
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 " ~~[f]~~§5-7.7~~[f]~~ **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;



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

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

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

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

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



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

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

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

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

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

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

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

SECTION 6. Section 205A-22, Hawaii Revised Statutes, is amended by amending the definition of "department" to read as 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]~~;



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) [~~to purchase or carry bonds~~] Bonds the interest upon which is excluded from gross income by subsection (a); or

(2) [~~to purchase or carry property~~] Property owned without the State, or to carry on trade or business without the State, if the taxpayer is a person taxable only upon income from sources in the State."

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

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

The amount of the tax credit shall be determined by the application of the following rates against the cost of the eligible depreciable tangible personal property used by the taxpayer in a trade or business and placed in service within Hawaii after December 31, 1987. For [~~calendar years beginning~~] property placed in service 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
8 rate 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



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

"Purchase" means an acquisition of property.

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

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

"(a) As used in this section:

~~[(1)]~~ "Petroleum products" means petroleum~~[_]~~i; any distillate, fraction, or derivative of petroleum~~[_]~~i; natural gas or its components~~[_]~~i; gas manufactured from a petroleum product~~[_]~~i; 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 ~~[elause~~
19 ~~-(A)-]~~ paragraph (1)."



1 SECTION 12. Section 241-1, Hawaii Revised Statutes, is
2 amended by amending the definition of "financial corporation" to
3 read as follows:

4 "Financial corporation" means:

5 (1) Any corporation, domestic or foreign, other than a
6 bank or building and loan association, that is a
7 financial [~~corporation within the meaning of section~~
8 ~~5219 of the Revised Statutes of the United States, as~~
9 ~~amended (12 U.S.C. section 548),~~] company within the
10 meaning of title 12 United States Code section
11 5381(a)(11) or other similar law, doing business in
12 the State and not subject to the taxes imposed by
13 chapter 235, but shall not include an insurance
14 company that pays the tax on premiums imposed by
15 chapter 431; and

16 (2) An interbank broker doing business in the State and
17 not subject to the taxes imposed by chapter 235."

18 SECTION 13. Section 241-2, Hawaii Revised Statutes, is
19 amended by amending subsections (a) and (b) to read as follows:

20 "(a) Every national banking association located or doing
21 business in the State shall annually pay a franchise tax



1 according to, or measured by, its net income, to be computed as
2 provided in section 241-4, at the rate there prescribed. The
3 State is hereby adhering to the prescriptions of [~~section 5219,~~
4 ~~Revised Statutes of the United States, as amended (-)~~ title 12
5 ~~[U.S.C.]~~ United States Code section 548(+), or other similar
6 law.

7 (b) Nothing in this chapter shall be construed to:

8 (1) [~~to exclude~~] Exclude the application of other taxes
9 imposed by the State or any political division thereof
10 on national banking associations[~~7~~] or their
11 activities, property, income, shares, or dividends
12 when [~~such~~] those taxes may be imposed [~~in addition to~~
13 ~~those authorized by the above cited section 5219 of~~
14 ~~the Revised Statutes,~~] consistently with title 12
15 United States Code section 548 or other similar law[~~7~~
16 ~~or~~];

17 (2) [~~to exempt~~] Exempt the real property of national
18 banking associations from taxation to the same extent,
19 according to its value, as other real property is
20 taxed[~~7~~]; or



1 (3) ~~[to preclude]~~ Preclude the inclusion of the dividends
2 from national banking associations in the income of
3 individuals taxable under chapter 235 to the same
4 extent as are included dividends from domestic
5 corporations."

6 SECTION 14. Section 245-16, Hawaii Revised Statutes, is
7 amended by amending subsection (b) to read as follows:

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

10 (1) The cigarettes are exempt from taxes as provided by
11 section 245-3(b) or are otherwise exempt from the
12 applicability of this chapter as provided by section
13 245-62;

14 (2) All applicable Hawaii taxes on the cigarettes are paid
15 in accordance with the requirements of this chapter;
16 or

17 (3) The person or entity engaged in the business of
18 selling, advertising, or offering cigarettes for sale
19 and transfer or shipment:

20 (A) Has fully complied with all of the requirements
21 of chapter 10A (commencing with section 375) of



1 title 15 of the United States Code, otherwise
2 known as the Jenkins Act; and

3 (B) Includes on the outside of the shipping container
4 an externally visible and easily legible notice
5 located on the same side of the shipping
6 container as the address to which the shipping
7 container is delivered stating as follows:

8 "CIGARETTES: HAWAII LAW PROHIBITS THE SALE OF
9 CIGARETTES TO INDIVIDUALS UNDER [~~EIGHTEEN~~]
10 TWENTY-ONE YEARS OF AGE AND REQUIRES THE PAYMENT
11 OF ALL APPLICABLE TAXES. YOU ARE LEGALLY
12 RESPONSIBLE FOR ALL APPLICABLE UNPAID TAXES ON
13 THESE CIGARETTES." "

14 SECTION 15. Section 261-7, Hawaii Revised Statutes, is
15 amended by amending subsection (c) to read as follows:

16 "(c) The department shall enter into a contract with no
17 more than one person ("contractor") for the sale and delivery of
18 in-bond merchandise at [~~Honolulu~~] the Daniel K. Inouye
19 International Airport, in the manner provided by law. The
20 contract shall confer the right to operate and maintain
21 commercial facilities within the airport for the sale of in-bond



1 merchandise and the right to deliver to the airport in-bond
2 merchandise for sale to departing foreign-bound passengers.

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

5 (1) The payment to be made on in-bond merchandise sold at
6 [~~Honolulu~~] the Daniel K. Inouye International Airport
7 and on in-bond merchandise displayed or sold elsewhere
8 in the State and delivered to the airport;

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

12 (3) The reputation, experience, and financial capability
13 of the applicant.

14 The department shall actively supervise the operation of
15 the contractor to ensure its effectiveness. The department
16 shall develop and implement [~~such~~] guidelines as it may find
17 necessary and proper to actively supervise the operations of the
18 contractor, and shall include guidelines relating to the
19 department's review of the reasonableness of the contractor's
20 price schedules, quality of merchandise, merchandise assortment,
21 operations, and service to customers.



1 Apart from the contract described in this subsection, the
2 department shall confer no right upon nor suffer nor allow any
3 person to offer to sell, sell, or deliver in-bond merchandise at
4 [~~Honolulu~~] the Daniel K. Inouye International Airport; provided
5 that this section shall not prohibit the delivery of in-bond
6 merchandise as cargo to the [~~Honolulu~~] Daniel K. Inouye
7 International Airport."

