

JAN 27 2021

A BILL FOR AN ACT

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

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

1 SECTION 1. Section 266-3, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) The director of transportation may adopt rules as
4 necessary [~~to~~]:

5 (1) [~~Regulate~~] To regulate the manner in which all vessels
6 may enter and moor, anchor, or dock in the commercial
7 harbors, ports, and roadsteads of the State, or move
8 from one dock, wharf, pier, quay, bulkhead, landing,
9 anchorage, or mooring to another within the commercial
10 harbors, ports, or roadsteads;

11 (2) [~~The~~] For the examination, guidance, and control of
12 harbor masters and their assistants and their conduct
13 while on duty;

14 (3) [~~The~~] For the embarking or disembarking of passengers;



1 (4) ~~[The]~~ For the expeditious and careful handling of
2 freight, goods, wares, and merchandise of every kind
3 ~~[which]~~ that may be delivered for shipment or
4 discharged on the commercial docks, wharves, piers,
5 quays, bulkheads, or landings belonging to or
6 controlled by the State; and

7 (5) ~~[Defining]~~ To define the duties and powers of
8 carriers, shippers, and consignees respecting
9 passengers, freight, goods, wares, and merchandise in
10 and upon the docks, wharves, piers, quays, bulkheads,
11 or landings within the commercial harbors, ports, and
12 roadsteads of the State. The director may also make
13 further rules for the safety of the docks, wharves,
14 piers, quays, bulkheads, and landings on, in, near, or
15 affecting a commercial harbor and waterfront
16 improvements belonging to or controlled by the State."

17 SECTION 2. Section 266-19, Hawaii Revised Statutes, is
18 amended by amending subsection (b) to read as follows:

19 "(b) At any time, the director of transportation may
20 transfer, from the harbor special fund created by [paragraph]
21 subsection (a) [of this section], all or any portion of



1 available moneys on deposit in the harbor special fund that is
2 determined by the director of transportation to be in excess of
3 one hundred fifty per cent of the requirements for the ensuing
4 twelve months for the harbor special fund, as permitted by and
5 in accordance with section 37-53. For purposes of [such] this
6 determination, the director of transportation shall take into
7 consideration the amount of federal funds and bond funds on
8 deposit in, and budgeted to be expended from, the harbor special
9 fund during [such period,] the ensuing twelve months; amounts on
10 deposit in the harbor special fund [which] that are encumbered
11 or otherwise obligated[7]; budgeted amounts payable from the
12 harbor special fund during [such period, and] the ensuing twelve
13 months; revenues anticipated to be received by and expenditures
14 to be made from the harbor special fund during [such period] the
15 ensuing twelve months based on existing agreements and other
16 information for [the ensuing twelve months,] that period; and
17 [such] any other factors as the director of transportation shall
18 deem appropriate."

19 SECTION 3. Section 268-9, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "**§268-9 Seamen may sue for injuries; venue.** The State
2 consents to suits against the department of transportation by
3 seamen for injuries occurring upon vessels under the authority
4 of the Hawaii state ferries system in accordance with [~~section~~
5 ~~688, Title~~] title 46[~~, of the~~] United States Code[~~-~~] section
6 30104. The venue of the actions may be in the first circuit
7 court or the circuit wherein the injury occurred."

8 SECTION 4. Section 291E-19, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**[+]§291E-19[+]** **Authorization to establish intoxicant**
11 **control roadblock programs.** The police departments of the
12 respective counties may establish and implement intoxicant
13 control roadblock programs in accordance with the minimum
14 standards and guidelines provided in section 291E-20. The chief
15 of police in any county establishing an intoxicant control
16 roadblock program pursuant to this section shall specify the
17 procedures to be followed in carrying out the program in rules
18 adopted under chapter 91; provided that the procedures shall be
19 in conformity with and not more intrusive than the standards and
20 guidelines described in section 291E-20. In the case of
21 internal police standards that do not fall within the definition



1 of "rule" under section [~~91-1(4),~~] 91-1, failure to comply
2 scrupulously with [~~such~~] the internal police procedures shall
3 not invalidate a roadblock that otherwise meets the minimum
4 statutory criteria provided in section 291E-20."

