

ACT 105

H.B. NO. 1140

A Bill for an Act Relating to Statutory Revision; Amending or Repealing Various Provisions of the Hawaii Revised Statutes for the Purpose of Correcting Errors, Clarifying Language, Correcting References, and Deleting Obsolete or Unnecessary Provisions.

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

SECTION 1. Section 1-27, Hawaii Revised Statutes, is amended to read:

“Sec. 1-27 Citations of laws included in supplements[.] and replacement volumes. Any act of the legislature may be cited in any subsequent legislative act or in any other proceeding by reference to the chapter or section numbers as set forth in the [supplement] supplements and replacement volumes published pursuant to sections [2-5 and 2-6.] 23G-14 to 23G-16.”

SECTION 2. Section 21-17, Hawaii Revised Statutes, is amended to read:

“Sec. 21-17 Sergeants-at-arms; powers and duties. The sergeant-at-arms of each house of the legislature, and each of his deputies appointed by authority of such house, shall:

- (1) Attend such house during its sittings;
- (2) Maintain order under the direction of the speaker, president, or other presiding officer of such house;
- (3) Under the direction of the clerk of such house, execute the commands of such house and all processes issued by authority thereof, directed to him by the speaker, president, or other presiding officer of such house, or by the chairman or acting chairman of any joint committee established by a concurrent resolution of the two houses of the legislature, or by the chairman or acting chairman of any committee of either house. In such connection the sergeant-at-arms and each of his deputies shall have all the powers and authority of a sheriff appointed under chapter [28.] 601.”

SECTION 3. Section 26H-4, Hawaii Revised Statutes, is amended by amending subsection (f) to read:

“(f) The following chapters are hereby repealed effective December 31, 1983:

- (1) Chapter 444 (Contractors License Board)
- (2) Chapter 448 (Board of Dental Examiners)
- (3) Chapter 453 (Board of Medical Examiners)
- (4) Chapter 457 (Board of Nursing)
- (5) Chapter 460 (Board of Osteopathic Examiners)
- (6) Chapter 460J (Pest Control Board)
- [~~(6)~~] (7) Chapter 461 (Board of Pharmacy)”

SECTION 4. Section 28-5.1, Hawaii Revised Statutes, is repealed.

[“Sec. 28-5.1 Review of personal history statements. The attorney general may, on a confidential basis, receive and review personal history statements submitted to the department of personnel services as provided for in section 85-10.”]

SECTION 5. Section 46-6, Hawaii Revised Statutes, is amended by amending subsection (b) to read:

“(b) In lieu of providing land in perpetuity or dedicating land, the ordinances may permit a subdivider pursuant to terms and conditions set forth therein to:

- (1) Pay to the county a sum of money equal to the value of land [and facilities] he would otherwise have had to provide or dedicate;
- (2) Combine the payment of money with land to be provided or dedicated, the total value of such combination being not less than the total value of the land he would otherwise have had to provide or dedicate.

The method of valuation of land where money payments are made shall be prescribed by the ordinances. The ordinances shall also provide that such money shall be used for the purpose of providing parks and playgrounds for the use of purchasers or occupants of lots or units in the subdivision.”

SECTION 6. Section 48E-6, Hawaii Revised Statutes, is amended to read:

“Sec. 48E-6 Project revenue bonds. [(a)] All revenue bonds issued under this chapter shall be issued pursuant to the applicable provisions of chapter 49 except that:

- (1) No specific act or acts of the legislature shall be required for the authorization or issuance of the revenue bonds or the amount thereof, and this chapter shall constitute complete authority for such authorization, issuance, or amount.
- (2) The revenue bonds shall be payable solely from the revenues or other income derived by the political subdivision from the pollution control project for which these bonds are issued, including any payments made to the political subdivision under the project agreement or other agreements entered into with respect to the project, and shall be secured solely by these revenues and any encumbrance, mortgage, or lien granted in a pollution control project with respect to the bonds.
- (3) The final maturity date of such revenue bonds may be any date not exceeding twenty-five years from the date of such bonds; provided that such final maturity date shall not exceed the period or term of the project agreement, exclusive of any renewal or extension thereof.
- (4) The political subdivision, in determining the cost of any pollution control project, may include:
 - (A) Financing charges;
 - (B) Fees and expenses of any trustee and paying agents for these revenue bonds;
 - (C) Interest on the revenue bonds, and the expenses of the political subdivision related to such revenue bonds and the pollution control project to be financed therefrom, accruing or incurred prior to and during the period of construction and for a period not exceeding six months thereafter;
 - (D) Amount necessary to establish or increase reserves for the revenue bonds;
 - (E) The cost of plans, specifications, studies, surveys, estimates of cost and of revenues;
 - (F) Other expenses incidental to determining the feasibility of the pollution control project;
 - (G) Administrative expenses;
 - (H) Interest cost incurred by the project party for the project prior to the issuance of the revenue bonds; and
 - (I) Such other costs, commissions, and expenses incidental to the construction, acquisition, reconstruction, renovation, rehabilitation, improvement, betterment, or extension of the pollution control project, the financing thereof, placing the project in operation, and the issuance of the revenue bonds, whether incurred prior to or after the issuance of such bonds.
- (5) If deemed necessary or advisable, the director may appoint a national or state bank or trust company within or without the State to serve as trustee for the holders of the revenue bonds and may enter into a trust indenture, trust agreement, ~~[[or indenture of mortgage]]~~ or indenture of mortgage with such trustee. The trustee may be authorized to receive and receipt for, hold, and administer the proceeds of the revenue bonds issued for the pollution control project and to apply the proceeds to the purposes for

which such bonds are issued, or to receive and receipt for, hold, and administer the revenues and other receipts derived from the pollution control project and to apply these revenues and receipts to the payment of the principal, or interest on such revenue bonds, or both. In the event that the trustee is appointed, any trust indenture, trust agreement, or indenture of mortgage entered into with the trustee may contain any covenants and provisions authorized by this chapter as deemed necessary by the director for the purposes of this chapter, and these covenants or provisions need not be included in a resolution adopted or certificate issued under this chapter. Any resolution, certificate, trust indenture, trust agreement, [[or indenture of mortgage]] or indenture of mortgage adopted, issued, or entered into pursuant to this chapter may also contain any provisions required for the qualification thereof under the United States Trust Indenture Act of 1939 or deemed necessary or desirable by the director for the security and protection of the holders of the revenue bonds or to carry out the purposes of this chapter. The director may pledge and assign to the trustee the project agreement and other agreements related thereto and the rights of the director thereunder, including the rights to revenues and receipts, and may grant a mortgage on the interest of the pollution control project to the trustee for the benefit of the holders of such revenue bonds.

- (6) If the director of finance appoints a trustee for the holders of the revenue bonds, the director may elect not to serve as fiscal agent for the payment of the principal and interest, and for the purchase, registration, transfer, exchange, and redemption, of the revenue bonds, or may elect to limit the functions the director performs as such fiscal agent. The director may appoint the trustee to serve as the fiscal agent, and may authorize and empower the trustee to perform such functions with respect to such payment, purchase, registration, transfer, exchange, and redemption, as the director deems necessary, advisable, or expedient, including, without limitation, the holding of the revenue bonds and coupons which have been paid and the supervision and conduction or the destruction thereof.
- (7) The resolution, certificate, trust indenture, trust agreement, or indenture of mortgage may also contain provisions deemed necessary or desirable by the director relating to:
 - (A) The investment of the proceeds of the revenue bonds, the investment of any reserve for such bonds, and the investment of the revenues and receipts of the project and the use and application of the earnings from such investments; and
 - (B) The terms and conditions upon which all or some of the holders of the revenue bonds or any trustee therefor may institute proceedings for the foreclosure of any mortgage granted to secure the payment of such bonds and the use and application of the moneys derived from such foreclosure.
- (8) The resolution, certificate, trust indenture, trust agreement, or indenture of mortgage may also contain such provisions as deemed necessary or desirable by the director in order to obtain or permit the participation of the federal government in the pollution control project or in the financing of the

costs thereof, including, without limitation, costs of construction, operation, maintenance, and repair, whether such participation is in the form of grants, interest subsidies, or otherwise.

- (9) If a trustee is not appointed to collect, hold, and administer the proceeds of the revenue bonds or the revenues and receipts derived by the political subdivision from the pollution control project for which such revenue bonds are issued, these proceeds or revenues and receipts, as the case may be, shall be held in a separate account in the treasury of the political subdivision, to be applied solely to the carrying out of the resolution, certificate, trust indenture, trust agreement, or indenture of mortgage authorizing or securing such revenue bonds. This section or any other law to the contrary notwithstanding, the proceeds of each issue of revenue bonds and any and all revenues and other receipts from any project party for the operation, use, and occupancy of the pollution control project shall be maintained in separate funds by an appointed trustee or in the treasury of the political subdivision. Such proceeds shall be used to pay the costs of such pollution control project, and such revenues and receipts shall be used to provide for payment of the principal, premium, if any, and interest on the revenue bonds, the cost of operation and the maintenance and repair of the project, any reserves therefor, and for such other purposes, within the jurisdiction, powers, duties, and functions of the political subdivision as shall have been covenanted in any resolution or certificate of the political subdivision providing for the issuance of such revenue bonds.
- (10) Proceeds of such revenue bonds may be used and applied to reimburse the director, the project party, or other user of the pollution control project for all costs of the pollution control project incurred prior to or after the issuance of the revenue bonds.”

SECTION 7. Section 49-1, Hawaii Revised Statutes, is amended to read:

“**Sec. 49-1 Definitions.** Whenever used in this chapter, unless a different meaning clearly appears from the context:

The term “undertaking” means any one or combination of two or more of the following — water, sewerage, gas or electric, heat, light or power works, plants, and systems, together with all parts thereof and appurtenances thereto, including, but not limited to, supply and distribution systems, reservoirs, dams, sewage treatment and disposal works, and generating plants. The term “undertaking” also means [the Honolulu public off-street parking facilities project as defined in section 70-112 and] the public off-street parking facilities as defined in section [66-6.] 56-1.

The term “municipality” embraces the city and county of Honolulu and the other counties of the State, the board of water supply of the city and county of Honolulu, and the boards of water supply of the other counties of the State.

The term [“government body”] “governing body” includes councils, bodies, and boards, by whatsoever names they may be known, having charge of the finances of a municipality.”

SECTION 8. Section 53-22, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) The governor shall submit to the legislature at each regular session[,] in an odd-numbered year, estimates of the amount reasonably required in his judgment for administrative expenses and overhead of agencies concerned with the administration of this part, together with other amounts deemed necessary by him for state contributions for redevelopment projects, for the succeeding fiscal [period,] biennium, so that the legislature may [take] make appropriations therefor if it deems the action advisable.”

2. By amending subsection (e) to read:

“(e) The governor shall submit to the legislature at each regular session[,] in an odd-numbered year, estimates of the amount of additional appropriation necessary in his judgment for the use of the Hawaii housing authority for the succeeding fiscal [period,] biennium, in providing living facilities necessary to care for families displaced or to be displaced by redevelopment projects and which are eligible to become tenants in public housing projects, so that the legislature may make appropriations therefor if it deems the action advisable.”

SECTION 9. Section 84-31.5, Hawaii Revised Statutes, is amended to read:

“**Sec. 84-31.5 List of persons examining records.** The [State] state ethics commission shall establish and maintain a list of all persons who examine the financial disclosure statements of any person enumerated in section [84-17(g).] 84-17(d). Such list shall specify the name of the person examining the record, the name of the person whose record was examined and the date of examination. Such list shall be confidential; provided that the commission shall notify the person whose financial disclosure statement was examined of the name of the person who examined the financial disclosure statement. The [State] state ethics commission may adopt rules pursuant to chapter 91 to implement this section.”