8 SECTION 16. Section 261-15.5, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "[~~§~~]**261-15.5**[~~§~~] **Aircraft registration.** Unless an
11 aircraft is exempted by this section, no person shall operate or
12 cause or authorize to be operated any aircraft at an airport
13 owned or controlled by the department, unless the aircraft has a
14 certificate of registration issued in accordance with rules
15 adopted by the department. Aircraft exempt from registration
16 required by this section include:

- 17 (1) Aircraft operating primarily in interstate or foreign
18 commerce;
19 (2) Aircraft owned or operated by the United States;
20 (3) Aircraft in transit through the State; and



(4) Aircraft operated by any scheduled airline carrier
[which] that is a lessee of the State under an
airport-airline lease at the [~~Honolulu~~] Daniel K.
Inouye International Airport and [which] that is
commonly referred to as signatory airline."

SECTION 17. Section 261-23, Hawaii Revised Statutes, is
amended to read as follows:

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

SECTION 18. Section 286-202.6, Hawaii Revised Statutes, is
amended by amending subsection (a) to read as follows:

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

SECTION 19. Section 304A-1959, Hawaii Revised Statutes, is
amended to read as follows:



1 "[+]§304A-1959[+] **Biennial report.** No later than twenty
2 days prior to the convening of the regular session of each odd-
3 numbered year, the University of Hawaii shall submit a report to
4 the legislature concerning:

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

16 SECTION 20. Section 321-5, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§321-5 Contract for exchange of Hawaii personnel.** (a)

19 The department of health may contract with any state, or the
20 health department of any state having the power to so contract,
21 for the exchange of Hawaii personnel for personnel of the health



1 department of [~~any such~~] that state. Any [~~such~~] exchange shall
2 be made under rules [~~and regulations~~] prescribed by the
3 department, in no case shall be for a period exceeding one year,
4 and in all cases shall be subject to the following provisions:

5 (1) That each person exchanged by the health department of
6 any state shall possess qualifications equal to the
7 qualifications of the person exchanged [~~for him~~] from
8 Hawaii;

9 (2) That the person exchanged from Hawaii shall have
10 served for not less than three years prior to the
11 beginning of the exchange period [~~in the~~] as Hawaii
12 personnel;

13 (3) That in the selection of Hawaii personnel for
14 exchange, preference shall be given to persons born in
15 the State;

16 (4) That each person exchanged by the health department of
17 any state shall hold in the health department of
18 [~~such~~] that state a position the same as or equivalent
19 to the position held by the person exchanged [~~for him~~]
20 from Hawaii;



1 (5) That the person exchanged from Hawaii shall be paid
2 [his] that person's regular salary out of the funds
3 appropriated therefor, but nothing in addition
4 thereto;

5 (6) That the State shall not pay any traveling or other
6 expenses of the Hawaii personnel or of the personnel
7 of the health department of any state coming to Hawaii
8 under any contract of exchange. This prohibition
9 shall be construed to include all travel,
10 transportation, board, lodging, or other expenses
11 incidental to or arising out of any exchange;

12 (7) That the State shall not pay any compensation to the
13 person coming to Hawaii under any contract of
14 exchange; provided that in any case where the person
15 so exchanged from Hawaii becomes incapacitated[7] or,
16 for any reason, leaves the exchange position
17 permanently, the department may pay the visiting
18 exchange person an amount not to exceed the salary
19 rating of the person so exchanged from Hawaii, such an
20 arrangement to continue until the end of the period of



1 exchange or until such time as some adjustment
2 satisfactory to the department is made;

3 (8) That any provision of law to the contrary
4 notwithstanding, the state requirements in respect to
5 civil service, citizenship, or residence shall not
6 apply to any person coming to Hawaii under any [such]
7 contract of exchange; and

8 (9) That the appropriate collective bargaining agreement,
9 executive order, executive directive, or rule
10 regarding traveling expenses for state officials shall
11 not apply to Hawaii personnel exchanged under this
12 section.

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

18 (c) As used in this section, unless the text clearly
19 otherwise indicates[+]:

20 "Hawaii personnel" means public health nurses, sanitary
21 officers, and medical officers[+].



1 "Health department" means the board of health, department
2 of health, president of the board of health, or other public
3 authority authorized by law to administer or administering the
4 public health laws of any state.

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

11 SECTION 21. Section 329-38, Hawaii Revised Statutes, is
12 amended by amending subsection (h) to read as follows:

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

15 (1) A prescription for a controlled substance shall be
16 issued for a legitimate medical purpose by an
17 individual practitioner acting in the usual course of
18 the practitioner's professional practice. The
19 responsibility for the proper prescribing and
20 dispensing of controlled substances shall be upon the
21 prescribing practitioner, but a corresponding



1 responsibility shall rest with the pharmacist who
2 fills the prescription. An order purporting to be a
3 prescription issued not in the usual course of
4 professional treatment or for legitimate and
5 authorized research shall not be deemed a prescription
6 within the meaning and intent of this section, and the
7 person who knowingly fills such a purported
8 prescription, as well as the person who issues the
9 prescription, shall be subject to the penalties
10 provided for violations of this chapter;

11 (2) A prescription may not be issued to allow an
12 individual practitioner to obtain controlled
13 substances for supplying the individual practitioner
14 for the purpose of general dispensing to patients;

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

20 (A) The administering or dispensing directly (but not
21 prescribing) of narcotic drugs listed in any



1 schedule to a narcotic drug-dependent person for
2 "medically managed withdrawal", also known as
3 "detoxification treatment", or "maintenance
4 treatment" shall be deemed to be "in the course
5 of a practitioner's professional practice or
6 research" so long as the practitioner is
7 registered separately with the department and the
8 federal Drug Enforcement [~~Agency~~] Administration
9 as required by section 329-32(e) and complies
10 with [~~Title~~] title 21 Code of Federal Regulations
11 section 823(g) and any other federal or state
12 regulatory standards relating to treatment
13 qualification, security, records, and
14 unsupervised use of drugs; and

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



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

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

SECTION 22. Section 329-125, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

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

SECTION 23. Section 329-125.6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) An owner or employee of a medical cannabis dispensary that is licensed under chapter 329D may assert the production or distribution of medical cannabis as an affirmative defense to any prosecution involving [~~cannabis or~~] marijuana[+] under this



1 part ~~[of]~~, part IV~~[+]~~, chapter 329D~~[+]~~, or part IV of chapter
2 712; provided that the owner or employee strictly complied with
3 the requirements of chapter 329D and any administrative rules
4 adopted thereunder."

5 SECTION 24. Section 346G-10, Hawaii Revised Statutes, is
6 amended by amending subsection (b) to read as follows:

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

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

18 (2) The rate enhancement shall be made part of the monthly
19 capitated rates by the department to medicaid managed
20 care health plans, which shall provide documentation
21 to the department and the hospital trade association



1 located in Hawaii certifying that the revenues
2 received under paragraph (1) are used in accordance
3 with this section;

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

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

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

18 SECTION 25. Section 431:2-203, Hawaii Revised Statutes, is
19 amended by amending subsection (b) to read as follows:

20 "(b) (1) A person who intentionally or knowingly violates,
21 intentionally or knowingly permits any person over



1 whom the person has authority to violate, or
2 intentionally or knowingly aids any person in
3 violating any insurance rule or statute of this State
4 or any effective order issued by the commissioner[7]
5 shall be subject to any penalty or fine as provided by
6 this code or by the Hawaii Penal Code [~~of the Hawaii~~
7 ~~Revised Statutes~~].