5 SECTION 5. Section 302A-1165, Hawaii Revised Statutes, is
6 amended by amending subsection (c) to read as follows:

7 "(c) The department shall share the information gathered
8 pursuant to this section with the department of human services,
9 executive office on early learning, and state public charter
10 school commission to the extent not otherwise prohibited by
11 administrative rule or law."

12 SECTION 6. Section 302A-1166, Hawaii Revised Statutes, is
13 amended by amending subsection (c) to read as follows:

14 "(c) The department shall share the information gathered
15 pursuant to this section with the department of human services,
16 executive office on early learning, and state public charter
17 school commission to the extent not otherwise prohibited by
18 administrative rule or law."

19 SECTION 7. Section 328G-2, Hawaii Revised Statutes, is
20 amended by amending subsection (j) to read as follows:



1 "(j) The department may remove any person from the
2 registry for failure to comply with any law or regulation under
3 this chapter. It is the responsibility of the hemp processor to
4 make sure it is registered and legally allowed to process hemp
5 and in compliance with any and all laws and regulations. The
6 removal of a hemp processor from the registry shall be in
7 accordance with the procedures set forth in section [~~328H-F.~~
8 328G-6."]

9 SECTION 8. Section 346-186, Hawaii Revised Statutes, is
10 amended by amending subsection (b) to read as follows:

11 "(b) To the extent not prohibited by administrative rule
12 or law, the department, department of education, state public
13 charter school commission, and executive office on early
14 learning shall share any information gathered pursuant to
15 sections 302A-1165, 302A-1166, 302D-37, and 302D-38 with each
16 other, along with any other information the department,
17 department of education, or state public charter school
18 commission may collect on all children in the State who are
19 three to four years old and children who will not be at least
20 five years of age on or before July 31 of the current school
21 year."



1 SECTION 9. Section 436M-8, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[~~§~~§436M-8~~§~~] **Activation.** No alarm system shall be
4 activated intentionally except~~(+)~~ to:

5 (1) [~~to report~~] Report an unauthorized intrusion or the
6 commission of an unlawful act; [~~or~~]

7 (2) [~~to test~~] Test an installed system with the prior
8 knowledge and consent of the police; or

9 (3) [~~to permit~~] Permit an alarm business to demonstrate a
10 system to a prospective buyer or user."

11 SECTION 10. Section 437-1.1, Hawaii Revised Statutes, is
12 amended by amending the definition of "new motor vehicle" to
13 read as follows:

14 ""New motor vehicle" means a motor vehicle [~~which~~] that:

15 (1) [~~has~~] Has not previously been sold to any person
16 except a distributor, wholesaler, or dealer for
17 resale, except where the vehicle has not left the
18 dealer's possession after the sale to a consumer~~(r)~~;

19 (2) [~~has~~] Has not previously been registered or titled in
20 the name of a consumer except where the vehicle has



1 not left the dealer's possession after the sale to a
2 consumer[~~r~~]; and

3 (3) [~~has~~] Has not been driven more than five hundred
4 miles;

5 provided that where a sale, registration, entitlement, or
6 transfer of title of a motor vehicle, or the accrual of mileage
7 thereon, is primarily for the purpose of evading this provision,
8 the motor vehicle shall be deemed a new motor vehicle for the
9 purposes of this chapter."

10 SECTION 11. Section 437B-12, Hawaii Revised Statutes, is
11 amended by amending subsection (e) to read as follows:

12 "(e) Each:

13 (1) Mobile air conditioner serviced without using
14 refrigerant recovery and recycling equipment;

15 (2) Motor vehicle or mobile air conditioner serviced after
16 January 1, 1994, without successful completion of an
17 appropriate training course dealing with the recovery
18 and recycling of CFC and HCFC refrigerants; and

19 (3) Violation of chapter 342C[~~r~~],
20 constitutes a separate offense for which fines may be imposed
21 under subsection (b)."