SECTION 10. Section 125C-4, Hawaii Revised Statutes, is amended to read:

“**Sec. 125C-4 Promulgation, filing, and taking effect of rules.** Upon the occurrence of a shortage, the governor may proceed without prior notice or hearing or upon such abbreviated notice and hearing as he finds practicable to adopt rules authorized under this chapter to be effective for a period of not longer than one hundred twenty days without renewal. To be effective after the one-hundred-twenty-day period, such rules must be adopted pursuant to chapter 91. Each rule adopted, amended, or repealed shall become effective as adopted, amended, or repealed upon approval by the governor and filing with the lieutenant governor. Each rule in effect shall have force and effect of law, but the effect of each rule may be temporarily or indefinitely suspended by the governor by written declaration filed with the lieutenant governor. Each rule temporarily suspended shall take effect again immediately upon expiration of the suspension period. Each rule indefinitely suspended shall take effect immediately upon the filing with the lieutenant governor of the written declaration by the governor terminating the suspension.”

SECTION 11. Section 128-9, Hawaii Revised Statutes, is amended to read:

“**Sec. 128-9 Emergency functions.** The governor shall have the following further emergency functions and powers, irrespective of the existence of a civil defense emergency period:

- (1) Prevention of hoarding, waste, etc. To the extent necessary to prevent hoarding, waste, or destruction of materials, supplies, commodities, accommodations, facilities, and services, to effectuate equitable distribution thereof, or to establish priorities therein as the public welfare may require, to investigate, and any other law to the contrary notwithstanding, to regulate or prohibit, by means of licensing, rationing, or otherwise, the storage, transportation, use, possession, maintenance, furnishing, sale, or distribution thereof, and any business or any transaction related thereto.
- (2) Daylight saving time. To provide for greater productive effort by instituting daylight saving time.
- (3) Hours of business. To suspend any law, or provision having the force and effect of law, as to opening and closing hours of business and substitute other hours.
- (4) Continuity of service. To assure the continuity of service by public utilities and other facilities, both publicly and privately owned, by regulating or, if necessary to the continuation of the service thereof, by taking over and operating the same.
- (5) Further provisions for greater productive effort. To fix or revise the hours of government business, and to suspend [sections 8-1 to 8-4] section 8-1, relating to state holidays, except the last [two paragraphs of section 8-1] paragraph which shall remain unaffected, and in the event of the suspension the governor may establish state holidays by proclamation.
- (6) Election hours. To adjust the hours for voting to take into consideration the working hours of the voters during the national emergency and other emergency conditions, and for the purpose to suspend those provisions of [sections 12-51 and 13-43] section 11-131 which fix the hours for voting, and fix other hours by stating the same in the election proclamation or notice, as the case may be.
- (7) Furtherance of federal programs. To further and promote federal programs by making rules and regulations adopting and giving the force and effect of state law to federal laws, rules, regulations, and orders whenever the governor finds that the same serve the purposes of this chapter, including, without limitation, federal price control and wage control measures; and also to further and promote federal programs by suspending laws that impede the same, by prescribing for any license, permit, registration, or certificate, additional requirements that serve as a means of enforcing, or checking on the enforcement, of a federal law, rule, regulation, or order, and by transferring to the federal government at its request the state employment service with its personnel, records, facilities, equipment, and supplies, and making similar requested transfers of other services when the governor finds that the most effective functioning of the services will result therefrom. Nothing in this subsection shall be deemed to be in limitation of any of the powers conferred upon the governor by this chapter.
- (8) Relief of hardships, inequities, etc. To relieve hardships and inequities, or obstructions to the public health, safety, or welfare, found by the governor to exist in the laws and to result from the operation of federal programs or measures taken under this chapter, by suspending the laws, in whole or in

part, or by alleviating the provisions of laws on such terms and conditions as he may impose, including, without limitation, licensing laws, quarantine laws, and laws relating to labels, grades, and standards.”

SECTION 12. Section 177-35, Hawaii Revised Statutes, is amended to read:

“**Sec. 177-35 Effect on other statutes.** This chapter is not intended to repeal chapter 178 [or sections 71-1 to 71-4]. In the event of conflict, this chapter, and rules and regulations established hereunder, shall prevail.”

SECTION 13. Section 184-5, Hawaii Revised Statutes, is amended to read:

“**Sec. 184-5 Rules and enforcement; penalty.** The department may, subject to chapter 91, make, amend, and repeal rules and regulations having the force and effect of law, governing the use and protection of the state park system, including state monuments as established under section [6-12,] 6E-31, and including any private property over which there has been granted to the State any right of free public access or use for recreational, park, viewing of any historical, archaeological, natural, or scientific feature, object, or site, or related purpose, or property thereon, and also governing the use and protection of any recreational, scenic, historical, archaeological, natural, scientific, and related resources of state and private lands, and enforce such rules and regulations. Any person who violates any of the rules and regulations so prescribed shall be held liable for restoration of or restitution for any damages to public or private property and shall also be subject to the confiscation of any tools and equipment used in such violation and of any plants, objects, or artifacts removed illegally from such properties, and shall be guilty of a petty misdemeanor. Except as otherwise provided by the department, the more restrictive rules and regulations of the department shall apply in any unit of the state park system or any public use area which is also governed by the rules and regulations of any forest reserve, public hunting ground, or other department district or area.

The department may confer on the director of state parks and upon other employees of the division the powers of police officers, including the power to serve and execute warrants and arrest offenders in all matters relating to the enforcement, in any state park, parkway, or state monument, or in any private property over which there has been granted to the State any right of free public access or use for recreational, park, viewing of any historical, archaeological, natural, or scientific feature, object, or site, or related purpose of (1) the laws applicable to the state parks and parkways and to historical objects and sites and the rules and regulations adopted under the provisions of this section and (2) traffic laws and ordinances. Such police powers shall also extend to the enforcement of the laws of the State and the rules and regulations of the department relative to the protection and proper utilization of the recreational, scenic, historical, natural, and archaeological, scientific, and related resources of state and private lands. Such conferring of powers shall include the designation of such employees as state parks enforcement officers.”

SECTION 14. Section 192-2, Hawaii Revised Statutes, is amended to read:

“**Sec. 192-2 Importation; sale of game birds.** Any responsible resident of good character who is a holder of the license defined in section 192-1 may bring within the State and have the custody of, for the purpose of conducting a private and commercial shooting preserve, domestication, propagation, or selling, as in this

chapter provided, any game birds, except [such game birds that might cause damage or become injurious or detrimental to the agricultural or horticultural industries or to the forests of the State as provided in section 150-2.] those prohibited by section 150A-6.

Any game birds brought within the State or reared in captivity within the State may be sold or transported for propagation purposes or for food or other purposes if tagged and as hereafter provided.”

SECTION 15. Section 193-1, Hawaii Revised Statutes, is amended to read:

“Sec. 193-1 Corps of civilian workers; forestry conservation program.

There is established a corps of civilian workers to engage in a special program of forestry conservation whenever the level of unemployment in an island of the State reaches six per cent of the total labor force of the island, and remains at that level or higher for a period of three continuous months, as certified by the state department of labor and industrial relations. The program shall be administered by the department of land and natural resources. The department, upon activation of the program, shall hire men from the islands in which such unemployment exists to do conservation work in the forests of the State. The program shall be terminated when the level of unemployment remains below four per cent for a period of three continuous months, but shall not terminate sooner than one year after its inception.

The provisions of chapters 76 to 80, 85, [86,] and 88, except the requirements for [personal history statement and] loyalty oath as contained in [sections 85-6 and] section 85-32, shall not apply to persons employed under this part.”

SECTION 16. Section 193-13, Hawaii Revised Statutes, is amended to read:

“Sec. 193-13 Personnel laws; applicability. The provisions of chapters 76 to 80, 85, [86,] and 88, except the requirements for [personal history statement and] loyalty oath as contained in [sections 85-6 and] section 85-32 and except provisions of state law relating to the application of the Social Security Act of the United States to the extent that the Act shall be applicable under the federal law establishing the youth programs, shall not apply to persons employed under this part.”

SECTION 17. Section 193-23, Hawaii Revised Statutes, is amended to read:

“Sec. 193-23 Personnel laws; applicability. The provisions of chapters 76 to 80, 85, [86,] and 88, except the requirements for [personal history statement and] loyalty oath as contained in [sections 85-6 and] section 85-32 and except provisions of state law relating to the application of the Social Security Act of the United States to the extent that the Act shall be applicable under the federal law establishing the youth programs, shall not apply to persons employed under this part.”

SECTION 18. Section 205-16.1, Hawaii Revised Statutes, is amended to read:

“Sec. 205-16.1 Adoption of interim statewide land use guidance policy.

The legislature hereby adopts the following as interim statewide land use guidance policy set forth in this section. Except when the land use commission finds that an injustice or inequity will result, the commission shall observe and comply with these interim statewide land use guidance policies during the period [commencing] from

[[]June 2, 1975,[]] until two years after the effective date of the enactment of the state plan. The state plan shall be a long-range, comprehensive plan and policies which shall serve as a guide for the future long-range development of the State in accordance with chapter [225.] 226.

INTERIM STATEWIDE LAND USE GUIDANCE POLICY

The interim policies are:

- (1) Land use amendment shall be approved only as reasonably necessary to accommodate growth and development, provided there are no significant adverse effects upon agricultural, natural, environmental, recreational, scenic, historic, or other resources of the area.
- (2) Lands to be reclassified as an urban district shall have adequate public services and facilities or as can be so provided at reasonable costs to the petitioner.
- (3) Maximum use shall be made of existing services and facilities, and scattered urban development shall be avoided.
- (4) Urban districts shall be contiguous to an existing urban district or shall constitute all or a part of a self-contained urban center.
- (5) Preference shall be given to amendment petitions which will provide permanent employment, or needed housing accessible to existing or proposed employment centers, or assist in providing a balanced housing supply for all economic and social groups.
- (6) In establishing the boundaries of the districts in each county, the commission shall give consideration to the general plan of the county.
- (7) Insofar as practicable conservation lands shall not be reclassified as urban lands.
- (8) The commission is encouraged to reclassify urban lands which are incompatible with the interim statewide land use guidance policy or are not developed in a timely manner.”

SECTION 19. Section 206-18, Hawaii Revised Statutes, is amended to read:

“**Sec. 206-18 Security for funds deposited by board.** The board of land and natural resources may, by resolution, provide that any moneys deposited by it shall be secured:

- (1) By any securities by which funds deposited by the state director of finance may be legally secured as provided in section [38-2,] 38-3, or
- (2) By an undertaking with such sureties as are approved by the board faithfully to keep and pay over upon the order of the board any deposits and agreed interest thereon, and all banks and trust companies may give any security for the deposits.”

SECTION 20. Section 209-5, Hawaii Revised Statutes, is amended to read:

“**Sec. 209-5 Duties of coordinator.** The rehabilitation coordinator shall:

- (1) Provide for the official contact between the State and persons affected by the disaster;
- (2) Make available to these persons information on all state rehabilitation programs;

- (3) Aid all persons affected by the disaster in securing assistance available under this chapter;
- (4) Inform these persons of assistance available from sources other than the State, and assist the victims in obtaining any assistance;
- (5) Keep a list of these persons, posting thereon all assistance received from the State and, to the extent that the information is available, assistance from other sources;
- (6) Advise the governor as to the administration and effectiveness of the various programs;
- (7) Establish a temporary office on the island affected by the disaster if necessary, and where more than one island is affected, establish such offices as the governor may direct; and
- (8) File an annual report with the governor and the legislature describing the organization, activities, expenditures, and assistance granted pursuant to this chapter and making recommendations to increase the effectiveness of this chapter at least twenty days before the convening of the regular session of the legislature.”

