow any
18 person to offer to sell, sell, or deliver in-bond merchandise at
19 [~~Honolulu~~] the Daniel K. Inouye International Airport; provided
20 that this section shall not prohibit the delivery of in-bond



1 merchandise as cargo to the [~~Honolulu~~] Daniel K. Inouye
2 International Airport."

3 SECTION 15. Section 261-15.5, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "[~~+~~]**\$261-15.5**[~~+~~] **Aircraft registration.** Unless an
6 aircraft is exempted by this section, no person shall operate or
7 cause or authorize to be operated any aircraft at an airport
8 owned or controlled by the department, unless the aircraft has a
9 certificate of registration issued in accordance with rules
10 adopted by the department. Aircraft exempt from registration
11 required by this section include:

- 12 (1) Aircraft operating primarily in interstate or foreign
13 commerce;
- 14 (2) Aircraft owned or operated by the United States;
- 15 (3) Aircraft in transit through the State; and
- 16 (4) Aircraft operated by any scheduled airline carrier
17 [~~which~~] that is a lessee of the State under an
18 airport-airline lease at the [~~Honolulu~~] Daniel K.
19 Inouye International Airport and [~~which~~] that is
20 commonly referred to as signatory airline."



1 SECTION 16. Section 261-23, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§261-23 [~~Honolulu~~] Daniel K. Inouye International**
4 **Airport.** All that area set aside by executive order No. 1016
5 for John Rodgers Airport and Keehi Lagoon Seaplane Harbor to be
6 under the control and management of the superintendent of public
7 works under date of April 12, 1943, is designated as [~~"Honolulu~~]
8 the "Daniel K. Inouye International Airport"."

9 SECTION 17. Section 286-202.6, Hawaii Revised Statutes, is
10 amended by amending subsection (a) to read as follows:

11 "(a) In addition to the requirements in title 49 Code of
12 Federal Regulations [~~part~~] section 390.21, every motor carrier
13 vehicle shall be marked as specified in subsections (b), (c),
14 and (d)."

15 SECTION 18. Section 304A-1959, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "~~[+]~~§304A-1959~~[+]~~ **Biennial report.** No later than twenty
18 days prior to the convening of the regular session of each odd-
19 numbered year, the University of Hawaii shall submit a report to
20 the legislature concerning:



- 1 (1) All funds deposited into the university innovation and
2 commercialization initiative special fund and a
3 detailed description of the use of those funds; and
- 4 (2) Coordinated efforts between the innovation and
5 commercialization initiative program and other state
6 agencies, including the [Hawaii] technology
7 development corporation, the Hawaii strategic
8 development corporation, and the Hawaii state energy
9 office, to move the State's innovation goals forward,
10 and to more efficiently and effectively utilize
11 resources to achieve these outcomes."

12 SECTION 19. Section 321-5, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§321-5 Contract for exchange of Hawaii personnel.** (a)
15 The department of health may contract with any state, or the
16 health department of any state having the power to so contract,
17 for the exchange of Hawaii personnel for personnel of the health
18 department of ~~[any such]~~ that state. Any ~~[such]~~ exchange shall
19 be made under rules ~~[and regulations]~~ prescribed by the
20 department, in no case shall be for a period exceeding one year,
21 and in all cases shall be subject to the following provisions:



- 1 (1) That each person exchanged by the health department of
2 any state shall possess qualifications equal to the
3 qualifications of the person exchanged [~~for him~~] from
4 Hawaii;
- 5 (2) That the person exchanged from Hawaii shall have
6 served for not less than three years prior to the
7 beginning of the exchange period [~~in the~~] as Hawaii
8 personnel;
- 9 (3) That in the selection of Hawaii personnel for
10 exchange, preference shall be given to persons born in
11 the State;
- 12 (4) That each person exchanged by the health department of
13 any state shall hold in the health department of
14 [~~such~~] that state a position the same as or equivalent
15 to the position held by the person exchanged [~~for him~~]
16 from Hawaii;
- 17 (5) That the person exchanged from Hawaii shall be paid
18 [~~his~~] that person's regular salary out of the funds
19 appropriated therefor, but nothing in addition
20 thereto;



- 1 (6) That the State shall not pay any traveling or other
2 expenses of the Hawaii personnel or of the personnel
3 of the health department of any state coming to Hawaii
4 under any contract of exchange. This prohibition
5 shall be construed to include all travel,
6 transportation, board, lodging, or other expenses
7 incidental to or arising out of any exchange;
- 8 (7) That the State shall not pay any compensation to the
9 person coming to Hawaii under any contract of
10 exchange; provided that in any case where the person
11 so exchanged from Hawaii becomes incapacitated[7] or,
12 for any reason, leaves the exchange position
13 permanently, the department may pay the visiting
14 exchange person an amount not to exceed the salary
15 rating of the person so exchanged from Hawaii, such an
16 arrangement to continue until the end of the period of
17 exchange or until such time as some adjustment
18 satisfactory to the department is made;
- 19 (8) That any provision of law to the contrary
20 notwithstanding, the state requirements in respect to
21 civil service, citizenship, or residence shall not



1 apply to any person coming to Hawaii under any [~~such~~]
2 contract of exchange; and
3 (9) That the appropriate collective bargaining agreement,
4 executive order, executive directive, or rule
5 regarding traveling expenses for state officials shall
6 not apply to Hawaii personnel exchanged under this
7 section.

8 (b) The department may [~~make such~~] adopt rules [~~and~~
9 ~~regulations~~] as it [~~may deem~~] deems necessary concerning the
10 powers, rights, functions, conduct, duties, and liabilities of,
11 exercised by or imposed upon, any person coming to Hawaii under
12 any contract of exchange.

13 (c) As used in this section, unless the text clearly
14 otherwise indicates[~~7~~]:

15 "Hawaii personnel" means public health nurses, sanitary
16 officers, and medical officers[~~7~~].

17 "Health department" means the board of health, department
18 of health, president of the board of health, or other public
19 authority authorized by law to administer or administering the
20 public health laws of any state.



1 ~~["state"]~~ "State" means any state or territory of the
2 United States, or county or municipality of any such state or
3 territory~~;~~ ~~and "health department" means the board of health,~~
4 ~~department of health, president of the board of health, or other~~
5 ~~public authority authorized by law to administer or~~
6 ~~administering the public health laws of any state]."~~

7 SECTION 20. Section 329-38, Hawaii Revised Statutes, is
8 amended by amending subsection (h) to read as follows:

9 "(h) The effectiveness of a prescription for the purposes
10 of this section shall be determined as follows:

11 (1) A prescription for a controlled substance shall be
12 issued for a legitimate medical purpose by an
13 individual practitioner acting in the usual course of
14 the practitioner's professional practice. The
15 responsibility for the proper prescribing and
16 dispensing of controlled substances shall be upon the
17 prescribing practitioner, but a corresponding
18 responsibility shall rest with the pharmacist who
19 fills the prescription. An order purporting to be a
20 prescription issued not in the usual course of
21 professional treatment or for legitimate and



1 authorized research shall not be deemed a prescription
2 within the meaning and intent of this section, and the
3 person who knowingly fills such a purported
4 prescription, as well as the person who issues the
5 prescription, shall be subject to the penalties
6 provided for violations of this chapter;

7 (2) A prescription may not be issued to allow an
8 individual practitioner to obtain controlled
9 substances for supplying the individual practitioner
10 for the purpose of general dispensing to patients;

11 (3) A prescription may not be issued for the dispensing of
12 narcotic drugs listed in any schedule for the purpose
13 of "medically managed withdrawal", also known as
14 "detoxification treatment", or "maintenance treatment"
15 except as follows:

16 (A) The administering or dispensing directly (but not
17 prescribing) of narcotic drugs listed in any
18 schedule to a narcotic drug-dependent person for
19 "medically managed withdrawal", also known as
20 "detoxification treatment", or "maintenance
21 treatment" shall be deemed to be "in the course



1 of a practitioner's professional practice or
2 research" so long as the practitioner is
3 registered separately with the department and the
4 federal Drug Enforcement [Agency] Administration
5 as required by section 329-32(e) and complies
6 with [Title] title 21 Code of Federal Regulations
7 section 823(g) and any other federal or state
8 regulatory standards relating to treatment
9 qualification, security, records, and
10 unsupervised use of drugs; and

11 (B) Nothing in this section shall prohibit a
12 physician or authorized hospital staff from
13 administering or dispensing, but not prescribing,
14 narcotic drugs in a hospital to maintain or
15 detoxify a person as an incidental adjunct to
16 medical or surgical treatment of conditions other
17 than addiction;

18 (4) An individual practitioner shall not prescribe or
19 dispense a substance included in schedule II, III, IV,
20 or V for that individual practitioner's personal use,
21 except in a medical emergency; and



1 (5) A pharmacist shall not dispense a substance included
2 in schedule II, III, IV, or V for the pharmacist's
3 personal use."

