

A Bill for an Act Relating to Statutory Revision: Amending 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 103-55, Hawaii Revised Statutes, is amended to read as follows:

**“§103-55 Wages, hours, and working conditions of employees of contractors supplying services. (a)** Before any prospective bidder is entitled to submit any bid for the performance of any contract to supply services in excess of \$5,000 to any governmental agency, [he] the bidder shall certify that the services to be performed will be performed under the following conditions:

Wages. The services to be rendered shall be performed by employees paid at wages or salaries not less than the wages paid to public officers and employees for similar work.

Compliance with labor laws. All applicable laws of the federal and state governments relating to workers' compensation, unemployment compensation, payment of wages, and safety will be fully complied with.

(b) No contract to perform services for any governmental contracting agency in excess of \$5,000 shall be granted unless all the conditions of this section are met. Failure to comply with the conditions of this section during the period of contract to perform services shall result in cancellation of the contract.

It shall be the duty of the governmental contracting agency awarding the contract to perform services in excess of \$5,000 to enforce this section.

(c) This section shall apply to all contracts to perform services in excess of \$5,000, including contracts to supply ambulance service and janitorial service.

This section shall not apply to:

- (1) Managerial, supervisory, or clerical personnel.
- (2) Contracts for supplies, materials, or printing.
- (3) Contracts for utility services.
- (4) Contracts to perform personal services under paragraphs (2), (3), (12), and [(16)] (15) of section 76-16.
- (5) Contracts to operate refreshment concessions in public parks, or to provide food services to educational institutions.
- (6) Contracts with nonprofit institutions.”

SECTION 2. Section 188-29, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) It is unlawful for any person to use nets or traps including bullpen traps of any type with a stretched mesh of less than two inches, or to use any trap which is not portable or which is more than ten feet in length or six feet in height or width; provided that:

- (1) Persons engaged in sport fishing may use throw nets with stretched mesh of not less than one and one-half inches,
- (2) Pond owners or operators who hold a license issued under section 188-44 may use nets of smaller mesh to take young mullet or pua for stocking their fish ponds,
- (3) Commercial marine licensees who hold a license issued under section 188-45 may use nets of smaller mesh to take nehu, iao, marquesan sardine, or any other species for which an open season may be declared by the department of land and natural resources for use as bait,
- (4) All persons may use nets of smaller mesh to take shrimp or opae, opelu, makiawa, or mikiawa,
- (5) Aquarium fish collectors with a valid aquarium fish permit issued by the department pursuant to section 188-31 may use nets of smaller mesh to take aquarium fish in conformance with the conditions of the permit, [and]
- (6) All persons may use a net with mesh of not less than one and one-half inches to take akule; provided that no akule measuring less than eight and one-half inches in total length from the tip of the snout to the tip of the tail shall be taken with a net during the months of July, August, September, and October[.], and
- (7) For the purposes of measuring the length of a trap under this section, the length of a bullpen trap described under section 188-28.5 shall include and be measured as the length of the material utilized to guide aquatic life into the receptacle or length of the receptacle itself.”

SECTION 3. Section 237-34, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) All tax returns and return information required to be filed under this chapter, and the report of any investigation of the return or of the subject matter of the return, shall be confidential. It shall be unlawful for any person or any officer or employee of the State to intentionally make known information imparted by any tax return or return information filed pursuant to this chapter, or any report of any investigation of the return or of the subject matter of the return or to wilfully permit any such return, return information, or report so made, or any copy thereof, to be seen or examined by any person; provided that for tax purposes only the taxpayer, the taxpayer’s authorized agent, or persons

with a material interest in the return, return information, or report may examine them. Unless otherwise provided by law, persons with a material interest in the return, return information, or report shall include:

- (1) Trustees;
  - (2) Partners;
  - (3) Persons named in a board resolution or a one per cent shareholder in case of a corporate return;
  - (4) The person authorized to act for a corporation in dissolution;
  - (5) The shareholder of a [subchapter] S corporation;
  - (6) The personal representative, trustee, heir, or beneficiary of an estate or trust in case of the estate's or decedent's return;
  - (7) The committee, trustee, or guardian of any person in paragraphs (1) to (6) who is incompetent;
  - (8) The trustee in bankruptcy or receiver, and the attorney-in-fact of any person in paragraphs (1) to (7);
  - (9) Persons duly authorized by the State in connection with their official duties;
  - (10) Any duly accredited tax official of the United States or of any state or territory; and
  - (11) The Multistate Tax Commission or its authorized representative.
- Any violation of this subsection shall be a misdemeanor.”