SECTION 21. Section 235-7, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

“(a) There shall be excluded from gross income, adjusted gross income, and taxable income:

- (1) Income not subject to taxation by the State under the Constitution and laws of the United States;
- (2) Rights, benefits, and other income exempted from taxation by section 88-91, having to do with the state retirement system, and the rights, benefits, and other income, comparable to the rights, benefits, and other income exempted by section 88-91, under any other public retirement system;
- (3) Any compensation received in the form of a pension for past services, or paid as a weekly benefit for unemployment up to but not in excess of the amount provided by the employment security law (it being the intention of this provision to exempt that amount whether paid from a fund or account in the federal or state treasury or paid by an employer or by a trust or other means provided by an employer);
- (4) Compensation paid to a patient affected with leprosy employed by the State or the United States in any hospital, settlement, or place for the treatment of leprosy;
- (5) Except as otherwise expressly provided, payments made by the United States or this State, under an act of Congress or law of this State, which by express provision or administrative regulation or interpretation are exempt from both the normal and surtaxes of the United States, even though not so exempted by the Internal Revenue Code itself;
- (6) All proceeds received by organizations enumerated under section [237-23(6) to (9),] 237-23(a)(5) to (8), resulting from the sale of brooms which are manufactured by blind persons working at the adult blind broom shop;
- (7) Any income expressly exempted or excluded from the measure of the tax

imposed by this chapter by any other law of the State, it being the intent of this chapter not to repeal or supersede any such express exemption or exclusion;

- (8) The first \$500 received by each member of the reserve components of the army, navy, air force, marine corps, coast guard of the United States of America, and the Hawaii national guard as compensation for performance of duty as such;
- (9) Income derived from the operation of ships or aircraft if such income is exempt under the Internal Revenue Code pursuant to the provisions of an income tax treaty or agreement entered into by and between the United States and a foreign country, provided[,] that the tax laws of the local governments of that country reciprocally exempt from the application of all of their net income taxes, the income derived from the operation of ships or aircraft which are documented or registered under the laws of the United States;
- (10) The value of legal services provided by a prepaid legal service plan to a taxpayer, his spouse, and his dependents;
- (11) Amounts paid, directly or indirectly, by a prepaid legal service plan to a taxpayer as payment or reimbursement for the provision of legal services to the taxpayer, his spouse, and his dependents;
- (12) Contributions by an employer to a prepaid legal service plan for compensation (through insurance or otherwise) to his employees for the costs of legal services incurred by his employees, their spouses, and their dependents.”

SECTION 22. Section 237-4, Hawaii Revised Statutes, is amended to read:

“**Sec. 237-4 “Wholesaler”, “jobber”, defined.** “Wholesaler” or “jobber” applies only to a person making sales at wholesale. Only the following are sales at wholesale:

- (1) Sales to a licensed retail merchant, jobber, or other licensed seller for purposes of resale;
- (2) Sales to a licensed manufacturer of material or commodities which are to be incorporated by the manufacturer into a finished or saleable product (including the container or package in which the product is contained) during the course of its preservation, manufacture, or processing, including preparation for market, and which will remain in such finished or saleable product in such form as to be perceptible to the senses, which finished or saleable product is to be sold and not otherwise used by the manufacturer; [or]
- (3) Sales to a licensed contractor, of material or commodities which are to be incorporated by the contractor into the finished work or project required by the contract and which will remain in such finished work or project in such form as to be perceptible to the senses; [or]
- (4) Sales to a licensed producer, or to a cooperative association described in section [237-23(10)] 237-23(a)(9) for sale to such producer, or to a licensed person operating a feed lot, of poultry or animal feed, hatching eggs, semen, replacement stock, breeding services for the purpose of raising or producing animal or poultry products for disposition as described in section

- 237-5 or to be incorporated in a manufactured product as described in paragraph (2) of this section or for the purpose of breeding, hatching, milking, or egg laying other than for the customer's own consumption of the meat, poultry, eggs, or milk so produced; provided that in the case of a feed lot operator, only the segregated cost of the feed furnished by him as part to be butchered or to a cooperative association described in section [237-23(10)] 237-23(a)(9) of such licensed producers shall be deemed to be a sale at wholesale; and provided further that any amount derived from the furnishing of feed lot services, other than the segregated cost of feed, shall be deemed taxable at the service business rate. This paragraph (4) shall not apply to the sale of feed for poultry or animals to be used for hauling, transportation, or sports purposes;
- (5) Sales to a licensed producer, or to a cooperative association described in section [237-23(10)] 237-23(a)(9) for sale to the producer, of seed for producing agricultural products, or bait for catching fish (including the catching of bait for catching fish), which agricultural products or fish are to be disposed of as described in section 237-5 or to be incorporated in a manufactured product as described in paragraph (2) of this section; [or]
 - (6) Sales to a licensed producer, or to a cooperative association described in section [237-23(10)] 237-23(a)(9) for sale to such producer of cartons and such other containers, wrappers, and sacks, and binders to be used for packaging eggs, vegetables, fruits, and other agricultural products; of seedlings and cuttings for producing nursery plants; or of chick containers; which cartons and such other containers, wrappers, and sacks, binders, seedlings, cuttings, and containers are to be used as described in section 237-5, or to be incorporated in a manufactured product as described in paragraph (2) of this section[.];
 - (7) Sales of tangible personal property to a licensed person engaged in the service business, provided that (1) [said] the property is not consumed or incidental to the performance of the services; (2) there is a resale of [said] the article at the retail rate of [4] four per cent; and (3) the resale of [said] the article is separately charged or billed by the person rendering the services[.];
 - (8) Sales to a licensed leasing company which leases capital goods as a service to others. As used in this paragraph capital goods are goods which have a depreciable life of more than three years.

If the use tax law is finally held by a court of competent jurisdiction to be unconstitutional or invalid insofar as it purports to tax the use or consumption of tangible personal property imported into the State in interstate or foreign commerce or both, wholesalers and jobbers shall be taxed thereafter under this chapter in accordance with the following definition (which shall supersede the preceding paragraph otherwise defining "wholesaler" or "jobber"): "Wholesaler" or "jobber" means a person, or a definitely organized division thereof, definitely organized to render and rendering a general distribution service which buys and maintains at his or its place of business a stock or lines of merchandise which he or it distributes; and which, through salesmen, advertising, or sales promotion devices, sells to licensed retailers, to institutional or licensed commercial industrial users, in wholesale quanti-

ties and at wholesale rates. A corporation deemed not to be carrying on a trade or business in this State under section 235-6 shall nevertheless be deemed to be a wholesaler and shall be subject to the tax imposed by this chapter.”

SECTION 23. Section 237-23, Hawaii Revised Statutes, is amended by amending subsection (b) to read:

“(b) The exemptions enumerated in subsection [(a)(6) to (9)] (a)(5) to (8) shall apply only:

- (1) To those persons who shall have registered with the department of taxation on or before January 31 of each calendar year, or within one month after the commencement of business, by filing a written application for registration in such form as the department shall prescribe, and shall have paid for the registration an annual fee of \$1, and shall have had the exemption allowed by the department or by a court or tribunal of competent jurisdiction upon appeal from any assessment resulting from disallowance of the exemption by the department; and
- (2) To activities from which no profit inures to the benefit of any private stockholder or individual, except for death or other benefits to the members of fraternal societies; and
- (3) To the fraternal, religious, charitable, scientific, educational, communal, or social welfare activities of such persons, or to the activities of such hospitals, infirmaries, and sanitariums as such, and not to any activity the primary purpose of which is to produce income even though the income is to be used for or in furtherance of the exempt activities of such persons.”

SECTION 24. Section 237-24, Hawaii Revised Statutes, is amended to read:

“**Sec. 237-24 Amounts not taxable.** This chapter shall not apply to the following amounts:

- (1) Amounts received under life insurance policies and contracts paid by reason of the death of the insured;
- (2) Amounts received (other than amounts paid by reason of death of the insured) under life insurance, endowment, or annuity contracts, either during the term or at maturity or upon surrender of the contract;
- (3) Amounts received under any accident insurance or health insurance policy or contract or under workers’ compensation acts or employers’ liability acts, as compensation for personal injuries, death, or sickness, including also the amount of any damages or other compensation received, whether as a result of action or by private agreement between the parties on account of the personal injuries, death, or sickness;
- (4) The value of all property of every kind and sort acquired by gift, bequest, or devise, and the value of all property acquired by descent or inheritance;
- (5) Amounts received by any person as compensatory damages for any tort injury to him, or to his character reputation, or received as compensatory damages for any tort injury to or destruction of property, whether as the result of action or by private agreement between the parties (provided [,] that amounts received as punitive damages for tort injury or breach of contract injury shall be included in gross income);

- (6) Amounts received as salaries or wages for services rendered by an employee to an employer;
- (7) Amounts received as alimony and other similar payments and settlements;
- (8) Amounts collected by distributors as fuel taxes on "liquid fuel" imposed by chapter 243, and the amounts collected by such distributors as a fuel tax imposed by any act of the Congress of the United States;
- (9) Taxes on liquor imposed by chapter 244 on dealers holding permits under that chapter;
- (10) The amounts of taxes on tobacco products imposed by chapter 245 on wholesalers or dealers holding licenses under that chapter and selling the products at wholesale, and the amounts of taxes on tobacco products collected from a wholesaler by another where the wholesaler makes separate charges for the amounts so collected from him and collects the same from those purchasing from him as provided by chapter 245;
- (11) Federal excise taxes imposed on articles sold at retail and collected from the purchasers thereof and paid to the federal government by the retailer;
- (12) The amounts of federal taxes under chapter 37 of the Internal Revenue Code, or similar federal taxes, imposed on sugar manufactured in the State, paid by the manufacturer to the federal government;
- (13) An amount up to, but not in excess of, \$2,000 a year of gross income received by any blind, deaf, or totally disabled person engaging, or continuing, in any business, trade, activity, occupation, or calling within the State;
- (14) Amounts received by an organization enumerated under section [237-23(6) to (9)] 237-23(a)(5) to (8) from the sale of brooms which are manufactured by blind persons working at the adult blind broom shop;
- [(15) [DELETED]]
- (16) [(15) Amounts received by a producer of [sugar cane] sugarcane from the manufacturer to whom he sells the [sugar cane,] sugarcane, where (A) the producer is an independent cane farmer, so classed by the secretary of agriculture under the Sugar Act of 1948 (61 Stat. 922, Chapter 519) as the [act] Act may be amended or supplemented, and (B) the value of the sugar, and other products manufactured from the [sugar cane,] sugarcane, is included in the measure of the tax levied on the manufacturer under section 237-13(1), and (C) the producer's gross proceeds of sales are dependent upon the actual value of the products manufactured therefrom or the average value of all similar products manufactured by the manufacturer, and (D) the producer's gross proceeds of sales are reduced by reason of the tax on the value of the manufactured products;
- [(17)] (16) Money paid by the State or eleemosynary child-placing organizations to foster parents for their care of children in foster homes;
- [(18)] (17) Amounts received by a cooperative housing corporation from its shareholders in reimbursement of funds paid by such corporation for lease rental, real property taxes, and other expenses of operating and maintaining the cooperative land and improvements, provided that such a cooperative corporation is a corporation:
 - (A) Having one and only one class of stock outstanding[.];

- (B) Each of the stockholders of which is entitled solely by reason of his ownership of stock in the corporation, to occupy for dwelling purposes a house, or an apartment in a building owned or leased by the corporation[.];
 - (C) No stockholder of which is entitled (either conditionally or unconditionally) to receive any distribution not out of earnings and profits of the corporation except in a complete or partial liquidation of the corporation;
- [(19)] (18) Amounts received from the loading, transportation, and unloading of agricultural commodities shipped for a producer or produce dealer on one island of this State to a person, firm, or organization on another island of the State. The terms "agricultural commodity", "producer", and "produce dealer" shall be defined in the same manner as they are defined in section 147-1;
- [(20)] (19) Amounts received from sales of (A) intoxicating liquor as defined in chapter 244, (B) tobacco products as defined in chapter 245, and (C) agricultural, meat, or fish products grown, raised, or caught in Hawaii, when such sales are made to any person or common carrier in interstate or foreign commerce, or both, whether ocean-going or air, for consumption out-of-state by such person, crew, or passengers on such shipper's vessels or airplanes;
- [(21)] (20) Amounts received by the manager or board of directors of an association of apartment owners of a horizontal property regime established in accordance with chapter [514] 514A in reimbursement of sums paid for common expenses."

