

## ACT 94

H.B. NO. 679

A Bill for an Act Relating to Boards and Commissions.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 92-17, Hawaii Revised Statutes, is amended to read:

**"Sec. 92-17 Consumer complaints; procedures and remedies.** (a) All boards established to license or regulate any profession, occupation, industry, or service, shall receive complaints from consumers and other persons claiming to be aggrieved by business practices related to their respective jurisdictions.

(b) Upon receipt of a written complaint which establishes an alleged violation of any provision of law or rule that is within its jurisdiction, the board shall notify the licensee or person regulated of the charges against him and conduct a hearing in conformity with chapter 91 if the matter cannot be settled informally after investigation. If the board finds that the charge constitutes a violation the board may order one or more of the following remedies as appropriate relief:

- (1) Refunding to the complainant the money paid as fees for services;
- (2) Correcting the work done in providing services to the satisfaction of the complainant;
- (3) Revocation of the licensee's permit or license; and
- (4) Suspension of the licensee's permit or license; and
- (5) Any other reasonable means to secure relief for the complainant as determined by the board.

(c) For refusal on the part of the licensee or person regulated to provide the relief which it has ordered as appropriate to the complainant, the board may apply judicially for injunctive relief, provided that the remedy at law is otherwise inadequate, and such refusal shall also constitute grounds for the suspension or revocation of the license or permit, subject to rules established by the board. Where appropriate, the board shall refer for prosecution to the proper authority any practice constituting a violation which is subject to criminal penalty.

(d) If the subject matter of the complaint does not come within its jurisdiction, or if it is found that the charge does not constitute a violation, the board shall notify and inform the complainant in writing with regard to the reasons for its inability to act upon the complaint.

(e) The complainant and the licensee or person regulated may agree to resolve the complaint through final and binding arbitration pursuant to the provisions of chapter 658. In the event of any such agreement to arbitrate, the board may enter an order dismissing any proceeding instituted pursuant to subsection (b) of this section; provided that any such order or dismissal may be conditioned upon prompt and complete compliance with the arbitrator's award. In the event that the licensee or person regulated fails to comply with the terms of the arbitrator's award, the board may reopen any such proceeding and may, after a hearing in conformity with chapter 91, order one or more of the remedies set forth in subsection (b) of this section.

Notwithstanding any provision of chapter 658 to the contrary, an arbitration agreement entered into pursuant to this section shall be approved by

## **ACT 94**

the board, and the parties shall agree on an arbitrator within five days after execution of the agreement. If the parties fail to agree on an arbitrator within the time above prescribed, the board may appoint an arbitrator from a list of arbitrators maintained for such purpose by the department of regulatory agencies.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

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

(Approved May 12, 1977.)

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\*Edited accordingly.