1 SECTION 12. Section 440G-3, Hawaii Revised Statutes, is
2 amended by amending the definitions of "cable operator", "cable
3 service", "cable system", and "public, educational, or
4 governmental access facilities" to read as follows:

5 "Cable operator" means any person or group of persons who:

- 6 (1) [~~who provides~~] Provides cable service over a cable
7 system and directly or through one or more affiliates
8 owns a significant interest in the cable system; or
9 (2) [~~who otherwise~~] Otherwise controls or is responsible
10 for, through any arrangement, the management and
11 operation of a cable system.

12 "Cable service" means:

- 13 (1) [~~the~~] The one-way transmission to subscribers of video
14 programming or other programming service; and
15 (2) [~~subscriber~~] Subscriber interaction, if any, [~~which~~]
16 that is required for the selection of video
17 programming or other programming service.

18 "Cable system" means any facility within this State
19 consisting of a set of closed transmission paths and associated
20 signal generation, reception, and control equipment that is
21 designed to provide cable service [~~which~~] that includes video



1 programming and ~~[which]~~ is provided to multiple subscribers
2 within a community, but does not include:

3 (1) ~~[a]~~ A facility that serves only to retransmit the
4 television signals of one or more television broadcast
5 stations;

6 (2) ~~[a]~~ A facility that serves only subscribers in one or
7 more multiple unit dwellings under common ownership,
8 control, or management, unless that facility or
9 facilities uses any public right-of-way; or

10 (3) ~~[a]~~ A facility of a public utility subject in whole or
11 in part to the provisions of chapter 269, except to
12 the extent that those facilities provide video
13 programming directly to subscribers.

14 "Public, educational, or governmental access facilities"
15 means:

16 (1) ~~[channel]~~ Channel capacity designated for public,
17 educational, or governmental uses; and

18 (2) ~~[facilities]~~ Facilities and equipment for the use of
19 that channel capacity."

20 SECTION 13. Section 443B-3.5, Hawaii Revised Statutes, is
21 amended as follows:



1 1. By amending subsection (b) to read:

2 "(b) To be designated as an exempt out-of-state collection
3 agency, a collection agency shall:

4 (1) Not have any employees or agents located in the State
5 who engage in the collection of debts for another
6 person;

7 (2) Not have any business location or office in the State
8 that engages in collection agency activities;

9 (3) Hold a current, unrestricted, and unconditional
10 license, permit, or registration as a collection
11 agency in the reciprocal state identified in its
12 application;

13 (4) Limit its collection activity in the State to the
14 collection of debts from residents of the State on
15 behalf of out-of-state clients through interstate
16 communication by telephone, mail, facsimile, or
17 electronic mail; and

18 (5) Not collect debts on behalf of creditors who have a
19 business presence in the State.



1 ~~[For purposes of this section, a creditor has a "business~~
2 ~~presence" in the State if either the creditor or an affiliate or~~
3 ~~subsidiary of the creditor has an office in the State.]"~~

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

5 "(n) For purposes of this section~~[, a "reciprocal state"~~
6 ~~is one]~~:

7 "Business presence in the State" means the creditor or an
8 affiliate or subsidiary of the creditor has an office in the
9 State.

10 "Reciprocal state" means a state:

11 (1) Whose requirements to be licensed, permitted, or
12 registered as a collection agency in that state are at
13 a minimum substantially equivalent to the requirements
14 to be registered as a collection agency in this State,
15 including but not limited to the bonding requirements
16 in section 443B-5; and

17 (2) That does not require a Hawaii collection agency to
18 obtain a license, permit, or registration to collect
19 debts in that state if the activities of the Hawaii
20 collection agency are limited to collecting debts on
21 behalf of an out-of-state creditor using interstate



1 communication methods, including telephone, facsimile,
2 mail, or electronic mail, and the Hawaii collection
3 agency does not solicit or engage in collection
4 activities for clients in that state."

5 SECTION 14. Section 444-1, Hawaii Revised Statutes, is
6 amended by adding a new definition to be appropriately inserted
7 and to read as follows:

8 "Person injured" or "injured person" is limited to owners
9 or lessees of private residences, including condominium or
10 cooperative units, who have contracted with a duly licensed
11 contractor for the construction of improvements or alterations
12 to the owners' or lessees' own private residences and owners or
13 lessees of real property who have contracted with a duly
14 licensed contractor for the construction of the owners' or
15 lessees' own private residences on the owners' or lessees' real
16 property."