SECTION 25. Section 266-19, Hawaii Revised Statutes, is amended to read:

"Sec. 266-19 Harbor special fund; harbor reserve fund. There is created in the treasury of the State the harbor special fund into which funds collected by the department of transportation under section 266-17(1) shall be deposited.

The harbor special fund shall be applied, used, and disposed of as follows, and in the following order of priority:

First, for the payment when due of all bonds and interest thereon, for the payment of which the revenues are or shall have been pledged, charged, or otherwise encumbered, including reserves therefor;

Second, for the expenses of operation and maintenance of the properties designated in section 266-17(1), including reserves therefor and the expenses of the operation of the department in connection with those properties, the general administrative overhead to be prorated between those properties and the properties [designated in section 266-17(2);] principally used for recreation or the landing of fish;

Third, for the purposes, within the jurisdiction, powers, duties, and functions of the department, including the creation and maintenance of reserves, as have been covenanted in any resolution or resolutions of the department or certificate or certificates of the head of the department providing for the issuance of revenue bonds or creating other revenue obligations;

Fourth, to reimburse the general fund of the State for all bond requirements for general obligation bonds which are or have been issued for harbor or wharf improve-

ments with respect to properties designated in section 266-17(1), excluding bonds, the proceeds of which were or are to be expended for improvements which are or will be neither revenue producing nor connected in their use directly with revenue producing properties, or to refund any of the bonds, except insofar as the obligation or reimbursement has been or is canceled by the the legislature. Unless otherwise provided by the legislature, bond requirements are the interest on term and serial bonds, sinking fund for term bonds, and principal of serial bonds maturing the following year;

Fifth, for any purpose within the jurisdiction, powers, duties, and functions of the department (excluding properties principally used for recreation or the landing of fish, except the properties located at Kewalo Basin, ewa of Ala Moana Park, Honolulu), including acquisitions, constructions, additions, expansions, improvements, renewals, replacements, reconstruction, engineering, investigation, and planning, all or any of which in the judgment of the department are necessary to the performance of its duties or functions. There is created in the treasury of the State a second separate harbor special fund, into which shall be deposited all moneys to be applied to the foregoing purposes of this paragraph. In anticipation of the payments into and accumulations in the second separate special fund, the department may issue revenue bonds or other revenue obligations of the State, in such sums only as may be authorized by specific act or acts of the legislature and repayable solely out of the second separate special fund, to finance in whole or in part the cost of any acquisition, construction, addition, expansion, improvement, renewal, replacement, or reconstruction. If any revenue bonds or other revenue obligations payable from the second separate special fund are issued, then while any such revenue bonds or other revenue obligations are outstanding:

- (1) The amount deposited and to be deposited in the second separate special fund from the moneys in the harbor special fund shall never be less than the amount necessary to pay when due the principal of and interest on the bonds and other obligations, including reserves therefor;
- (2) The department may create any accounts within the second separate special fund as it may deem necessary or desirable; and
- (3) The moneys in the harbor special fund and in the second separate special fund, in lieu of being appropriated, applied, or expended for the purposes and in the order of priority set forth in section 39-60, shall be appropriated, applied, or expended as provided in this section, subject to the modifications hereinafter set forth in this paragraph.

While any revenue bonds of the State payable directly from the harbor special fund are outstanding, the payments into the second separate special fund to provide for the payment of principal of and interest on the revenue bonds or other revenue obligations payable solely out of the second separate special fund, including reserves therefor, shall be made after the application of moneys in the harbor special fund for first, second, and third priority items of this section but prior to the application thereof for the purposes of the remaining paragraphs of this section. After all revenue bonds of the State payable directly from the harbor special fund have been paid or sufficient funds for their payment have been set aside in trust for that purpose, the payments into the second separate special fund to provide for the payment of the principal of and interest on the revenue bonds or other revenue obligations payable solely from the

second separate special fund, including reserves therefor, shall be made prior to the use and application of the moneys in the harbor special fund for any other purposes of this section, including without limitation, the second through ninth priority items. Any moneys in the second separate special fund not required for the payment when due of the principal of and interest on any revenue bonds or other revenue obligations payable from the second separate special fund, including reserves therefor, shall be applied to the payment of the costs of acquisitions, constructions, additions, expansions, improvements, renewals, replacements, and reconstructions required by the legislature to be paid from either the harbor special fund or the second separate special fund. All revenue bonds or other revenue obligations for harbor acquisitions, constructions, additions, expansions, improvements, renewals, replacements, or reconstructions authorized by the legislature at the regular session of 1966, or thereafter, to be issued pursuant to part III, chapter 39, may be issued by the department, either payable as to principal and interest directly from the harbor special fund or from the second separate special fund pursuant to this paragraph;

Sixth, to make payments into the general fund as may be required under section 36-29;

Seventh, to make any and all other outlays or expenditures not otherwise restricted in this section;

Eighth, to provide a reserve for betterments to harbor undertakings under the jurisdiction of the department;

Ninth, to provide funds for other special reserve funds and other special funds as are created by law.

Until adequate provision is otherwise made for the purposes of this section, no transfer shall be made of all or any part of the moneys in the harbor special fund or in any other special fund created in this section, to the general funds of the State nor shall the funds be applied for any other purposes.

There is created the harbor reserve fund into which the department may make transfers from the harbor special fund in the amounts and at the times as the department shall determine. The amount of the harbor reserve fund shall not at any time exceed \$750,000. The harbor reserve fund may be expended for any of the purposes of and in the same manner as the harbor special fund and shall be subject to the same limitations as are placed upon the harbor special fund. No amount held in or paid from the harbor reserve fund shall be used to reduce the rates assessable or chargeable by the department under section 266-17(1), but in computing its expense under section 266-17(1), the department shall not include any amount for the purpose of increasing or replenishing the reserve fund. The harbor reserve fund shall be maintained at the balances required by the resolutions or certificates providing for the issuance of all bonds payable from the harbor special fund and issued prior to January 1, 1967, or issued thereafter, payable on a parity with bonds issued prior to January 1, 1967, and when permitted by the resolutions or certificates, the moneys in the harbor reserve fund may be applied to the final payment or redemption of those bonds, and the harbor reserve fund shall thereupon be abolished."

SECTION 26. Section 271-5, Hawaii Revised Statutes, is amended to read:

"Sec. 271-5 Exemptions, generally. Notwithstanding any other provisions of this chapter, its contents shall not apply to:

- (1) Persons transporting their own property where the transportation is in furtherance of a primary business purpose or enterprise of that person, except where the transportation is undertaken by a motor carrier to evade the regulatory purposes of this chapter.
- (2) Persons operating motor vehicles when engaged in the transportation of school children and teachers to and from school, and to and from school functions; provided[,] that these persons may engage in providing transportation at special rates for groups of persons belonging to an eleemosynary or benevolent organization or association domiciled in this State where the organization or association sponsors or is conducting a nonregular excursion, provided that whenever the persons engage in the transportation of persons other than those exempted in this paragraph, that portion of their operation shall not be exempt from the provisions contained in this chapter. Nothing herein shall be construed to authorize any person to engage in the transportation of persons, other than the transportation of persons exempted by the terms of this paragraph, without a permit or a certificate issued by the commission authorizing such transportation.
- (3) Persons operating taxicabs or other motor vehicles utilized in performing a bona fide metered taxicab service. "Taxicab" means and includes:
 - (A) Any motor vehicle used in the movement of passengers on the public highways under the following circumstances, namely the passenger hires the vehicle on call or at a fixed stand, with or without baggage for transportation, and controls the vehicle to the passenger's destination; and
 - (B) Any motor vehicle having seating accommodations for eight or less passengers used in the movement of passengers on the public highways between a terminal, i.e., a fixed stand, in the [city of Honolulu, as defined in section 70-1,] Honolulu district, as defined in section 4-1, and a terminal in a geographical district outside the limits of the [city of Honolulu,] Honolulu district, and vice versa, without picking up passengers other than at the terminals or fixed stands; provided that passengers may be picked up by telephone call from their homes in the rural area or may be unloaded at any point between the fixed stands or may be delivered to their homes in the rural area.
- (4) Persons operating motor vehicles in the transportation of persons pursuant to a franchise from the legislature and whose operations are presently regulated under chapter 269.
- (5) Nonprofit agricultural cooperative associations to the extent that they engage in the transportation of their own property or the property of their members.
- (6) Persons operating motor vehicles specially constructed for the towing of disabled or wrecked vehicles but not otherwise used in the transportation of property for compensation or hire.
- (7) Persons operating motor vehicles in the transportation of mail, newspapers, periodicals, magazines, messages, documents, letters, or blueprints.
- (8) Persons operating funeral cars or ambulances.
- (9) Persons operating motor vehicles in the transportation of garbage or refuse.

- (10) Persons operating the type of passenger carrying motor vehicles known as "sampan buses" within the radius of twenty miles from the city of Hilo, Hawaii.
- (11) Persons transporting unprocessed pineapple to a cannery and returning any containers used in such transportation to the fields.
- (12) Sugar plantations transporting [sugar cane,] sugarcane, raw sugar, molasses, sugar by-products, and farming supplies for neighboring farmers pursuant to contracts administered by the United States Department of Agriculture.
- (13) Persons engaged in the ranching or meat or feed business who transport cattle to slaughterhouses for hire where such transportation is their sole transportation for hire and where their earnings from the transportation constitute less than fifty per cent of their gross income from their business and the transportation for hire.
- (14) Persons transporting unprocessed raw milk to processing plants and returning any containers used in such transportation to dairy farms for reloading.
- (15) Persons transporting animal feeds to animal husbandry farmers and farming supplies directly to animal husbandry farmers and returning any containers used in such transportation to these sources of such feeds and supplies for reloading.
- (16) Persons engaged in transporting not more than fifteen passengers between their places of abode, or termini near such places, and their places of employment in a single daily round trip where the driver is also on his way to or from his place of employment.
- (17) Persons transporting passengers without charge in motor vehicles owned or operated by such person, where such transportation is provided in conjunction with and in furtherance of a related primary business purpose or enterprise of that person, and such transportation is provided only directly to and from the place of business of such person, except that this exemption shall not apply to persons making any contract, agreement, or arrangement to provide, procure, furnish, or arrange for transportation as a travel agent or broker or a person engaged in tour or sightseeing activities, nor shall this exemption apply where the transportation is undertaken by a person to evade the regulatory purposes of this chapter."

