

ACT 339

H.B. NO. 2178-86

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 121-15, Hawaii Revised Statutes, is amended to read as follows:

“§121-15 Commissioned and warrant officers; transfer to inactive list, retirement, separation. Officers may be transferred to the inactive or retired lists, or separated from the service as follows:

- (1) An officer may be honorably discharged by reason of resignation, removal of residence from the State, failure to meet or maintain the requirements for federal recognition, or acceptance of an incompatible office.
- (2) An officer who is eligible to be placed on the retired list under federal law, or who has completed the years of service required for retirement under chapter 67 of Title 10, United States Code, may at [his] the officer's request be discharged, or with the approval of the governor be placed on the retired list.
- (3) Any commissioned officer who has served in the same grade in the military service of the State for a continuous period of not less than ten years, upon [his] the commissioned officer's own request, may be honorably discharged or placed on the retired list.
- (4) Any officer who is rendered surplus by the disbandment of [his] the officer's unit, or who changes [his] the officer's residence within the State and is unable to serve with the unit to which [he] the officer was assigned, shall be absorbed in another unit of the army or air national guard, or if there be no such other available unit the officer shall be transferred to an inactive status as authorized by the secretary of the army or of the air force, and may be ordered to perform appropriate duties.
- (5) At any time the moral character, capacity, and general fitness for the service of any officer may be investigated and determined by an efficiency board of three commissioned or warrant officers, senior in rank to [him] the officer if possible, to be appointed by the governor. The investigation shall be thorough and impartial, and may include misconduct in civil life for which the officer is not amenable to trial by court-martial. If the findings are unfavorable to the officer and are approved by the governor, the officer shall be discharged.
- (6) At any time the physical fitness for the service of any officer [may], upon order of the governor, may be investigated and determined by a board of not less than three commissioned officers, not less than two of whom shall be medical officers. If the board reports the officer to be physically unable to perform the duties of [his] the officer's office, and the report is approved by the governor, the officer may be discharged or placed on the retired list.
- (7) Any officer who is under sentence of imprisonment by a civil court for any offense involving moral turpitude, whether suspended or not, or who has been absent without leave for three months, or who

refuses or neglects to report before the board [as] provided in [paragraphs] paragraph (5) or (6) within a period of three months from the time [he] the officer is ordered to report before the board may be discharged with the approval of the governor.

- (8) Upon the approval by the governor of a sentence of dismissal rendered by a court-martial, the officer shall be dismissed.”

SECTION 2. Section 121-40, Hawaii Revised Statutes, is amended to read as follows:

“§121-40 Pay of enlisted [men] personnel while on active duty. Enlisted personnel of the army and air national guard while on active duty in the service of the State, except during periods of annual field training or year-round field training, shall receive the same pay and allowances as enlisted personnel of similar rank in the United States army and air force, respectively; provided that the aggregate of the pay and allowances, computed on a daily basis, shall in no event be less than the amount equal to ten times the hourly wage specified in section 387-2.”

SECTION 3. Section 128-6, Hawaii Revised Statutes, is amended to read as follows:

“§128-6 Civil defense powers, in general. The governor may:

- (1) Plans and programs. Prepare comprehensive plans and programs for the civil defense of this State, the plans and programs to be integrated into and coordinated with the civil defense plans of the federal government and of other states to the fullest possible extent; and coordinate the preparation of plans and programs for civil defense by the political subdivisions of the State, the plans to be integrated into and coordinated with the civil defense plans and programs of the State to the fullest possible extent.
- (2) Training[;], public information. Institute training programs and public information programs.
- (3) Direct operational control, when. In the event of disaster or emergency beyond local control, or which in the opinion of the governor is such as to make state operational control necessary, assume direct operational control over all or any part of the civil defense functions within this State.
- (4) Insignia. Provide or authorize suitable insignia of authority for all authorized personnel.
- (5) Registration and blood typing. Provide for:
 - (A) Compulsory registration and identification to the extent that voluntary registration and identification has not been accomplished under chapter [28;] 846, part II; and
 - (B) Compulsory RHo blood typing on females of child bearing age or younger, and such other compulsory blood typing as may be approved by competent medical authority.
- (6) Protection of facilities. Require each public utility, or any person owning, controlling, or operating a vital facility, to protect and safeguard its or [his] the person's property, or to provide for the protection and safeguarding; and provide for the protection and safeguarding of all public properties, or such other properties as the governor may consider advisable; provided that, without prejudice to the generality of the foregoing two clauses, the protecting and safeguarding may include the regulation or prohibition of public

- entry thereon, or the permission of the entry upon such terms and conditions as [he] the governor may prescribe.
- (7) Explosives, etc. Whenever in [his] the governor's opinion the laws of the State do not adequately provide for the common defense, public health, safety, and welfare, investigate, regulate, or prohibit the storage, transportation, use, possession, maintenance, furnishing, sale, or distribution of, as well as any transaction related to, explosives, firearms, and ammunition (including the power to require the [re-registration] reregistration of firearms), inflammable materials and other objects, implements, substances, businesses, or services of a hazardous or dangerous character, or particularly capable of misuse by disloyal persons or the enemy, or obstructive of or tending to obstruct military operations or civil defense, including, without limitation, intoxicating liquor and the liquor business; and authorize the seizure and forfeiture of any such objects, implements, or substances unlawfully possessed, as provided in section 128-28.
- (8) Air raid drills, etc. Direct or control, as may be necessary for civil defense[.];
- (A) Air raid drills, and other alerts, tests, and exercises[.];
- (B) Blackouts and practice blackouts[.];
- (C) Partial or full mobilization of civil defense organizations in advance of actual disaster[.];
- (D) Warnings and signals for drills, alerts, or attacks, and the mechanical devices to be used in connection therewith[.];
- (E) Shutting off water mains, gas mains, electric power connections, or suspension of other services; and to the extent permitted by or under federal law, suspension of radio transmission[.];
- (F) The conduct of civilians and the movement and cessation of movement of pedestrians and vehicular traffic during, before, and after blackouts, drills, alerts, or attacks[.];
- (G) Traffic control[.];
- (H) The congregation of the public in stricken or danger areas or under dangerous conditions[, and]; and
- (I) The evacuation and reception of the civilian population, provided[,] that only during a civil defense emergency period shall there be instituted under this paragraph mandatory or prohibitory requirements having the force and effect of law."

SECTION 4. Section 128-8, Hawaii Revised Statutes, is amended to read as follows:

"§128-8 Additional powers in a civil defense emergency period. The governor [may], in the event of a civil defense emergency period, may exercise the following additional powers pertaining to civil defense:

- (1) Protective devices, shelters, first aid stations.
- (A) Require that persons provide themselves with protective devices[.];
- (B) Require the installation or provision of protective devices and shelters in or appurtenant to dwellings, hotels, factories, and other places of business, office buildings, hospitals, schools, and theaters, and other places where the public congregate[, and]; and

- (C) Require the installation or provision of first aid stations with the necessary materials and personnel in or appurtenant to hotels, factories, and other places of business, office buildings, schools, and theaters, and other places where the public congregate.
- (2) Quarantine, immunization, etc., nuisances. Provide for and require the quarantine or segregation of persons who are affected with any infectious, communicable, or other disease dangerous to the public health and safety, or persons who are the source of other contamination, in any case where in [his] the governor's opinion the existing laws are not adequate to assure the public health and safety; provide for the care and treatment of the persons; supplement the provisions of sections [325-31] 325-32 to 325-37 concerning compulsory immunization of persons against disease and institute additional compulsory immunization programs; provide for the isolation or closing of property which is a source of contamination or is in a dangerous condition in any case where, in [his] the governor's opinion, the existing laws are not adequate to assure the public health and safety, and designate as public nuisances acts, practices, conduct, or conditions which are dangerous to the public health or safety or to property; authorize that public nuisances be summarily abated, and if need be that the property be destroyed, by any police officer or authorized person, or provide for the cleansing or repair of property, and if the cleansing or repair is to be at the expense of the owner, the procedure therefor shall follow as nearly as may be the provisions of section 322-2, which are made applicable; further, authorize without the permission of the owners or occupants, entry on private premises for any of such purposes.
 - (3) Police and fire departments. Summarily remove or suspend, any other law to the contrary notwithstanding, any member of a police commission, chief of police, chief of a fire department, police officer, or firefighter.
 - (4) Suspension of laws. Suspend any law which impedes or tends to impede or be detrimental to the expeditious and efficient execution of, or to conflict with, civil defense or other emergency functions, including without limitation, laws which by this chapter specifically are made applicable to civil defense personnel."

SECTION 5. Section 128-23, Hawaii Revised Statutes, is amended to read as follows:

"§128-23 Determination of compensation. Whenever the governor requisitions and takes over any property or the temporary use thereof, the owner, or other person entitled thereto, shall be paid as compensation for the property or use, such sum as the governor determines to be fair and just, within twenty days after it has been requisitioned and taken; provided[,] that the compensation for temporary use may be paid in monthly or lesser installments. If any person is unwilling to accept, as full and complete compensation for the property or use, the sum determined by the governor, the person shall be paid seventy-five per cent of the sum determined by the governor, and shall be entitled to sue the State for such additional sum as, when added to the sum already received by the person, the person may consider fair and just compensation for such property or use, in the manner provided by chapter 661; provided[,] that the suit is instituted within two years after the requisition in the case of the taking of real property in

fee simple, or within one year after the requisition in all other cases, subject, to [the provisions of] sections 657-13 to [657-16] 657-15 which are hereby made applicable to such a suit; except that no more than six months shall be allowed for the bringing of a suit after the appointment of a guardian of the property of the person under disability, or the removal of the disability, or after the appointment of personal representatives; provided[,] further[,] that recovery shall be confined to the fair market value of the property or its fair rental value, as the case may be, without any allowance for prospective profits, punitive or other damages. Whenever the owner of property, or other person entitled to compensation on account of the requisitioning of property or the use thereof, is under a disability, or has died, and no guardian, or personal representative has been appointed, the State acting through the attorney general, may apply for the appointment of a guardian of the property of the person, or for the appointment of a personal representative.”