SECTION 4. Section 269-1, Hawaii Revised Statutes, is amended by amending the definition of “public utility” to read as follows:

““Public utility” means and includes every person who may own, control, operate, or manage as owner, lessee, trustee, receiver, or otherwise, whether under a franchise, charter, license, articles of association, or otherwise, any plant or equipment, or any part thereof, directly or indirectly for public use, for the transportation of passengers or freight, or the conveyance or transmission of telephone or telegraph messages, or the furnishing of facilities for the transmission of intelligence by electricity by land or water or air within the State, or between points within the State, or for the production, conveyance, transmission, delivery, or furnishing of light, power, heat, cold, water, gas, or oil, or for the storage or warehousing of goods, or the disposal of sewage; provided that the term [(1) means]:

- (1) Means and includes any person, insofar as such person owns or operates a private sewer company or sewer facility;
- (2) [shall] Shall not include any person insofar as such person owns or operates an aerial transportation enterprise;
- (3) [shall] Shall not include persons owning or operating taxicabs, as defined herein;

- (4) [shall] Shall not include common carriers transporting only freight on the public highways, unless operating within localities or along routes or between points which the public utilities commission finds to be inadequately serviced without regulation under this chapter;
- (5) [shall] Shall not include persons engaged in the business of warehousing or storage unless the commission finds that regulation thereof is necessary in the public interest;
- (6) [shall] Shall not include the business of any carrier by water to the extent that such carrier enters into private contracts for towage, salvage, hauling, or carriage between points within the State and the carriage is not pursuant to either an established schedule or an undertaking to perform carriage services on behalf of the public generally, and also shall not include the business of any carrier by water, substantially engaged in interstate or foreign commerce, transporting passengers on luxury cruises between points within the State or on luxury round-trip cruises returning to the point of departure; and
- (7) [shall] Shall not include any person [which] who (A) controls, operates, or manages plants or facilities for production, transmission, or furnishing of power primarily or entirely from non-fossil fuel sources, and (B) provides, sells, or transmits all of such power, except such power as is used in its own internal operations, directly to a public utility for transmission to the public.

In the event the application of this chapter is ordered by the commission in any case provided in [(3)] paragraphs (4) and [(4)] (5) the business of any public utility which presents evidence of bona fide operation on the date of the commencement of the proceedings resulting in the order shall be presumed to be necessary to public convenience and necessity, but any certificate issued under this proviso shall nevertheless be subject to such terms and conditions as the commission may prescribe, as provided in section 269-20.”

SECTION 5. Section 346-29, Hawaii Revised Statutes, is amended to read as follows:

“**§346-29 Applications for public assistance; manner, form, conditions.** Applications for public assistance under this chapter shall be made by the applicant, or by someone acting in the applicant’s behalf, in the manner, place, and form prescribed by the department.

No applicant shall be entitled to public assistance under this chapter who has sufficient income or other resources to provide a standard above that provided in this chapter, or who is an inmate of any public institution as long as the Social Security Act precludes the use of federal funds to provide public assistance to an inmate of such an institution, but an inmate of such an

institution mentioned in this section may apply for assistance to begin after [his] the inmate's discharge from the institution. In determining the needs of an applicant or recipient for public assistance by the department, the department:

- (1) Shall disregard such amounts of earned or unearned income and resources as required by the Social Security Act or other federal acts, to receive federal matching funds and may disregard such additional amounts as these acts permit, now or in the future, to be disregarded.
- (2) Shall consider as net income in all cases such income as the Social Security Act or other federal acts may require the department to consider for receipt of federal matching funds and may consider such additional income and resources as these acts may permit, now or in the future, to be considered.
- (3) Shall disregard a total in liquid assets equal to the maximum possible financial assistance by family size multiplied by a factor of 1.5 and rounded to the nearest \$5 in determining the needs of persons for [money payments;] financial assistance; provided that the amount to be disregarded, shall not exceed standards under federally funded financial assistance programs. This provision shall apply to the general assistance program but shall not apply to persons eligible for federal supplemental security income benefits. In determining the needs of such persons, the department shall apply the eligibility requirements under the federal supplemental security income program.
- (4) Shall disregard a total of at least \$1,500 in liquid assets in determining the needs of a single person for medical assistance only.
- (5) Shall disregard a total of at least \$2,250 in liquid assets in determining the needs of a family of two persons for medical assistance only and an additional \$250 for each additional person included in an application for medical assistance only.

In determining eligibility for medical assistance, the department shall require from all applicants and recipients the assignment of any benefits due to a third party liability. Any rights or amounts so assigned shall be applied against the cost of medical care paid under this chapter.

The director shall adopt rules pursuant to chapter 91 defining "liquid assets" and to determine eligibility for medical assistance; provided that the cash surrender value of life insurance policies owned by persons included in an application shall be treated as liquid assets."

SECTION 6. Section 409-28, Hawaii Revised Statutes, is amended to read as follows:

**“§409-28 Refusal to testify; contempt.** Whenever a witness summoned or appearing before the [deputy] bank examiner or any person or persons duly designated by [him,] the bank examiner, as in section 409-24 provided, fails or refuses to testify or to produce any books, papers, or other documents relating to any matter under inquiry before the [deputy] bank examiner or any such person or persons, the [deputy] bank examiner shall report the matter in writing to any circuit judge of the circuit in which the hearing or examination is held, and the witness shall be cited to appear before the circuit judge and be required to testify or to produce the books, papers, or other documents. If the witness refuses to testify or to produce the books, papers, or other documents when so cited by the circuit judge [he] the witness shall be cited to appear before the judge and be required to show cause why [he] the witness should not be punished for contempt of court, as provided in [chapter 729,] section 710-1077, and be subject to all penalties thereunder.”

SECTION 7. Section 442-10, Hawaii Revised Statutes, is amended to read as follows:

**“§442-10 Proceedings for revocation or suspension of license. (a)** In any proceeding for the revocation or suspension of a license under this chapter for any act or condition listed in section 442-9, the person whose license is sought to be revoked or suspended shall be given notice and opportunity for hearing in conformity with chapter 91.

In any such proceeding, the board may subpoena, administer oaths to, and examine witnesses on any relevant matter in such proceeding. The person whose license is sought in such proceeding to be revoked or suspended shall be entitled to require the board or any member thereof to subpoena and to administer oaths to any witness or witnesses who may be able to present evidence relevant in such proceeding, and shall be entitled to examine any such witness and any other witness in such proceeding. The circuit court of the circuit in which the proceeding is held shall have power to enforce by proper proceeding the attendance and testimony of witnesses in such proceeding.

**(b)** If any person called before the board as a witness in such proceeding, whether under subpoena or otherwise, except as privileged by law, refuses to answer any question which is relevant to the proceeding and is put to [him] the witness by the board, a member thereof, or the person whose license is sought to be revoked or suspended in such proceeding, or disobeys any order of the circuit court relating to the proceeding, the board shall report the matter in writing to any judge of the circuit court of the circuit in which such proceeding is held and such person shall be cited to appear before the circuit judge to show cause why [he] the person should not be punished for contempt of court under [chapter 729,] section 710-1077.

(c) Any person who wilfully and knowingly makes under oath any false statement in connection with any such proceeding before the board shall be guilty of perjury and shall be subject to the penalty prescribed by law for perjury. Whenever the board is satisfied that a witness has committed perjury in any proceeding before the board, it shall report the same to the prosecuting officer of the county in which the perjury took place, who shall prosecute the witness for perjury.”