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

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



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

SECTION 26. Section 431:3-205, Hawaii Revised Statutes, is amended to read as follows:

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

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

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

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

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



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

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

Schedule "A"		
Class of Insurance	Amount Required	
Life	\$	600,000
Accident and Health or Sickness		450,000
Property		750,000
Marine and Transportation		1,000,000
Vehicle		1,000,000
General Casualty		1,500,000
Surety		1,000,000
Title		400,000."

SECTION 27. Section 431:4-210, Hawaii Revised Statutes, is amended to read as follows:

"§431:4-210 Unlawful sales of equity security. It shall be unlawful for any beneficial owner, director, or officer, directly or indirectly, to sell any equity security of [such]



1 the company if the person selling the security or the person's
2 principal:

- 3 (1) ~~[does]~~ Does not own the security sold~~[7]~~; or
4 (2) ~~[if]~~ If owning the security, does not deliver it
5 against ~~[such]~~ the sale within twenty days thereafter,
6 or does not within five days after ~~[such]~~ the sale
7 deposit it in the mails or other usual channels of
8 transportation.

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

14 SECTION 28. Section 431:10B-103, Hawaii Revised Statutes,
15 is amended to read as follows:

16 "**§431:10B-103 Definitions.** For the purpose of this
17 article:

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



1 ~~(2)~~] "Credit disability insurance" means insurance on a
2 debtor to provide indemnity for payments becoming due on a
3 specific loan or other credit transaction while the debtor is
4 disabled as defined in the policy~~(7)~~].

5 "Credit life insurance" means insurance on the life of a
6 debtor pursuant to or in connection with a specific loan or
7 other credit transaction.

8 ~~(3)~~] "Creditor" means the lender of money, or seller or
9 lessor of goods, services, ~~(e)~~ property, rights, or privileges,
10 for which payment is arranged through a credit transaction, or
11 any successor to the right, title, or interest of any ~~(such)~~
12 lender, seller, or lessor, and an affiliate, associate, or
13 subsidiary of any of them or any director, officer, or employee
14 of any of them, or any other person in any way associated with
15 any of them~~(7)~~].

16 ~~(4)~~] "Debtor" means a borrower of money or a purchaser or
17 lessee of goods, services, property, rights, or privileges for
18 which payment is arranged through a credit transaction~~(7)~~].

19 ~~(5)~~] "Indebtedness" means the total amount payable by a
20 debtor to a creditor in connection with a loan or other credit
21 transaction."



SECTION 29. Section 431:26-108, Hawaii Revised Statutes, is amended by amending its title to read as follows:

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

SECTION 30. Section 432:1-104, Hawaii Revised Statutes, is amended to read as follows:

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

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

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

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

[~~(i)~~] (A) Making provision for the payment of benefits in case of sickness, disability, or death of its members, or disability, or death of its members' spouses or reciprocal beneficiaries or children~~[7]~~; or

[~~(ii)~~] (B) Making provision for the payment of any other benefits to or for its members,



1 whether or not the amount of the benefits is fixed or
2 rests in the discretion of the society, its officers,
3 or any other person or persons; and the fund from
4 which the payment of the benefits shall be defrayed is
5 derived from assessments or dues collected from its
6 members, and the payment of death benefits is made to
7 the families, including reciprocal beneficiaries,
8 heirs, blood relatives, or persons named by its
9 members as their beneficiaries; or

10 ~~[(B)]~~ (2) Organized and carried on for any purpose~~[-which-]~~
11 that:

12 ~~[(i)]~~ (A) Regularly requires money to be paid to it by
13 its members, whether the money be in the form of
14 dues, subscriptions, receipts, contributions,
15 assessments, or otherwise~~[-]~~; and

16 ~~[(ii)]~~ (B) Provides for the payment of any benefit or
17 benefits or the payment of any money or the
18 delivery of anything of value to its members or
19 their relatives, including reciprocal
20 beneficiaries, or to any person or persons named
21 by its members as their beneficiaries, or to any



1 class of persons [~~which~~] that includes or may
2 include its members,
3 whether or not the amount or value of the benefit,
4 benefits, money, or thing of value is fixed, or rests
5 in the discretion of the society, its officers, or any
6 other person or persons; or

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

12 Participating in a legal service plan subject to chapter
13 488 shall not in itself make a corporation, unincorporated
14 association, society, or entity a mutual benefit society and
15 subject to this article."

16 SECTION 31. Section 432:1-301, Hawaii Revised Statutes, is
17 amended by amending subsection (a) to read as follows:

18 "(a) Before doing business or engaging in any act, any
19 mutual benefit society as defined in section [~~432:1-104(2)~~]
20 432:1-104 shall file with the commissioner:



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

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

(A) Copies of all proposed forms of benefit certificates, applications, and circulars to be issued by the society; and

(B) A bond in the sum of \$25,000 with sureties approved by the commissioner. The bond shall be conditioned upon the return of the advance payments referred to in section 432:1-304, if the organization is not completed within one year; and

(3) Any additional information as the commissioner may require."

SECTION 32. Section 435E-25, Hawaii Revised Statutes, is amended to read as follows:

"§435E-25 Voluntary termination of a member. A participating member who is then in full compliance with the



1 trust agreement may elect voluntarily to terminate [~~his or her~~]
2 the participating member's membership in the interindemnity
3 arrangement. Upon voluntary termination, [~~such~~] the person may
4 further elect to cease being responsible for future assessments,
5 or to continue to pay [~~such~~] the assessments until [~~such time as~~
6 ~~such~~] the person's initial contribution is repaid. [~~In the~~
7 ~~event such~~] If the person elects to cease being responsible for
8 future assessments, the indemnity coverage shall thereupon
9 terminate and [~~such~~] the person shall either be responsible for
10 [~~his or her~~] the person's own exposure for acts committed while
11 a participating member in the interindemnity arrangement, or [~~he~~
12 ~~or she~~] the person may request the interindemnity arrangement to
13 purchase or provide, at the cost of [~~such~~] the person, coverage
14 for [~~such~~] the person's exposure. The initial contribution of
15 [~~such~~] the person shall be repaid on the tenth anniversary of
16 the date [~~such~~] the contribution was made. [~~In the event such~~]
17 If the person elects to continue to be responsible for
18 assessments, the indemnity coverage shall continue in respect of
19 occurrences prior to the date of the voluntary termination, and
20 the initial contribution of [~~such~~] the person shall be repaid
21 [~~at such time as~~] when the board of trustees is satisfied that:



1 (1) ~~[there]~~ There are no claims pending against the person
2 in respect of occurrences during the time the person
3 was a participating member~~[7]~~; and

4 (2) ~~[the]~~ The statute of limitations has run on all claims
5 ~~[which]~~ that might be asserted against the person in
6 respect of occurrences during ~~[such]~~ that time.

