

ACT 158

H.B. NO. 1920-78

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 as defined by section 92-2(1) 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 or upon receipt of an investigation report generated by the board on its own motion 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 charge against him and conduct a hearing in conformity with chapter 91 if the matter cannot be settled informally. 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 the money paid as fees for services;
- (2) Correcting the work done in providing services;
- (3) Revocation of the licensee’s permit or license;
- (4) Suspension of the licensee’s permit or license; and
- (5) Any other reasonable means to secure relief as determined by the board.

(c) The failure or refusal of the licensee to comply with any board order, including an order of license suspension, shall also constitute grounds for further disciplinary action, including a suspension or revocation of license, imposition of which shall be subject to chapter 91 and the procedural rules of the board. The board may also apply to any circuit court for injunctive relief to compel compliance with the board's order. 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 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. Sec. -4 of Section 2, Act 70, Session Laws of Hawaii 1977, is amended to read as follows:

**"Sec. -4 Repeal dates.** (a) The following chapters are hereby repealed effective December 31, 1978:

- (1) Chapter 448A, Hawaii Revised Statutes (Escort Agencies)
- (2) Chapter 455, Hawaii Revised Statutes (Board of Examiners in Naturopathy)
- (3) Chapter 462, Hawaii Revised Statutes (Board of Photography)
- (4) Chapter 463E, Hawaii Revised Statutes (Podiatry)
- (b) The following chapters are hereby repealed effective December 31,

1979:

- (1) Chapter 437, Hawaii Revised Statutes (Motor Vehicle Industry Licensing Board)
- (2) Chapter 440, Hawaii Revised Statutes (Boxing Commission)
- (3) Chapter 443, Hawaii Revised Statutes (Collection Agencies Board)
- (4) Chapter 446D, Hawaii Revised Statutes (Degree Granting Institutions)
- (5) Chapter 448H, Hawaii Revised Statutes (Elevator Mechanics Licensing Board)

(6) Chapter 467A, Hawaii Revised Statutes (Rental Agencies)

(7) Chapter 452, Hawaii Revised Statutes (Board of Massage)

(c) The following chapters are hereby repealed effective December 31, 1980:

(1) Chapter 436, Hawaii Revised Statutes (Board of Examiners for Abstract Makers)

(2) Chapter 439, Hawaii Revised Statutes (Board of Cosmetology)

(3) Chapter 447, Hawaii Revised Statutes (Dental Hygienists)

(4) Chapter 463, Hawaii Revised Statutes (Board of Private Detectives and Guards)

(5) Chapter 468J, Hawaii Revised Statutes (Travel Agencies)

(6) Chapter 471, Hawaii Revised Statutes (Board of Veterinary Examiners)

(7) Chapter 438, Hawaii Revised Statutes (Board of Barbers)

(d) The following chapters are hereby repealed effective December 31, 1981:

(1) Chapter 441, Hawaii Revised Statutes (Cemetery Board)

(2) Chapter 451A, Hawaii Revised Statutes (Board of Hearing Aid Dealers and Fitters)

(3) Chapter 457B, Hawaii Revised Statutes (Board of Examiners of Nursing Home Administrators)

(4) Chapter 458, Hawaii Revised Statutes (Board of Dispensing Opticians)

(5) Chapter 459, Hawaii Revised Statutes (Board of Examiners in Optometry)

(6) Chapter 465, Hawaii Revised Statutes (Board of Certification for Practicing Psychologists)

(7) Chapter 468E, Hawaii Revised Statutes (Board of Speech Pathology and Audiology)

(e) The following chapters are hereby repealed effective December 31, 1982:

(1) Chapter 436D, Hawaii Revised Statutes (Board of Acupuncture)

(2) Chapter 437B, Hawaii Revised Statutes (Motor Vehicle Repair Industry Board)

(3) Chapter 442, Hawaii Revised Statutes (Board of Chiropractic Examiners)

(4) Chapter 448E, Hawaii Revised Statutes (Board of Electricians and Plumbers)

(5) Chapter 464, Hawaii Revised Statutes (Board of Registration of Professional Engineers, Architects, Surveyors and Landscape Architects)

(6) Chapter 466, Hawaii Revised Statutes (Board of Public Accountancy)

(7) Chapter 467, Hawaii Revised Statutes (Real Estate Commission)

(f) The following chapters are hereby repealed effective December 31, 1983:

(1) Chapter 444, Hawaii Revised Statutes (Contractors License Board)

(2) Chapter 448, Hawaii Revised Statutes (Board of Dental Examiners)

- (3) Chapter 453, Hawaii Revised Statutes (Board of Medical Examiners)
- (4) Chapter 457, Hawaii Revised Statutes (Board of Nursing)
- (5) Chapter 460, Hawaii Revised Statutes (Board of Osteopathic Examiners)
- (6) Chapter 461, Hawaii Revised Statutes (Board of Pharmacy)”

SECTION 3. 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 4. This Act shall take effect upon its approval.

(Approved June 1, 1978.)

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\*Edited accordingly.