SECTION 6. Section 134-7, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) No person who:

- (1) Is or has been under treatment for addiction to any dangerous, harmful, or detrimental drug, intoxicating compound as defined in section 712-1240, or intoxicating liquor;
- (2) Has been committed pursuant to [section 333-27, 333-35, or 333-35.5;] sections 333-42.5 and 333-43.5;
- (3) Has been admitted to and detained at a psychiatric facility pursuant to chapter 334, part IV or V;
- (4) Has been acquitted of a crime on the grounds of mental disease, disorder, or defect pursuant to section 704-411; or
- (5) Is or has been under treatment for significant [behaviorial,] behavioral, emotional, or mental disorders as defined by the most current diagnostic manual of the American Psychiatric Association or for treatment for organic brain syndromes;

shall own, possess, or control any firearm or ammunition therefor, unless the person has been medically documented to have been cured of the addiction, mental disease, disorder, or defect.”

SECTION 7. Section 141-7, Hawaii Revised Statutes, is amended to read as follows:

“§141-7 **General penalty.** Any person violating any of the provisions of chapters 141, 142, and 144 to [151,] 149A, for which violation a penalty is not otherwise provided, or violating any rule or regulation of the department of agriculture, and any master of any vessel which brings into the State any article which the department [shall] at any time shall prohibit from being imported into the State; and the master of any vessel from which is landed any article required in chapters 141, 142, and 144 to [151] 149A to be inspected, before [he] the master has received a permit to land the articles from the department or its officer or inspector, as provided by chapters 141, 142, and 144 to [151,] 149A, shall be fined not more than \$500.”

SECTION 8. Section 149A-18, Hawaii Revised Statutes, is amended to read as follows:

“§149A-18 **Denial, suspension, or revocation of [[]permit[]].** The department may deny issuance of a [[]permit[]] to sell a restricted pesticide for reasonable cause. Any [[]permit[]] issued pursuant to regulations adopted

under section 149A-17 may be suspended or revoked by the department after due hearing, for violation of any condition of the permit, or of any law or regulation pertaining to the sale of pesticides.

Any order made by the department for the suspension or revocation of a permit shall be in writing and shall set forth the reasons for the suspension or revocation.

The action of the department in suspending or in revoking a permit may be reviewed in the manner provided by chapter 91.”

SECTION 9. Section 149A-31, Hawaii Revised Statutes, is amended to read as follows:

“[] §149A-31 [] **Prohibited acts.** No person shall:

- (1) Use any licensed pesticide in a manner inconsistent with its label;
- (2) Use, store, transport, or discard any pesticide or the containers of such pesticide in any manner which would have unreasonable adverse effect on the environment;
- (3) Use or apply restricted pesticides unless the person is a certified pesticide applicator or under the direct supervision of a certified pesticide applicator with a valid certificate issued pursuant to regulations adopted under section 149A-33(1);
- (4) Use or apply pesticides in any manner that has been [banned] suspended, canceled, or restricted pursuant to section [149A-32; or] 149A-32.5; or
- (5) Falsify any record or report required to be made or maintained by regulations adopted pursuant to this chapter.”

SECTION 10. Section 183-21, Hawaii Revised Statutes, is amended to read as follows:

“§183-21 **Penalties.** Any person who receives actual notice from the department of land and natural resources that one or more cattle belonging to such person have been found to be and are running on any forest reservation [as defined] referred to in section 183-19, excepting in the case of the owner of the land, and who fails or neglects within ten days after the receipt of the notice to remove the cattle from any reservation, or to shoot or destroy the [same,] cattle, shall be fined \$10 for each animal belonging to the person thereafter found on any forest reservation and proven to have been running thereon at the time of the service of the notice. If any cattle as to which notice has been served on the owner, [shall,] after the expiration of the ten days’ notice, shall not be [not] removed and shall be found running on any forest reservation, the department may remove, shoot, or destroy the [same] cattle without compensation to the owner. All cattle found running on any forest reservation shall be deemed prima facie to be the property of the person whose brand if any they bear.”

SECTION 11. Section 188-34, Hawaii Revised Statutes, is amended to read as follows:

“§188-34 **Fishing in Honolulu harbor, Hilo bay, restricted.** It is unlawful to take or kill fish by means of any draw, drag, or seine net in the waters of the harbor of Honolulu; provided that commercial marine licensees as defined in chapter [187] 187A may take bait fish by means of any draw, drag, or seine net during periods scheduled by the harbor master.

It is unlawful except for commercial marine licensees taking bait fish, or persons using their catch solely for home consumption, to take or kill fish by means of any draw, drag, or seine net in the waters of that portion of the bay of

Hilo bounded by the breakwater, a line from the outer end of the breakwater to Alealea Point, and the shoreline from Alealea Point to the inshore end of the breakwater.”

SECTION 12. Section 188-45, Hawaii Revised Statutes, is amended to read as follows:

“§188-45 **Nehu and iao, taking prohibited; exceptions.** It is unlawful for any person to fish for, catch, or take in or from any of the waters within the jurisdiction of the State any nehu or iao; provided that any person may lawfully catch nehu for [his] the person’s family consumption or bait purposes with a net not longer than fifty feet; and provided further that the department of land and natural resources may issue to commercial marine licensees, as defined in chapter [187] 187A, licenses to take nehu, iao, or any other species for which an open season may be declared by the department for use as bait only; provided that nehu may be taken by any licensed commercial marine licensee only if employed on a live-bait tuna boat and only if the licensee’s principal means of livelihood is derived from tuna fishing and the sale of tuna, and the nehu is not sold to others. The licenses may be issued by the department upon terms and conditions the department may deem necessary to conserve the supply of the fish within state waters. The license may be summarily revoked for a violation of any term or condition thereof, and any or all licenses may be revoked summarily whenever, in the judgment of the department, the action is necessary for the conservation of the fish.

Any person whose license has been revoked for violation of the terms and conditions of the person’s license shall not be eligible for another license until the expiration of one year from the date of revocation.”

SECTION 13. Section 207-15, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) In giving notice of and conducting hearings, and in making and entering orders, pursuant to subsection (a), the director shall have all of the powers conferred upon [him] the director as the insurance commissioner by, and shall observe and comply with, and the hearings shall be conducted at the time or times and in the manner specified in, and subject in all respects to, sections 431-51 [to], 431-53, 431-60 (exclusive of subsection (c) of section 431-60), and 431-62 to 431-67. Appeals from orders made and entered pursuant to subsection (a) [of this section] may be taken at the time and in the manner and to the courts provided in, and shall in all respects be subject to sections 431-68 to 431-71, [section] 431-72(a) and (b), and [section] 431-73.”

SECTION 14. Section 209-17, Hawaii Revised Statutes, is amended to read as follows:

“§209-17 **Use of funds in relation to federal projects.** The funds allocated to this part shall be expended by the Hawaii housing authority for the designated purpose under [chapters] chapter 356[, 358,] or 359, only upon the finding that the public housing project found necessary does not qualify for federal aid or participation.”

SECTION 15. Section 220-1, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) For the purposes of this section, “aquaculture” means all activities as defined in section 219-2, when carried out by a qualified [aquaculturist] aquaculturalist as defined by section 219-2.”

SECTION 16. Section 222-2, Hawaii Revised Statutes, is amended to read as follows:

“§222-2 Duties of the center. The center shall:

- (1) Serve as a research arm of the commission on the year 2000, the commission on [manpower and full employment,] employment and human resources, and such other public agencies as may properly require its services and assistance in locating research experts for particular studies and in working out the dimensions and contractual arrangements for such studies, the costs and final decisions of which shall be the responsibility of the requesting agencies.
- (2) Encourage and promote invention and experimentation in futures study, planning, and design.
- (3) Maintain an inventory of studies, research, and other information, including groups or persons concerned with futures study, planning, and design applicable to the State.
- (4) Engage in the development and acquisition of models, techniques, and other tools, and capability for the effective monitoring, measuring, and forecasting of crucial aspects of Hawaii’s socio-economic environmental system over the immediate, intermediate, and long range future, including the design of systems to assist and stabilize the State’s construction industry.”

SECTION 17. Section 232-13, Hawaii Revised Statutes, is amended to read as follows:

“§232-13 Hearing de novo; bill of particulars. The hearing before the tax appeal court shall be a hearing de novo. Irrespective of which party prevails in the board of review the assessment as made by the assessor, or if increased by the board, the assessment as so increased, shall be deemed prima facie correct. Each party shall have the right to introduce, or the tax appeal court [may], of its own motion, may require the taking of such evidence in relation to the subject pending as in the court’s discretion may be deemed proper. The court [shall], in the manner provided in section [232-8,] 232-16, shall determine all questions of fact and all questions of law, including constitutional questions, involved in the appeal.

The jurisdiction of the tax appeal court is limited to the amount of valuation or taxes, as the case may be, in dispute as shown on the one hand by the amount claimed by the taxpayer or county and on the other hand by the amount of the assessment, or if increased by the board the assessment as so increased.

Assessments for the same year upon other similar property situated in the State shall be receivable in evidence upon the hearing.

Upon the application of either the taxpayer, the county, or the assessor, the judge of the tax appeal court, upon notice, may allow and direct a bill of particulars of the claim of either the taxpayer, the county, or the assessor to be delivered to the other, and in case of default the judge shall preclude the person so defaulting from giving evidence of the part or parts of [his] the person’s affirmative claim of which particulars have not been delivered.”

SECTION 18. Section 235-12, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Each individual and corporate resident taxpayer who files an individual or corporate net income tax return for a taxable year, may claim a tax credit under this section against the Hawaii [State] state individual or corporate

net income tax. The tax credit may be claimed for any solar or wind energy device or heat pump in an amount not to exceed ten per cent of the total cost of the device or heat pump; provided that the tax credit shall apply only to the actual cost of the solar or wind energy device or the heat pump, their accessories, and installation and shall not include the cost of consumer incentive premiums unrelated to the operation of the solar or wind energy device or the heat pump offered with the sale of the solar or wind energy device or the heat pump. The credit shall be claimed against net income tax liability for the year in which the solar or wind energy device or the heat pump was purchased and placed in use; provided the tax credit shall be applicable only with respect to solar devices, which are erected and placed in service after December [12,] 31, 1974, but before December 31, 1992; provided further that in the case of wind energy devices and heat pumps, the tax credit shall be applicable only with respect to wind energy devices and heat pumps which are installed and placed in service after December 31, 1980, but before December 31, 1992. Tax credits which exceed the taxpayer's income tax liability may be used as a credit against [his] the taxpayer's income tax liability in subsequent years until exhausted. If federal energy tax credits are not extended beyond December 31, 1985, the state tax credit shall be increased to fifteen per cent of the total cost from the time of expiration of the federal tax credit to December 31, 1992."