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

9 SECTION 33. Section 435E-43, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§435E-43 Investigation, publication.** The commissioner
12 ~~[may]~~, in the commissioner's discretion, may:

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

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

20 SECTION 34. Section 508D-15, Hawaii Revised Statutes, is
21 amended by amending subsection (a) to read as follows:



- 1 "(a) When residential real property lies:
- 2 (1) Within the boundaries of a special flood hazard area
- 3 as officially designated on Flood Insurance
- 4 Administration maps promulgated by the United States
- 5 Department of Housing and Urban Development for the
- 6 purposes of determining eligibility for emergency
- 7 flood insurance programs;
- 8 (2) Within the boundaries of the noise exposure area shown
- 9 on maps prepared by the department of transportation
- 10 in accordance with Federal Aviation Regulation [~~Part~~
- 11 ~~150-Airport~~] part 150, Airport Noise Compatibility
- 12 Planning (14 [~~Code of Federal Regulations-Part~~] C.F.R.
- 13 part 150), for any public airport;
- 14 (3) Within the boundaries of the Air Installation
- 15 [~~Compatibility~~] Compatible Use Zone of any Air Force,
- 16 Army, Navy, or Marine Corps airport as officially
- 17 designated by military authorities; or
- 18 (4) Within the anticipated inundation areas designated on
- 19 the department of defense's emergency management
- 20 tsunami inundation maps[+],



1 subject to the availability of maps that designate the four
2 areas by tax map key (zone, section, parcel), the seller shall
3 include ~~[such]~~ the material fact information in the disclosure
4 statement provided to the buyer subject to this chapter. Each
5 county shall provide, where available, maps of its jurisdiction
6 detailing the four designated areas specified in this
7 subsection. The maps shall identify the properties situated
8 within the four designated areas by tax map key number (zone,
9 section, parcel) and shall be of a size sufficient to provide
10 information necessary to serve the purposes of this section.
11 Each county shall provide legible copies of the maps and may
12 charge a reasonable copying fee."

13 SECTION 35. Section 514B-43, Hawaii Revised Statutes, is
14 amended by amending subsection (a) to read as follows:

15 "(a) For purposes of this section:

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

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

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



SECTION 36. Section 514E-19, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

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

(1) The time share interest is conveyed to the purchaser free and clear of any blanket liens~~[-]~~;

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

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

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

(3) (A) The time share interest is conveyed to the purchaser subject only to blanket liens:

(i) Where every person holding an interest in the blanket lien has executed and recorded a nondisturbance agreement; or



(ii) For which the director's acceptance of a surety bond or an irrevocable letter of credit meeting the requirements of section 514E-28 has been recorded with respect to that time share unit; and

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

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

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

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

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

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



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

2 (A) Every person holding an interest in a recorded
3 blanket lien against any time share interests in
4 that time share unit executes and records a
5 nondisturbance agreement; or

6 (B) The director's acceptance of a surety bond or an
7 irrevocable letter of credit meeting the
8 requirements of section 514E-28 is recorded~~[+]~~i;
9 or

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

12 SECTION 37. Section 514E-25, Hawaii Revised Statutes, is
13 amended by amending subsections (a), (b), and (c) to read as
14 follows:

15 "(a) The lien payment deposit shall consist of either ~~[(+)]~~
16 ~~nondelinquent~~i;

17 (1) Nondelinquent purchase money contracts from purchasers
18 of time share interests in the time share plan; or
19 ~~[(+)] other~~

20 (2) Other assets deposited into trust by the developer and
21 approved by the director.



1 (b) (1) The purchase money contracts [~~must~~] shall have an
2 aggregate remaining principal balance of not less
3 than, and any other assets deposited [~~must~~] shall have
4 a liquidated value of not less than, one hundred ten
5 per cent of the difference between [~~(i) the~~]:

6 (A) The aggregate remaining principal balance owing
7 under blanket liens against the time share unit
8 or time share interests in it, including any
9 prepayment penalties, release prices, and similar
10 charges[~~, (ii) the~~]; and

11 (B) The amount of money, or its equivalent, in the
12 trust and available at any time to be applied to
13 the reduction of the principal balance of the
14 blanket lien.

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

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



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

3 (B) If paid when due, be equal to at least one
4 hundred ten per cent of the amount required to be
5 paid on the blanket liens on ~~[such]~~ that date;
6 and

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

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

12 (ii) ~~[all]~~ All service charges payable to the
13 trustee, any collection agent, and any other
14 servicing agent pursuant to the trust
15 instrument.

16 (3) If the developer proposes to deposit into trust assets
17 other than purchase money contracts, ~~[such]~~ those
18 assets ~~[must]~~ shall be sufficient to pay debt service
19 installments on the blanket lien as they become due
20 and to create a sinking fund or other arrangement



1 adequate to extinguish the debt secured by the blanket
2 lien at its maturity.

3 (c) (1) In lieu of the requirements of subsection (b), the
4 developer may elect to follow the requirements of
5 paragraphs (2), (3), (4), and (5) [~~of this subsection~~]
6 if the following requirements are met:

7 (A) The developer owns or leases under a lease for a
8 term of not less than thirty years all the
9 noncommercial portions of a hotel, condominium,
10 cooperative, or other project;

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

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

18 (i) The developer executes and records a
19 mortgage in favor of the trustee under the
20 lien payment trust or the association, in
21 either case as trustee on behalf of the



1 owners, twenty-five per cent of the
2 appraised value of the project; or

3 (ii) ~~[the]~~ The developer conveys or transfers the
4 project to a trust meeting the requirements
5 of sections 514E-22 and ~~[23,]~~ 514E-23, and
6 under the terms of the trust instrument the
7 twenty-five per cent of the beneficial
8 interest in the trust is held for the
9 benefit of, or conveyed or transferred to,
10 the association, acting as trustee for the
11 owners~~[, as security for the obligations of~~
12 ~~the developer to owners]~~; and

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



1 commitments, income from operations of the
2 project, or other sources.

3 (2) The purchase money contracts [~~must~~] shall have an
4 aggregate remaining principal balance of not less
5 than, and any other assets deposited [~~must~~] shall have
6 a liquidated value of not less than, one hundred ten
7 per cent of the difference between [~~(i)-a~~]:

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

14 (B) A pro rata share of the amount of money, or its
15 equivalent, in the trust and available at any
16 time to be applied to the reduction of the
17 principal balance of the blanket lien.

18 The developer shall have the burden of establishing,
19 to the satisfaction of the director, the liquidated
20 value of assets other than purchase money contracts
21 from purchasers in the time share plan.