SECTION 27. Section 281-57, Hawaii Revised Statutes, is amended to read:

"Sec. 281-57 Notice. Upon the filing of the inspector's report upon any application the liquor commission may hold a preliminary hearing and upon such preliminary hearing it may deny the application. If no preliminary hearing is had or if the application is not denied upon a preliminary hearing, the commission shall fix a day for the public hearing of the application (other than an application for an alcohol license or a license in classes 7 to 10) and shall publish notice of the hearing at least once in each of two consecutive weeks (two insertions) in some newspaper published in the English language in the county (or if there be none such then in the city and county of Honolulu) having a general circulation in the county, the date of the hearing to be not less than twenty-one days after the first publication. The notice shall require that all protests or objections against the issuance of the license applied for shall be

filed with the secretary of the commission at or before the time of hearing. Before making such publication the commission shall collect from the applicant the cost of making the publication or require a deposit to cover the same.

Immediately upon the commission's fixing a day for the public hearing of the application, the applicant shall mail a notice setting forth the time and place of the hearing on the application to not less than two-thirds of the persons being the owners or lessees holding under recorded leases, of real estate situated within a distance of five hundred feet from the nearest point of the premises for which the license is asked to the nearest point of such real estate, not less than twenty-one days prior to the date set for the hearing of the application; and before the hearing the applicant shall file with the commission an affidavit as to such mailing of notice. Notice by mail may be addressed to the last known address of the person concerned or to the address as shown in the last tax return filed by him or his agent or representative. In addition, for each condominium project within the affected area, one notice of the hearing shall be sent by mail addressed "To the Residents, Care of the Manager", followed by the name and address of the condominium involved."

SECTION 28. Section 291-22, Hawaii Revised Statutes, is amended to read:

"Sec. 291-22 Regulation of exhaust pipe and muffler. It shall be unlawful for any person to drive upon the public highways any motor scooter, as [hereinafter] defined[,] in section 286-2, the exhaust pipe or muffler of which has been so changed from the factory design as to increase the volume or audibility of the explosions within the motor thereof."

SECTION 29. Section 291-29, Hawaii Revised Statutes, is amended to read:

"Sec. 291-29 Lights for other vehicles. All vehicles other than those specified in [sections] section 291-25 [and 291-27] shall during the time mentioned in such [sections] section when upon the public highway, carry a lighted light on the extreme width of each side so arranged that a light from the lamps shall be visible in every direction at least two hundred feet."

SECTION 30. Section 291C-164, Hawaii Revised Statutes, is amended to read:

"Sec. 291C-164 Procedure upon arrest. Except when authorized or directed under state law to immediately take a person arrested for a violation of any of the traffic laws before a district judge, any authorized police officer, upon making an arrest for violation of the state traffic laws shall take the name, address, and [operator's] driver's license number of the alleged violator and the registered license number of the motor vehicle involved and shall issue to him in writing a summons or citation, hereinafter described, notifying him to answer to the complaint to be entered against him at a place and at a time provided in [said] the summons or citation."

SECTION 31. Section 291C-170, Hawaii Revised Statutes, is amended to read:

"Sec. 291C-170 Revocation or suspension of license. In addition to the penalties heretofore provided, the court may revoke or may suspend, for a period not to exceed one year, the license of any [operator or chauffeur] driver convicted of a

violation of any section or provision of the state traffic laws involving a vehicle in motion.”

SECTION 32. Section 306-4, Hawaii Revised Statutes, is amended to read:

“**Sec. 306-4 Revenue bonds.** Revenue bonds shall be issued in the name of the board of regents, may be in one or more series, may be in such denomination or denominations, may bear such date or dates, may mature at such time or times not exceeding fifty years from their respective dates, may be payable at such place or places within or without the State, may carry such registration privileges as to principal alone or as to both principal and interest, may be subject to such terms or redemption with or without premium, may be executed in such manner, and may contain such terms, covenants, and conditions, and may be in such form, either coupon or registered with privilege of exchange from one form to another, as the resolution authorizing the issuance of the bonds, or subsequent resolutions may provide.

Revenue bonds may be sold at private sale to the United States, or any agency, instrumentality, or corporation thereof, to the State or any political subdivision, agency, instrumentality, or corporation thereof, or to any person or group of persons offering to purchase all [of] or a major portion of a particular issue or series. Unless sold at private sale as herein provided, revenue bonds shall be sold at public sale after publication of a notice of such sale at least once, the date of publication to be at least five days prior to the date of the sale, and the publication shall be made in a newspaper published and of general circulation in the State and in a financial newspaper published in either of the cities of New York, Chicago, or San Francisco. The revenue bonds shall be sold for not less than [98] ninety-eight per cent of the principal amount thereof. Pending the preparation of definitive revenue bonds, interim receipts or temporary bonds may be issued and delivered to the purchasers of the bonds in such form and containing such provisions as the board may determine. Revenue bonds, interim receipts, and temporary bonds shall be fully negotiable within the meaning of and for all the purposes of the Uniform Commercial Code, chapter 490.

It shall be legal for the State and any of its political subdivisions, or any political or public corporation, including the employees retirement system of the State, or any instrumentality of the State, or any insurance company or building and loan association, or any savings bank or trust company, or any bank or other financial institution operating under the laws of this State, or for any personal representative, guardian, trustee or other fiduciary, or any educational, charitable, or eleemosynary institution, to invest their funds, and moneys in their custody in revenue bonds issued under this chapter.”

SECTION 33. Section 321-15.6, Hawaii Revised Statutes, is amended by amending subsection (c) to read:

“(c) The department shall provide for the training of operators and staff of any facility licensed under this section, in conjunction with any licensing thereof, and in coordination with the department of [health,] social services and housing, to ensure that [adult family boarding] care home operators shall have the needed skills to provide proper care and supervision in a home environment (i.e., first aid, cardiopulmonary resuscitation, and nutrition training as a minimum). Such training shall be provided at the expense of the State.”

SECTION 34. Section 328-10, Hawaii Revised Statutes, is amended to read:

“Sec. 328-10 Foods deemed misbranded when. A food shall be deemed to be misbranded:

- (1) If its labeling is false or misleading in any particular; or if its labeling or packaging fails to conform with the requirements of sections 328-2[, 328-2.1] and 328-19.1;
- (2) If it is offered for sale under the name of another food;
- (3) If it is an imitation of another food for which a definition and standard of identity has been prescribed by regulation as provided by section 328-8; or if it is an imitation of another food that is not subject to paragraph (7) of this section, unless its label bears in type of uniform size and prominence, the word “imitation” and, immediately thereafter, the name of the food imitated;
- (4) If its container is so made, formed, or filled as to be misleading;
- (5) If in package form, unless it bears a label containing (A) the name and place of business of the manufacturer, packer, or distributor; (B) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count, which statement shall be separately and accurately stated in a uniform location upon the principal display panel of the label; provided[,] that under clause (B) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the department of health;
- (6) If any word, statement, or other information required by or under authority of this part to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;
- (7) If it purports to be or is represented as a food for which a definition and standard of identity have been prescribed by regulations as provided by section 328-8, unless (A) it conforms to such definition and standard, and (B) its label bears the name of the food specified in the definition and standards, and, insofar as may be required by the regulations, the common names of optional ingredients (other than spices, flavoring, and coloring) present in the food;
- (8) If it purports to be or is represented as:
 - (A) A food for which a standard of quality has been prescribed by regulations as provided by section 328-8 and its quality falls below such standard unless its label bears, in such manner and form as the regulations specify, a statement that it falls below such standard; or
 - (B) A food for which a standard or standards of fill of container have been prescribed by regulation as provided by section 328-8, and it falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as the regulations specify, a statement that it falls below such standard;
- (9) If it is not subject to paragraph (7) of this section, unless its label bears (A)

the common or usual name of the food, if any there be, and (B) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient; except that spices, flavorings, and colorings, other than those sold as such, may be designated as spices, flavorings, and colorings, without naming each; provided[,] that, to the extent that compliance with the requirements of clause (B) of this paragraph is impractical or results in deception or unfair competition, exemptions shall be established by regulations prescribed by the department; and, provided[,] further[,] that the requirements of clause (B) shall not apply to food products which are packaged at the direction of purchasers at retail at the time of sale, the ingredients of which are disclosed to the purchasers by other means in accordance with regulations prescribed by the department;

- (10) If it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as the department determines to be, and by regulations prescribes, as necessary in order to fully inform purchasers as to its value for such uses;
- (11) If it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact; provided[,] that to the extent that compliance with the requirements of this paragraph is impracticable, exemptions shall be established by regulations prescribed by the department; and, provided[,] further[,] that this paragraph and paragraphs (7) and (9) of this section with respect to artificial coloring shall not apply in the case of butter, cheese, or ice cream. The provisions of this paragraph regarding chemical preservatives shall not apply to a pesticide chemical when used in or on a raw agricultural commodity which is the produce of the soil;
- (12) If it is a product intended as an ingredient of another food and, when used according to the directions of the purveyor, will result in the final food product being adulterated or misbranded;
- (13) If it is a color additive unless its packaging and labeling are in conformity with the packaging and labeling requirements applicable to the color additive prescribed under the Federal Act;
- (14) If it is a raw agricultural commodity which is the produce of the soil, bearing or containing a pesticide chemical applied after harvest, unless the shipping container of such commodity bears labeling which declares the presence of such chemical in or on such commodity and the common or usual name and the function of such chemical; provided that no such declaration shall be required while such commodity, having been removed from the shipping container, is being held or displayed for sale at retail out of such container in accordance with the custom of the trade."

SECTION 35. Section 353-1.4, Hawaii Revised Statutes, is amended to read:

"Sec. 353-1.4 Creation of intake service center. There shall be an intake service center for each of the counties. Each center shall be directed and managed by a director. The director of the Oahu intake service center shall be appointed by the governor [pursuant to section 353-1.3] without regard to chapters 76 and 77, but shall

meet the qualifications for the position determined by the department of personnel services. The director of the Oahu intake service center shall appoint the directors of the other intake service centers pursuant to chapters 76 and 77. The director of the Oahu intake service center shall be the over-all state executive director of all the intake service centers and shall manage, control, and direct all of the intake service centers and provide periodic reports not less than annually on their operations to the governor and the intake service center advisory board. Any center may be integrated with and operated concurrently with a community correctional center.

The intake service center shall:

- (1) Provide guidance and technical services for volunteer referrals and to admitted persons, correctional diagnostic and evaluation services for diversionary determinations, pre-sentence investigations for the courts, and post-sentence correctional prescription program planning for committed persons;
- (2) Provide non-custodial and program services for persons awaiting judicial disposition who have not been conditionally released;
- (3) Provide such other personal and correctional services as needed;
- (4) Monitor and record the progress of persons admitted to the center, who undergo further treatment or who participate in prescribed correctional programs;
- (5) Refer persons admitted to the center in selected cases, to community programs pending judicial disposition or where judicial proceedings are discontinued or suspended;
- (6) Provide for adult persons, correctional services including but not limited to orientation, social, psychiatric-psychological evaluations, employment counseling, social inventory and programming, medical and dental services, and referral services to community programs.