17 SECTION 15. Section 444-16, Hawaii Revised Statutes, is
18 amended to read as follows:

19 **"§444-16 Action on applications.** Within one hundred and
20 twenty days after the filing of a proper application for a
21 license and the payment of the required fees, the board shall:



- 1 (1) ~~[conduct]~~ Conduct an investigation of the applicant,
2 and in that investigation may post pertinent
3 information, including ~~[but not limited to,]~~ the name
4 and address of the applicant~~[,]~~ and ~~[if the applicant~~
5 ~~is associated in any partnership, corporation, or~~
6 ~~other entity,]~~ the names, addresses, and official
7 capacities of ~~[the applicant's associates,]~~ any
8 partnership, corporation, or other entity that the
9 applicant is associated with; and
- 10 (2) ~~[either]~~ Either issue a license to the applicant or
11 notify the applicant in writing by registered mail of
12 the board's decision not to grant the license and
13 specifically notify the applicant of the applicant's
14 right to submit a request for a contested case hearing
15 pursuant to chapter 91 within sixty days of the
16 board's decision. The hearing shall be conducted in
17 accordance with chapter 91."

18 SECTION 16. Section 444-26, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§444-26 Contractors recovery fund; use of fund; person**
21 **injured; fees.** (a) The board is authorized to establish and



1 maintain a contractors recovery fund from which any person
2 injured by an act, representation, transaction, or conduct of a
3 duly licensed contractor~~[, which]~~ that is in violation of this
4 chapter or the rules adopted pursuant thereto~~[,]~~ may recover, by
5 order of the circuit court or district court of the judicial
6 circuit where the violation occurred, an amount of not more than
7 \$12,500 per contract, regardless of the number of persons
8 injured under the contract, for damages sustained ~~[by]~~ from the
9 act, representation, transaction, or conduct. Recovery from the
10 fund shall be limited to the actual damages suffered by the
11 claimant, including court costs and fees as set by law~~[,]~~ and
12 reasonable attorney fees as determined by the court; provided
13 that recovery from the fund shall not be awarded to persons
14 injured by an act, representation, transaction, or conduct of a
15 contractor whose license was suspended, revoked, forfeited,
16 terminated, or in an inactive status at the time the claimant
17 entered into the contract with the contractor.

18 ~~[(b) For purposes of this chapter, "person injured" or~~
19 ~~"injured person" means and is limited to owners or lessees of~~
20 ~~private residences, including condominium or cooperative units,~~
21 ~~who have contracted with a duly licensed contractor for the~~



1 ~~construction of improvements or alterations to the owners' or~~
2 ~~lessees' own private residences and owners or lessees of real~~
3 ~~property who have contracted with a duly licensed contractor for~~
4 ~~the construction of the owners' or lessees' own private~~
5 ~~residences on the owners' or lessees' real property.~~

6 ~~(e)]~~ (b) When any person applies for a contractors
7 license, the person shall pay, in addition to the person's
8 original license fee, a fee of \$150 for deposit in the
9 contractors recovery fund~~[7]~~ and a fee for deposit in the
10 contractors education fund as provided in rules adopted by the
11 director pursuant to chapter 91. ~~[In the event that]~~ If the
12 board does not issue the license, these fees shall be returned
13 to the applicant."