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



1 share of the debt service installments on the blanket
2 lien as they become due and to create a sinking fund
3 or other arrangement adequate to extinguish the debt
4 secured by the blanket lien at its maturity.

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

13 (6) The developer may elect to terminate the use of the
14 provisions of this subsection upon satisfying all of
15 the requirements of either subsection (b) or section
16 514E-26(c)."

17 SECTION 38. Section 516-1, Hawaii Revised Statutes, is
18 amended by amending the definition of "owner's basis" to read as
19 follows:

20 "Owner's basis" means the value of the lessor's leased fee
21 interest in the lot that would apply if ~~[such]~~ the interests



1 were normally traded on an open market. The fair market value
2 of the owner's basis shall be established to provide the lessor
3 with just compensation, for the lessor's interests in the lot and
4 shall take into consideration every interest and equity of the
5 lessee in establishing that market value. The value may be
6 determined by either of the following methods, or any other
7 method [~~which~~] that is normally used by qualified appraisers in
8 establishing the fair market value of a lessor's leased fee
9 interest in land:

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

11 (A) The future rental income stream for the lot for
12 the term of the lease discounted to present worth
13 from the expiration date of the lease; and [~~(ii)~~
14 ~~the~~]

15 (B) The value of the lessor's reversionary interest
16 in the lot discounted to present worth from the
17 expiration date of the lease.

18 The discount rate shall be based on the maximum rate
19 of return for insured passbook demand saving account
20 paid by the savings and loan institutions in Hawaii
21 plus three and three-fourths per cent; provided[~~7~~



1 ~~however,~~] that the discount rate may be modified by
2 mutual agreement of the lessor, lessee, and the
3 corporation; or

4 (2) The current fair market value of the lot, valued as if
5 it were a fee simple lot and as if the fee title were
6 unencumbered, and excluding onsite improvements,
7 established by a market data approach utilizing
8 comparable sales, less the following:

9 (A) The value of the lease, including any rights
10 therein, if any, [~~which~~] that accrues to the
11 lessee;

12 (B) That percentage of the general enhancement of the
13 neighborhood [~~which~~] that has been paid for or
14 contributed directly or indirectly by the lessee;

15 (C) The current replacement cost of that portion of
16 existing offsite improvements, including overhead
17 and profit at prevailing rates, [~~which~~] that were
18 paid for or otherwise contributed, directly or
19 indirectly, by the lessee;

20 (D) That percentage of the general enhancement of the
21 development tract and the lot caused by the



1 onsite improvements on the lot paid for, or
2 contributed, directly or indirectly, by the
3 lessee;

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

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

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



SECTION 39. Section 516-32, Hawaii Revised Statutes, is amended to read as follows:

"**§516-32 Not for profit.** It is declared to be the policy of the State that the Hawaii housing finance and development corporation shall carry out its responsibilities under this part in an efficient manner so as to enable it to fix the sales prices and rentals for residential lots at the lowest possible rates consistent with the purpose of this part; and that the corporation shall not administer this part for profit~~[7]~~ or as a source of revenue to the State. To this end, the corporation shall fix the sales prices for residential lots or rentals for lots at no higher rates or prices than it shall find to be necessary in order to produce revenues ~~[which]~~ that (together with all other available moneys, revenues, income, and receipts of the corporation from whatever sources derived under the administration of this part) will be sufficient~~[+]~~ to:

(1) ~~[to pay,]~~ Pay, as the same becomes due, the principal and interest on the bonds of the corporation;

(2) ~~[to meet]~~ Meet the cost of~~[7]~~ and ~~[to]~~ provide for the administration of this part; and



1 (3) ~~[to create]~~ Create a reserve sufficient to meet the
2 largest principal and interest payments ~~[which]~~ that
3 will be due on ~~[such]~~ the bonds in any one year
4 thereafter and to maintain ~~[such]~~ the reserve."

5 SECTION 40. Section 516-43, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§516-43 Security for funds deposited.** The Hawaii housing
8 finance and development corporation ~~[may]~~, by resolution, may
9 provide that all moneys deposited by it shall be secured~~[+]~~ by:

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

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

19 SECTION 41. Section 516-63, Hawaii Revised Statutes, is
20 amended to read as follows:



1 **"§516-63 Free assignability.** Except as otherwise provided
2 in section 516-35 and restrictions placed in leases by state or
3 county agencies, a lessee may assign the lessee's lease at any
4 time without the approval or consent of the lessor, and the
5 assignee shall have the same rights and obligations under the
6 lease as the original lessee; provided that no [~~such~~] assignment
7 shall be effective to transfer any interest in the lease unless
8 the lessor has received:

9 (1) [~~either~~] Either a true executed copy of [~~such~~] the
10 assignment or written notice thereof[~~7~~];

11 (2) [~~a~~] A reasonable service charge, except in case of an
12 assignment by way of mortgage or assignment to or by
13 the Federal Housing Administration [~~or~~], Department of
14 Veterans Affairs, or [~~the~~] Federal National Mortgage
15 Association or a foreclosure of mortgage or assignment
16 in lieu of foreclosure[~~7~~]; and

17 (3) [~~the~~] The written undertaking of the assignee to
18 perform all obligations of the lessee under the lease,
19 which undertaking may be incorporated in [~~such~~] the
20 assignment.



1 No [~~such~~] assignment shall release the assignor from liability
2 under the lease unless the lessor consents in writing to the
3 assignment. A consent to the assignment shall be deemed a
4 consent to the release of the assignor from liability under the
5 lease. The lessor shall not require payment of any money for
6 the lessor's consent except the service charge, nor withhold
7 [~~such~~] consent unreasonably. Any person acquiring the leasehold
8 estate in consideration of the extinguishment of a debt secured
9 by mortgage of the lease or through foreclosure sale, judicial
10 or otherwise, shall be liable to perform the obligations imposed
11 on the lessee by the lease only during the period [~~such~~] the
12 person has possession or ownership of the leasehold estate."

13 SECTION 42. Section 516-66, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§516-66 Lease rental.** (a) In every case of an extension
16 under section 516-65, the annual lease rental during the first
17 thirty years shall not exceed an amount determined as follows:

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



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

4 (3) Deduct from thirty years the number of years computed
5 in paragraph (1) and multiply that difference by the
6 annual rent determined by mutual agreement of lessor
7 and lessee within thirty days after [~~such~~] the
8 extension or by arbitration in [~~accord~~] accordance
9 with chapter 658A; and

10 (4) Add the amounts computed in paragraphs (2) and (3) and
11 divide that sum by thirty. This sum rounded to the
12 nearest dollar shall be the annual rent for the first
13 thirty years of the extended term; provided that
14 [~~such~~] the rent shall not [~~without the consent of the~~
15 ~~lessor~~] be less than the annual rent in effect
16 immediately prior to [~~such~~] the extension[~~-~~], unless
17 otherwise consented to by the lessor.