SECTION 19. Section 241-6, Hawaii Revised Statutes, is amended to read as follows:

"§241-6 Chapter 235 applicable. All of the provisions of chapter 235 not inconsistent with this chapter, and which may be appropriately applied to the taxes, persons, circumstances, and situations involved in this chapter, including without prejudice to the generality of the foregoing, sections [235-91,] 235-98, 235-99, and 235-101 to 235-118, shall be applicable to the taxes imposed by this chapter, and to the assessment and collection thereof. Any tax refund payable under section 235-110, hereby made applicable to the taxes imposed by this chapter, shall be made in the manner provided in section 231-23(d)."

SECTION 20. Section 246-12, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The approval by the director of the petition to dedicate shall constitute a forfeiture on the part of the owner of any right to change the use of [his] the owner's land to a use other than agriculture for a minimum period of ten years or twenty years as the case may be, automatically renewable indefinitely, subject to cancellation as follows:

- (1) In the case of a ten-year dedication, the owner [may], after the ninth year and years thereafter, may give notice of cancellation by filing with the director, a written notice of cancellation, on or before April 9¹ to be effective as of January 1 of the following [[tax]] year;
- (2) In the case of a twenty-year dedication, the owner [may], during the nineteenth year and years thereafter, may give notice of cancellation as provided by this subsection;
- (3) In the case of a change in major land use classification not as a result of a petition by any property owner or lessee such that the owner's land is placed within an urban district, the dedication may be [cancelled] canceled within sixty days of the change by the owner.

Upon any conveyance or any change in ownership during the period of dedication, the land shall continue to be subject to the terms and conditions of the dedication unless a release has been issued by the director.”

SECTION 21. Section 246-53, Hawaii Revised Statutes, is amended to read as follows:

“§246-53 Remission of taxes on acquisition by government. Whenever any real property is acquired for public purposes by the United States, the State, or any political subdivision thereof, and whenever any government lease or other tenancy shall terminate, the tax assessor and the tax collector of the district in which the property is situated are authorized to remit the taxes due thereon for the balance of the taxation period or year from and after the date of acquisition of the property, or the termination of the government lease or other tenancy, as the case may be.

In case the State or any county takes possession of real property which is the subject of eminent domain proceedings commenced for the acquisition of the fee simple estate in such land by the State or such county, taxes are authorized to be remitted as provided in sections [101-35] 101-36 to 101-39, subject to section 101-39(1).

In case the owner of real property grants to the State or any county thereof a right of entry with respect to such real property, and the State or county enters into possession under the authority of the right of entry with intention to acquire the fee simple estate therein and to devote the real property to public use, the State or such county shall certify to the appropriate tax official the date upon which it took possession, and upon receipt of the certificate the tax official is authorized to remit the real property tax on the parcel of land or portion of a parcel of land so coming into the possession of the State or county for the balance of the taxation period which is subsequent to the date of possession.

In case the United States takes possession of real property which is the subject of eminent domain proceedings commenced for the acquisition of the fee simple estate in such land, taxes are authorized to be remitted for the balance of the taxation period or year after such taking, as provided in this paragraph. The remission shall be allowed conditionally upon the presentation to the director of taxation, or to the tax assessor or tax collector of the district in which the property is situated, of a written notice and agreement, signed by the person, or one or more of the persons, owning the land, stating the date of such taking of possession by the United States, and agreeing that out of the first funds received by such owner or owners from such condemnation there shall be paid sufficient moneys to discharge the lien for any real property taxes existing upon the land prorated up to and including the date of such taking possession of the property; provided that the notice may be accompanied by payment of the prorated amount of taxes in lieu of such agreement. Section 101-39 is hereby made applicable to such land and the owner or owners thereof and to the conditional remission authorized by this paragraph. It is further provided that in the event the prorated taxes up to the time of such taking possession shall not be paid by the owner or by one or more of the owners of the land within ten days after receipt by such owner or owners of the compensation for the condemnation, or within such additional time as shall be allowed by the tax assessor, collector, or director, then the conditional remission of taxes shall be void, and such owner or owners shall be liable for all taxes, penalties, and interest which would have accrued had no such conditional remission been allowed.”

SECTION 22. Section 246-55, Hawaii Revised Statutes, is amended to read as follows:

“§246-55 Tax liens; co-owners’ rights; foreclosure; limitation. Every tax due upon real property, as defined by section 246-1, shall be a paramount lien upon the property assessed, which lien shall attach as of July 1 in each tax year and shall continue for six years. If proceedings for the enforcement or foreclosure of the lien are brought within the applicable period hereinabove designated, the lien shall continue until the termination of the proceedings or the completion of the foreclosure sale.

In case of cotenancy, if one cotenant pays, within the period of the aforesaid government lien, all of the real property taxes, interest, penalties, and other additions to the tax, due and delinquent at the time of payment, [he] the cotenant shall have, pro tanto, a lien on the interest of any noncontributing cotenant upon recording in the bureau of conveyances, within ninety days after the payment so made by the cotenant, a sworn notice setting forth the amount claimed, a brief description of the land affected by tax key or otherwise, sufficient to identify it, the tax year or years, and the name of the cotenant upon whose interest such lien is asserted. When a notice of such tax lien is recorded by a cotenant, the registrar shall forthwith cause the same to be indexed in the general indexes of the bureau of conveyances. In case the land affected is registered in the land court the notice shall also contain a reference to the number of the certificate of title of such land and shall be filed and registered in the office of the assistant registrar of the land court, and the registrar, in [his] the registrar’s capacity as assistant registrar of the land court, shall make a notation of the filing thereof on each land court certificate of title so specified.

The cotenant’s lien shall have the same priority as the lien or liens of the government for the taxes paid by [him,] the cotenant, and may be enforced by an action in the nature of a suit in equity. The lien shall continue for three years after recording or registering, or until termination of the proceedings for enforcement thereof if such proceedings are begun and notice of the pendency thereof is recorded or filed and registered as provided by law, within the period.

The director or [his] the director’s subordinate, in case of a government lien, and the creditor cotenant, in case of a cotenant’s lien, [shall,] at the expense of the debtor, upon payment of the amount of the lien, shall execute and deliver to the debtor a sworn satisfaction thereof, including a reference to the name of the person assessed or cotenant affected as shown in the original notice, the date of filing of the original notice, a description of the land involved, and the number of the certificate of title of such land if registered in the land court, which, when recorded in the bureau of conveyances or filed and registered in the office of the assistant registrar of the land court, [shall,] in the case of a cotenant’s lien, which contains the reference to the book and page of the original lien, shall be entered in the general indexes of the bureau of conveyances, and if a notation of the original notice was made on any land court certificate of title the filing of such satisfaction shall also be noted on the certificate.

This section as to cotenancy shall apply, as well, in any case of ownership by more than one assessable person.

Upon enforcement or foreclosure by the government, in any manner whatsoever, of any such real property tax lien, all taxes of whatsoever nature and howsoever accruing due at the time of the foreclosure sale from the taxpayer against whose property such tax lien is so enforced or foreclosed shall be satisfied as far as possible out of the proceeds of the sale remaining after payment of (1) the costs and expenses of the enforcement and foreclosure including a title search, if any, (2) the amount of subsisting real property tax

liens, and (3) the amount of any recorded liens against the property, in the order of their priority.

The liens may be enforced by action of the tax collector in the circuit court of the judicial circuit in which the property is situate, and jurisdiction is conferred upon the circuit courts to hear and determine all proceedings brought or instituted to enforce and foreclose such tax liens, and the proceedings had before the circuit courts shall be conducted in the same manner and form as ordinary foreclosure proceedings. If the owners or claimants of the property against which a lien is sought to be foreclosed are at the time without the State or cannot be served within the State, or if the owners are unknown, and the fact shall be made to appear by affidavit to the satisfaction of the court, and it shall in like manner appear prima facie that a cause of action exists against such owners or claimants or against the property described in the complaint or that such owners or claimants are necessary or proper parties to the action, the court may grant an order that the service may be made in the manner provided by sections 634-23 to [634-28.] 634-27.

In any such case it shall not be necessary to obtain judgment and have execution issued and returned unsatisfied, before proceeding to foreclose the lien for taxes in the manner herein provided."

SECTION 23. Section 246-63, Hawaii Revised Statutes, is amended to read as follows:

"**§246-63 Disposition of surplus moneys.** The officer charged with the duty of distributing the surplus arising from a tax sale under sections 246-56 to 246-61 shall pay from the surplus all taxes, including interest and penalties, of whatsoever nature and howsoever accruing, as provided in section 246-55, and further [he] the officer may pay from the surplus the cost of a search of any records where such search is deemed advisable by [him] the officer to ascertain the person or persons entitled to the surplus; provided[,] nothing herein contained shall be construed to require the tax collector to make or cause any such search to be made. If the officer is in doubt as to the person or persons entitled to the balance of the fund [he] the officer may refuse to distribute the surplus and any claimant may sue the officer or [his] the officer's successor in office in the circuit court in the circuit within which the property sold was situated. The officer may require the claimants to interplead, in which event [he] the officer shall state the names of all claimants known to [him,] the officer, and shall cause them to be made parties to the action. If in [his] the officer's opinion there may be other claimants who are unknown, the officer may apply for an order or orders joining all persons unknown having or claiming to have any legal or equitable right, title, or interest in the moneys or any part thereof or any lien or other claim with respect thereto.

Any orders of the court or summons in the matter may be served as provided by law or the rules of court, and all persons having any interest in the moneys who are known, including the guardians of such of them as are under legal age or under any other legal disability (and if any one or more of them is under legal age or under other legal disability and without a guardian the court shall appoint a guardian ad litem to represent them therein) shall have notice of the action by personal service upon them. All persons having any interest in the moneys whose names are unknown or who if known do not reside within the State, or for any reason cannot be served with process within the State shall have notice of the action as provided by sections 634-23 to [634-28.] 634-27, except that any publication of summons shall be in at least one newspaper published in the State and having a general circulation in the circuit within which the

property sold was situated, and the form of notice to be published shall provide a brief description of the property which was sold.

All expenses incurred by the officer shall be met out of the surplus moneys realized from the sale.”

SECTION 24. Section 261-7, Hawaii Revised Statutes, is amended to read as follows:

“§261-7 Operation and use privileges. (a) [Under department operation.] In operating an airport or air navigation facility owned or controlled by the department of transportation, or in which it has a right or interest, the department may enter into contracts, leases, licenses, and other arrangements with any person:

- (1) Granting the privilege of using or improving the airport or air navigation facility or any portion or facility thereof or space therein for commercial purposes;
- (2) Conferring the privilege of supplying goods, commodities, things, services, or facilities at the airport or air navigation facility;
- (3) Making available services, facilities, goods, commodities, or other things to be furnished by the department or its agents at the airport or air navigation facility; or
- (4) Granting the use and occupancy on a temporary basis by license or otherwise any portion of the land under its jurisdiction which for the time being may not be required by the department so that it may put the area to economic use and thereby derive revenue therefrom.