4 SECTION 21. Section 329-125, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) A qualifying patient or the primary caregiver may
7 assert the medical use of cannabis authorized under this part as
8 an affirmative defense to any prosecution involving [~~cannabis~~
9 ~~or~~] marijuana[+] under this part [~~or~~], part IV[+], or part IV of
10 chapter 712; provided that the qualifying patient or the primary
11 caregiver strictly complied with the requirements of this part."

12 SECTION 22. Section 329-125.6, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

14 "(a) An owner or employee of a medical cannabis dispensary
15 that is licensed under chapter 329D may assert the production or
16 distribution of medical cannabis as an affirmative defense to
17 any prosecution involving [~~cannabis or~~] marijuana[+] under this
18 part [~~or~~], part IV[+], chapter 329D[+], or part IV of chapter
19 712; provided that the owner or employee strictly complied with
20 the requirements of chapter 329D and any administrative rules
21 adopted thereunder."



1 SECTION 23. Section 346G-10, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) In accordance with title 42 Code of Federal
4 Regulations [~~section~~] part 438, the department shall use
5 revenues from the hospital sustainability fee and federal
6 matching funds to enhance the capitated rates paid to medicaid
7 managed care health plans for [~~the~~] state fiscal years 2017-2018
8 and 2018-2019, consistent with the following objectives:

9 (1) The rate enhancement shall be used exclusively for
10 increasing reimbursements to private hospitals to
11 support the availability of services and to ensure
12 access to care to the medicaid managed care health
13 plan enrollees;

14 (2) The rate enhancement shall be made part of the monthly
15 capitated rates by the department to medicaid managed
16 care health plans, which shall provide documentation
17 to the department and the hospital trade association
18 located in Hawaii certifying that the revenues
19 received under paragraph (1) are used in accordance
20 with this section;



1 (3) The rate enhancement shall be actuarially sound and
2 approved by the federal government for federal fund
3 participation;

4 (4) The rate enhancements shall be retroactive to July 1,
5 2012, or the effective date approved by the federal
6 government, whichever is later. Retroactive rate
7 enhancements shall be paid within thirty days of
8 notification by the Centers for Medicare and Medicaid
9 Services to the department of all necessary approvals;
10 and

11 (5) Payments made by the medicaid managed care health
12 plans shall be made within thirty business days upon
13 receipt of monthly capitation rates from the
14 department."

15 SECTION 24. Section 431:2-203, Hawaii Revised Statutes, is
16 amended by amending subsection (b) to read as follows:

17 "(b) (1) A person who intentionally or knowingly violates,
18 intentionally or knowingly permits any person over
19 whom the person has authority to violate, or
20 intentionally or knowingly aids any person in
21 violating any insurance rule or statute of this State



1 or any effective order issued by the commissioner[7]
2 shall be subject to any penalty or fine as provided by
3 this code or by the Hawaii Penal Code [~~of the Hawaii~~
4 ~~Revised Statutes~~].

5 (2) If the commissioner has cause to believe that any
6 person has violated any penal provision of this code
7 or of other laws relating to insurance, the
8 commissioner shall proceed against that person or
9 certify the facts of the violation to the public
10 prosecutor of the jurisdiction in which the offense
11 was committed.

12 (3) Violation of any provision of this code is punishable
13 by a fine of not less than \$100 nor more than \$10,000
14 per violation, or by imprisonment for not more than
15 one year, or both, in addition to any other penalty or
16 forfeiture provided herein or otherwise by law.

17 (4) The terms "intentionally" and "knowingly" shall have
18 the same meanings as defined in section 702-206(1) and
19 (2)."

20 SECTION 25. Section 431:3-205, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§431:3-205 Funds required of new insurers. Subject to
2 section 431:3-203(a)(2), to qualify to transact any one class of
3 insurance, an insurer, not existing and authorized in this State
4 on July 1, 1988, shall:

5 (1) Deposit in a federally insured financial institution
6 within the State, paid-up capital stock in the case of
7 a stock insurer, or unimpaired surplus if:

8 (A) [a] A reciprocal insurer[~~7~~]; or

9 (B) [a] A mutual insurer [~~which~~] that does not seek
10 to qualify upon the basis of applications and
11 premiums collected as provided in sections 431:4-
12 303 to 431:4-307,

13 in an amount not less than shown in the applicable
14 Schedule "A";

15 (2) Maintain this deposit at all times while the insurer
16 is licensed and transacting insurance in this State;
17 and

18 (3) Secure the approval of the commissioner before making
19 withdrawals from the depository.

20

21

Schedule "A"



1	Class of Insurance	Amount Required
2	Life	\$ 600,000
3	Accident and Health or Sickness	450,000
4	Property	750,000
5	Marine and Transportation	1,000,000
6	Vehicle	1,000,000
7	General Casualty	1,500,000
8	Surety	1,000,000
9	Title	400,000."

10 SECTION 26. Section 431:4-210, Hawaii Revised Statutes, is
 11 amended to read as follows:

12 "**§431:4-210 Unlawful sales of equity security.** It shall
 13 be unlawful for any beneficial owner, director, or officer,
 14 directly or indirectly, to sell any equity security of [~~such~~]
 15 the company if the person selling the security or the person's
 16 principal:

- 17 (1) [~~does~~] Does not own the security sold[~~r~~]; or
 18 (2) [~~if~~] If owning the security, does not deliver it
 19 against [~~such~~] the sale within twenty days thereafter,
 20 or does not within five days after [~~such~~] the sale



1 deposit it in the mails or other usual channels of
2 transportation.

3 No person shall be deemed to have violated this section if the
4 person proves that notwithstanding the exercise of good faith
5 the person was unable to make [~~such~~] delivery or deposit within
6 the required time, or that to do so would cause undue
7 inconvenience or expense."

8 SECTION 27. Section 431:10B-103, Hawaii Revised Statutes,
9 is amended to read as follows:

10 "**§431:10B-103 Definitions.** For the purpose of this
11 article:

12 [~~(1)~~ ~~Credit life insurance means insurance on the life of a~~
13 ~~debtor pursuant to or in connection with a specific~~
14 ~~loan or other credit transaction;~~

15 ~~(2)]~~ "Credit disability insurance" means insurance on a
16 debtor to provide indemnity for payments becoming due on a
17 specific loan or other credit transaction while the debtor is
18 disabled as defined in the policy[~~†~~].

19 "Credit life insurance" means insurance on the life of a
20 debtor pursuant to or in connection with a specific loan or
21 other credit transaction.



1 [~~3~~] "Creditor" means the lender of money, or seller or
2 lessor of goods, services, [~~or~~] property, rights, or privileges,
3 for which payment is arranged through a credit transaction, or
4 any successor to the right, title, or interest of any [~~such~~]
5 lender, seller, or lessor, and an affiliate, associate, or
6 subsidiary of any of them or any director, officer, or employee
7 of any of them, or any other person in any way associated with
8 any of them[~~+~~].

9 [~~4~~] "Debtor" means a borrower of money or a purchaser or
10 lessee of goods, services, property, rights, or privileges for
11 which payment is arranged through a credit transaction[~~+~~].

12 [~~5~~] "Indebtedness" means the total amount payable by a
13 debtor to a creditor in connection with a loan or other credit
14 transaction."

15 SECTION 28. Section 431:26-108, Hawaii Revised Statutes,
16 is amended by amending its title to read as follows:

17 "[~~+~~]§431:26-108[~~-~~]~~Regulations.~~ Rules."

18 SECTION 29. Section 432:1-104, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "§432:1-104 Definitions. For the purposes of this
21 article:



1 ~~[(1)]~~ "Commissioner" means the insurance commissioner of
2 the State ~~[of Hawaii]~~.