18 (b) The annual rent payable [~~hereunder~~] under subsection

19 (a) for and during the remaining period of the extended term
20 shall be determined by mutual agreement of the lessor and the
21 lessee[~~-~~] or, if they fail to reach [~~such~~] an agreement at least



1 ninety days before the commencement of the period, by
2 arbitration in accordance with chapter 658A."

3 SECTION 43. Section 519-3, Hawaii Revised Statutes, is
4 amended by amending subsection (d) to read as follows:

5 "(d) For purposes of this section:

6 ~~[(1)]~~ "Cooperative housing corporation" means a
7 corporation:

8 ~~[(A)]~~ (1) Having ~~[one and]~~ only one class of stock
9 outstanding;

10 ~~[(B)]~~ (2) Each of the stockholders of which is entitled,
11 solely by reason of the shareholder's ownership of
12 stock in the corporation, to occupy for dwelling
13 purposes the dwelling unit in a building~~[7]~~ owned or
14 leased by the corporation~~[7]~~ and situated on land
15 leased by the corporation;

16 ~~[(C)]~~ (3) No stockholder of which is entitled ~~[(either)]~~,
17 either conditionally or unconditionally~~[7]~~, to receive
18 any distribution not out of earnings and profits of
19 the corporation, except in a complete or partial
20 liquidation of the corporation; and



1 ~~[(D)]~~ (4) Eighty per cent or more of the gross income for
2 the taxable year in which the taxes and interest
3 described in title 26 United States Code section
4 216(a) are paid or incurred is derived from tenant
5 stockholders.

6 ~~[(2)]~~ "Offsite improvements" means all physical
7 improvements ~~[such as]~~, including but not limited to~~[_]~~ roads,
8 sewer lines, sewage treatment plants, and underground utility
9 cables, constructed or placed in a subdivision or development
10 off the land intended for occupancy, which improvements are to
11 be used in common by occupants of all lands adjoining ~~[such]~~ the
12 improvements or by occupants of all lands for whose benefit the
13 improvements have been constructed or placed.

14 ~~[(3)]~~ "Onsite improvements" means all physical
15 improvements placed on a residential lot intended for occupancy,
16 which improvements are for the benefit of occupants of that lot,
17 including~~[_]~~ but not limited to~~[_]~~ dwelling units, garages,
18 service buildings, stairs, walkways, driveways, walls, trees,
19 shrubs, landscaping, and pools.

20 ~~[(4)]~~ "~~Owner's basis~~" ~~means the value of the lessor's~~
21 ~~leased fee interest in the property that would apply if such~~



~~interest were normally traded on an open market. The fair market value of the owner's basis shall be established to provide the lessor with just compensation for the lessor's interests in the lot and shall take into consideration every interest and equity of the lessee in establishing that market value. The value may be determined by any method which is normally used by qualified appraisers in establishing the fair market value of a lessor's leased fee interest in land.~~

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

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



1 appraisers in establishing the fair market value of a lessor's
2 leased fee interest in land."

3 SECTION 44. Section 554-10, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

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

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

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

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

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

17 provided that this subsection ~~[(a)]~~ shall not apply to ~~[such]~~

18 amounts of any trust to which section 4947(a)(2) of the Code

19 applies, as ~~[are]~~ described in the second sentence of ~~[said]~~

20 section 4947(a)(2) of the Code, and ~~[items (ii) and (iii) of~~

21 ~~this subsection (a)]~~ paragraphs (2) and (3) shall not apply to



1 any trust to which ~~said~~ section 4947(a)(2) of the Code applies
2 ~~[which is]~~, as described in section 4947(b)(3) of the Code."

3 SECTION 45. Section 557A-104, Hawaii Revised Statutes, is
4 amended by amending subsection (c) to read as follows:

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

6 (1) That diminishes the income interest in a trust that
7 requires all of the income to be paid at least
8 annually to a surviving spouse and for which an estate
9 tax or gift tax marital deduction would be allowed, in
10 whole or in part, if the trustee did not have the
11 power to make the adjustment;

12 (2) That reduces the actuarial value of the income
13 interest in a trust to which a person transfers
14 property with the intent to qualify for a gift tax
15 exclusion;

16 (3) That changes the amount payable to a beneficiary as a
17 fixed annuity or a fixed fraction of the value of the
18 trust's assets;

19 (4) From any amount that is permanently set aside for
20 charitable purposes under a will or the terms of a
21 trust, unless both income and principal are so set



1 aside; provided that a trustee may transfer income to
2 principal only upon a court order (unless the trustee
3 is holding institutional funds as defined in section
4 ~~[517D-3]~~ 517E-2 exclusively for the benefit of a
5 community foundation and section ~~[517D-4]~~ 517E-4
6 applies);

7 (5) If possessing or exercising the power to make an
8 adjustment may cause an individual to be treated as
9 the owner of all or part of the trust for income tax
10 purposes, and the individual would not be treated as
11 the owner if the trustee did not possess the power to
12 make an adjustment;

13 (6) If possessing or exercising the power to make an
14 adjustment causes all or part of the trust assets to
15 be included for estate tax purposes in the estate of
16 an individual who has the power to remove a trustee or
17 appoint a trustee, or both, and the assets would not
18 be included in the estate of the individual if the
19 trustee did not have the power to make an adjustment;
20 or

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



SECTION 46. Section 571-21, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) In children's cases~~[7]~~ under section 571-11(1) and (2), the petition and all subsequent court documents shall be suitably entitled so as to indicate that the proceeding is in the interest of rather than against the child or minor involved. The petition shall be verified and statements may be made upon information and belief. ~~[It]~~ The petition shall set forth plainly~~[+]~~ the:

- (1) ~~[the facts which]~~ Facts that bring the child within the purview of this chapter;
- (2) ~~[the name,]~~ Name, age, and residence of the child;
- (3) ~~[the names]~~ Names and residences of the child's parents; and
- (4) ~~[the name]~~ Name and residence of the child's legal guardian if there ~~[be]~~ is one, of the person or persons having custody or control of the child, or of the nearest known relative if no parent or guardian can be found.

If any of the facts required are not known by the petitioner, the petition shall so state. In cases brought pursuant to



1 section 571-11(2)(A) and (C), a certified copy of the child's
2 school attendance records shall constitute prima facie evidence
3 of the child's nonattendance at school or nonreceipt of
4 educational services. [~~A certified copy is defined as~~
5 "Certified copy" means a copy signed by the principal and
6 educator of the child [~~from~~] whose class the child did not
7 attend."

8 SECTION 47. Section 571-31, Hawaii Revised Statutes, is
9 amended by amending subsection (b) to read as follows:

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

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

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

18 (3) [~~taken~~] Taken directly to a detention facility[~~7~~] if
19 the child's immediate welfare or the protection of the
20 community requires it[~~7~~] or if the child is subject to



1 detention for violation of a court order of probation
2 or protective supervision."