The intake service center may be staffed by full-time or part-time professional and clerical staff appointed pursuant to chapters 76 and 77, or utilize contractual professional services.”

SECTION 36. Section 359-141, Hawaii Revised Statutes, is amended to read:

“**Sec. 359-141 State sales housing.** Notwithstanding sections 359-8, 359-9, 359-39, [359-61,] 359-66, or any other law to the contrary, but subject to any resolution of issuance under part IV of this chapter, the authority may permit any member of a tenant family of a housing project administered under this chapter, or chapter 356, or any individual meeting the income standards under section 221(d)(3) of the National Housing Act to enter into a contract, including but not limited to contracts entered under and conforming to part V of this chapter or under chapter 361, the community home mortgage program, (either individually or as a member of a group) for the acquisition of a dwelling unit and lot or the acquisition of a dwelling unit and the lease of its lot, the lease to conform to chapter 171 with the exception that the lease shall not require bid, auction, or negotiation, in any project under chapters 356 and 359 which is suitable for sale and for occupancy by such purchaser or a member or members of his family, upon the following terms:

- (1) The purchaser shall pay at least (A) a pro rata share cost of any services furnished him by the authority, including but not limited to, administration,

- maintenance, repairs, utilities, insurance, provision of reserves, and other expenses, (B) taxes on his dwelling unit, and (C) monthly payments of interest and principal sufficient to amortize a sales price, equal to the greater of the unamortized debt or the appraised value (at the time such purchase contract is entered into) of the dwelling unit, in not more than forty years; provided that the authority may, under terms and conditions to be prescribed by it, permit a purchaser to apply toward the purchase price of such unit amounts provided for under part V;
- (2) Except in the case of financing under the community home mortgage program the interest rate shall be fixed at not less than the average interest cost of loans outstanding on the project, except that in the case of a project on which bonds are not outstanding the interest rate shall be fixed at not less than the going rate applicable to such project;
 - (3) The principal payments shall be not less than one-half of one per cent a year of the sales price during the first five years after purchase, one per cent a year during the next five years, one and one-half per cent a year during the third five years, and thereafter not less than the principal payments resulting from a level debt service of interest and principal over the balance of the payment period; and
 - (4) If at any time (A) a purchaser fails to carry out his contract with the authority and if no member of his family who resides in the dwelling assumes such contract, or (B) the purchaser or a member of his family who assumes the contract does not reside in the dwelling, the authority shall have an option to acquire his interest under the contract upon payment to him or his estate of an amount equal to his aggregate principal payments plus the value to the authority of any improvements made by him, less an amount equal to two and one-half per cent of the sales price."

SECTION 37. Section 359G-1.1, Hawaii Revised Statutes, is amended by adding a new definition to read:

- "(8) "Short term project notes" means evidences of indebtedness issued by the State for specified housing projects and secured by such projects the terms of which call for complete repayment by the State of the face amount in not less than two nor more than ten years."

SECTION 38. Section 359G-4, Hawaii Revised Statutes, is amended by amending subsection (d) to read:

"(d) [Upon] The authority shall adopt upon direction from the governor and for such period as he shall authorize, rules on health, safety, building, planning, zoning, and land use which relate to the development, subdivision, and construction of dwelling units in projects in which the State, through the authority, shall participate; provided that these rules shall not contravene any safety standards or tariffs approved by the public utilities commission; provided further that these rules shall follow existing law as closely as is consistent with the production of low cost housing with standards which meet minimum requirements of good design, pleasant amenities, health, safety, and coordinated development.

Upon the adoption of such rules they shall have the force and effect of law and shall supersede, for all projects in which the State through the authority shall partici-

pate, all other inconsistent laws, ordinances, and rules relating to the use, zoning, planning, and development of land, and the construction of dwelling units thereon; provided that any rules shall, before becoming effective, be presented to the legislative body of each county in which they will be effective and the legislative body of any county may within forty-five days approve or disapprove, for that county, any or all of the rules by a majority vote of its members. On the forth-sixth day after submission any rules not disapproved shall be deemed to have been approved by the county.”

SECTION 39. Section 359G-5, Hawaii Revised Statutes, is amended to read:

“**Sec. 359G-5 Eminent domain, exchange or use of public property.** The authority may, through exchange, voluntary negotiation, or by eminent domain, acquire any private land in the State for the purpose of this chapter. The authority shall exercise the power of eminent domain in the same manner as provided in chapter 101. The exchange of land shall be in accordance with section 171-50; provided that the public land to be exchanged need not be of like use to that of the private land; and provided further that if the use of the private land prior to the exchange is intensive agricultural, the authority shall determine the agricultural productivity of the private land and, whenever and wherever possible, exchange so much state land as shall be sufficient to approximate or equal the productivity of the private land so acquired by the State.

Except as hereinafter set forth in this paragraph, the authority may also develop state lands but not federal lands, state monuments or historical sites or parks and subject to the prior approval of the land use commission in the case of agricultural land and the prior approval of the board of land and natural resources in the case of conservation land. Whenever it proposes to develop public lands it shall file with the department of land and natural resources a petition setting forth such purpose and such petition shall be conclusive proof that the use to which the property is sought to be put is a superior public use to that to which it has already been appropriated. The fair market value of the public land may be paid by the authority and computed as cost or subsidized by the State subject to reimbursement under section [359G-9.] 359G-9.2. The authority shall not, however, possess the power to develop, or develop, any public lands where the possession of such power or such development (1) would endanger the receipt of any federal grant or impair the eligibility of any public body for a federal grant or prevent the participation by the federal government in any governmental program or (2) would impair any covenant between the State or any county or any department or board thereof and the holders of bonds issued by the State or such county, department or board.”

SECTION 40. Section 384-3, Hawaii Revised Statutes, is amended to read:

“**Sec. 384-3 Chapter 383 applicable.** A claim for benefits under chapter 383 shall constitute a claim for benefits under this chapter. For the purpose of determining the benefits (including weekly benefit amount, maximum total benefits in benefit year, [benefits of seasonal workers,] qualifying wages, eligibility, disqualifications, and all other matters referred to in part II of chapter 383) which would have been payable pursuant to chapter 383 had there been no exclusion of services from employment within the meaning of chapter 383 by the operation of section 383-78, except as provided in this chapter or otherwise inconsistent with this chapter, all of chapter 383

shall be applicable, mutatis mutandis, to all matters covered by this chapter, and are incorporated by reference as fully and effectually to all intents and purposes as if repeated in this chapter.”

SECTION 41. Section 392-26, Hawaii Revised Statutes, is amended by amending subsection (c) to read:

“(c) The proof of disability duly certified by a person licensed to practice medicine, surgery, dentistry, chiropractic, [or] osteopathy, or naturopathy, or an authorized or accredited practitioner of any group which depends for healing upon prayer or other spiritual means shall be submitted by such certifying person to the disabled employee within seven working days after the date on which the employee was examined and found disabled. If the certifying person fails to submit the required proof within seven working days, the director, upon notification by the insurer, may levy a penalty of \$25 for each delinquent certification where the certifying person fails to show good cause for his failure to file on time.”

SECTION 42. Section 445-166, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

“(a) No mechanically or electrically operated device considered as a major ride and used as an amusement ride shall be permitted to be used or operated at a carnival, circus, fair, or amusement park unless:

- (1) A safety belt or other safety device of similar purpose is installed and used so as to minimize or prevent injury to persons riding on the device and other persons on the premises;
- (2) An attendant is present at all times during the operation of the device; and
- (3) The device has been inspected by the department of labor and industrial relations as required by section [376-2(5).] 396-4(b)(4).

This section shall not apply to any coin operated ride and mechanically or electrically operated devices considered or known in the amusement trade as kiddie rides.”

SECTION 43. Section 448E-4, Hawaii Revised Statutes, is amended to read:

“**Sec. 448E-4 Powers and duties of board.** The board shall have all the powers and duties necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including, without limitation, the following powers and duties:

- (1) To grant licenses which shall be renewable on [an annual] a biennial basis to:
 - (A) Journeyman electricians,
 - (B) Journeyman specialty electricians,
 - (C) Supervising electricians,
 - (D) Supervising specialty electricians,
 - (E) Motion picture operators,
 - (F) Master plumbers,
 - (G) Journeyman plumbers, and
 - (H) Maintenance electricians;
- (2) To make, amend, or repeal such rules and regulations as it may deem proper to effectuate this chapter and to insure the safety and welfare of the general public. All such rules and regulations shall be adopted pursuant to chapter

91. The rules and regulations may forbid acts or practices deemed by the board to be detrimental to the accomplishment of the purpose of this chapter;
- (3) To enforce this chapter and rules and regulations adopted pursuant thereto including the denial, suspension, or revocation of any license; and
 - (4) To examine all applicants and determine their qualifications prior to the issuance of licenses.”

SECTION 44. Section 452-6, Hawaii Revised Statutes, is amended by amending subsection (c) to read:

“(c) The board may refuse to grant or may revoke a certificate to a person guilty of fraud in passing the examination; [to a person convicted of a felony or misdemeanor involving moral turpitude;] to one addicted to liquor or drugs; or for failure to display the certificates as provided in this chapter;”

SECTION 45. Section 468-3, Hawaii Revised Statutes, is amended to read:

“**Sec. 468-3 Duty of the director.** The director of regulatory agencies shall examine the statements, information, and documents filed with the application and any further information that may be presented to him by any person. If the director from such examination finds that the applicant and the vendors he represents [have not been convicted of a felony or crime involving moral turpitude, within the State, and that the applicant and the vendors] are engaged in legitimate, lawful business, he shall issue the permit, otherwise he shall refuse to issue the permit and notify the applicant in writing of his decision. The permit may be revoked or suspended by the director for good cause shown to him, after notice to the issuee and a hearing.”

SECTION 46. Section 484-3, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

“(a) Unless the method of disposition is adopted for the purpose of evasion of this chapter, this chapter does not apply to offers or dispositions of an interest in land:

- (1) By a purchaser of subdivided lands for his own account in a single or isolated transaction;
- (2) If fewer than twenty separate lots, parcels, units, or interests in subdivided lands are offered by a person in a period of twelve months;
- (3) On which there is a residential, commercial, or industrial building, or as to which there is a legal obligation on the part of the seller to construct such a building within two years from date of disposition;
- (4) To persons who are engaged in the business of construction of buildings for resale, or to persons who acquire an interest in subdivided lands for the purpose of engaging, and do engage in the business of construction of building for resale;
- (5) Pursuant to court order;
- (6) By any government or government agency;
- (7) As cemetery lots of interests;
- (8) Established as a horizontal property regime pursuant to chapter [514.] 514A.”