3 ~~[(2)]~~ "Mutual benefit society" ~~[is]~~ means any corporation,
4 unincorporated association, society, or entity:

5 ~~[(A)]~~ (1) Organized and carried on for the primary benefit of
6 its members and their beneficiaries and not for
7 profit, and:

8 ~~[(i)]~~ (A) Making provision for the payment of benefits
9 in case of sickness, disability, or death of its
10 members, or disability, or death of its members'
11 spouses or reciprocal beneficiaries or
12 children~~[r]~~i or

13 ~~[(ii)]~~ (B) Making provision for the payment of any
14 other benefits to or for its members,
15 whether or not the amount of the benefits is fixed or
16 rests in the discretion of the society, its officers,
17 or any other person or persons; and the fund from
18 which the payment of the benefits shall be defrayed is
19 derived from assessments or dues collected from its
20 members, and the payment of death benefits is made to
21 the families, including reciprocal beneficiaries,



H.B. NO. 2183

1 heirs, blood relatives, or persons named by its
2 members as their beneficiaries; or
3 ~~[(B)]~~ (2) Organized and carried on for any purpose~~[, which:]~~

4 that:

5 ~~[(i)]~~ (A) Regularly requires money to be paid to it by
6 its members, whether the money be in the form of
7 dues, subscriptions, receipts, contributions,
8 assessments, or otherwise~~[,]~~; and

9 ~~[(ii)]~~ (B) Provides for the payment of any benefit or
10 benefits or the payment of any money or the
11 delivery of anything of value to its members or
12 their relatives, including reciprocal
13 beneficiaries, or to any person or persons named
14 by its members as their beneficiaries, or to any
15 class of persons ~~[which]~~ that includes or may
16 include its members,
17 whether or not the amount or value of the benefit,
18 benefits, money, or thing of value is fixed, or rests
19 in the discretion of the society, its officers, or any
20 other person or persons; or



1 [~~C~~] (3) Organized and carried on for any purpose~~[7]~~ whose
2 requirements and provisions, although not identical
3 with, are determined by the commissioner to be
4 substantially similar to~~[7]~~ those enumerated in
5 [~~subparagraphs (A)~~] paragraphs (1) and ~~(B)~~ (2).

6 Participating in a legal service plan subject to chapter
7 488 shall not in itself make a corporation, unincorporated
8 association, society, or entity a mutual benefit society and
9 subject to this article."

10 SECTION 30. Section 432:1-301, Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

12 "(a) Before doing business or engaging in any act, any
13 mutual benefit society as defined in section [~~432:1-104(2)~~]
14 432:1-104 shall file with the commissioner:

15 (1) Copies of its constitution or organic instrument under
16 which it purports to operate, [~~and~~] the bylaws, and
17 rules and regulations, if any;

18 (2) If a society promising or offering to pay death, sick,
19 disability, or other benefits in an amount equal to or
20 in excess of \$25:



- 1 (A) Copies of all proposed forms of benefit
2 certificates, applications, and circulars to be
3 issued by the society; and
- 4 (B) A bond in the sum of \$25,000 with sureties
5 approved by the commissioner. The bond shall be
6 conditioned upon the return of the advance
7 payments referred to in section 432:1-304, if the
8 organization is not completed within one year;
9 and
- 10 (3) Any additional information as the commissioner may
11 require."

12 SECTION 31. Section 435E-25, Hawaii Revised Statutes, is
13 amended to read as follows:

14 **"§435E-25 Voluntary termination of a member.** A
15 participating member who is then in full compliance with the
16 trust agreement may elect voluntarily to terminate [~~his or her~~]
17 the participating member's membership in the interindemnity
18 arrangement. Upon voluntary termination, [~~such~~] the person may
19 further elect to cease being responsible for future assessments,
20 or to continue to pay [~~such~~] the assessments until [~~such time as~~
21 ~~such~~] the person's initial contribution is repaid. [~~In the~~



1 ~~event such]~~ If the person elects to cease being responsible for
2 future assessments, the indemnity coverage shall thereupon
3 terminate and ~~[such]~~ the person shall either be responsible for
4 ~~[his or her]~~ the person's own exposure for acts committed while
5 a participating member in the interindemnity arrangement, or ~~[he~~
6 ~~or she]~~ the person may request the interindemnity arrangement to
7 purchase or provide, at the cost of ~~[such]~~ the person, coverage
8 for ~~[such]~~ the person's exposure. The initial contribution of
9 ~~[such]~~ the person shall be repaid on the tenth anniversary of
10 the date ~~[such]~~ the contribution was made. ~~[In the event such]~~
11 If the person elects to continue to be responsible for
12 assessments, the indemnity coverage shall continue in respect of
13 occurrences prior to the date of the voluntary termination, and
14 the initial contribution of ~~[such]~~ the person shall be repaid
15 ~~[at such time as]~~ when the board of trustees is satisfied that:
16 (1) ~~[there]~~ There are no claims pending against the person
17 in respect of occurrences during the time the person
18 was a participating member~~[r]~~; and
19 (2) ~~[the]~~ The statute of limitations has run on all claims
20 ~~[which]~~ that might be asserted against the person in
21 respect of occurrences during ~~[such]~~ that time.



1 In no event shall [~~such~~] repayment be made earlier than the
2 tenth anniversary of the date [~~such~~] the contribution was made."

3 SECTION 32. Section 435E-43, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§435E-43 Investigation, publication.** The commissioner
6 [~~may~~], in the commissioner's discretion, may:

7 (1) [~~make-such~~] Make public or private investigations
8 within or outside of this State as the commissioner
9 deems necessary to determine whether any person has
10 violated or is about to violate this chapter, or to
11 aid in the enforcement of this chapter[~~7~~]; and

12 (2) [~~publish~~] Publish information concerning the violation
13 of this chapter."

14 SECTION 33. Section 508D-15, Hawaii Revised Statutes, is
15 amended by amending subsection (a) to read as follows:

16 "(a) When residential real property lies:

17 (1) Within the boundaries of a special flood hazard area
18 as officially designated on Flood Insurance
19 Administration maps promulgated by the United States
20 Department of Housing and Urban Development for the



1 purposes of determining eligibility for emergency
2 flood insurance programs;

3 (2) Within the boundaries of the noise exposure area shown
4 on maps prepared by the department of transportation
5 in accordance with Federal Aviation Regulation [~~Part~~
6 ~~150-Airport~~] part 150, Airport Noise Compatibility
7 Planning (14 [~~Code of Federal Regulations Part~~] C.F.R.
8 part 150), for any public airport;

9 (3) Within the boundaries of the Air Installation
10 [~~Compatibility~~] Compatible Use Zone of any Air Force,
11 Army, Navy, or Marine Corps airport as officially
12 designated by military authorities; or

13 (4) Within the anticipated inundation areas designated on
14 the department of defense's emergency management
15 tsunami inundation maps[+],
16 subject to the availability of maps that designate the four
17 areas by tax map key (zone, section, parcel), the seller shall
18 include [~~such~~] the material fact information in the disclosure
19 statement provided to the buyer subject to this chapter. Each
20 county shall provide, where available, maps of its jurisdiction
21 detailing the four designated areas specified in this



1 subsection. The maps shall identify the properties situated
2 within the four designated areas by tax map key number (zone,
3 section, parcel) and shall be of a size sufficient to provide
4 information necessary to serve the purposes of this section.
5 Each county shall provide legible copies of the maps and may
6 charge a reasonable copying fee."

7 SECTION 34. Section 514B-43, Hawaii Revised Statutes, is
8 amended by amending subsection (a) to read as follows:

9 "(a) For purposes of this section:

10 [~~(1) "Visible commencement of operations" shall have the~~
11 ~~meaning it has in section 507-41; and~~

12 ~~(2)] "Lien" means a lien created pursuant to chapter 507,~~
13 part II.

14 "Visible commencement of operations" shall have the meaning
15 it has in section 507-41."