14 SECTION 17. Section 456-17, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§456-17 Fees.** Subject to section 456-18, every notary
17 public is entitled to demand and receive the following fees:

- 18 (1) For noting the protest of mercantile paper, \$5;
19 (2) For each notice and certified copy of protest, \$5;
20 (3) For noting any other protest, \$5;



- 1 (4) For every notice thereof[7] and certified copy of
- 2 protest, \$5;
- 3 (5) For every deposition[7] or official certificate, \$5;
- 4 (6) For the administration of oath, including the
- 5 certificate of the oath, \$5; for affixing the
- 6 certificate of the oath to every duplicate original
- 7 instrument beyond four, \$2.50;
- 8 (7) For taking any acknowledgment, \$5 for each party
- 9 signing; for affixing to every duplicate original
- 10 beyond one of any instrument acknowledged before the
- 11 notary public, the notary public's certificate of the
- 12 acknowledgment, \$2.50 for each person making the
- 13 acknowledgment; and
- 14 (8) For any of the foregoing notarial acts performed for a
- 15 remotely located individual under section 456-23,
- 16 other than affixing a notary public's certificate to a
- 17 duplicate original, \$25."

18 SECTION 18. Section 458-13, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§458-13 Acts prohibited.** It shall be unlawful to do any
21 of the following:



- 1 (1) To engage in the occupation of dispensing optician
2 without first having been issued a dispensing optician
3 license under this chapter;
- 4 (2) To advertise in any manner that would tend to mislead
5 or deceive the public;
- 6 (3) To dispense, furnish, or supply the services and
7 appliances to the intended wearer or user thereof,
8 except upon a prescription issued by a licensed
9 physician[7] or optometrist; provided that
10 duplications, replacements, reproductions, and
11 repetitions[7] without change in the refractive value
12 may be done without prescription by individuals
13 holding a license of dispensing optician issued under
14 this chapter;
- 15 (4) To fit or duplicate, or offer, undertake, or attempt
16 to fit or duplicate, hard and soft contact lenses or
17 artificial eyes except under the written orders and
18 personal supervision of an ophthalmologist or
19 optometrist [~~or fail to provide notice as required by~~
20 ~~section 458-12.5~~];



1 (5) For a dispensing optician to grant, allow, credit, or
2 pay, directly or indirectly, openly or secretly, any
3 price differential, rebate, refund, discount,
4 commission, credit, kickback, or other allowance,
5 whether in the form of money or otherwise, to any
6 oculist, optometrist, physician, or practitioner of
7 any other profession for or on account of:

8 (A) [~~for or on account of the~~] The referring or
9 sending by any oculist, optometrist, physician,
10 or practitioner to the dispensing optician of any
11 person for the rendition of any of the services
12 performed or articles or appliances furnished by
13 a dispensing optician as described in section
14 458-1[7]; or

15 (B) [~~for or on account of the~~] The rendition of any
16 services or the furnishing of any articles or
17 appliances to a person so referred or sent by any
18 oculist, optometrist, physician, or practitioner.

19 Every scheme, agreement, undertaking, arrangement, or
20 device shall also be deemed in violation of section



1 481-7. The license of every dispensing optician who
2 violates this paragraph shall be revoked; or
3 (6) For a dispensing optician to permit any unlicensed
4 person to take facial measurements[7] or to fit or
5 adjust lenses or frames or duplicate frames unless the
6 unlicensed person is acting under the direct personal
7 supervision of a licensed dispensing optician.
8 "Direct personal supervision" means the licensed
9 optician is present on the premises of the optical
10 dispensing establishment and is available for
11 consultation by the unlicensed person."

12 SECTION 19. Section 459-1.5, Hawaii Revised Statutes, is
13 amended by adding a new definition to be appropriately inserted
14 and to read as follows:

15 "Ophthalmic lens" means any spectacle lens that has a
16 spherical, cylindrical, or prismatic power or value and is
17 ground pursuant to a prescription."

18 SECTION 20. Section 459-2, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§459-2 Optometry; unauthorized practice, unlawful.** It
21 shall be unlawful for any person to practice optometry or to



1 append the letters "O.D." or any other optometric degree to a
2 person's name with the intent thereby to imply that the
3 individual is a practitioner of optometry, without first
4 securing and holding an unrevoked and unsuspended license under
5 and as provided in this chapter. This chapter shall not
6 ~~apply~~:

7 (1) Apply to, or prohibit, a duly licensed physician from
8 practicing optometry as defined in this chapter
9 ~~[defined, nor shall it prohibit];~~

10 (2) Prohibit a duly licensed physician or optometrist from
11 filling prescriptions or orders~~[, nor shall it~~
12 ~~prohibit];~~