All the arrangements shall contain a clause that the land may be repossessed by the department when needed for aeronautics purposes upon giving the tenant temporarily occupying the same not less than thirty days' notice in writing of intention to repossess.

(b) Except as otherwise provided in this section, in each case mentioned in [paragraphs] subsection (a)(1), (2), (3), and (4), the department may establish the terms and conditions of the contract, lease, license, or other arrangement, and may fix the charges, rentals, or fees for the privileges, services, or things granted, conferred, or made available, for the purpose of meeting the expenditures of the statewide system of airports set forth in section 261-5(a), which includes expenditures for capital improvement projects approved by the legislature. Such charges shall be reasonable and uniform for the same class of privilege, service, or thing.

(c) The department shall enter into a contract with no more than one person (“contractor”) for the sale and delivery of in-bond merchandise at Honolulu International Airport, in the manner provided by law. The contract shall confer the right to operate and maintain commercial facilities within the airport for the sale of in-bond merchandise and the right to deliver to the airport in-bond merchandise for sale to departing foreign-bound passengers.

The department shall grant the contract pursuant to the laws of this State and may take into consideration:

- (1) The payment to be made on in-bond merchandise sold at Honolulu International Airport and on in-bond merchandise displayed or sold elsewhere in the State and delivered to the airport;
- (2) The ability of the applicant to comply with all federal and state rules and regulations concerning the sale and delivery of in-bond merchandise; and
- (3) The reputation, experience, and financial capability of the applicant.

The department shall actively supervise the operation of the contractor to insure its effectiveness. The department shall develop and implement such guidelines as it may find necessary and proper to actively supervise the operations of the contractor, and shall include guidelines relating to the department's review of the reasonableness of contractor's price schedules, quality of merchandise, merchandise assortment, operations, and service to customers.

Apart from the contract described [above,] in this subsection, the department shall confer no right upon nor suffer nor allow any person to offer to sell, sell, or deliver in-bond merchandise at Honolulu International Airport; provided that this section shall not prohibit the delivery of in-bond merchandise as cargo to the Honolulu International Airport.

[(b) Under other operation.] (d) The department [may], by contract, lease, or other arrangement, upon a consideration fixed by it, may grant to any qualified person the privilege of operating, as agent of the State or otherwise, any airport owned or controlled by the department; provided that no such person shall be granted any authority to operate the airport other than as a public airport or to enter into any contracts, leases, or other arrangements in connection with the operation of the airport which the department might not have undertaken under subsection (a) [of this section].

[(c) Miscellaneous fees and charges.] (e) The department may fix and regulate, from time to time, reasonable landing fees for aircraft and other reasonable charges for the use and enjoyment of the airports and the services and facilities furnished by the department in connection therewith, including the establishment of a statewide landing fee which may vary among different classes of users such as foreign carriers, domestic carriers, inter-island carriers, air taxi operators, and such other classes as may be determined by the director of transportation, for the purpose of meeting the expenditures of the statewide system of airports set forth in section 261-5(a), which includes expenditures for capital improvement projects approved by the legislature.

[(d) Liens.] (f) To enforce the payment of any charges for repairs or improvements to, or storage or care of any personal property made or furnished by the department or its agent in connection with the operation of an airport or air navigation facility owned or operated by the department, the department shall have liens on the property, which shall be enforceable by it as provided by sections 507-18 to 507-22.

[(e) Buildings and land areas for general aviation activities; developmental rates.] (g) The department [may] from time to time may establish developmental rates for buildings and land areas used exclusively for general aviation activities at rates not less than fifty per cent of the fair market rentals of the buildings and land areas and may restrict the extent of buildings and land areas to be utilized."

SECTION 25. Section 261-33, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) In addition to amounts otherwise authorized by [[sections 261-31 to 261-36,] this section and section 261-32, the director shall make a payment to any individual or family displaced from any dwelling not eligible to receive a payment under subsection (a) [of this section] which dwelling was actually and lawfully occupied by such individual or family for not less than ninety days prior to the first written offer by the department of transportation for acquisition of such property. Such payment, not to exceed \$1,500, shall be the amount which is necessary to enable such person to lease or rent for a period not to exceed two

years, or to make the down payment on the purchase of a decent, safe, and sanitary dwelling of standards adequate to accommodate such individual or family in areas not generally less desirable in regard to public utilities and public and commercial facilities.”

SECTION 26. Section 261-34, Hawaii Revised Statutes, is amended to read as follows:

“**[[]§261-34[]] Not treated as income.** No payment received under [[]sections [261-31 to 261-36]] 261-32 and 261-33 shall be considered as income for purposes of the state income tax law; nor shall such payments be considered as income to any recipient of public assistance, and such payment shall not be deducted from the amount of aid to which the recipient would otherwise be entitled to under the state welfare programs.”

SECTION 27. Section 264-32, Hawaii Revised Statutes, is amended to read as follows:

“**§264-32 Utility facility defined.** The term “utility facility” wherever used in [sections 264-32 to 264-34,] section 264-33 means and includes any of the following: any surface, underground, or overhead water mains, fire hydrants, gas mains, sewer mains, pipes (including fuel oil lines), conduits, [manholes,] utility holes, poles, wires, cables, lines, street lighting structures, or other structures or equipment, and the appurtenances thereto, owned by any privately owned public utility or by any county or by any police department or board of water supply of a county and used in connection with the producing or the furnishing of water, gas, light, electric power, communications, transportation, or other public utility services.”

SECTION 28. Section 271G-3, Hawaii Revised Statutes, is amended to read as follows:

“**[[]§271G-3[]] Administration; governing provisions of other acts.** This chapter shall be administered by the public utilities commission of the State and the provisions of this chapter and of chapter 269, not inconsistent with this chapter, shall govern its administration; provided that sections [269-4, 269-11, and] 269-16 to 269-28 shall not[,] apply in any respect[, apply] to the regulation of water carriers.”

SECTION 29. Section 281-37, Hawaii Revised Statutes, is amended to read as follows:

“**§281-37 Sales of alcohol.** No alcohol shall be sold, bartered, or otherwise furnished by any person whether holding a license to manufacture or sell the same under this chapter or not, except to a person holding a license to resell the same, or to a person holding a purchase permit from the liquor commission to purchase the same.

Permits to purchase alcohol may be issued by the commission, without fee or charge therefor, to any person holding a license under the laws of the State to sell poisonous drugs, or to any person who in the opinion of the commission requires the use thereof for [a] pharmaceutical or other purposes in the bona fide treatment of patients of such person, or for rubbing, cleansing, or as a preservative, or for any bona fide scientific purpose, but in no case for use for beverage purposes.

On every sale of alcohol the seller, after first being satisfied that the person presenting a permit is the person therein named, shall make a record on the permit and sign the same showing the name of the purchaser, the date, the

quantity sold, and the purpose declared as to the intended use thereof. [He] The seller shall also keep a separate record of the same matters. If in any permit there is a prescribed limit as to the quantity purchasable thereunder at any one time or in the aggregate in any given period of time, the permit shall not be honored beyond its terms.

The commission [may], by rules and regulations, where deemed appropriate, may provide for the sale of alcohol upon prescriptions of duly licensed physicians in lieu of the permits above mentioned."

SECTION 30. Section 286-56, Hawaii Revised Statutes, is amended to read as follows:

"§286-56 Official cars. All motor vehicles owned by any foreign government or by a consul or other official representative thereof, or by the United States government, or by the State or any political subdivision thereof, shall be registered as herein required by the person having the custody thereof, and the custodian shall display official registration by distinguishing marks thereon which shall be furnished by the director of finance, free of charge, and where motor vehicles are owned by the State or any of its municipal subdivisions, the motor vehicle shall bear the inscription provided for in sections [105-1 to 105-10.] 105-6 to 105-9."

SECTION 31. Section 286-65, Hawaii Revised Statutes, is amended to read as follows:

"§286-65 Surrender, transfer, and disposal of special plates. Upon the transfer of ownership of the passenger motor vehicle, or upon the expiration or revocation of the amateur radio station license, the holder of the special license plates shall surrender them to the administrator of the county civil defense agency who shall retain the plates as long as they are valid. The regulation number plates shall be securely fastened to the passenger motor vehicle as provided in [sections] section 249-7 [and 249-8]. Upon reapplication, an amateur radio station licensee may be reissued [his] the licensee's special license plates as provided in this part at no additional cost."

SECTION 32. Section 286-68, Hawaii Revised Statutes, is amended to read as follows:

"§286-68 Interpretation of part. Sections 286-62 to 286-69 are supplementary to any statute of the State regarding automobile number or license plates and nothing herein shall be construed as abridging or amending such laws except as herein provided for the use of the special license plates in lieu of the [regulations] regulation number plates prescribed by law."

SECTION 33. Section 287-35, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Proof of financial responsibility may be evidenced by the bond of a surety company duly authorized to transact business within the State, or a bond with at least two individual sureties each owning real estate within the State, and together having equities equal in value to at least twice the amount of the bond, which real estate shall be scheduled in the bond approved by the insurance commissioner, which bond shall be conditioned for payment of the amounts specified in section [287-1.] 294-10(a). The bond shall be filed with the administrator and shall not be cancelable except after ten days' written notice to the administrator. The bond shall constitute a lien in favor of the State upon the real estate so scheduled of any surety, which lien shall exist in favor of any

holder of a final judgment against the person who has filed the bond, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, resulting from the ownership, maintenance, use, or operation of a motor vehicle after the bond was filed upon the filing of notice to that effect and the filing of a certified copy of the final judgment in the office of the registrar of conveyances.”

SECTION 34. Section 292-11, Hawaii Revised Statutes, is repealed.

SECTION 35. Section 296-1, Hawaii Revised Statutes, is amended to read as follows:

“§296-1 Definitions. As used in chapters 296 to [302,] 301, the following terms have the following meanings unless the context indicates otherwise:

“Board” means the board of education.

“Councilor” means a member of a district school advisory council.

“Department” means the department of education.

“Educational officers” refers to principals, vice-principals, and professional employees of the State and district offices of the department except those in the classified service.

“Member” means a member of the board of education.

“Superintendent” means the superintendent of education.

“Teacher” means a person whose duties in the educational system are primarily teaching or instruction of students or related activities centered primarily on students and who is in close and continuous contact with students and shall include, but not be limited to, classroom teachers, school librarians, counselors, registrars, and special education teachers.”