16 SECTION 35. Section 514E-19, Hawaii Revised Statutes, is
17 amended by amending subsections (a) and (b) to read as follows:

18 "(a) An escrow for the sale of a time share interest in a
19 time share ownership plan may close only if the requirements of
20 any one of the following alternatives for protecting the
21 purchaser have been satisfied:



- 1 (1) The time share interest is conveyed to the purchaser
2 free and clear of any blanket liens[-];
- 3 (2) The time share unit is conveyed to a trustee:
- 4 (A) Free and clear of any blanket liens under a trust
5 meeting the requirements of sections 514E-22 and
6 ~~[23-]~~ 514E-23; or
- 7 (B) Under a lien payment trust meeting the
8 requirements of sections 514E-22, ~~[23, 24, and~~
9 ~~25.]~~ 514E-23, 514E-24, and 514E-25;
- 10 (3) (A) The time share interest is conveyed to the
11 purchaser subject only to blanket liens:
- 12 (i) Where every person holding an interest in
13 the blanket lien has executed and recorded a
14 nondisturbance agreement; or
- 15 (ii) For which the director's acceptance of a
16 surety bond or an irrevocable letter of
17 credit meeting the requirements of section
18 514E-28 has been recorded with respect to
19 that time share unit; and



1 (B) If legal or equitable title will be held by
2 anyone other than the purchaser, a notice of time
3 share plan is recorded~~[.]~~; or

4 (4) The requirements of any alternative arrangements
5 accepted by the director have been met.

6 (b) An escrow for the sale of a time share interest in a
7 time share use plan may close only if the requirements of any
8 one of the following alternatives for protecting purchasers have
9 been satisfied:

10 (1) The time share unit is conveyed to a trustee:

11 (A) Free and clear of any blanket liens under a trust
12 meeting the requirements of sections 514E-22 and
13 ~~[23,]~~ 514E-23; or

14 (B) Under a lien payment trust meeting the
15 requirements of sections 514E-22, ~~[23, 24, and~~
16 ~~25.]~~ 514E-23, 514E-24, and 514E-25;

17 (2) A notice of time share plan is recorded and either:

18 (A) Every person holding an interest in a recorded
19 blanket lien against any time share interests in
20 that time share unit executes and records a
21 nondisturbance agreement; or



H.B. NO. 2183

1 (B) The director's acceptance of a surety bond or an
2 irrevocable letter of credit meeting the
3 requirements of section 514E-28 is recorded~~(-)~~;
4 or

5 (3) The requirements of any alternative arrangements
6 accepted by the director have been met."

7 SECTION 36. Section 514E-25, Hawaii Revised Statutes, is
8 amended by amending subsections (a), (b), and (c) to read as
9 follows:

10 "(a) The lien payment deposit shall consist of either ~~[(+)]~~
11 ~~nondelinquent~~]:

12 (1) Nondelinquent purchase money contracts from purchasers
13 of time share interests in the time share plan; or
14 ~~[(+)] other~~

15 (2) Other assets deposited into trust by the developer and
16 approved by the director.

17 (b) (1) The purchase money contracts ~~[must]~~ shall have an
18 aggregate remaining principal balance of not less
19 than, and any other assets deposited ~~[must]~~ shall have
20 a liquidated value of not less than, one hundred ten
21 per cent of the difference between ~~[(+)] the~~]:



1 (A) The aggregate remaining principal balance owing
2 under blanket liens against the time share unit
3 or time share interests in it, including any
4 prepayment penalties, release prices, and similar
5 charges[~~, (ii) the~~]; and

6 (B) The amount of money, or its equivalent, in the
7 trust and available at any time to be applied to
8 the reduction of the principal balance of the
9 blanket lien.

10 The developer shall have the burden of establishing,
11 to the satisfaction of the director,
12 the liquidated
13 value of assets other than purchase money contracts
 from purchasers in the time share plan.

14 (2) If the blanket lien payment deposit consists of
15 purchase money contracts, the payments required to be
16 made by purchasers under the contracts shall:

17 (A) Be due on or before the dates on which payments
18 become due on the blanket liens;

19 (B) If paid when due, be equal to at least one
20 hundred ten per cent of the amount required to be



1 paid on the blanket liens on [~~such~~] that date;

2 and

3 (C) Be sufficient to pay, in full, during the term of
4 ~~[such]~~ those contracts:

5 (i) [~~all~~] All amounts secured by the blanket
6 liens, including prepayment penalties and
7 release prices, if any; and

8 (ii) [~~all~~] All service charges payable to the
9 trustee, any collection agent, and any other
10 servicing agent pursuant to the trust
11 instrument.

12 (3) If the developer proposes to deposit into trust assets
13 other than purchase money contracts, [~~such~~] those
14 assets [~~must~~] shall be sufficient to pay debt service
15 installments on the blanket lien as they become due
16 and to create a sinking fund or other arrangement
17 adequate to extinguish the debt secured by the blanket
18 lien at its maturity.

19 (c)(1) In lieu of the requirements of subsection (b), the
20 developer may elect to follow the requirements of



1 paragraphs (2), (3), (4), and (5) [~~of this subsection~~]

2 if the following requirements are met:

3 (A) The developer owns or leases under a lease for a
4 term of not less than thirty years all the
5 noncommercial portions of a hotel, condominium,
6 cooperative, or other project;

7 (B) No more than seventy-five per cent of the
8 appraised value of the project is subject to a
9 mortgage or other lien. The appraised value
10 shall be based on the use of the project prior to
11 the creation of the time share plan;

12 (C) [~~(i)~~] As security for the obligations of the
13 developer to the owners[~~, the~~]:

14 (i) The developer executes and records a
15 mortgage in favor of the trustee under the
16 lien payment trust or the association, in
17 either case as trustee on behalf of the
18 owners, twenty-five per cent of the
19 appraised value of the project; or

20 (ii) [~~the~~] The developer conveys or transfers the
21 project to a trust meeting the requirements



1 of sections 514E-22 and [~~23,~~] 514E-23, and
2 under the terms of the trust instrument the
3 twenty-five per cent of the beneficial
4 interest in the trust is held for the
5 benefit of, or conveyed or transferred to,
6 the association, acting as trustee for the
7 owners [~~, as security for the obligations of~~
8 ~~the developer to owners~~]; and

9 (D) The developer files a verified statement of the
10 program of financing, acceptable to the director,
11 containing a cash flow analysis showing that the
12 developer has adequate funds to pay the debt
13 service installments on the blanket liens on the
14 project during the sales period and to extinguish
15 the debt secured by the blanket lien at its
16 maturity, whether from sales proceeds, loan
17 commitments, income from operations of the
18 project, or other sources.

19 (2) The purchase money contracts [~~must~~] shall have an
20 aggregate remaining principal balance of not less
21 than, and any other assets deposited [~~must~~] shall have



1 a liquidated value of not less than, one hundred ten
2 per cent of the difference between [~~(i)~~a]:

3 (A) A pro rata share of the aggregate remaining
4 principal balance owing under blanket liens
5 against the time share unit or time share
6 interests in it, including any prepayment
7 penalties, release prices, and similar charges [~~7~~
8 ~~(ii)~~a]; and

9 (B) A pro rata share of the amount of money, or its
10 equivalent, in the trust and available at any
11 time to be applied to the reduction of the
12 principal balance of the blanket lien.

13 The developer shall have the burden of establishing,
14 to the satisfaction of the director, the liquidated
15 value of assets other than purchase money contracts
16 from purchasers in the time share plan.

17 (3) If the blanket lien payment deposit consists of
18 purchase money contracts, the payments required to be
19 made by purchasers under the contracts [~~must:~~] shall:

20 (A) Be due on or before the dates on which payments
21 become due on the blanket liens;



- 1 (B) If paid when due, be equal to at least one
2 hundred ten per cent of a pro rata share of the
3 amount required to be paid on the blanket liens
4 on ~~[such]~~ that date; and
- 5 (C) Be sufficient to pay, in full, during the term of
6 ~~[such]~~ those contracts:
- 7 (i) ~~[a]~~ A pro rata share of all amounts secured
8 by the blanket liens, including prepayment
9 penalties and release prices, if any; and
- 10 (ii) ~~[all]~~ All service charges payable to the
11 trustee, any collection agent, and any other
12 servicing agent pursuant to the trust
13 instrument.
- 14 (4) If the developer proposes to deposit into trust assets
15 other than purchase money contracts, ~~[such]~~ those
16 assets ~~[must]~~ shall be sufficient to pay a pro rata
17 share of the debt service installments on the blanket
18 lien as they become due and to create a sinking fund
19 or other arrangement adequate to extinguish the debt
20 secured by the blanket lien at its maturity.



1 (5) For purposes of this subsection, the term "pro rata
2 share" means a share proportionate to the ratio that
3 the number of time share units in which the sale of
4 time share interests have been closed bears to the
5 total number of time share units in the project. No
6 more than fifty-one weeks of use annually may be
7 attributed to each time share unit in determining the
8 pro rata share.