SECTION 8. Section 444-25.5, Hawaii Revised Statutes, is amended to read as follows:

“[ [§444-25.5] ] Disclosure. Any licensed contractor entering into a contract involving home improvements shall upon or before signing the contract, but before the application for a building permit:

- (1) Explain verbally in detail to the owner all lien rights of all parties performing under the contract including the homeowner, the contractor, any subcontractor or any materialman supplying commodities or labor on the project.
- (2) Explain verbally in detail the owner’s option to demand bonding on the project, how such a bond would protect the owner and the approximate expense of such a bond.
- (3) Secure signatures of the owner on a separate form approved by the contractors license board, which shall be printed in at least 12 point type and in the same language in which the contract was negotiated and which shall contain the provisions set out in [subsections (a)] paragraphs (1) and [(b).] (2).
- (4) Violation of this section shall be deemed an unfair or deceptive practice and shall be subject to provisions of chapter 480, as well as the provisions of this chapter.
- (5) The contractors license board is authorized and directed to develop the disclosure form pursuant to this section.”

SECTION 9. Section 460-14, Hawaii Revised Statutes, is amended to read as follows:

“**§460-14 Notice of charges; hearing.** (a) In any proceedings before the board for the revocation or suspension of a license under this chapter, upon any of the grounds listed in section 460-12, the person whose license is sought to be revoked or suspended shall be given, pursuant to chapter 91, reasonable written notice of the charge or charges upon which the proceeding is based and of the time and place where a hearing will be held and shall be given reasonable opportunity to be heard and present evidence in the person’s defense.

In the proceeding, the board may subpoena, administer oaths to, and examine witnesses on any relevant matter in the proceeding. The person whose

license is sought in the proceeding to be revoked or suspended shall be entitled to require the board or any member thereof to subpoena and to administer oaths to any witness or witnesses who may be able to present evidence relevant in the proceeding, and shall be entitled to examine the witness and any other witness in the proceeding. The circuit court of the circuit in which the proceeding is held shall have power to enforce by proper proceeding the attendance and testimony of witnesses in the proceeding.

(b) If any person called before the board as a witness in the proceeding, whether under subpoena or otherwise, except as privileged by law, refuses to answer any question which is relevant to the proceeding and is put to the person by the board, a member thereof, or the person whose license is sought to be revoked or suspended in the proceeding, or disobeys any order of the circuit court relating to the proceeding, the board shall report the matter in writing to any judge of the circuit court of the circuit in which the proceeding is held and the person shall be cited to appear before the circuit judge to show cause why the person should not be punished for contempt of court under [chapter 729.] section 710-1077.

(c) Any person who wilfully and knowingly makes, under oath, any false statement in connection with any proceeding before the board shall be guilty of perjury and shall be subject to the penalty prescribed by law for perjury. Whenever the board is satisfied that a witness has committed perjury in any proceeding before the board, it shall report the same to the prosecuting officer of the county in which the perjury took place, who shall prosecute the witness for perjury.”

SECTION 10. Section 465-13, Hawaii Revised Statutes, is amended to read as follows:

“**§465-13 Denial, suspension, revocation of license, or probation of a license holder.** The board of certification for practicing psychologists shall refuse to grant a license to any applicant and may revoke or suspend any [certificate,] license, or may place a license, or may put a license holder on conditional probation, upon any of the following grounds:

- (1) Professional misconduct or gross carelessness or manifest incapacity in the practice of psychology;
- (2) Habitual use of narcotic drugs or any other substance which impairs the intellect and judgment to such an extent as to incapacitate the applicant or license holder for the practice of psychology;
- (3) Habitual drunkenness;
- (4) Violation of this chapter by the applicant within one year of the application, or violation of this chapter by a license holder any time the license is valid;



- (5) Any unethical practice of psychology as defined by the board in accordance with its own rules.”