13 (3) Prohibit the replacement, duplication, or repair of
14 ophthalmic lenses, contact lenses, or frames, or
15 fittings thereof, by persons qualified to write or
16 fill prescriptions or orders under this chapter~~[, nor~~
17 ~~shall it prohibit];~~

18 (4) Prohibit or prevent any dispensing optician licensed
19 under chapter 458 from performing the activities
20 authorized by the license~~[, nor shall it apply];~~ or



1 (5) Apply to optometric service corporations formed for
2 the primary purpose of contracting with individuals,
3 groups of individuals, and corporations for defraying
4 or assuming the cost of services of optometrists and
5 of contracting on behalf of optometrists to furnish
6 services as provided in chapter 424.

7 ~~[An "ophthalmic lens" within the meaning of this chapter~~
8 ~~means any spectacle lens which has a spherical, cylindrical, or~~
9 ~~prismatic power or value, and is ground pursuant to a~~
10 ~~prescription.]"~~

11 SECTION 21. Section 467-30, Hawaii Revised Statutes, is
12 amended as follows:

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

14 "(a) As used in this section[~~7~~]:

15 ~~["condominium]~~ "Condominium hotel" includes those units in
16 a project as defined in section 514B-3 and subject to chapter
17 514B[~~7, which~~] that are used to provide transient lodging for
18 periods of less than thirty days.

19 "Operating a condominium hotel" includes the:



- 1 (1) Management of the apartments or units in a condominium
- 2 project for purposes of providing transient lodging;
- 3 and
- 4 (2) Renting or leasing of condominium apartments or units
- 5 directly or indirectly from the apartment or unit
- 6 owners for purposes of providing transient lodging."

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

8 "~~(e) [As used in this section, "operating a condominium~~

9 ~~hotel" includes the management of the apartments or units in a~~

10 ~~condominium project for purposes of providing transient lodging,~~

11 ~~and includes the renting or leasing of condominium apartments or~~

12 ~~units directly or indirectly from the apartment or unit owners~~

13 ~~for purposes of providing transient lodging.] The condominium~~

14 ~~hotel operator shall provide [a written contract] to the owner~~

15 ~~or owners of each apartment or unit under the condominium hotel~~

16 ~~operation[7] a written contract expressing the exact agreements~~

17 ~~of each party, including all financial and accounting~~

18 ~~obligations, and the notification requirements of subsection~~

19 ~~(g)."~~

20 SECTION 22. Section 652-2, Hawaii Revised Statutes, is

21 amended to read as follows:



1 "§652-2 Garnishee, rights, duties; collection by levying
2 **officer.** The garnishee [~~shall~~], when summoned before judgment
3 rendered against [~~his~~] the garnishee's principal, if [~~he~~] the
4 garnishee desires, shall be admitted to defend [~~his~~] the
5 garnishee's principal in the action.

6 If judgment is rendered in favor of the plaintiff, and
7 likewise in all cases in which the garnishee is summoned after
8 judgment, the garnishee fund, or [~~such~~] any part thereof as may
9 be sufficient for that purpose, shall be liable to pay the same.
10 The plaintiff on praying out execution shall be entitled to have
11 included in the execution an order directing the officer serving
12 the same to make demand of the garnishee for the goods and
13 effects of the defendant secured in [~~his~~] the garnishee's hands,
14 whose duty it will be to expose the same to be taken on
15 execution, and also to make demand of the garnishee for the debt
16 or wages secured in [~~his~~] the garnishee's hands or the moneys
17 held by [~~him~~] the garnishee for safekeeping, or [~~such~~] any part
18 thereof as may satisfy the judgment. It shall be the duty of
19 the garnishee to pay the same. If the garnishee has in any
20 manner disposed of the goods and effects or does not expose and
21 subject the same to be taken on execution, or if the garnishee