9 (6) The developer may elect to terminate the use of the
10 provisions of this subsection upon satisfying all of
11 the requirements of either subsection (b) or section
12 514E-26(c)."

13 SECTION 37. Section 516-1, Hawaii Revised Statutes, is
14 amended by amending the definition of "owner's basis" to read as
15 follows:

16 "Owner's basis" means the value of the lessor's leased fee
17 interest in the lot that would apply if [~~such~~] the interests
18 were normally traded on an open market. The fair market value
19 of the owner's basis shall be established to provide the lessor
20 with just compensation for the lessor's interests in the lot and
21 shall take into consideration every interest and equity of the



1 lessee in establishing that market value. The value may be
2 determined by either of the following methods, or any other
3 method [~~which~~] that is normally used by qualified appraisers in
4 establishing the fair market value of a lessor's leased fee
5 interest in land:

6 (1) The sum of: [~~(i) the~~]

7 (A) The future rental income stream for the lot for
8 the term of the lease discounted to present worth
9 from the expiration date of the lease; and [~~(ii)~~
10 ~~the~~]

11 (B) The value of the lessor's reversionary interest
12 in the lot discounted to present worth from the
13 expiration date of the lease.

14 The discount rate shall be based on the maximum rate
15 of return for insured passbook demand saving account
16 paid by the savings and loan institutions in Hawaii
17 plus three and three-fourths per cent; provided[~~7~~
18 ~~however,~~] that the discount rate may be modified by
19 mutual agreement of the lessor, lessee, and the
20 corporation; or



- 1 (2) The current fair market value of the lot, valued as if
2 it were a fee simple lot and as if the fee title were
3 unencumbered, and excluding onsite improvements,
4 established by a market data approach utilizing
5 comparable sales, less the following:
- 6 (A) The value of the lease, including any rights
7 therein, if any, [~~which~~] that accrues to the
8 lessee;
- 9 (B) That percentage of the general enhancement of the
10 neighborhood [~~which~~] that has been paid for or
11 contributed directly or indirectly by the lessee;
- 12 (C) The current replacement cost of that portion of
13 existing offsite improvements, including overhead
14 and profit at prevailing rates, [~~which~~] that were
15 paid for or otherwise contributed, directly or
16 indirectly, by the lessee;
- 17 (D) That percentage of the general enhancement of the
18 development tract and the lot caused by the
19 onsite improvements on the lot paid for, or
20 contributed, directly or indirectly, by the
21 lessee;



1 (E) That amount, not otherwise deducted herein,
2 allocated to the lot [~~7~~ which] that was paid for
3 or otherwise contributed, directly or indirectly,
4 by the original lessee, computed at prevailing
5 rates for overhead and profit in developing the
6 development tract established by existing
7 practice in the community; and

8 (F) That amount for fees and costs [~~which~~] that would
9 ordinarily be borne by the lessor in transferring
10 [~~such~~] interest to the lessee, including [~~7~~] but
11 not limited to [~~7~~] attorneys' or realtors'
12 commissions, other costs of sale, and similar
13 fee;

14 provided [~~7~~ however,] that the values established by
15 any one of the [~~foregoing~~] provisions in subparagraphs
16 (A) to (F) shall not be duplicated in any one of the
17 other provisions."

18 SECTION 38. Section 516-32, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "§516-32 **Not for profit.** It is declared to be the policy
21 of the State that the Hawaii housing finance and development



1 corporation shall carry out its responsibilities under this part
2 in an efficient manner so as to enable it to fix the sales
3 prices and rentals for residential lots at the lowest possible
4 rates consistent with the purpose of this part; and that the
5 corporation shall not administer this part for profit~~[7]~~ or as a
6 source of revenue to the State. To this end, the corporation
7 shall fix the sales prices for residential lots or rentals for
8 lots at no higher rates or prices than it shall find to be
9 necessary in order to produce revenues ~~[which]~~ that (together
10 with all other available moneys, revenues, income, and receipts
11 of the corporation from whatever sources derived under the
12 administration of this part) will be sufficient~~[÷]~~ to:

- 13 (1) ~~[to pay,]~~ Pay, as the same becomes due, the principal
14 and interest on the bonds of the corporation;
- 15 (2) ~~[to meet]~~ Meet the cost of~~[7]~~ and ~~[to]~~ provide for the
16 administration of this part; and
- 17 (3) ~~[to create]~~ Create a reserve sufficient to meet the
18 largest principal and interest payments ~~[which]~~ that
19 will be due on ~~[such]~~ the bonds in any one year
20 thereafter and to maintain ~~[such]~~ the reserve."



1 SECTION 39. Section 516-43, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§516-43 Security for funds deposited.** The Hawaii housing
4 finance and development corporation [~~may~~], by resolution, may
5 provide that all moneys deposited by it shall be secured[+] by:

6 (1) [~~by any~~] Any securities by which funds deposited by
7 the state director of finance may be legally secured
8 as provided in section 38-3[~~r~~]; or

9 (2) [~~by an~~] An undertaking with [~~such~~] sureties as are
10 approved by the corporation faithfully to keep and pay
11 over upon the order of the corporation any [~~such~~]
12 deposits and agreed interest thereon, and all banks
13 and trust companies may give any [~~such~~] security for
14 [~~such~~] those deposits."

15 SECTION 40. Section 516-63, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§516-63 Free assignability.** Except as otherwise provided
18 in section 516-35 and restrictions placed in leases by state or
19 county agencies, a lessee may assign the lessee's lease at any
20 time without the approval or consent of the lessor, and the
21 assignee shall have the same rights and obligations under the



1 lease as the original lessee; provided that no [~~such~~] assignment
2 shall be effective to transfer any interest in the lease unless
3 the lessor has received:

4 (1) [~~either~~] Either a true executed copy of [~~such~~] the
5 assignment or written notice thereof[~~τ~~];

6 (2) [~~a~~] A reasonable service charge, except in case of an
7 assignment by way of mortgage or assignment to or by
8 the Federal Housing Administration [~~or~~], Department of
9 Veterans Affairs, or [~~the~~] Federal National Mortgage
10 Association or a foreclosure of mortgage or assignment
11 in lieu of foreclosure[~~τ~~]; and

12 (3) [~~the~~] The written undertaking of the assignee to
13 perform all obligations of the lessee under the lease,
14 which undertaking may be incorporated in [~~such~~] the
15 assignment.

16 No [~~such~~] assignment shall release the assignor from liability
17 under the lease unless the lessor consents in writing to the
18 assignment. A consent to the assignment shall be deemed a
19 consent to the release of the assignor from liability under the
20 lease. The lessor shall not require payment of any money for
21 the lessor's consent except the service charge, nor withhold



1 [~~such~~] consent unreasonably. Any person acquiring the leasehold
2 estate in consideration of the extinguishment of a debt secured
3 by mortgage of the lease or through foreclosure sale, judicial
4 or otherwise, shall be liable to perform the obligations imposed
5 on the lessee by the lease only during the period [~~such~~] the
6 person has possession or ownership of the leasehold estate."

7 SECTION 41. Section 516-66, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§516-66 Lease rental.** (a) In every case of an extension
10 under section 516-65, the annual lease rental during the first
11 thirty years shall not exceed an amount determined as follows:

12 (1) Compute to the nearest whole year, one hundred per
13 cent of the unexpired period of fixed rent at the
14 commencement of the extended term;

15 (2) Multiply the number of years computed in paragraph (1)
16 by the fixed annual rent in effect immediately prior
17 to the extension;

18 (3) Deduct from thirty years the number of years computed
19 in paragraph (1) and multiply that difference by the
20 annual rent determined by mutual agreement of lessor
21 and lessee within thirty days after [~~such~~] the



1 extension or by arbitration in [~~accord~~] accordance
2 with chapter 658A; and

3 (4) Add the amounts computed in paragraphs (2) and (3) and
4 divide that sum by thirty. This sum rounded to the
5 nearest dollar shall be the annual rent for the first
6 thirty years of the extended term; provided that
7 [~~such~~] the rent shall not [~~without the consent of the~~
8 ~~lessor~~] be less than the annual rent in effect
9 immediately prior to [~~such~~] the extension[~~er~~], unless
10 otherwise consented to by the lessor.

