

## ACT 265

H.B. NO. 839

A Bill for an Act Relating to Consumer Protection.

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

SECTION 1. Section 485-1, Hawaii Revised Statutes, is amended by amending the definition of "investment adviser" to read as follows:

"(6) "Investment adviser" means any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities. "Investment adviser" does not include (A) a bank, savings institution, or trust company; (B) a lawyer, accountant, engineer, or teacher whose performance of these services is solely incidental to the practice of his profession; (C) a dealer whose performance of these services is solely incidental to the conduct of his business as a dealer and who receives no special compensation for them; (D) a publisher of any bona fide newspaper, news magazine, or business or<sup>1</sup> financial publication of general, regular, and paid circulation; (E) a person whose advice, analyses, or reports relate only to securities exempted by section 485-4(1); (F) a person who has no place of business in this State if (i) his only clients in this State are other investment advisers, dealers, banks, savings institutions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees, or (ii) during any period of twelve consecutive months he does not direct business communications into this State in any manner to more than five clients other than those specified in clause (i), whether or not he or any of the persons to whom the communications are directed is then present in this State;

(G) a person who is employed by a mutual fund which is registered with the Securities and Exchange Commission; (H) a person who (i) is registered with the United States Securities and Exchange Commission under the Investment Advisers Act of 1940, (ii) does not have custody of any client money, securities, or other assets, (iii) does not collect fees from clients more than six months in advance of the end of the period for which such fees are intended to compensate the person for his services, (iv) has discretionary authority over client money, securities, or other assets only to invest in securities in which the person has no ownership interest or is considered to have an ownership interest, and (v) does not advise a client whose money, securities, and other assets under management by such person have a market value of less than \$250,000 per each separate account under management on the date of the inception of the client relationship; or [(H)] (I) such other persons not within the intent of this paragraph as the commissioner may by rule or order designate.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

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

(Approved June 5, 1985.)

**Note**

1. So in original.