SECTION 36. Section 296-60, Hawaii Revised Statutes, is amended to read as follows:

“§296-60 Findings and declaration of necessity. The legislature finds that:

- [(a)] (1) The ideal of equal access to education in our public school system cannot be achieved when our students are required to assume stereotyped sexual roles. Under this sterile system, female students have been channeled into courses like homemaking or into career choices such as teaching or nursing or into extracurricular activities such as cheerleading. The male students have been expected to take shop or to select career choices such as law or engineering or to participate in sports.
- [(b)] (2) One of the striking trends of recent times has been the participation of women and men in activities, professions, and life styles that were previously considered to be the exclusive province of one particular sex. Our education system must reflect those changes. Curricular and extracurricular activities in our schools must be accessible to all students. It should be the goal of our public schools to allow each individual to develop his or her particular talents or interests.”

SECTION 37. Section 305A-4, Hawaii Revised Statutes, is amended to read as follows:

“§305A-4 Vocational education coordinating advisory council. There is established a vocational education coordinating advisory council which shall serve in an advisory capacity to the board of regents. The council shall consist of

eleven members, nine appointed and two ex officio voting members. Of the nine appointed members, three shall be appointed from the board of regents of the University of Hawaii by the [chairman] chairperson of that body, three shall be appointed from the board of education by the [chairman] chairperson of that body, and three shall be appointed from the state commission on [manpower and full employment] employment and human resources by the [chairman] chairperson of that body. Of the three members appointed from the commission on [manpower and full employment,] employment and human resources, one member shall represent management, one member shall represent labor, and the third shall represent the public. Of the two ex officio members one shall be the president of the University of Hawaii and the other shall be the superintendent of education.

Of the three members first appointed by each appointing authority, other than the [chairman] chairperson of the board of education, one shall be appointed for two years, one shall be appointed for three years, and one shall be appointed for four years. In the case of the members appointed from the board of education, the terms of such members shall be for their remaining terms as members of the board of education. Upon the expiration of the terms of the first members, their successors shall serve for a term of four years. Vacancies shall be filled by the appropriate appointing authority for the unexpired term.

The council shall elect a [chairman] chairperson and such other officers as it deems necessary. Section 92-15 shall apply. The members of the council shall serve without pay but shall be entitled to their traveling expenses within the State when attending meetings of the council or when actually engaged in business relating to the work of the council.”

SECTION 38. Section 306-16, Hawaii Revised Statutes, is amended to read as follows:

“§306-16 **Limitation of authority.** Notwithstanding any other provision to the contrary, nothing in this chapter shall be construed to authorize the board of regents to incur any indebtedness contrary to article [VI, section 3,] VII, sections 12 and 13, of the Constitution of the State or to incur any indebtedness which would not qualify for exclusion from the total indebtedness of the State under [clause (b) of section 3 of said article VI.] section 13(2), article VII.”

SECTION 39. Section 321-175, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Commencing on September 1, 1980, and every four years thereafter, the children’s mental health services branch, on or before September 1 of each four-year cycle, shall develop and present to the governor and the legislature, as well as release for public inspection and comment, a current statewide children’s mental health services plan which shall include:

- (1) A survey of the children and youth in the State who are (A) in need of and (B) receiving mental health services showing the total number of such children and youth and their geographic distribution;
- (2) Identification of the public and private providers of mental health services to children and youth;
- (3) Identification of the criteria and standards for the treatment to be received by [emotion-disturbed] emotionally disturbed or mentally ill children and youth;
- (4) A program for the recruitment, orientation, and inservice training of personnel in community mental health services to children and

- youth, and to allied fields, including participation, as appropriate, by institutions of higher learning, state and local agencies, and other public and private agencies having relevant expertise;
- (5) A description of the provisions for prevention, early identification, diagnosis, screening, treatment, and rehabilitation (including, with regard to treatment and rehabilitation, services provided through inpatient, outpatient, and community residential facilities) of children and youth in need of mental health services;
 - (6) An implementation plan for providing mental health services to all children and youth in the State in each of the above mentioned areas; and
 - (7) Any additional matters which may be necessary or appropriate, including recommendations for amendment of laws, changes in administrative practices and patterns of organization, and changes in levels and patterns of financial support relating to children's mental health services."

SECTION 40. Section 323D-2, Hawaii Revised Statutes, is amended by amending the definition of "health care provider" to read as follows:

" "Health care provider" means a health care facility, physician, dentist licensed under chapter 448, chiropractor licensed under chapter 442, optometrist [registered] licensed under chapter 459, podiatrist licensed under chapter 463E, psychologist [certified] licensed under chapter 465, occupational therapist subject to chapter 457G, and physical therapist licensed under chapter [321.] 461J."

SECTION 41. Section 328-9, Hawaii Revised Statutes, is amended to read as follows:

"**§328-9 Foods deemed adulterated when.** A food shall be deemed to be adulterated:

- (1) (A) If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but [in case] if the substance is not an added substance, the food shall not be considered adulterated under this clause if the quantity of the substance in the food does not ordinarily render it injurious to health; or
- (B) (i) If it bears or contains any added poisonous or added deleterious substance, other than one which is a pesticide chemical in or on a raw agricultural commodity; a food additive; or a color additive, which is unsafe within the meaning of section [328-13(1);] 328-13(a); or
- (ii) If it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of section 408(a) of the Federal Act as amended; or
- (iii) If it is or it bears or contains any food additive which is unsafe within the meaning of section 409 of the Federal Act as amended;

provided that where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or tolerance prescribed under section 408 of the Federal Act, and the raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating, or milling, the residue of such pesticide

- chemical remaining in or on such processed food [shall], notwithstanding section 328-13 and clause (iii) of this paragraph (1), shall not be deemed unsafe if the residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice, and the concentration of such residue in the processed food when ready-to-eat, is not greater than the tolerance prescribed for the raw agricultural commodity; or
- (C) If it consists in whole or in part of a diseased, contaminated, filthy, putrid, or decomposed substance, or if it is otherwise unfit for food; or
 - (D) If it has been produced, prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered diseased, unwholesome, or injurious to health; or
 - (E) If it is the product of a diseased animal or an animal which has died otherwise than by slaughter, or that has been fed upon the uncooked offal from a slaughterhouse; or
 - (F) If its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;
- (2) (A) If any valuable constituent has been in whole or in part omitted or abstracted therefrom; or
 - (B) If any substance has been substituted wholly or in part therefor; or
 - (C) If damage or inferiority has been concealed in any manner; or
 - (D) If any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength or make it appear better or of greater value than it is;
- (3) If it is confectionery and:
 - (A) Has partially or completely embedded therein any nonnutritive object; provided[,] that this clause shall not apply in the case of any nonnutritive object if, in the judgment of the director of health, as provided by [regulations,] rules, promulgated under this part, the object is of practical functional value to the confectionery product and would not render the product injurious or hazardous to health;
 - (B) Bears or contains any alcohol other than alcohol not in excess of one-half of one per cent by volume derived solely from the use of flavoring extract; or
 - (C) Bears or contains any nonnutritive substance; provided[,] that this clause shall not apply to a safe nonnutritive substance which is in or on confectionery by reason of its use for some practical functional purpose in the manufacture, packaging, or storage of the confectionery if the use of the substance does not promote deception of the consumer or otherwise result in adulteration or misbranding in violation of this part; and provided further[,] that the director [may], for the purpose of avoiding or resolving uncertainty as to the application of this clause, may issue [regulations] rules under this part, allowing or prohibiting the use of particular nonnutritive substances;

- (4) If it is or bears or contains any color additive which is unsafe within the meaning of the Federal Act.”

SECTION 42. Section 333-52, Hawaii Revised Statutes, is amended to read as follows:

“§333-52 Part [III] IIIA applicable to certain institutions. The provisions of part [III] IIIA of this chapter with respect to mentally retarded persons and their commission, admission, detention, discharge, and parole, shall be applicable, insofar as the same may be appropriate, to any licensed institution for the care of the mentally retarded persons, to the same extent, as nearly as may be, as in the case of Waimano training school and hospital and persons committed or admitted thereto. Wherever in part [III,] IIIA, provision is made for commitment or admission to Waimano training school and hospital, the provision shall be deemed to authorize the commitment or admission to any licensed institution mentioned in this section, in the same manner, and with the same effect, and subject to the same conditions, as nearly as may be, as in the case of persons committed or admitted to Waimano training school and hospital, provided that the commitment or admission is consented to in writing by the guardian or relative having the custody of the person concerned and by the superintendent of the licensed institution. The superintendent of the institution [may], with the approval of the director of health, may parole or discharge any inmate, if it appears that the inmate will be properly cared for or that [his] the inmate's detention is no longer necessary for [his] the inmate's own welfare or the safety of the public.”

SECTION 43. Section 334-1, Hawaii Revised Statutes, is amended by amending the definition of “judge” to read:

““Judge” means any judge of the family court or per diem judge appointed by the chief justice as provided in section [604-1.] 604-2.”

SECTION 44. Section 334-123, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Any person may file a petition with the family court alleging that another person meets the criteria for involuntary outpatient treatment. The petition shall state:

- (1) Each of the criteria numbered (1) through (6) for involuntary outpatient treatment, as set out in section 334-121;
- (2) Petitioner's good faith belief that the subject of the petition meets each of criteria numbered (1) through (4);] set forth in section 334-121;
- (3) Facts which support petitioner's good faith belief that the subject of the petition meets each of the criteria numbered (1) through (4);] set forth in section 334-121, provided that the hearing on the petition need not be limited to the stated facts; and
- (4) That the subject of the petition is present within the county where the petition is filed.

The petition shall be executed subject to the penalties of perjury. The petition need not express any belief, or state any supporting facts, with reference to the criteria [(5) and (6),] set forth in section 334-121(5) and (6), but all six criteria will be addressed at the hearing.”

SECTION 45. Section 338-17.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) If a delayed certificate of birth is rejected under section [338-15,] 338-16, a petition may be filed with the circuit court for an order establishing a record of the date and place of the birth and the parentage of the person whose birth is to be registered.”

SECTION 46. Section 353-6, Hawaii Revised Statutes, is amended to read as follows:

“§353-6 Duties of director; visitation of correctional facilities, etc. The director of social services [and housing] or [his] the director's agent shall visit all state correctional facilities and inquire into the management and operation of the same, and the care, education, recreational, vocational training, employment opportunities, and maintenance of committed persons.”