1 does not pay to the officer, when demanded, the debt [~~or~~],
2 wages, or moneys held for safekeeping, the garnishee shall be
3 liable to satisfy the judgment out of [~~his~~] the garnishee's own
4 estate, as [~~his~~] the garnishee's own proper debt, if the goods
5 [~~or~~], effects [~~or~~], debt [~~or~~], wages, or moneys held for
6 safekeeping[~~r~~] be of sufficient value or amount and, if not,
7 then to the value of the same; provided that every garnishee,
8 whether summoned before or after judgment, shall be allowed to
9 retain or deduct from the goods, effects, and credits of the
10 defendant in [~~his~~] the garnishee's hands at the time of service
11 all demands against the defendant of which [~~he~~] the garnishee
12 could have availed [~~himself~~] the garnishee's self if [~~he~~] the
13 garnishee had not been [~~garnisheed,~~] garnished, whether the same
14 are at the time due or not, and whether by setoff on a trial or
15 by setoff of judgments or executions between [~~himself~~] the
16 garnishee and the defendant, and shall be liable only for the
17 balance after adjustment of all mutual demands between [~~himself~~]
18 the garnishee and the defendant; provided that in [~~such~~] the
19 adjustment no demands for unliquidated damages for wrongs or
20 injuries shall be included[~~r~~]; and provided further that the
21 judgment shall show the amount of any setoff.



1 No garnishee shall be liable to anyone for the nonpayment
2 of any sum or for the nondelivery of any goods or effects when
3 the garnishee in good faith believes, or has reason to believe,
4 that garnishment or other process affects the same, though such
5 be not the case, but this paragraph shall not supersede section
6 652-9 where the same are applicable."

7 SECTION 23. Section 36-35, Hawaii Revised Statutes, is
8 repealed.

9 [~~"§36-35 State educational facilities repair and~~
10 ~~maintenance account. (a) There is created in the state general~~
11 ~~fund under EDN 400 (school support) the state educational~~
12 ~~facilities repair and maintenance account, into which shall be~~
13 ~~deposited legislative appropriations to the account designated~~
14 ~~for use solely to eliminate the backlog of school repair and~~
15 ~~maintenance projects, including the repair or replacement of~~
16 ~~fixtures, furnishings, and equipment, existing on June 30, 2000.~~
17 ~~Expenditures from the account shall be subject to sections 37-31~~
18 ~~and 37-33 to 37-40. Based on the prioritization approved by the~~
19 ~~department of education, appropriations or authorizations from~~
20 ~~the account shall be expended by the superintendent of~~
21 ~~education.~~



1 ~~(b) The department of education shall review the existing~~
2 ~~condition of school facilities and establish specific vision~~
3 ~~plans for each school complex based on current repair and~~
4 ~~maintenance requirements and overall repair and maintenance~~
5 ~~priorities.~~

6 ~~(c) Criteria used to establish current repair and~~
7 ~~maintenance requirements may include:~~

8 ~~(1) The remaining useful life of the school facility and~~
9 ~~its major components;~~

10 ~~(2) The adjusted life of the school facility and its major~~
11 ~~components after repair or maintenance; and~~

12 ~~(3) The current and future repair and maintenance~~
13 ~~requirements of the school facility and its components~~
14 ~~based on established industry standards or product~~
15 ~~manufacturer recommendations;~~

16 ~~provided that demolition of a facility or any of its components~~
17 ~~may be recommended if the cost of the repairs do not justify the~~
18 ~~adjusted life or remaining life of the facility.~~

19 ~~(d) Criteria used to establish overall repair and~~
20 ~~maintenance requirements may include:~~



- 1 ~~(1) Whether a school facility will continue to be used for~~
2 ~~the next twenty-five years; and~~
- 3 ~~(2) Whether a repair or maintenance project is required:~~
- 4 ~~(A) For health or safety reasons;~~
5 ~~(B) To comply with legal mandates;~~
6 ~~(C) To comply with current building codes; or~~
7 ~~(D) For preventive maintenance reasons;~~
- 8 ~~provided that in developing criteria, consideration shall be~~
9 ~~given to school facilities that were more than twenty-five years~~
10 ~~of age on July 1, 2000.~~
- 11 ~~(e) The expenditure of funds for any project with an~~
12 ~~estimated total cost of less than \$100,000 shall be exempt from~~
13 ~~section 464-4; provided that:~~
- 14 ~~(1) The superintendent of education shall develop internal~~
15 ~~policies and procedures for the procurement of goods,~~
16 ~~services, and construction, consistent with the goals~~
17 ~~of public accountability and public procurement~~
18 ~~practices;~~
- 19 ~~(2) Insofar as is practical, and based on specifications~~
20 ~~developed, adequate and reasonable competition of no~~
21 ~~fewer than three proposals shall be solicited for each~~