SECTION 47. Section 485-6, Hawaii Revised Statutes, is amended to read:

“Sec. 485-6 Exempt transactions. The following transactions are exempted from sections 485-8 and 485-25(a)(7):

- (1) Any isolated nonissuer transaction, whether effected through a dealer or not;
- (2) Any nonissuer distribution of an outstanding security if the manual of Hawaiian securities or any other recognized securities manual contains the names of the issuer’s officers and directors, a balance sheet of the issuer as of a date within eighteen months, and a profit and loss statement for either the fiscal year preceding that date or the most recent year of operations, or the security has a fixed maturity or a fixed interest or dividend provision and there has been no default during the current fiscal year or within the three preceding fiscal years (or during the existence of the issuer and any predecessors if less than three years) in the payment of principal, interest, or dividends on the security;
- (3) Any nonissuer transaction effected by or through a registered dealer pursuant to an unsolicited order or offer to buy;
- (4) Any transaction between the issuer or other person on whose behalf the offering is made and an underwriter, or among underwriters;
- (5) Any transaction in a bond or other evidence of indebtedness secured by a real or chattel mortgage or deed of trust, or by an agreement for the sale of real estate or chattels, if the entire mortgage, deed of trust, or agreement, together with all the bonds or other evidences of indebtedness secured thereby, is offered and sold as a unit;
- (6) Any transaction by a personal representative, sheriff, marshal, receiver, trustee in bankruptcy, guardian, or conservator;
- (7) Any transaction executed by a bona fide pledgee without any purpose of evading this chapter;
- (8) Any offer or sale to a bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit-sharing trust, or other financial institution or institutional buyer, or to a dealer, whether the purchaser is acting for itself or in some fiduciary capacity;
- (9) Any transaction pursuant to an offer directed by the [offeror] offerer to not more than twenty-five persons (other than those designated in paragraph (8)) in the State during any period of twelve consecutive months, whether or not the offerer or any of the offerees is then present in the State, if all buyers represent that they are purchasing for investment (rather than with a present view to resale) and the seller reasonably accepts their representations as true, and no commission or other remuneration is paid or given directly or indirectly for soliciting any prospective buyer;
- (10) Any offer or sale of a preorganization certificate or subscription for any security to be issued by any person if no commission or other remuneration is paid or given directly or indirectly for soliciting any prospective subscriber, and the number of subscribers does not exceed twenty-five;
- (11) Any transaction pursuant to an offer to existing security holders of the issuer, including persons who at the time of the transaction are holders of convertible securities, nontransferable warrants, or transferable warrants

- exercisable within ninety days of their issuance, if no commission or other remuneration (other than a standby commission) is paid or given directly or indirectly for soliciting any security holder in the State;
- (12) Any offer (but not a sale) of a security for which registration statements have been filed under both this chapter and the Securities Act of 1933 if no stop order or refusal order is in effect and no public proceeding or examination looking toward such an order is pending under either this chapter or such Act;
 - (13) Any offer or sale by or through a real estate broker or real estate salesman licensed under the laws of the State as such, of a security issued on or after July 1, 1961 by a corporation organized under the laws of the State, the holder of which is entitled solely by reason of his ownership thereof, to occupy for dwelling purposes, or to a lease which entitles the holder to occupy for dwelling purposes a house, or an apartment in a building, owned or leased by such corporation, subject, however, to section 485-7[.];
 - (14) Any offer or sale by or through a real estate broker or real estate salesman licensed as such under the laws of the State of an apartment in a condominium project, and a rental management contract relating to such apartment, including an interest in a general or limited partnership formed for the purpose of managing the rental of apartments if the rental management contract or the interest in the general or limited partnership is offered at the same time as the apartment is offered. The words "apartment", "condominium", and "project" are defined as they are defined in section [514-2.] 514A-3;
 - (15) Any offer of sale not involving a public offering within the meaning of Rule 146 (Code of Federal Regulations section 230.146) or any successor rule, as amended from time to time, of the Securities and Exchange Commission."

SECTION 48. Section 510-10, Hawaii Revised Statutes, is amended by amending subsection (b) to read:

"(b) Upon the death of the husband or wife, the personal representative of the decedent, shall administer upon the whole of the community property, including the interests therein of the survivor and of the decedent, as well as upon the separate property of the decedent. The personal representative shall have the same rights and powers and duties with respect to the administration and disposition of community property, real and personal, as he has with respect to the separate property of the decedent. Chapter [531.] 560, with respect to the administration and disposition of property, real and personal, included in estates is applicable with respect to community property as well as with respect to the separate property of the decedent. The court having jurisdiction of the estate shall determine whether and to what extent property constitutes community property or separate property of the decedent or separate property of the survivor and shall also determine whether and to what extent claims are payable out of community property or out of the separate property of the decedent. Claims and administration expenses paid out of community property shall be charged equally against the half of the community property which belongs to the survivor and the half of the community property which passes in accordance with the

testamentary disposition of the decedent or to the heirs of the decedent; provided[,] that no estate, inheritance, succession, or similar taxes payable by reason of the transfer upon the death of the decedent of the decedent's interest in the community property shall be charged against the half of the community property which belongs to the survivor."

SECTION 49. Section 519-2, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

"(a) All leases as defined by section 516-1(5), of residential lots, as defined by section 516-1(11), existing on June 2, 1975, or entered into thereafter, which provide for reopening of the contract for renegotiation of lease rent terms shall in the case of leases after June 2, 1975, provide the following, or in the case of leases existing on June 2, 1975, shall be construed in conformity with the following:

- (1) Such renegotiations shall not be scheduled more frequently than once every fifteen years, provided the first of such reopenings shall not be scheduled prior to the fifteenth year following the initial date of the lease; and
- (2) Upon renegotiation, the lease rent payable shall not exceed the amount derived by multiplying the "owner's basis" by four per cent. For purposes of this section, "owner's basis" means the current fair market value of the lot, excluding onsite improvements, valued as if the fee title were unencumbered; less the lessee's share, if any, of the current replacement cost of providing existing offsite improvements attributable to the land, which replacement cost shall include an overhead and profit not exceeding twenty per cent of the current replacement cost of the existing offsite improvements, or less the original lot development credit to the lessee, whichever is greater. For purposes of this section, "offsite improvements" means all physical improvements such as, but not limited to, roads, sewer lines, sewage treatment plants, and underground utility cables, constructed or placed in a subdivision or development off the land intended for occupancy, which improvements are to be used in common by occupants of all lands adjoining such improvements or by occupants of all lands for whose benefit the improvements have been constructed or placed; and "onsite improvements" means all physical improvements placed on a residential lot intended for occupancy which improvements are for the benefit of occupants of that lot, including, but not limited to, dwelling units, garages, service buildings, stairs, walkways, driveways, walls, trees, shrubs, landscaping, and pools."

SECTION 50. Section 531-33, Hawaii Revised Statutes, is amended to read:

"Sec. 531-33 Procedure to dispose of unclaimed personalty. Whenever the personal representative of an estate is unable to discover any living heirs or legatees of his decedent, he shall give notice to all heirs or legatees by publication in such newspaper or newspapers and for such time as the court or registrar may direct, but not less than once a week for three successive weeks, of the date of the hearing upon his final accounts or the date on which his closing statement will be approved if no objection is filed, which notice shall direct all claimants of a distributive share in the estate of his decedent to appear and present their claims at the hearing or in writing prior to the date on which the closing statement will be approved if no objection is

filed; provided[,] that the time allowed for presentation of claims shall be not less than ninety days after the first publication of the notice.

If no claims are presented within the prescribed time, or if such claims as may be allowed do not exhaust the personalty of the estate, any personal estate remaining after the settlement and approval of the final accounts of the personal representative, and the payment of such distributive shares as may be allowed by the court or registrar shall upon order of the court be transferred to the state director of finance by the personal representative.

The director shall cause to be sold at public auction all such personalty as is transferred to him, except cash or bonds of the State.

The personal estate shall be disposed of as provided in chapter 523.”

SECTION 51. Section 560:1-401, Hawaii Revised Statutes, is amended to read:

“**Sec. 560:1-401 Notice; method and time of giving.** (a) If notice is required and except for specific notice requirements as otherwise provided, the applicant or petitioner shall cause notice to be given to any interested person or his attorney if he has appeared by attorney or requested that notice be sent to his attorney, or, in the case of a minor or an incapacitated person, his parent or guardian, as appropriate. Notice shall be given:

- (1) By any method by which the person entitled to notice receipts for a copy thereof at least fourteen days before the time set for the hearing; or
- (2) If notice cannot be effected pursuant to paragraph (1) or if the address, or identity of any person is not known and cannot be ascertained with reasonable diligence, by publishing at least once a week for three consecutive weeks, a copy thereof in a newspaper having general circulation in the judicial circuit where the hearing is to be held or the probate proceedings are being maintained, the last publication of which is to be at least ten days before the time set for either the hearing or the registrar’s action.

(b) The court for good cause shown may provide for a different method or time of giving notice.

(c) Proof of the giving of notice shall be made on or before the hearing and filed in the proceeding.”

SECTION 52. Section 560:3-403, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

“(a) Upon commencement of a formal testacy proceeding, the court shall fix a time and place of hearing. Notice shall be given in the manner prescribed by section 560:1-401 by petitioner to the persons herein enumerated and to any additional person who has filed a demand for notice under section 560:3-204 of this chapter.

Notice shall be given to the following persons, so far as the same are known or are ascertainable with reasonable diligence: the surviving spouse, children, and other heirs of the decedent, the devisees and personal representatives named in any will that is being, or has been probated, or offered for informal or formal [probates] probate in the judicial circuit, or that is known by the petitioner to have been probated or offered for informal or formal probate elsewhere, and any personal representative of the decedent whose appointment has not been terminated. Notice may be given to other persons. In addition, the petitioner shall give notice by publication to all unknown

persons, and to all known persons whose addresses are unknown, who have any interest in the matters being litigated other than creditors and those having a claim against the estate.”

SECTION 53. Section 560:3-1102, Hawaii Revised Statutes, is amended to read:

“Sec. 560:3-1102 Procedure for securing court approval of compromise.

The procedure for securing court approval of a compromise is as follows:

- (1) The terms of the compromise shall be set forth in an agreement in writing which shall be executed by all competent persons and parents acting for any minor child having beneficial interests or having claims which will or may be affected by the compromise. Execution is not required by any person whose identity cannot be ascertained or whose whereabouts is unknown and cannot reasonably be ascertained.
- (2) Any interested person, including the personal representative or a trustee, then may submit the agreement to the court for its approval and for execution by the personal representative, the trustee of every affected testamentary trust, and other fiduciaries and representatives.
- (3) After notice to all interested persons or their representatives, including the personal representative of the estate and all affected trustees of trusts, the court, if it finds that the contest or controversy is in good faith and that the effect of the agreement upon the interests of persons represented by fiduciaries or other representatives is just and reasonable, shall make an order approving the agreement and directing all fiduciaries under its supervision to execute the agreement. Minor children may be bound only if represented by a guardian ad litem who joins in execution of the compromise. Upon the making of the order and the execution of the agreement, all further disposition of the estate is in accordance with the terms of the agreement.”