SECTION 47. Section 353-6.5, Hawaii Revised Statutes, is amended to read as follows:

“[[§353-6.5[]] Establishment of correctional diagnostic center. The director of social services [and housing] shall establish a correctional diagnostic center which shall be staffed by a team of psychiatrists, social and correctional workers, technicians, and other personnel as may be necessary. Diagnostic examinations shall be undertaken at the center for the purpose of determining which correctional treatment program and facility will best rehabilitate the prisoner. The correctional diagnostic team services of the diagnostic center shall be available to the district and circuit courts of Hawaii when requested by any presiding judge.”

SECTION 48. Section 353-7, Hawaii Revised Statutes, is amended to read as follows:

“§353-7 Access to correctional facilities and records; instituting of inquiries and securing of information. The Hawaii paroling authority and every member thereof and the director of social services [and housing] shall at all times have free access to all correctional facilities throughout the State, wherein persons convicted of crime are confined, and to all records and books kept in connection therewith, and may institute inquiries about any committed person whether confined or on parole.

All circuit judges, district judges, prosecuting attorneys, sheriffs, police officers, and other court and corrections officials and employees shall furnish, when called upon by the paroling authority or director, all information that may be possessed concerning any committed person.

Upon the refusal of any person in charge of any such correctional facility to give free access thereto or to any records or books kept in connection therewith, or of any such officer, district judge, sheriff, official, or employee to furnish such information, the paroling authority or director may make informal application in writing to any circuit court, reciting the facts and requesting an order directing the person concerned to give such access, or furnish such information and the court, after such reasonable notice to the person as [he] the court shall direct, shall proceed to hear the application and shall have power to make such order as may appear proper. In case of the refusal of a circuit judge to furnish information as in this section required, the paroling authority or director may apply to the supreme court for relief in the same manner as in the case of an application to a circuit court [hereinabove provided for.] as provided in this section. The circuit courts and the supreme court are given jurisdiction and all powers necessary for the purposes of this section.

In all investigations made by the paroling authority or director and in all proceedings before it or [him,] the director, the paroling authority and each member thereof and the director shall have the same powers respecting administering oaths, compelling the attendance of witnesses, and the production of documentary evidence and examining witnesses as are possessed by circuit courts. In case of disobedience by any person of any order of the paroling authority or any member thereof or the director or of any subpoena issued by it or [him] the director or of the refusal of any witness to testify to any matter regarding which [he] the witness may be questioned lawfully, any circuit judge, on application by the paroling authority or a member thereof or the director, shall compel obedience as in case of disobedience of the requirements of a subpoena issued from a circuit court or a refusal to testify therein. The fees and traveling expenses of witnesses shall be the same as are allowed witnesses in the circuit courts and shall be paid by the State on vouchers approved by the director out of any appropriation or funds available for the expenses of the department of social services and housing.”

SECTION 49. Section 353-25, Hawaii Revised Statutes, is amended to read as follows:

“**§353-25 Compensation for labor or training by committed persons.** Every committed person who is working within a [State] state correctional facility or who is in such training or educational programs as the director or [his] the director's agent, pursuant to law prescribes, may be allowed such graduated sums of money as the director of social services [and housing] by rule may determine. Any committed person engaged in work, training, or education pursuant to this section or work pursuant to [chapters] chapter 353 or 354 shall not be affected by chapter 386.”

SECTION 50. Section 353-48, Hawaii Revised Statutes, is amended to read as follows:

“**§353-48 Others by permission.** None but official visitors shall be allowed to visit any state correctional facility or to have any oral or written communication with the committed person, unless with the written permission of the administrator of the correctional facility or the director of social services, nor shall any visitor deliver to or receive from any committed person any letter or message except with permission granted by the administrator of a state correctional facility pursuant to rules adopted by the director of social services [and housing] or facility administrator. Unauthorized communications, passing of documents, or visiting is a [grade] class C felony within the meaning of title 37.”

SECTION 51. Section 359-7, Hawaii Revised Statutes, is amended to read as follows:

“**§359-7 Housing, government aid, extension of powers.** The State, its political subdivisions and agencies shall have the same rights and powers to cooperate with and aid the authority with respect to the development and administration of housing under this part that the State, its political subdivisions and agencies respectively have under and pursuant to chapter [358] 356 for the purposes of aiding and cooperating in the planning, construction, and operation of slum clearance and housing projects.”

SECTION 52. Section 359-34, Hawaii Revised Statutes, is amended to read as follows:

“§359-34 Housing authority, powers, extension of powers. Every housing project undertaken, acquired, constructed, or carried out after April 1, 1959, under this part shall be first approved by the governor. If so approved, the housing project or projects shall be selected, located anywhere within the State, prepared, undertaken, constructed, carried out, managed, and operated by the Hawaii housing authority under this part, and, when applicable, part IV of this chapter, and in so doing, the authority shall have all of the rights, powers, privileges, and immunities that the authority has under chapters 356[, 358,] and 360 and any law in amendment thereof or in addition thereto, (including, without limitation to the generality of the foregoing, the power to make and execute contracts, the power of eminent domain, the power to issue bonds and other obligations and give security therefor), in the same manner and to the same extent as though all the provisions of law applicable to slum clearance and housing projects for persons of low income were applicable to the housing project or projects undertaken, acquired, constructed, operated, and maintained under this part; provided[,] (1) that housing undertaken, acquired, constructed, operated, or maintained under this part shall not be subject to any of the provisions of sections 356-34 and 356-35; (2) that the authority may make payments, in such amounts as it finds necessary or desirable, for any services, facilities, works, privileges, or improvements furnished for or in connection with the housing project or projects; and (3) that every housing project undertaken under this part shall be subject to section 356-20. The authority, in addition to its other powers and without limitation to the generality of the foregoing, shall have the power, subject to this part, chapter 360 and, if applicable, part IV of this chapter, to manage and operate the housing project or projects and to determine all policies and to make all rules and regulations for such management and operations.”

SECTION 53. Section 359-35, Hawaii Revised Statutes, is amended to read as follows:

“§359-35 Housing project, government aid, extension of powers. The State, its political subdivisions and agencies shall have the same rights and powers to cooperate with and aid the Hawaii housing authority with respect to the construction, operation, and maintenance of the housing project or projects under this part that the State, its political subdivisions and agencies respectively have under and pursuant to chapter [358] 356 for the purposes of aiding and cooperating in the planning, construction, and operation of slum clearance and housing projects.”

SECTION 54. Section 359-41, Hawaii Revised Statutes, is amended to read as follows:

“§359-41 Additional powers. The powers conferred upon the Hawaii housing authority by this part shall be in addition and supplemental to the powers conferred upon it by chapter 356 [and chapter 358] and any other law, and nothing herein shall be construed as limiting any powers, rights, privileges, or immunities so conferred upon it.”

SECTION 55. Section 359-61, Hawaii Revised Statutes, is amended to read as follows:

“[[§359-61[]] Government aid; extension of powers. The State, its political subdivisions and agencies[,] shall have the same rights and powers to cooperate with and aid the Hawaii housing authority with respect to the development and administration of housing projects that the State, its political

subdivisions and agencies respectively have under and pursuant to chapter [358] 356 for the purposes of aiding and cooperating in the planning, construction, and operation of slum clearance and housing [under chapter 356].”

SECTION 56. Section 359-89, Hawaii Revised Statutes, is amended to read as follows:

“§359-89 **Nonapplicable.** This part shall not be applicable (1) to the housing projects defined and specified in section [356-3,] 356-2, (2) to any housing project (as defined in section [356-3]) 356-2) that is or will be subject to section 356-34 or 356-35, or to both, or to any annual contributions contract between the Hawaii housing authority and the federal government, and (3) to any temporary housing required to be removed, transferred, or disposed of under section 359-8.”

SECTION 57. Section 359G-10.5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The authority may accept and approve projects independently initiated by private developers which fully comply with subsections (a) and (b). The authority may review the plans, specifications, districting, and zoning of the project for the purpose of exempting the project from all statutes, ordinances, charter provisions, and rules of any governmental agency relating to zoning and construction standards for subdivisions, development, and improvement of land and the construction, improvement, and sale of homes thereon; provided that the procedures in section 359G-4.1[(1), (2), and (3)] have been satisfied.”

SECTION 58. Section 359G-18, Hawaii Revised Statutes, is amended to read as follows:

“[[]§359G-18[]] **Restrictions on borrower.** Every loan made under this part shall be subject to the following conditions:

- [(a)] (1) The borrower shall expend no portion of [his] the borrower's downpayment loan for purposes other than to make a downpayment for the purchase of a residential property.
- [(b)] (2) The residential property purchased with the downpayment loan and mortgaged to the State to secure the repayment of the loan shall not be sold or assigned without the prior approval in writing of the authority and the private lender.
- [(c)] (3) The borrower shall pay when due all taxes, liens, judgments, or assessments which may be lawfully levied against the residential property and all costs and expenses of any foreclosure of the mortgage made to the State.
- [(d)] (4) The borrower shall maintain fire and casualty insurance in such amounts equal to the replacement value of all improvements and insurable portions of the residential property with [such] an insurance company authorized to do business in the State. All proceeds of such insurance shall be made payable to the private lender and the authority, as their respective interests may appear at the time of any loss or damage. Subject to the rules and regulations of the authority, in the event of any loss or damage to the improvements or property covered by such insurance, the proceeds receivable by the State shall be applied toward the reconstruction of the improvements or property destroyed or damaged, unless otherwise determined by the authority.
- [(e)] (5) The borrower shall maintain the improvements in good repair.

All of the above conditions shall be deemed to be a part of any downpayment mortgage executed under this part, regardless of whether or not they are expressly incorporated in the mortgage document.”

SECTION 59. Section 359G-32, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The authority may make loans to qualified residents for the purpose of rehabilitating or renovating an existing housing unit. Loans under this section shall not be in excess of \$10,000, or \$3,500 as prescribed by subsection [(h)(1),] (h), to any resident or for any housing unit and shall be issued upon execution of a written contract for the performance of the rehabilitation or renovation.”

SECTION 60. Section 360-33, Hawaii Revised Statutes, is amended to read as follows:

“**§360-33 Construction of additional powers.** Sections 360-31 and 360-32 shall not be construed as abrogating, limiting, or modifying chapter 356 [or 358]; including amendments to [each of such chapters,] chapter 356, or part I of chapter 359, including amendments thereto.”