SECTION 11. Section 554-4, Hawaii Revised Statutes, is amended to read as follows:

“§554-4 Annual account; trustees to file. Every trustee acting under appointment of any court or under any appointment requiring the approval of any court, shall, except in cases where the prior trustee, if any, was not required by statute or the instrument creating the trust or appointing the trustee to file such an account, file annually with the court having jurisdiction thereof an account showing in detail all [his] receipts and disbursements, together with a full and detailed inventory of all property in [his] the trustee’s possession or under [his] the trustee’s control; provided that the court in cases in which it deems it advisable in the interests of the beneficiaries may permit the accounts to be filed biennially or triennially instead of annually or, if they are filed annually, may permit them to accumulate to be passed upon biennially or triennially; and provided further that the court on its own examination or that of its clerk, shall, without reference to a master, pass upon the accounts in cases in which the annual income does not exceed \$1,000, except in the case of a final account when the court may refer the same to a master, irrespective of the amount of the annual income, if for any reason it is deemed proper or necessary. If any such trustee fails to file [his] an account as herein required, the clerk of the court in which the trustee is required to file the account, shall notify [him] the trustee promptly of such failure, and, if the trustee fails to file [his] the account within thirty days after such notification, [he] the trustee shall be cited to appear before the court and be required to show cause why [he] the trustee should not be punished for contempt of court as provided by [chapter 729] section 710-1077 and [he] the trustee shall be subject to all of the penalties in such [chapter] section provided. The court may also, in its discretion, remove any such trustee.

Unless otherwise required by the instrument creating the trust, nothing [herein] in this section shall be construed to require the filing of an annual account by a trustee or trustees appointed by the court as additional trustee or trustees to serve with or in the place and stead of a trustee or trustees appointed in the instrument creating a trust, nor by a trustee whose appointment is made in accordance with or pursuant to the instrument creating the trust where such appointment has been confirmed by any court in proceedings brought to secure the confirmation or approval thereof. This provision applies to trusts existing on May 13, 1935, and appointments made thereunder as well as to future trusts.”

SECTION 12. Chapter 846, Hawaii Revised Statutes, is amended by amending the title to read as follows:

**“HAWAII CRIMINAL JUSTICE DATA CENTER;  
CIVIL IDENTIFICATION”**

SECTION 13. Section 846-32, Hawaii Revised Statutes, is amended to read as follows:

**“§846-32 Correction or alteration of records and certificates in cases of error or subsequent changes concerning names, citizenship, description, etc. (a)** If, after registration, the name of any registrant is legally changed by marriage, divorce, adoption, legitimation, order of the lieutenant governor, or other legal means, or if there is a change in the registrant’s citizenship status, the registrant or other person in charge of the registrant (in the case of a minor or incompetent person), within thirty days after the change of name or citizenship status,  shall  report the change and present the registrant’s certificate of identification to the department of the attorney general and pay to the department a fee of \$6 (which fee, however, may be waived by the department in cases of extreme hardship). The department, upon being satisfied as to the change and receiving payment of the fee, shall cancel the certificate and issue a new certificate bearing the new name or citizenship status of the registrant, making appropriate notation of the facts upon the records of the department.

**(b)** If any error has been made in any item of information contained in the records of the department or the certificate of identification concerning any registrant, the department, of its own motion, or upon application by the registrant, and upon receipt of evidence satisfactory to it that error has been committed, with the approval of the attorney general or the attorney general’s specially authorized representatives, may correct the error and, in such case, shall make appropriate changes or notations stating the error and the correct information upon the records of the department and the certificate of identification.

**(c)** In case any item of personal information originally correct with respect to any registrant shall change after registration, the change, if material, may be registered by the department and the records and certificate of identification may be altered to conform thereto, upon receipt by the department of satisfactory evidence as to the change and the approval of the attorney general or the attorney general’s specially authorized representative and the payment of a fee of \$6 (which fee, however, may be waived by the department in cases of extreme hardship).”

SECTION 14. This Act shall be amended to conform to all other acts passed by the legislature during this Regular Session of 1984, whether enacted before or after the effective date of this Act, unless such other acts specifically provided otherwise.

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**SECTION 15.** Statutory material to be repealed is bracketed. New material is underscored.

**SECTION 16.** This Act shall take effect upon its approval.

(Approved May 9, 1984.)