3 SECTION 48. Section 577-15, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§577-15 Children deemed to be orphans.** For the purpose
6 of taking, or determining eligibility to take, any benefit under
7 any law or under any private instrument by the terms of which
8 orphans are eligible to receive benefits, a child born ~~[of]~~ to
9 parents not married to each other and not adopted shall be
10 deemed an orphan; provided that nothing in this section shall be
11 construed to:

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

15 (2) ~~[to affect]~~ Affect the liabilities of any other person
16 with respect to any ~~[such]~~ child to which the person
17 would be subject~~[,]~~ if this section had not been
18 enacted."

19 SECTION 49. Section 578-7, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "**§578-7 Substituted or constructive service.** Upon the
2 filing of the affidavit referred to in section 578-6, the court
3 may order service of the notice prescribed in sections 578-2 and
4 578-4 to be made as follows:

5 (1) Personal service or service by registered mail without
6 the State. If the residence of a nonresident legal
7 parent is known or is ascertained at any stage of the
8 proceeding prior to the filing of a return of service
9 pursuant to section 578-5, the court may order that
10 service of notice of the time and place of hearing of
11 the petition and of a copy thereof and of a copy of
12 the court's order be made upon [~~such~~] the parent by:

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

16 (B) [~~by sending~~] Sending certified copies of the
17 petition and of the notice of the time and place
18 of the hearing thereof and of the court's order,
19 by registered mail, addressed to [~~such~~] the
20 parent, with request for return receipt, which
21 service, evidenced by [~~such~~] the receipt signed



1 by the parent and returned to the clerk of the
2 court, shall be regarded as equivalent to service
3 by publication or in lieu thereof.

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

9 (2) Service by publication. If the residence of [~~such~~] a
10 parent is not known and cannot be ascertained, or if
11 an attempt to effect service by either of the methods
12 authorized in paragraph (1) [~~hereof~~] is unsuccessful,
13 the court may order that service shall be made by
14 publication. The order shall direct that publication
15 of notice of the pendency of the petition and of the
16 time and place of the hearing thereof be made in a
17 newspaper or newspapers suitable for the advertisement
18 of notices of judicial proceedings once in each week
19 for not less than four successive weeks as the court
20 may prescribe, the last publication to be not less
21 than twenty-one days prior to the time appointed for



1 the hearing of the petition. The court [~~may~~], in
2 addition to ordering publication, may direct that a
3 copy of the petition and notice be forthwith deposited
4 in the post office, addressed to [~~such~~] the parent at
5 the parent's last known place of residence. The
6 service of the notice required by section 578-2 shall
7 be deemed complete at the expiration of the time
8 prescribed by the order of publication."

9 SECTION 50. Section 580-3.5, Hawaii Revised Statutes, is
10 amended to read as follows:

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

20 (1) [~~at the time that the~~] The cause of action [~~which~~]
21 that is the subject of the proceeding arose~~[, or]~~;



1 (2) ~~[at the time of]~~ Of the commencement of the
2 proceeding~~[,]~~; or

3 (3) ~~[at the time of]~~ Of service."

4 SECTION 51. Section 831-3.1, Hawaii Revised Statutes, is
5 amended by amending subsection (f) to read as follows:

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

8 (1) Denials by the department of human services, the
9 department of health, or any other branch, political
10 subdivision, or agency of any certificate of approval,
11 license, or permit to any organization, institution,
12 home, or facility subject to licensure under chapters
13 321, 333F, and 346;

14 (2) Denials of employment as a staff member of a youth
15 correctional facility operated under chapter 352;

16 (3) Denials of employment as an employee of a detention or
17 shelter facility established or designated pursuant to
18 section 571-33;

19 (4) Denials of employment as a staff member of a
20 correctional facility pursuant to chapter 353, or as a
21 staff member that requires the exercise of police



1 powers, including the power to arrest, in the
2 performance of the staff member's duties pursuant to
3 chapter 353C;

4 (5) Denials of employment of applicants or employees
5 pursuant to section 78-2.7;

6 (6) Denials or termination of employment as an employee,
7 employee applicant, or employee or agent of a
8 contractor of the department of taxation with access
9 to federal tax information pursuant to section 231-
10 1.6;

11 (7) Denials or termination of employment as an employee,
12 employee applicant, or employee or agent of a
13 contractor of the department of human services with
14 access to federal tax information pursuant to section
15 346-2.5;

16 (8) Denials or termination of employment as an employee,
17 employee applicant, or employee or agent of a
18 contractor of the department of labor and industrial
19 relations with access to federal tax information
20 pursuant to section 383-110; and



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

SECTION 52. Section 235-12, Hawaii Revised Statutes, is repealed.

~~["§235-12 Energy conservation; income tax credit. (a) For taxable years ending before January 1, 1990, except in the case of ice storage systems for taxable years ending before January 1, 1991, each individual and corporate resident taxpayer who files an individual or corporate net income tax return for a taxable year, may claim a tax credit under this section against the Hawaii state individual or corporate net income tax. The tax credit may be claimed for any solar or wind energy device, heat pump, or ice storage system in an amount not to exceed ten per cent of the total cost of the device, heat pump, or ice storage system; provided that the tax credit shall apply only to the actual cost of the solar or wind energy device, the heat pump, or ice storage system, their accessories, and installation and shall not include the cost of consumer incentive premiums~~



1 ~~unrelated to the operation of the solar or wind energy device,~~
2 ~~the heat pump, or ice storage system offered with the sale of~~
3 ~~the solar or wind energy device, the heat pump, or ice storage~~
4 ~~system. The credit shall be claimed against net income tax~~
5 ~~liability for the year in which the solar or wind energy device,~~
6 ~~the heat pump, or ice storage system was purchased and placed in~~
7 ~~use; provided:~~

8 ~~(1) The tax credit shall be applicable only with respect~~
9 ~~to solar devices, which are erected and placed in~~
10 ~~service after December 31, 1974, but before January 1,~~
11 ~~1990;~~

12 ~~(2) In the case of wind energy devices and heat pumps, the~~
13 ~~tax credit shall be applicable only with respect to~~
14 ~~wind energy devices and heat pumps which are installed~~
15 ~~and placed in service after December 31, 1980, but~~
16 ~~before January 1, 1990; and~~

17 ~~(3) In the case of ice storage systems, the tax credit~~
18 ~~shall be applicable only with respect to ice storage~~
19 ~~systems which are installed and placed in service~~
20 ~~after December 31, 1985, but before January 1, 1990.~~



~~Tax credits which exceed the taxpayer's income tax liability may be used as a credit against the taxpayer's income tax liability in subsequent years until exhausted. If federal energy tax credits are not extended beyond December 31, 1985, are not retroactively extended or reenacted, or federal energy tax credits the same as or less in amount than the credits in effect during the 1985 taxable year are not enacted during the taxable year 1986, then the state tax credit shall be increased to fifteen per cent of the total cost after December 31, 1985, but before January 1, 1990.~~