SECTION 61. Section 392-65, Hawaii Revised Statutes, is amended to read as follows:

“**§392-65 Temporary disability benefits to be paid from the special fund for disability benefits; recovery of disability benefits.** Temporary disability benefits shall be paid from the special fund for disability benefits to individuals who become disabled when unemployed and who subsequently become ineligible for benefits under chapter 383 [or 384]. Benefits shall also be paid from this fund to an employee who is entitled to receive temporary disability benefits but cannot receive such benefits because of the bankruptcy of [his] the employee's employer or because [his] the employee's employer is not in compliance with this chapter. Benefits paid from the special fund to such employee may be recovered from [his] the employee's bankrupt or [non-complying] noncomplying employer. The director shall institute administrative and legal actions, as provided in section 392-47, to effect recovery of such benefits.”

SECTION 62. Section 392-66, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) An employee whose employment with a covered employer is terminated and who during a period of unemployment within twenty-six weeks immediately following such termination of employment becomes ineligible for benefits claimed under chapter 383 [or 384] solely because of disability commencing on or after January 1, 1970, and who on the day the disability commences is not employed and is not then otherwise eligible for benefits under this chapter, shall be entitled to receive disability benefits as hereinafter provided for each week of such disability for which week [he] the employee would have received unemployment insurance benefits if [he] the employee were not so disabled.

(b) The weekly benefits payable to the disabled unemployed shall be the same as the benefits to which the individual would be entitled under chapter 383 [or 384] except for [his] the individual's disability; provided that in a case of a disabled unemployed who is performing some form of less than full-time work as referred to in section 383-1(16) at the time the disability arises, [he] the individual shall receive benefits which [he] the individual would have been entitled to had [he] the individual not been performing less than full-time work;

provided[,] further[,] that benefits payable under this section shall not be payable for a period longer than twenty-six weeks from the time the above unemployed commences to receive unemployment benefits payable under chapter 383 [or 384].”

SECTION 63. Section 394-5, Hawaii Revised Statutes, is amended to read as follows:

“§394-5 Administration. The department of labor and industrial relations is authorized, with the advice of the [State Commission on manpower and full employment,] state commission on employment and human resources, to plan and administer [manpower] human resource development and training programs under this chapter. The department shall process the payment of weekly compensation as provided under this chapter.”

SECTION 64. Section 408A-9, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Thrift accounts plus unpaid interest thereon accrued as of the last interest accrual date prior to the date of receivership of the property and business of a member or the date such member is declared bankrupt, whichever first occurs, shall be guaranteed by the guaranty corporation as follows:

- (1) For single ownership thrift accounts in any one institution:
 - (A) Funds owned by an individual and invested in the manner set forth in this paragraph shall be added together and guaranteed up to \$10,000 in the aggregate.
 - (B) Individual accounts invested in one or more accounts in [his] the individual's own name shall be guaranteed up to \$10,000 in the aggregate.
 - (C) Funds owned by a principal and invested in one or more accounts in the name or names of agents or nominees shall be added to any individual account of the principal and guaranteed up to \$10,000 in the aggregate.
 - (D) Accounts held by a guardian, custodian, or conservator for the benefit of [his] the guardian's, custodian's, or conservator's ward or for the benefit of a minor under [the “Hawaii Uniform Gifts to Minors Act”] chapter 553A and invested in one or more accounts in the name of the guardian, custodian, or conservator shall be added to any individual account of the ward or minor and guaranteed up to \$10,000 in the aggregate.
- (2) For testamentary accounts in any one institution:
 - (A) Funds owned by an individual and invested in a revocable trust account, or tentative trust account, payable-on-death account, or similar account evidencing an intention that on [his] the individual's death the funds shall belong to [his] the individual's spouse, child, or grandchild shall be guaranteed up to \$10,000 in the aggregate as to each such named beneficiary, separately from any other account of the owner.
 - (B) If the named beneficiary of such an account is other than the owner's spouse, child, or grandchild, the funds in such account shall be added to any individual account of such owner and guaranteed up to \$10,000 in the aggregate.
- (3) For accounts in any one institution held by personal representatives, being funds of a decedent held in the name of the decedent or in the name of the personal representative of [his] the decedent's estate

- and invested in one or more accounts shall be guaranteed up to \$10,000 in the aggregate, separately from the individual accounts of the beneficiaries of the estate or of the personal representative.
- (4) For corporation or partnership accounts in any one institution, being accounts of a corporation or partnership engaged in any independent activity, up to \$10,000 in the aggregate. An account of a corporation or partnership not engaged in an independent activity shall be deemed to be owned by the person owning such corporation or comprising such partnership and, for guarantee purposes, the interest of each person in such account shall be added to any other account individually owned by such person and guaranteed up to \$10,000 in the aggregate.
 - (5) For unincorporated association accounts in any one institution, being accounts of an unincorporated association engaged in any independent activity up to \$10,000 in the aggregate. An account of an unincorporated association not engaged in any independent activity shall be deemed to be owned by the persons comprising such association and, for guarantee purposes, the interest of each owner in such account shall be added to any other account individually owned by such person and guaranteed up to \$10,000 in the aggregate.
 - (6) For joint accounts in any one institution:
 - (A) Accounts owned jointly, whether as joint tenants with right of survivorship, as tenants by the entirety, or as tenants in common, shall be guaranteed separately from account individually owned by the co-owners.
 - (B) A joint account shall be deemed to exist, for purposes of guarantee of accounts, only if each co-owner has personally executed an account signature card and possesses redemption rights.
 - (C) An account owned jointly which does not qualify as a joint account for purposes of guarantee of accounts shall be treated as owned by the named persons as individuals, and the actual ownership interest of each such person in such account shall be added to any other account individually owned by such person and guaranteed up to \$10,000 in the aggregate.
 - (D) All joint accounts owned by the same combination of individuals shall first be added together and guaranteed up to \$10,000 in the aggregate.
 - (E) The interest of each co-owner in all joint accounts owned by different combinations of individuals shall then be added together and guaranteed up to \$10,000 in the aggregate.
 - (7) For trust accounts in any one institution being all trust interests for the same beneficiary invested in accounts established pursuant to valid trust arrangements created by the same settlor (grantor) shall be added together and guaranteed up to \$10,000 in the aggregate, separately from other accounts of the trustee of such trust funds or the settlor or beneficiary of such trust arrangements."

SECTION 65. Section 415-2, Hawaii Revised Statutes, is amended by amending the definition of "offeree company" to read as follows:

"(m) "Offeree company" means a corporation incorporated under the laws of this State and doing business in this State whose shares are the subject of

a take-over bid and which is either (i) subject to regulation by the public utilities commission under chapter 269, 271, or 271G or (ii) owns more than 1,000 acres of real property in any single county or (iii) is subject to the inspection of the [bank examiner] commissioner of financial institutions under chapter 401 or (iv) owns directly or indirectly more than ten per cent of the voting stock of any of the foregoing.”

SECTION 66. Section 415-3, Hawaii Revised Statutes, is amended to read as follows:

“**§415-3 Purposes.** Corporations may be organized under this chapter for any lawful purpose or purposes, other than for the purpose of carrying on any profession, except pursuant to [part VIII of] chapter [416.] 415A.”

SECTION 67. Section 415B-43, Hawaii Revised Statutes, is amended to read as follows:

“[] **§415B-43[] Voting.** The right of the members, or any class or classes of members, to vote may be limited, enlarged, or denied to the extent specified in the articles of incorporation or the bylaws or as determined by the board of directors. Unless so limited, enlarged, or denied, each member, regardless of class, shall be entitled to one vote on each matter submitted to a vote of members.

A member entitled to vote may vote in person or, unless the articles of incorporation or the bylaws otherwise provide, may vote by proxy executed in writing by the member or by the member’s duly authorized attorney-in-fact. No proxy shall be valid after eleven months from the date of its execution, unless otherwise provided in the proxy. Where directors or officers are to be elected by members, the bylaws or directors may provide that such elections may be conducted by mail.

The articles of incorporation or the bylaws may provide that in all elections for directors every member entitled to vote shall have the right to cumulate the member’s vote and give one candidate a number of votes equal to the [candidate’s] member’s vote multiplied by the number of directors to be elected, or by distributing such votes on the same principle among any number of such candidates.

If a corporation has no members or its members have no right to vote, the directors shall have the sole voting power.”

SECTION 68. Section 416-29, Hawaii Revised Statutes, is amended to read as follows:

“**§416-29 Charitable donations, pensions, by corporation.** Except as otherwise provided by the articles of association or charter of a corporation, the powers to make donations, and to pay pensions and establish pension plans and incentive plans as set forth in [sections] section 416-26(14) and [416-26(17)] (16) may be exercised by the board of directors of the corporation; provided[,] that in the case of a corporation which is being liquidated or dissolved, donations for the public welfare or for charitable, educational, or scientific purposes, and pensions and severance allowances may be paid by the corporation only if authorized by the affirmative vote of the holders of a majority of all of the shares of stock issued and outstanding and having voting power, or by such larger vote as may be required by the articles of association or charter. Nothing in this section shall affect the validity of any such action taken prior to May 14, 1947, by any such corporation.”

SECTION 69. Section 417-2, Hawaii Revised Statutes, is amended to read as follows:

“§417-2 Merger and consolidation of domestic corporations. Any two or more domestic corporations may be (1) merged into one of the domestic corporations, which is designated in this part as “the surviving corporation”, or (2) consolidated into a new corporation to be formed under this part, which is designated in this chapter as “the consolidated corporation” by complying with sections 417-3 to [417-4.] 417-14.”

SECTION 70. Section 417-25, Hawaii Revised Statutes, is amended to read as follows:

“§417-25 Determination of fair market value; decree; appeal; costs. If appraisers are appointed they forthwith shall proceed to determine the fair market value of the shares and the appraisers, or a majority of them, shall make a report within the time fixed by the court, and shall file their report in the office of the clerk of the court, whereupon, on the motion of any party, the report shall be submitted to the court and unless the report is agreed to by all parties, it shall be considered together with such evidence as the court may consider relevant.

If appraisers are not appointed or if a majority of them fail to make and file a report within ten days, or within such further time as may be allowed by the court, or their report is not confirmed by the court, the court shall determine from the evidence adduced the fair market value of the dissenting shares.

Upon determination by the court, a decree shall be rendered against the corporation involved which shall provide substantially that upon surrender of the shares the corporation shall make payment to the dissenting stockholders of an amount equal to the fair market value of each share as of the time above specified, multiplied by the number of dissenting shares in respect of which the court finds any dissenting [stockholders] stockholder is entitled to relief, together with interest thereon at four per cent a year from and after the date of the filing of the merger or consolidation agreement in the office of the director of commerce and consumer affairs.