SECTION 54. Section 571-48, Hawaii Revised Statutes, is amended to read:

“Sec. 571-48 Decree, if informal adjustment or diversion to a private or community agency or program has not been effected. When a minor is found by the court to come within section 571-11, the court shall so decree and in its decree shall make a finding of the facts upon which the court exercises its jurisdiction over the minor. Upon such decree the court shall, by order duly entered, proceed as follows:

- (1) As to a child adjudicated under section 571-11(1):
 - (A) The court may place the child on probation in his own home or in the custody of a suitable person elsewhere, upon conditions determined by the court.
 - (B) The court may vest legal custody of the child, after prior consultation with the agency or institution, in the Hawaii youth correctional facility, in a local public agency or institution, or in any private institution or agency authorized by the court to care for children; or place him in a private home. If legal custody of the child is vested in a private agency or institution in another state, the court shall select one that is approved by the family or juvenile court of the other state or by that state’s

- department of social services or other equivalent department.
- (C) The court may fine the child for a violation which would be theft in the third degree by shoplifting if committed by an adult. The court may require the child to perform public services in lieu of the fine.
- (2) As to a child adjudicated under section 571-11(2):
- (A) The court may place the child under protective supervision, as hereinafter defined, in his own home, or in the custody of a suitable person or agency elsewhere, upon conditions determined by the court.
- (B) The court may vest legal custody of the child, after prior consultation with the agency or institution in a local governmental agency or institution licensed or approved by the [state] State to care for children, with the exception of an institution primarily for the care and treatment of children committed under section 571-11(1) or in any private agency or institution authorized by the court to care for children. If legal custody of the child is vested in a private agency or institution in another state, the court shall select one that is approved by the family or juvenile court of the other state or by that state's department of social services or other equivalent department; provided that the child may not be committed to a public or private institution operated solely for the treatment of law violators.
- (3) An order vesting legal custody in an individual, agency, or institution under section 571-11(2) shall be for an indeterminate period but shall not remain in force or effect beyond three years from the date entered, except that the individual, institution, or agency may file with the court a petition for renewal of the order and the court may renew the order if it finds such renewal necessary to safeguard the welfare of the child or the public interest. The court may, after notice to the parties, conduct a hearing on the petition. Renewal may be periodic during minority, but no order shall have any force or effect beyond the period authorized by section 571-13. An agency granted legal custody shall be subject to prior approval of the court in any case in which the child is to reside without the territorial jurisdiction of the court and may be subject to prior approval in other cases. An individual granted legal custody shall exercise the rights and responsibilities personally unless otherwise authorized by the court.
- (4) Whenever the court commits a child to the care of the director of social services or vests legal custody of a child in an institution or agency it shall transmit with the order copies of the clinical reports, social study, and other information pertinent to the care and treatment of the child, and the institution or agency shall give to the court any information concerning the child that the court may at any time require. An institution or agency receiving a child under this paragraph shall inform the court whenever the status of the child is affected through temporary or permanent release, discharge, or transfer to other custody. An institution to which a child is committed under section 571-11(1) or (2) shall not transfer custody of the child to an institution for the correction of adult offenders, except as authorized under section 352-27.

- (5) The court may order, for any child within its jurisdiction, whatever care or treatment is authorized by law.
- (6) In placing a child under the guardianship or custody of an individual or of a private agency or private institution, the court shall give primary consideration to the welfare of the child.
- (7) In support of any order or decree under section 571-11(1) or (2), the court may require the parents or other persons having the custody of the child, or any other person who has been found by the court to be encouraging, causing, or contributing to the acts or conditions which bring the child within the purview of this chapter and who are parties to the proceeding, to do or to omit doing any acts required or forbidden by law, when the judge deems this requirement necessary for the welfare of the child. If such persons fail to comply with the requirement, the court may proceed against them for contempt of court.
- (8) In support of any order or decree for custody or support, the court may make an order of protection setting forth reasonable conditions of behavior to be observed for a specified time, binding upon both parents or either of them. This order may require either parent to stay away from the home or from the other parent or children, may permit the other to visit the children at stated periods or may require a parent to abstain from offensive conduct against the children or each other.
- (9) The court may dismiss the petition or otherwise terminate its jurisdiction at any time.
- (10) In any other case of which the court has jurisdiction, the court may make any order or judgment authorized by law."

SECTION 55. Section 571-52.1, Hawaii Revised Statutes, is amended to read:

"Sec. 571-52.1 Determination and enforcement of support orders. During the course of any proceeding in which the court is considering making or modifying an order for spouse support or child support, the court on its own motion or on motion of any interested person may refer the problem to the court trustee for investigation.

At any time when a support order payable through the court appears or is alleged to be inequitable or unsuitable, the court trustee on his own motion may, and when directed by the court shall, institute an investigation into the situation.

In connection with any such referral or inquiry, the court trustee shall investigate all matters pertinent to the determination of just and suitable allowances for the spouse and children, and shall submit his findings and recommendations in writing to the court.

The written reports of the court trustee shall be available to interested parties and may be received in evidence if no objection is made, or, if objection is made, may be received in evidence; provided the person or persons responsible for the reports are available for cross-examination as to any matter which has been investigated. When a report is received in evidence, any party may introduce other evidence supplementing, supporting, modifying, or rebutting the whole or any part of the report.

Every order for spouse support or child support which provides for payments to be made through the court may be enforced pursuant to this section.

The court trustee shall maintain files of the support orders and papers referred to him, shall maintain follow-up records to determine whether the payments ordered therein are being made, may make oral or written demand for overdue payments, and, in the event of a default and after such time as the court trustee may deem reasonable, may, and when directed by the court shall, institute contempt of court proceedings for the purpose of enforcing support orders.

The court trustee may utilize the services of public or private social agencies in conducting the investigations and making the reports and recommendations occasioned by this [rule.] section. Reports of such agencies may be received in evidence under the same conditions as reports of the court trustee.

Court costs, service fees, and the expenses of any investigation conducted by the court trustee may, in the discretion of the court, be assessed wholly or partially against the party ordered to make the support payments.

As used in this section, support includes amounts ordered to be paid as reimbursement or advancement for expenses incurred or to be incurred by or on behalf of a spouse or child, including attorney's fees, court costs, and other expenses in connection with relevant litigation, unpaid amounts due under existing or prior support orders, and payments required by a valid sentence, order, judgment, or decree under chapters 575, 576, 579, and 580 or section 571-51."

SECTION 56. Section 572-10, Hawaii Revised Statutes, is amended to read:

"Sec. 572-10 Applicant apparently under age. If any applicant for a license to marry appears to any agent to be under the age of [twenty] eighteen years, the agent shall, before granting a license to marry, require the production of a certificate of birth or other satisfactory proof showing the age of the applicant."

SECTION 57. Section 577A-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read:

""Minor" shall be any person from the age of fourteen to seventeen inclusive."

SECTION 58. Section 584-14, Hawaii Revised Statutes, is amended to read:

"Sec. 584-14 Civil action[; jury]. (a) An action under this chapter shall be a civil action governed by the Hawaii Rules of Civil Procedure or the Hawaii Family Court Rules. The mother of the child and the alleged father shall be competent to testify and may be compelled to testify, provided that no criminal prosecution, other than a prosecution for perjury, shall afterwards be had against the mother or the alleged father for or on account of any transaction, matter, or thing concerning which she or he may testify or produce evidence, documentary or otherwise. Sections 584-11 and 584-12 shall apply in any action brought under this chapter.

(b) Testimony relating to sexual access to the mother by an unidentified man at any time or by an identified man at a time other than the probable time of conception of the child shall be inadmissible in evidence, unless offered by the mother.

(c) In an action against an alleged father, evidence offered by him with respect to a man who is not subject to the jurisdiction of the court concerning his sexual intercourse with the mother at or about the probable time of conception of the child shall be admissible in evidence only if he has undergone and made available to the

court blood tests the results of which do not exclude the possibility of his paternity of the child.”

SECTION 59. Section 605-16, Hawaii Revised Statutes, is amended to read:

“**Sec. 605-16 Judicial powers not affected.** Nothing in sections 605-14 to 605-17 shall diminish, alter, or affect the inherent or statutory power of the supreme court or of any court to institute and hear proceedings against any person for contempt or for violation of rules or orders of court, or affect any rules of any court already in force[, or make applicable to any proceedings brought under the sections the provisions of chapter 729].”

SECTION 60. Section 607-2, Hawaii Revised Statutes, is amended to read:

“**Sec. 607-2 Fees to be accounted for.** With the exception of such fees as are intended to reimburse officers for actual expenditures made by them, and subject to section [28-26,] 601-36, all judges’, clerks’, sheriffs’, and deputy sheriffs’ fees provided for in this chapter and accruing from any action pending in any court shall be deposited to the credit of the general fund of the State.”

SECTION 61. Section 657-32, Hawaii Revised Statutes, is amended to read:

“**Sec. 657-32 How computed.** If the right first accrued to any ancestor or predecessor of the person bringing the action or making the entry, or to any persons from, by, or under whom he claims, the [ten] twenty years shall be computed from the time when the right first accrued to the ancestor, predecessor, or other persons.”

SECTION 62. Section 657-34, Hawaii Revised Statutes, is amended to read:

“**Sec. 657-34 Disabilities.** If, when right of entry or of action first accrues as aforesaid, the person entitled to the entry or action is within the age of eighteen years, or insane, or imprisoned, such person, or anyone claiming from, by, or under him, may make the entry or bring the action at any time within five years after the disability is removed, notwithstanding the [ten] twenty years before limited in that behalf, have expired.”

SECTION 63. Section 657-35, Hawaii Revised Statutes, is amended to read:

“**Sec. 657-35 Extension of time by death.** If the person first entitled to make the entry or bring the action dies during the continuance of any of the disabilities mentioned in section 657-34, the entry may be made or the action brought by his heirs, or any other person claiming from, by, or under him, at any time within five years after his death, notwithstanding the [ten] twenty years have expired.”

SECTION 64. Section 704-404(1), Hawaii Revised Statutes, is reenacted to read:

“(1) Whenever the defendant has filed a notice of intention to rely on the defense of physical or mental disease, disorder, or defect excluding responsibility, or there is reason to doubt his fitness to proceed, or reason to believe that the physical or mental disease, disorder, or defect of the defendant will or has become an issue in the case, the court may immediately suspend all further proceedings in the prosecution. If a trial jury has been empanelled, it shall be discharged or retained at the discretion of the court. The dismissal of the trial jury shall not be a bar to further prosecution.”

SECTION 65. Section 706-603, Hawaii Revised Statutes, is amended to read:

“Sec. 706-603 Pre-sentence psychiatric, psychological, and medical examination. Before suspending or imposing sentence, the court may order a defendant who has been convicted of a felony or misdemeanor to submit to psychiatric, psychological, and other medical observation and examination for a period not exceeding sixty days or such longer period, not to exceed the length of permissible imprisonment, as the court determines to be necessary for the purpose. The defendant may be remanded for this purpose to any available clinic or hospital, intake service center, or community correctional center and, in addition thereto or in the alternative, the court may appoint one or more qualified psychiatrists, physicians, or certified clinical psychologists to make the examination. If a single examiner is appointed, he shall be a qualified psychiatrist. If two or more examiners are appointed, at least one shall be a qualified psychiatrist and not more than one shall be a certified clinical psychologist. The report of the examination shall be submitted to the court.”

SECTION 66. Section 712-1244, Hawaii Revised Statutes, is amended by amending subsection (1) to read:

“(1) A person commits the offense of promoting a harmful drug in the first degree if he knowingly:

- (a) Possesses four hundred or more capsules or tablets containing one or more of the harmful drugs or one or more of the marijuana concentrates, or any combination thereof; or
- (b) Possesses one or more preparations, compounds, mixtures, or substances, of an aggregate weight of one ounce or more containing one or more of the harmful drugs or one or more of the marijuana concentrates, or any combination thereof; or
- (c) Distributes fifty or more capsules or tablets containing one or more of the harmful drugs or one or more of the marijuana concentrates, or any combination thereof; or
- (d) Distributes one or more preparations, compounds, mixtures, or substances, of an aggregate weight of one-eighth ounce or more, containing one or more of the harmful drugs or one or more of the marijuana concentrates, or any combination thereof; or
- (e) Distributes any harmful drug or any marijuana concentrate in any amount to a minor who is at least three years his junior.”

SECTION 67. All acts passed by the legislature during this Regular Session of 1979, whether enacted before or after the effective date of this Act, shall be amended to conform with this Act unless such acts specifically provide that this Act is being amended.

SECTION 68. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 69. This Act shall take effect upon its approval.

(Approved May 25, 1979.)