1 ~~project, based on rules adopted by the superintendent~~
2 ~~of education;~~

3 ~~(3) Considering all factors, including quality, warranty,~~
4 ~~and delivery, the award shall be made to the vendor~~
5 ~~with the most advantageous proposal;~~

6 ~~(4) The procurement requirements shall not be artificially~~
7 ~~divided or parceled so as to avoid competitive bidding~~
8 ~~or competitive proposals; and~~

9 ~~(5) Formal design for projects shall be done when there is~~
10 ~~a clear need to preserve structural integrity, health~~
11 ~~and safety, or to clearly communicate construction~~
12 ~~requirements.~~

13 ~~For all projects, the superintendent of education shall~~
14 ~~develop a strategy for the efficient and cost-effective use of~~
15 ~~government and private sector workforces and consider increased~~
16 ~~flexibility through public-private partnering, design-build~~
17 ~~options, cost plus, job order contracts, performance-based~~
18 ~~contracts, request for proposals, and any other means to improve~~
19 ~~communications and accelerate repairs while preserving the~~
20 ~~quality of the repairs.~~



1 ~~(f) The superintendent of education shall ensure that all~~
2 ~~repair and maintenance projects achieve maximum cost efficiency~~
3 ~~by emphasizing functional or performance criteria, uniformity of~~
4 ~~design, and commonality of products, and by avoiding unique or~~
5 ~~custom requirements that increase costs. The superintendent of~~
6 ~~education shall develop project specifications based on generic~~
7 ~~specifications or prescriptive specifications using standard~~
8 ~~commercial products. Prescriptive specifications may include a~~
9 ~~qualified product list.~~

10 ~~For the purposes of this subsection:~~

11 ~~"Generic specification" means a technical specification~~
12 ~~that is written in a clear, unambiguous, and nonrestrictive~~
13 ~~manner establishing:~~

14 ~~(1) Design, performance, or functional requirements to~~
15 ~~identify the work to be performed; and~~

16 ~~(2) Material standards to be used on a project.~~

17 ~~"Prescriptive specification" means a technical~~
18 ~~specification:~~

19 ~~(1) Establishing that the required work to be performed is~~
20 ~~written in a clear, unambiguous, and nonrestrictive~~
21 ~~manner; and~~



1 ~~(2) Listing manufacturers or products that are acceptable~~
2 ~~for use on the project.~~

3 ~~"Standard commercial product" means a product or material~~
4 ~~that in the normal course of business is customarily maintained~~
5 ~~in stock by, or readily available for marketing from a~~
6 ~~manufacturer, distributor, or dealer.~~

7 ~~This subsection shall not apply to any school facility~~
8 ~~designated a historic property pursuant to section 6E-5.5.~~

9 ~~(g) The superintendent of education shall submit an annual~~
10 ~~report to the legislature, which shall include a financial~~
11 ~~statement of the account and the status of repair and~~
12 ~~maintenance projects undertaken pursuant to this section, no~~
13 ~~later than twenty days prior to the convening of each regular~~
14 ~~session. Expenditures for repair and maintenance projects~~
15 ~~undertaken pursuant to this section shall be posted~~
16 ~~electronically on the Internet by the department of education~~
17 ~~within thirty days of each project's completion.~~

18 ~~(h) This section shall be repealed on July 1, 2020."]~~

19 SECTION 24. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.



S.B. NO. 1327

Report Title:

Revision Bill

Description:

Amends or repeals various provisions of the Hawaii Revised Statutes or the Session Laws of Hawaii for the purposes of correcting errors and references, clarifying language, or deleting obsolete or unnecessary provisions.

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