~~As used in this subsection:~~

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

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



1 ~~"Ice storage system" refers to ice banks or other cool~~
2 ~~energy storage tanks, containers, accessories, and controls that~~
3 ~~are specifically designed to store ice or chilled fluids for the~~
4 ~~express purpose of shifting the consumption of energy to off-~~
5 ~~peak periods.~~

6 ~~(b) For taxable years beginning after December 31, 1989,~~
7 ~~each individual or corporate resident taxpayer who files an~~
8 ~~individual or corporate net income tax return for a taxable~~
9 ~~year, may claim a tax credit under this section against the~~
10 ~~Hawaii state individual or corporate net income tax. The tax~~
11 ~~credit may be claimed as follows:~~

12 ~~(1) For wind energy systems that are installed and placed~~
13 ~~in service after December 31, 1989, but before July 1,~~
14 ~~2003, the credit shall be twenty per cent of the~~
15 ~~actual cost,~~

16 ~~(2) For solar energy systems that are installed and placed~~
17 ~~in service after December 31, 1989, but before July 1,~~
18 ~~2003, on new and existing single family residential~~
19 ~~buildings, the credit shall be in an amount not to~~
20 ~~exceed thirty five per cent or \$1,750, whichever is~~
21 ~~less, of the actual cost of the solar energy system,~~



- 1 ~~(3) For solar energy systems that are installed and placed~~
2 ~~in service after December 31, 1989, but before July 1,~~
3 ~~2003, on new and existing multiunit buildings used~~
4 ~~primarily for residential purposes, the credit shall~~
5 ~~be in an amount not to exceed thirty five per cent or~~
6 ~~\$350 per building unit, whichever is less, of the~~
7 ~~actual cost of the solar energy system;~~
- 8 ~~(4) For solar energy systems that are installed and placed~~
9 ~~in service after December 31, 1989, but before July 1,~~
10 ~~2003, in new and existing hotel, commercial, and~~
11 ~~industrial facilities, the credit shall be in an~~
12 ~~amount not to exceed thirty five per cent of the~~
13 ~~actual cost of the solar energy system;~~
- 14 ~~(5) For heat pumps that are installed and placed in~~
15 ~~service after December 31, 1989, but before July 1,~~
16 ~~2003, in new and existing single family residential~~
17 ~~buildings, the credit shall be in an amount not to~~
18 ~~exceed twenty per cent or \$400, whichever is less, of~~
19 ~~the actual cost of the heat pump;~~
- 20 ~~(6) For heat pumps that are installed and placed in~~
21 ~~service after December 31, 1989, but before July 1,~~



1 ~~2003, in new and existing multiunit buildings used~~
2 ~~primarily for residential purposes, the credit shall~~
3 ~~be in an amount not to exceed twenty per cent or \$200~~
4 ~~per building unit, whichever is less, of the actual~~
5 ~~cost of the heat pump; provided that a licensed~~
6 ~~professional engineer reviews the design of the system~~
7 ~~and provides a written opinion that the system, in~~
8 ~~accordance with recognized engineering practice, is~~
9 ~~designed to provide not less than ninety per cent of~~
10 ~~the daily annual average hot water needs of all of the~~
11 ~~occupants of the building;~~

12 ~~(7) For heat pumps that are installed and placed in~~
13 ~~service after December 31, 1989, but before July 1,~~
14 ~~2003, in new and existing hotel, commercial, and~~
15 ~~industrial facilities, the credit shall be in an~~
16 ~~amount not to exceed twenty per cent of the actual~~
17 ~~cost of the heat pump; and~~

18 ~~(8) For ice storage systems that are installed and placed~~
19 ~~in service after December 31, 1990, but before July 1,~~
20 ~~2003, the credit shall be in an amount not to exceed~~



1 ~~fifty per cent of the actual cost of the ice storage~~
2 ~~system.~~

3 ~~The per unit of actual cost of a solar energy system or heat~~
4 ~~pump referred to in subsection (b) (3) and (6) shall be~~
5 ~~determined by multiplying the actual cost of the solar energy~~
6 ~~system or heat pump installed and placed in service in the~~
7 ~~multiunit building by a fraction, the numerator being the total~~
8 ~~square feet of that unit in the multiunit building, and the~~
9 ~~denominator being the total square feet of all the units in the~~
10 ~~multiunit building.~~

11 ~~If federal energy tax credits similar to any of those~~
12 ~~provided in paragraphs (1) to (8) are established after June 30,~~
13 ~~1998, but before July 1, 2003, then the state tax credit~~
14 ~~provided in the respective paragraph or paragraphs shall be~~
15 ~~reduced by the amount of the applicable federal energy tax~~
16 ~~credit.~~

17 ~~(c) Tax credits shall apply only to the actual cost of the~~
18 ~~solar or wind energy system, heat pump, or ice storage system,~~
19 ~~including their accessories and installation, and shall not~~
20 ~~include the cost of consumer incentive premiums unrelated to the~~
21 ~~operation of the system or offered with the sale of the system~~



1 ~~or heat pump. The tax credit shall be claimed against net~~
2 ~~income tax liability for the year in which the solar or wind~~
3 ~~energy system, heat pump, or ice storage system was purchased~~
4 ~~and placed in use in Hawaii. Tax credits that exceed the~~
5 ~~taxpayer's income tax liability may be used as credit against~~
6 ~~the taxpayer's income tax liability in subsequent years until~~
7 ~~exhausted.~~

8 ~~(d) The director of taxation shall prepare such forms as~~
9 ~~may be necessary to claim a credit under this section. The~~
10 ~~director may also require the taxpayer to furnish reasonable~~
11 ~~information to ascertain the validity of the claim for credit~~
12 ~~made under this section and may adopt rules necessary to~~
13 ~~effectuate the purposes of this section pursuant to chapter 91.~~

14 ~~(e) As used in this section:~~

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

20 ~~"Heat pump" means an electric powered compression heating~~



1 ~~system that extracts energy from warm ambient air or recovers~~
2 ~~waste heat to assist in the production of hot water.~~

3 ~~"Ice storage system" refers to ice banks or other cool~~
4 ~~energy storage tanks, containers, accessories, and controls that~~
5 ~~are specifically designed to store ice or chilled fluids for the~~
6 ~~express purpose of shifting the consumption of energy to off-~~
7 ~~peak periods."]~~

8 SECTION 53. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 54. This Act shall take effect on July 1, 2035;
11 provided that the amendments made to section 329-38(h), Hawaii
12 Revised Statutes, by section 21 of this Act shall not be
13 repealed when that section is reenacted on June 30, 2023,
14 pursuant to section 6 of Act 66, Session Laws of Hawaii 2017.



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. Effective 7/1/2035. (SD1)

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