11 (b) The annual rent payable [~~hereunder~~] under subsection
12 (a) for and during the remaining period of the extended term
13 shall be determined by mutual agreement of the lessor and the
14 lessee[~~r~~] or, if they fail to reach [~~such~~] an agreement at least
15 ninety days before the commencement of the period, by
16 arbitration in accordance with chapter 658A."

17 SECTION 42. Section 519-3, Hawaii Revised Statutes, is
18 amended by amending subsection (d) to read as follows:

19 "(d) For purposes of this section:

20 [~~(1)~~] "Cooperative housing corporation" means a
21 corporation:



- 1 [~~(A)~~] (1) Having [~~one and~~] only one class of stock
2 outstanding;
- 3 [~~(B)~~] (2) Each of the stockholders of which is entitled,
4 solely by reason of the shareholder's ownership of
5 stock in the corporation, to occupy for dwelling
6 purposes the dwelling unit in a building[~~7~~] owned or
7 leased by the corporation[~~7~~] and situated on land
8 leased by the corporation;
- 9 [~~(C)~~] (3) No stockholder of which is entitled [~~(either)~~],
10 either conditionally or unconditionally[~~7~~], to receive
11 any distribution not out of earnings and profits of
12 the corporation, except in a complete or partial
13 liquidation of the corporation; and
- 14 [~~(D)~~] (4) Eighty per cent or more of the gross income for
15 the taxable year in which the taxes and interest
16 described in title 26 United States Code section
17 216(a) are paid or incurred is derived from tenant
18 stockholders.
- 19 [~~(2)~~] "Offsite improvements" means all physical
20 improvements [~~such as~~], including but not limited to[~~7~~] roads,
21 sewer lines, sewage treatment plants, and underground utility



1 cables, constructed or placed in a subdivision or development
2 off the land intended for occupancy, which improvements are to
3 be used in common by occupants of all lands adjoining [~~such~~] the
4 improvements or by occupants of all lands for whose benefit the
5 improvements have been constructed or placed.

6 [+3] "Onsite improvements" means all physical
7 improvements placed on a residential lot intended for occupancy,
8 which improvements are for the benefit of occupants of that lot,
9 including[+7] but not limited to[+7] dwelling units, garages,
10 service buildings, stairs, walkways, driveways, walls, trees,
11 shrubs, landscaping, and pools.

12 [+4] ~~"Owner's basis" means the value of the lessor's~~
13 ~~leased fee interest in the property that would apply if such~~
14 ~~interest were normally traded on an open market. The fair~~
15 ~~market value of the owner's basis shall be established to~~
16 ~~provide the lessor with just compensation for the lessor's~~
17 ~~interests in the lot and shall take into consideration every~~
18 ~~interest and equity of the lessee in establishing that market~~
19 ~~value. The value may be determined by any method which is~~
20 ~~normally used by qualified appraisers in establishing the fair~~
21 ~~market value of a lessor's leased fee interest in land.~~



1 (5)] "Original percentage rate" means the percentage
2 derived by dividing the annual lease rent established for the
3 first fixed rent period under the lease by the fair market value
4 of the land as of the first day of the first fixed rent period.

5 "Owner's basis" means the value of the lessor's leased fee
6 interest in the property that would apply if the interest were
7 normally traded on an open market. The fair market value of the
8 owner's basis shall be established to provide the lessor with
9 just compensation for the lessor's interests in the lot and
10 shall take into consideration every interest and equity of the
11 lessee in establishing that market value. The value may be
12 determined by any method that is normally used by qualified
13 appraisers in establishing the fair market value of a lessor's
14 leased fee interest in land."

15 SECTION 43. Section 554-10, Hawaii Revised Statutes, is
16 amended by amending subsection (a) to read as follows:

17 "(a) In the administration of any trust [~~which~~] that is a
18 "private foundation", as defined in section 509 of the Code or
19 to which section 4947 of the Code applies, the following shall
20 be prohibited:



1 ~~[(i)]~~ (1) Engaging in any act of "self-dealing" ~~[(as),~~ as
2 defined in section 4941(d) of the Code~~];~~;

3 ~~[(ii)]~~ (2) Retaining any "excess business holdings" ~~[(as),~~
4 as defined in section 4943(c) of the Code~~];~~;

5 ~~[(iii)]~~ (3) Making any investments in ~~[such]~~ a manner as to
6 subject it to tax under section 4944 of the Code; and

7 ~~[(iv)]~~ (4) Making any "taxable expenditures" ~~[(as),~~ as
8 defined in section 4945(d) of the Code~~];~~;

9 provided that this subsection ~~[(a)]~~ shall not apply to ~~[such]~~
10 amounts of any trust to which section 4947(a)(2) of the Code
11 applies, as ~~[are]~~ described in the second sentence of ~~[said]~~
12 section 4947(a)(2) of the Code, and ~~[items (ii) and (iii) of~~
13 ~~this subsection (a)]~~ paragraphs (2) and (3) shall not apply to
14 any trust to which ~~[said]~~ section 4947(a)(2) of the Code applies
15 ~~[which is],~~ as described in section 4947(b)(3) of the Code."

16 SECTION 44. Section 557A-104, Hawaii Revised Statutes, is
17 amended by amending subsection (c) to read as follows:

18 "(c) A trustee may not make an adjustment:

19 (1) That diminishes the income interest in a trust that
20 requires all of the income to be paid at least
21 annually to a surviving spouse and for which an estate



H.B. NO. 2183

- 1 tax or gift tax marital deduction would be allowed, in
2 whole or in part, if the trustee did not have the
3 power to make the adjustment;
- 4 (2) That reduces the actuarial value of the income
5 interest in a trust to which a person transfers
6 property with the intent to qualify for a gift tax
7 exclusion;
- 8 (3) That changes the amount payable to a beneficiary as a
9 fixed annuity or a fixed fraction of the value of the
10 trust's assets;
- 11 (4) From any amount that is permanently set aside for
12 charitable purposes under a will or the terms of a
13 trust, unless both income and principal are so set
14 aside; provided that a trustee may transfer income to
15 principal only upon a court order (unless the trustee
16 is holding institutional funds as defined in section
17 [~~517D-3~~] 517E-2 exclusively for the benefit of a
18 community foundation and section [~~517D-4~~] 517E-4
19 applies);
- 20 (5) If possessing or exercising the power to make an
21 adjustment may cause an individual to be treated as



1 the owner of all or part of the trust for income tax
2 purposes, and the individual would not be treated as
3 the owner if the trustee did not possess the power to
4 make an adjustment;

- 5 (6) If possessing or exercising the power to make an
6 adjustment causes all or part of the trust assets to
7 be included for estate tax purposes in the estate of
8 an individual who has the power to remove a trustee or
9 appoint a trustee, or both, and the assets would not
10 be included in the estate of the individual if the
11 trustee did not have the power to make an adjustment;
12 or

- 13 (7) If the trustee is a beneficiary of the trust."

14 SECTION 45. Section 571-21, Hawaii Revised Statutes, is
15 amended by amending subsection (d) to read as follows:

16 "(d) In children's cases[7] under section 571-11(1) and
17 (2), the petition and all subsequent court documents shall be
18 suitably entitled so as to indicate that the proceeding is in
19 the interest of rather than against the child or minor involved.
20 The petition shall be verified and statements may be made upon



1 information and belief. [~~It~~] The petition shall set forth
2 plainly[+] the:

3 (1) [~~the facts which~~] Facts that bring the child within
4 the purview of this chapter;

5 (2) [~~the name,~~] Name, age, and residence of the child;

6 (3) [~~the names~~] Names and residences of the child's
7 parents; and

8 (4) [~~the name~~] Name and residence of the child's legal
9 guardian if there [~~be~~] is one, of the person or
10 persons having custody or control of the child, or of
11 the nearest known relative if no parent or guardian
12 can be found.

13 If any of the facts required are not known by the petitioner,
14 the petition shall so state. In cases brought pursuant to
15 section 571-11(2)(A) and (C), a certified copy of the child's
16 school attendance records shall constitute prima facie evidence
17 of the child's nonattendance at school or nonreceipt of
18 educational services. [~~A certified copy is defined as~~]
19 "Certified copy" means a copy signed by the principal and
20 educator of the child [~~from~~] whose class the child did not
21 attend."