Any decree shall be payable only upon the endorsement and delivery to the corporation of the certificates for the shares described in the decree. Any party may appeal from the decree in accordance with section 641-1.

The costs of the suit, including reasonable compensation to the appraisers to be fixed by the court, shall be assessed or apportioned as the court considers equitable.”

SECTION 71. Section 417-42, Hawaii Revised Statutes, is amended to read as follows:

“§417-42 Merger of parent corporation and subsidiary. Any corporation organized or existing under the laws of this State or under the laws of any other state or jurisdiction subject to the laws of the United States, if the laws of the other state or jurisdiction permit a merger, owning at least ninety per cent of the outstanding shares of each class of the stock of any other corporation or corporations organized or existing under the laws of this State, or under the laws of any other state or jurisdiction subject to the laws of the United States, if the laws of the other state or jurisdiction permit such a merger, may file in the office of the director of commerce and consumer affairs a certificate of such ownership and of merger in its name and under its corporate seal, signed by any two authorized officers of the corporation and setting forth a copy of the resolution of its board of directors to merge the other corporation or corporations into it and to assume all of its or their obligations and the date of the adoption thereof;

provided[,] that in case the parent corporation shall not own all the outstanding stock of all the subsidiary [corporation] corporations parties to a merger as aforesaid, the resolution of the board of directors of the parent corporation shall state the terms and conditions of the merger, including the securities, cash, or other consideration into which shares of stock of the subsidiary corporation or corporations not owned by the parent corporation are to be converted. Upon the minute, hour, and day of filing of the certificate of ownership and merger pursuant to this section, or if a subsequent minute, hour, and day has been specified in the certificate then upon such subsequent minute, hour, and day, the separate existence of the subsidiary corporation or corporations shall cease and all and singular the rights, privileges, franchises, and property of the subsidiary corporations and all debts and liabilities due or to become due to the subsidiary corporations, including subscriptions for shares and things in action and every interest or asset of conceivable value or benefit, shall be deemed fully and finally and without any right of reversion transferred to and vested in the surviving parent corporation without further act or deed, and the surviving parent corporation shall have and hold the same in its own right as fully as the same was possessed and held by the subsidiary corporation from which it was, by operation of this part, transferred; and except as and to the extent otherwise provided in section 417-43, each share of stock of the subsidiary corporation or corporations not theretofore owned by the parent corporation shall be deemed converted into the securities, cash, or other consideration provided in the certificate of ownership and merger. All debts, liabilities, and obligations due or to become due of, and all claims or demands for any cause existing against, the subsidiary corporation [shall] upon the merger shall be and become the debts, liabilities, and obligations of and the claims and demands against the surviving parent corporation in the same manner as if the surviving parent corporation had itself incurred or otherwise become liable for them. All rights of creditors and all liens upon the property of each of the subsidiary [corporation] corporations shall be preserved unimpaired, limited in lien to the property affected by the liens immediately prior to the time of the merger. Any action or proceedings pending by or against any subsidiary corporation shall not be deemed to have abated or been discontinued but may be prosecuted to judgment with the right to appeal or review as in other cases as if the merger or consolidation had not taken place or the surviving parent corporation may be substituted for the subsidiary corporation.”

SECTION 72. Section 418-2, Hawaii Revised Statutes, is amended to read as follows:

“**§418-2 Same; by nonprofit corporation.** Any corporation organized without capital stock under the laws of any other jurisdiction for any lawful purpose except the carrying on of a business, trade, avocation, or profession for profit which undertakes to do or transact business in this State shall file in the office of the director of commerce and consumer affairs:

- (1) A declaration sworn to on oath by two authorized officers of the corporation stating:
 - (A) The name of the corporation;
 - (B) The state wherein it was incorporated;
 - (C) The address of its principal office;
 - (D) The address of its proposed branch office or offices in the State;
 - (E) The [name] names and addresses of its officers and directors, if any;

- (F) The nature of the business to be transacted in the State;
 - (G) The name and business address of the person residing within the State upon whom legal notice and process from the courts of the State, or notices from officials of the State, may be served[.];
 - (H) That the corporation is not organized for profit and that it will not issue any stock, and no part of its assets, income, or earnings shall be distributed to its members, directors, or officers, except for services actually rendered to the corporation.
- (2) A copy of the articles of incorporation as amended to the date of the declaration, certified to by the proper officer of the state wherein the corporation was organized need not be filed except upon request by the director of commerce and consumer affairs.
 - (3) A certificate setting forth that such corporation is in good standing under the laws of the jurisdiction of its incorporation executed by the official of such jurisdiction who has custody of the records pertaining to corporations and dated not earlier than thirty days prior to the filing of the declaration. If such certificate is in a foreign language, a translation thereof under oath of the translator shall be attached thereto."

SECTION 73. Section 421C-31, Hawaii Revised Statutes, is amended to read as follows:

"[]§421C-31[] Merger and consolidation. [Chapter 417, part I,] The general corporation laws relating to the merger and consolidation of domestic corporations shall apply to associations formed under this chapter."

SECTION 74. Section 441-24.5, Hawaii Revised Statutes, is amended to read as follows:

"§441-24.5 Pre-need trusts and perpetual care funds; audited financial statements. Every cemetery authority operating a perpetual care cemetery or which engages in pre-need sales or holds money in trust for pre-need interment services, and every pre-need funeral authority which engages in pre-need sales or holds money in trust for pre-need funeral services shall submit an audited financial statement of its pre-need trusts and perpetual care funds to the [commissioner of financial institutions] director within ninety days after the close of the authority's books on a fiscal or calendar year basis."

SECTION 75. Section 448-12, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The board of dental examiners may issue without examination to any resident or nonresident licensed in another state and otherwise qualified to be examined a temporary license to practice dentistry while in the employment of the department of health to provide dental services to [leprosy patients.] Hansen's disease sufferers. The temporary license shall be valid for a period of three years or until the first board examination after the conclusion of the three-year period and only while the person to whom the temporary license is issued is in the employment of the department of health and works under the general direction and supervision of a duly licensed dentist. The temporary license shall not be renewed and shall be reviewed annually by the board of dental examiners for continuance and shall be subject to revocation and suspension as provided in

section 448-17. The temporary licensee shall not be eligible for examination by the board of dental examiners while the temporary license is in effect.”

SECTION 76. Section 468K-5, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) For purposes of this chapter, an order for restitution obtained by the office of consumer protection on behalf of a person aggrieved against a registered travel agency or registered sales representative shall be the judgment obtained by the person aggrieved against the registered travel agency or registered sales representative. For purposes of this chapter, any written notification to the [director] trustees as required by subsection (a) by the office of consumer protection or any action to recover restitution on behalf of the person aggrieved by the office of consumer protection shall be the actions of the person aggrieved.”

SECTION 77. Section 480-10, Hawaii Revised Statutes, is amended to read as follows:

“**§480-10 Exemption of labor organizations.** The labor of a human being is not a commodity or article of commerce. Nothing in this chapter shall be construed to forbid the existence and operation of labor organizations, instituted for the purpose of mutual help, and not having capital stock or conducted for profits, or to forbid or restrain individual members of such organizations from lawfully carrying out the legitimate objects thereof; nor shall such organizations, or the members thereof, lawfully carrying out the legitimate objects thereof be held or construed to be illegal combinations or conspiracies in restraint of trade under this chapter.

This chapter shall not apply to the conduct or activities of labor organizations or their members which conduct or activities are regulated by federal or state legislation or over which the National Labor Relations Board or the Hawaii [employment] labor relations board has jurisdiction.”

SECTION 78. Section 486H-3, Hawaii Revised Statutes, is amended to read as follows:

“[[]§486H-3[]] **Notice of termination, cancellation, or nonrenewal.** A petroleum distributor shall not terminate, cancel, or refuse to renew a franchise with a gasoline dealer without first giving [him] the dealer written notice by certified mail at least ninety days in advance of the effective date of such action as set forth in the notice. Notwithstanding any provision to the contrary contained in this section, a petroleum distributor may terminate, cancel, or refuse to renew a franchise with a gasoline dealer effective five days after the posting of written notice by certified mail to the gasoline dealer at [his] the dealer's last known address, if such action is based on any of the following reasons:

- (1) Citation of the gasoline dealer by the division of [weights and measures] measurement standards for adulteration, substitution, contamination, or other degradation of petroleum products sold under the trademark of the petroleum distributor; provided such adulteration, substitution, contamination, or other degradation is caused by the wilful or negligent act of the gasoline dealer; [or]
- (2) Voluntary abandonment of the franchise relationship by the gasoline dealer; [or]
- (3) Conviction of the gasoline dealer of a crime involving the business conducted pursuant to the franchise; or

- (4) Adjudication of bankruptcy of the gasoline dealer, or [his] the dealer's becoming insolvent in the sense that the dealer cannot meet [his] the dealer's financial obligations when due."

SECTION 79. Section 710-1022, Hawaii Revised Statutes, is amended by amending subsection (2) to read as follows:

"(2) A "dangerous instrument" shall have the same meaning as defined in section 707-700[(4)]; a dangerous instrument may only be possessed by or conveyed to a confined person with the facility administrator's express prior approval. A "drug" shall include [any of the items] dangerous drugs, detrimental drugs, harmful drugs, intoxicating compounds, marijuana, and marijuana concentrates as listed in section 712-1240[(1) to (3) and (5) to (7)]; a drug may only be possessed by or conveyed to a confined person with the facility administrator's express prior approval and under medical supervision."

SECTION 80. Act 167, Session Laws of Hawaii 1983, is amended by substituting the word "1987" wherever the word "1986" appears, as the context requires.

SECTION 81. Act 270, Session Laws of Hawaii 1985, is amended by amending section 6 to read as follows:

"SECTION 6. This Act shall take effect on July 1, 1987[.]; provided that section 4 shall take effect upon its approval."

SECTION 82. Act 293, Session Laws of Hawaii 1985, is amended by amending section 5 as follows:

"SECTION 5. This Act shall take effect [upon its approval.] on July 1, 1985."

SECTION 83. This Act shall be amended to conform to all other acts passed by the legislature during this Regular Session of 1986, whether enacted before or after the effective date of this Act, unless such other acts specifically provided otherwise.

SECTION 84. Statutory material to be repealed is bracketed. New statutory material is underscored.²

SECTION 85. This Act shall take effect upon approval.

(Approved June 13, 1986.)

Notes

1. Prior to amendment, "," appeared here.
2. Edited pursuant to HRS §23G-16.5.