1 SECTION 46. Section 571-31, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) When an officer or other person takes a child into
4 custody, the parents, guardian, or legal custodian shall be
5 notified immediately. The child shall be:

6 (1) [~~released~~] Released to the care of the child's parent
7 or other responsible adult;

8 (2) [~~referred~~] Referred or delivered to the court or other
9 designated agency with or without simultaneous release
10 to parent or other responsible adult; or

11 (3) [~~taken~~] Taken directly to a detention facility^[7] if
12 the child's immediate welfare or the protection of the
13 community requires it^[7] or if the child is subject to
14 detention for violation of a court order of probation
15 or protective supervision."

16 SECTION 47. Section 577-15, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§577-15 Children deemed to be orphans.** For the purpose
19 of taking, or determining eligibility to take, any benefit under
20 any law or under any private instrument by the terms of which
21 orphans are eligible to receive benefits, a child born ~~[of]~~ to



1 parents not married to each other and not adopted shall be
2 deemed an orphan; provided that nothing in this section shall be
3 construed to:

4 (1) [~~to deprive~~] Deprive any [~~such~~] child of any rights of
5 inheritance, [~~or~~] any rights to support, or any other
6 rights[~~]~~ to which the child would be entitled[~~]~~; or

7 (2) [~~to affect~~] Affect the liabilities of any other person
8 with respect to any [~~such~~] child to which the person
9 would be subject[~~]~~ if this section had not been
10 enacted."

11 SECTION 48. Section 578-7, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§578-7 Substituted or constructive service.** Upon the
14 filing of the affidavit referred to in section 578-6, the court
15 may order service of the notice prescribed in sections 578-2 and
16 578-4 to be made as follows:

17 (1) Personal service or service by registered mail without
18 the State. If the residence of a nonresident legal
19 parent is known or is ascertained at any stage of the
20 proceeding prior to the filing of a return of service
21 pursuant to section 578-5, the court may order that



1 service of notice of the time and place of hearing of
2 the petition and of a copy thereof and of a copy of
3 the court's order be made upon [~~such~~] the parent by:

4 (A) [~~by personal~~] Personal service thereof, without
5 the State, by [~~such~~] a person and in [~~such~~] a
6 manner as the court may direct[~~7~~]; or

7 (B) [~~by sending~~] Sending certified copies of the
8 petition and of the notice of the time and place
9 of the hearing thereof and of the court's order,
10 by registered mail, addressed to [~~such~~] the
11 parent, with request for return receipt, which
12 service, evidenced by [~~such~~] the receipt signed
13 by the parent and returned to the clerk of the
14 court, shall be regarded as equivalent to service
15 by publication or in lieu thereof.

16 When service is made pursuant to this paragraph, the
17 time appointed for the hearing of the petition shall
18 be not less than twenty-one days subsequent to the
19 date of service as [~~herein~~] provided[~~7~~] in this
20 paragraph.



1 (2) Service by publication. If the residence of [~~such~~] a
2 parent is not known and cannot be ascertained, or if
3 an attempt to effect service by either of the methods
4 authorized in paragraph (1) [~~hereof~~] is unsuccessful,
5 the court may order that service shall be made by
6 publication. The order shall direct that publication
7 of notice of the pendency of the petition and of the
8 time and place of the hearing thereof be made in a
9 newspaper or newspapers suitable for the advertisement
10 of notices of judicial proceedings once in each week
11 for not less than four successive weeks as the court
12 may prescribe, the last publication to be not less
13 than twenty-one days prior to the time appointed for
14 the hearing of the petition. The court [~~may~~], in
15 addition to ordering publication, may direct that a
16 copy of the petition and notice be forthwith deposited
17 in the post office, addressed to [~~such~~] the parent at
18 the parent's last known place of residence. The
19 service of the notice required by section 578-2 shall
20 be deemed complete at the expiration of the time
21 prescribed by the order of publication."



1 SECTION 49. Section 580-3.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[~~f~~]**§580-3.5**[~~}]~~ **Personal judgment against absent**
4 **defendant.** In any proceeding in the family court, the court
5 [~~shall have the power to~~] may render a personal judgment against
6 a party who is outside of this State and over whom jurisdiction
7 is acquired by service of process in the manner set forth in
8 section 580-3(b) or (c), if the party was personally served with
9 a copy of the summons or order to show cause and complaint or
10 other pleading upon which the judgment is based and if the party
11 was a domiciliary of this State at the time:

- 12 (1) [~~at the time that the~~] The cause of action [~~which~~]
13 that is the subject of the proceeding arose [~~there~~];
14 (2) [~~at the time of~~] Of the commencement of the
15 proceeding [~~there~~]; or
16 (3) [~~at the time of~~] Of service."

17 SECTION 50. Section 831-3.1, Hawaii Revised Statutes, is
18 amended by amending subsection (f) to read as follows:

19 "(f) Notwithstanding any law to the contrary, this section
20 shall not apply to:



- 1 (1) Denials by the department of human services, the
2 department of health, or any other branch, political
3 subdivision, or agency of any certificate of approval,
4 license, or permit to any organization, institution,
5 home, or facility subject to licensure under chapters
6 321, 333F, and 346;
- 7 (2) Denials of employment as a staff member of a youth
8 correctional facility operated under chapter 352;
- 9 (3) Denials of employment as an employee of a detention or
10 shelter facility established or designated pursuant to
11 section 571-33;
- 12 (4) Denials of employment as a staff member of a
13 correctional facility pursuant to chapter 353, or as a
14 staff member that requires the exercise of police
15 powers, including the power to arrest, in the
16 performance of the staff member's duties pursuant to
17 chapter 353C;
- 18 (5) Denials of employment of applicants or employees
19 pursuant to section 78-2.7;
- 20 (6) Denials or termination of employment as an employee,
21 employee applicant, or employee or agent of a



1 contractor of the department of taxation with access
2 to federal tax information pursuant to section 231-
3 1.6;

4 (7) Denials or termination of employment as an employee,
5 employee applicant, or employee or agent of a
6 contractor of the department of human services with
7 access to federal tax information pursuant to section
8 346-2.5;

9 (8) Denials or termination of employment as an employee,
10 employee applicant, or employee or agent of a
11 contractor of the department of labor and industrial
12 relations with access to federal tax information
13 pursuant to section 383-110; and

14 (9) Denials or termination of employment as an employee,
15 employee applicant, or employee or agent of a
16 contractor of the child support enforcement agency
17 with access to federal tax information pursuant to
18 section 576D-11.5."

19 SECTION 51. Section 235-12, Hawaii Revised Statutes, is
20 repealed.



1 ~~["§235-12 Energy conservation; income tax credit. (a)~~
2 ~~For taxable years ending before January 1, 1990, except in the~~
3 ~~case of ice storage systems for taxable years ending before~~
4 ~~January 1, 1991, each individual and corporate resident taxpayer~~
5 ~~who files an individual or corporate net income tax return for a~~
6 ~~taxable year, may claim a tax credit under this section against~~
7 ~~the Hawaii state individual or corporate net income tax. The~~
8 ~~tax credit may be claimed for any solar or wind energy device,~~
9 ~~heat pump, or ice storage system in an amount not to exceed ten~~
10 ~~per cent of the total cost of the device, heat pump, or ice~~
11 ~~storage system; provided that the tax credit shall apply only to~~
12 ~~the actual cost of the solar or wind energy device, the heat~~
13 ~~pump, or ice storage system, their accessories, and installation~~
14 ~~and shall not include the cost of consumer incentive premiums~~
15 ~~unrelated to the operation of the solar or wind energy device,~~
16 ~~the heat pump, or ice storage system offered with the sale of~~
17 ~~the solar or wind energy device, the heat pump, or ice storage~~
18 ~~system. The credit shall be claimed against net income tax~~
19 ~~liability for the year in which the solar or wind energy device,~~
20 ~~the heat pump, or ice storage system was purchased and placed in~~
21 ~~use; provided:~~



- 1 ~~(1) The tax credit shall be applicable only with respect~~
2 ~~to solar devices, which are erected and placed in~~
3 ~~service after December 31, 1974, but before January 1,~~
4 ~~1990;~~
- 5 ~~(2) In the case of wind energy devices and heat pumps, the~~
6 ~~tax credit shall be applicable only with respect to~~
7 ~~wind energy devices and heat pumps which are installed~~
8 ~~and placed in service after December 31, 1980, but~~
9 ~~before January 1, 1990; and~~
- 10 ~~(3) In the case of ice storage systems, the tax credit~~
11 ~~shall be applicable only with respect to ice storage~~
12 ~~systems which are installed and placed in service~~
13 ~~after December 31, 1985, but before January 1, 1990.~~
- 14 ~~Tax credits which exceed the taxpayer's income tax liability may~~
15 ~~be used as a credit against the taxpayer's income tax liability~~
16 ~~in subsequent years until exhausted. If federal energy tax~~
17 ~~credits are not extended beyond December 31, 1985, are not~~
18 ~~retroactively extended or reenacted, or federal energy tax~~
19 ~~credits the same as or less in amount than the credits in effect~~
20 ~~during the 1985 taxable year are not enacted during the taxable~~
21 ~~year 1986, then the state tax credit shall be increased to~~



1 ~~fifteen per cent of the total cost after December 31, 1985, but~~
2 ~~before January 1, 1990.~~

3 ~~As used in this subsection:~~

4 ~~"Solar or wind energy device" means any new identifiable~~
5 ~~facility, equipment, apparatus, or the like which makes use of~~
6 ~~solar or wind energy for heating, cooling, or reducing the use~~
7 ~~of other types of energy dependent upon fossil fuel for their~~
8 ~~generation.~~

9 ~~"Heat pump" means and refers to an electric powered~~
10 ~~compression heating system which extracts energy from warm~~
11 ~~ambient air or recovers waste heat to assist in the production~~
12 ~~of hot water.~~

13 ~~"Ice storage system" refers to ice banks or other cool~~
14 ~~energy storage tanks, containers, accessories, and controls that~~
15 ~~are specifically designed to store ice or chilled fluids for the~~
16 ~~express purpose of shifting the consumption of energy to off-~~
17 ~~peak periods.~~

18 ~~(b) For taxable years beginning after December 31, 1989,~~
19 ~~each individual or corporate resident taxpayer who files an~~
20 ~~individual or corporate net income tax return for a taxable~~
21 ~~year, may claim a tax credit under this section against the~~



1 ~~Hawaii state individual or corporate net income tax. The tax~~
2 ~~credit may be claimed as follows:~~

3 ~~(1) For wind energy systems that are installed and placed~~
4 ~~in service after December 31, 1989, but before July 1,~~
5 ~~2003, the credit shall be twenty per cent of the~~
6 ~~actual cost;~~

7 ~~(2) For solar energy systems that are installed and placed~~
8 ~~in service after December 31, 1989, but before July 1,~~
9 ~~2003, on new and existing single family residential~~
10 ~~buildings, the credit shall be in an amount not to~~
11 ~~exceed thirty five per cent or \$1,750, whichever is~~
12 ~~less, of the actual cost of the solar energy system;~~

13 ~~(3) For solar energy systems that are installed and placed~~
14 ~~in service after December 31, 1989, but before July 1,~~
15 ~~2003, on new and existing multiunit buildings used~~
16 ~~primarily for residential purposes, the credit shall~~
17 ~~be in an amount not to exceed thirty five per cent or~~
18 ~~\$350 per building unit, whichever is less, of the~~
19 ~~actual cost of the solar energy system;~~

20 ~~(4) For solar energy systems that are installed and placed~~
21 ~~in service after December 31, 1989, but before July 1,~~



1 ~~2003, in new and existing hotel, commercial, and~~
2 ~~industrial facilities, the credit shall be in an~~
3 ~~amount not to exceed thirty-five per cent of the~~
4 ~~actual cost of the solar energy system;~~

5 ~~(5) For heat pumps that are installed and placed in~~
6 ~~service after December 31, 1989, but before July 1,~~
7 ~~2003, in new and existing single-family residential~~
8 ~~buildings, the credit shall be in an amount not to~~
9 ~~exceed twenty per cent or \$400, whichever is less, of~~
10 ~~the actual cost of the heat pump;~~

11 ~~(6) For heat pumps that are installed and placed in~~
12 ~~service after December 31, 1989, but before July 1,~~
13 ~~2003, in new and existing multiunit buildings used~~
14 ~~primarily for residential purposes, the credit shall~~
15 ~~be in an amount not to exceed twenty per cent or \$200~~
16 ~~per building unit, whichever is less, of the actual~~
17 ~~cost of the heat pump; provided that a licensed~~
18 ~~professional engineer reviews the design of the system~~
19 ~~and provides a written opinion that the system, in~~
20 ~~accordance with recognized engineering practice, is~~
21 ~~designed to provide not less than ninety per cent of~~



1 ~~the daily annual average hot water needs of all of the~~
2 ~~occupants of the building;~~

3 ~~(7) For heat pumps that are installed and placed in~~
4 ~~service after December 31, 1989, but before July 1,~~
5 ~~2003, in new and existing hotel, commercial, and~~
6 ~~industrial facilities, the credit shall be in an~~
7 ~~amount not to exceed twenty per cent of the actual~~
8 ~~cost of the heat pump; and~~

9 ~~(8) For ice storage systems that are installed and placed~~
10 ~~in service after December 31, 1990, but before July 1,~~
11 ~~2003, the credit shall be in an amount not to exceed~~
12 ~~fifty per cent of the actual cost of the ice storage~~
13 ~~system.~~

14 ~~The per unit of actual cost of a solar energy system or heat~~
15 ~~pump referred to in subsection (b) (3) and (6) shall be~~
16 ~~determined by multiplying the actual cost of the solar energy~~
17 ~~system or heat pump installed and placed in service in the~~
18 ~~multiunit building by a fraction, the numerator being the total~~
19 ~~square feet of that unit in the multiunit building, and the~~
20 ~~denominator being the total square feet of all the units in the~~
21 ~~multiunit building.~~



1 ~~If federal energy tax credits similar to any of those~~
2 ~~provided in paragraphs (1) to (8) are established after June 30,~~
3 ~~1998, but before July 1, 2003, then the state tax credit~~
4 ~~provided in the respective paragraph or paragraphs shall be~~
5 ~~reduced by the amount of the applicable federal energy tax~~
6 ~~credit.~~

7 ~~(c) Tax credits shall apply only to the actual cost of the~~
8 ~~solar or wind energy system, heat pump, or ice storage system,~~
9 ~~including their accessories and installation, and shall not~~
10 ~~include the cost of consumer incentive premiums unrelated to the~~
11 ~~operation of the system or offered with the sale of the system~~
12 ~~or heat pump. The tax credit shall be claimed against net~~
13 ~~income tax liability for the year in which the solar or wind~~
14 ~~energy system, heat pump, or ice storage system was purchased~~
15 ~~and placed in use in Hawaii. Tax credits that exceed the~~
16 ~~taxpayer's income tax liability may be used as credit against~~
17 ~~the taxpayer's income tax liability in subsequent years until~~
18 ~~exhausted.~~

19 ~~(d) The director of taxation shall prepare such forms as~~
20 ~~may be necessary to claim a credit under this section. The~~
21 ~~director may also require the taxpayer to furnish reasonable~~



1 ~~information to ascertain the validity of the claim for credit~~
2 ~~made under this section and may adopt rules necessary to~~
3 ~~effectuate the purposes of this section pursuant to chapter 91.~~

4 ~~(c) As used in this section:~~

5 ~~"Solar or wind energy system" means any new identifiable~~
6 ~~facility, equipment, apparatus, or the like that converts solar~~
7 ~~insolation or wind energy to useful thermal or electrical energy~~
8 ~~for heating, cooling, or reducing the use of other types of~~
9 ~~energy dependent upon fossil fuel for their generation.~~

10 ~~"Heat pump" means an electric powered compression heating~~
11 ~~system that extracts energy from warm ambient air or recovers~~
12 ~~waste heat to assist in the production of hot water.~~

13 ~~"Ice storage system" refers to ice banks or other cool~~
14 ~~energy storage tanks, containers, accessories, and controls that~~
15 ~~are specifically designed to store ice or chilled fluids for the~~
16 ~~express purpose of shifting the consumption of energy to off-~~
17 ~~peak periods."]~~

18 SECTION 52. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 53. This Act shall take effect upon its approval;
21 provided that the amendments made to section 329-38(h), Hawaii



H.B. NO. 2183

1 Revised Statutes, by section 20 of this Act shall not be
2 repealed when that section is reenacted on June 30, 2023,
3 pursuant to section 6 of Act 66, Session Laws of Hawaii 2017.
4

INTRODUCED BY: 

JAN 22 2018



H.B. NO. 2183

Report Title:

Revision Bill

Description:

Amends or repeals 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.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

