

ACT 212

S.B. NO. 1382

A Bill for an Act Relating to Assistance to Homeless Families.

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

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER  
HOMELESS FAMILIES ASSISTANCE ACT**

§ **-1 Title.** This chapter shall be known as the Homeless Families Assistance Act.

§ **-2 Purposes.** The purposes of this chapter are to:

- (1) Provide a timely and appropriate response to homelessness;
- (2) Respond to the growing number of homeless families who are unable to find affordable units to rent; and
- (3) Establish and govern the services and benefits that the director may provide for the homeless through homeless facilities.

§ **-3 Definitions.** As used in this chapter:

“Conventional home” means a customary dwelling unit.

“Department” means the department of human services.

“Director” means the director of human services.

“Donor” means any individual, partnership, corporation, joint-stock company, unincorporated organization, foundation, estate, trust, or any other person or firm that donates money, real property, goods, or services to a homeless facility, or any other program for the homeless authorized by this chapter, including board members, trustees, officers, partners, principals, stockholders, members,

managers, employees, contractors, agents of these entities, or any person who was involved with the donation.

“Emergency shelter” means a shelter facility designed to provide emergency shelter and appropriate and available services to the homeless for up to six weeks.

“Homeless family” means a household with at least one dependent child under 18 years of age that does not have a conventional home or is at risk of becoming homeless and has been determined eligible for shelter, or any other program for the homeless authorized by this chapter, pursuant to standards and criteria established by rule for eligibility, need, and priority; provided that the director may establish by rule exceptions to these eligibility requirements based on special circumstances; and that:

- (1) Is receiving assistance through any state or federal assistance program;
- (2) Is unable to find an affordable unit to rent; or
- (3) Has a sponsoring human service agency or provider agency that states verbally or in writing that the household does not have a conventional home or is at risk of becoming homeless.

“Homeless facility” means a development designed to provide shelter for homeless families pursuant to this chapter, or to facilitate any other homeless program authorized by this chapter, and may include emergency, transitional, or permanent shelters.

“Permanent shelter” means a housing development designed to provide long-term shelter to households.

“Provider agency” means an organization, including its board and officers and any employees, contractors, or agents, contracted by the director to provide labor and services to any homeless facility, or any other program for the homeless authorized by this chapter, that has been:

- (1) Qualified as a charitable organization under section 501(c)(3) of the Internal Revenue Code of 1986, as amended; and
- (2) Qualified by the director to operate and manage a homeless facility, or any other program for the homeless authorized by this chapter, pursuant to standards and criteria established by duly adopted rules for eligibility and classification.

“Transitional shelter” means a shelter facility designed to provide transitional shelter and appropriate and available services to homeless families for up to eighteen months, pursuant to rule.

**§ -4 Administration.** The director shall administer this chapter through the department. The director may delegate to any person such power and authority vested in the director by this chapter as the director deems reasonable and proper for the effective administration of this chapter, except for the power to adopt rules.

**§ -5 Duties; rules.** (a) In addition to any other power or duty prescribed by law, the director shall administer and operate homeless facilities and any other program for the homeless authorized by this chapter; enter into agreements with other state agencies or private providers necessary to assist the homeless; establish programs for the homeless; and take any other actions necessary to effectuate the purposes of this chapter.

(b) The director shall adopt rules pursuant to chapter 91 for the purposes of this chapter; provided these rules, or any rules relating directly to homelessness authorized by any statute, shall be exempt from the public notice and public

hearing requirements of chapter 91, and shall take effect immediately upon filing with the office of the lieutenant governor.

**§ -6 Exception to liability for donors.** (a) Any donor who gives money to a provider agency, homeless facility, or for any other program for the homeless authorized by this chapter, shall not be liable for any civil damages resulting from the donation.

(b) Any donor who gives land and improvements, or who leases land and improvements at a nominal consideration, to a provider agency, homeless facility, or for any other program for the homeless authorized by this chapter, shall not be liable for any civil damages resulting from the donation except as may result from the donor's gross negligence or wanton acts or omissions; provided that, if the donor at the time of donation gave the director a full accounting of all the dangers concerning the land and improvements known to the donor, then the donor shall not be liable for any civil damages resulting from the donation.

(c) Any donor who provides services or materials used to build and construct a homeless facility shall not be liable for any civil damages resulting from the donor's acts or omissions, except for damages resulting from the donor's gross negligence relating to the donation.

(d) The director shall be responsible for inspecting, reviewing, analyzing, qualifying, and determining that the land, structures, materials, or services donated for the homeless facilities, or other programs for the homeless, are reasonably safe for public use.

**§ -7 Contract or conveyance to provider agencies.** (a) A state agency holding lands and improvements suitable for use or development for use as a homeless facility provided for under this chapter, may contract or otherwise convey such land and improvements, or the management, operation, and administrative responsibility over the land and improvements, to a provider agency subject to terms authorized by this section, but only if petitioned to do so by the director.

(b) Notwithstanding any other law to the contrary, the board of land and natural resources or other state agency holding such lands and improvements may contract or otherwise convey at a nominal consideration, by direct negotiation and without recourse to public auction, the land and improvements, or the management, operation, and administrative responsibility over the land and improvements, to a provider agency. The land and improvements shall be used by the provider agency for homeless facilities, or for any other program for the homeless authorized by this chapter.

(c) The terms of any of the contract or conveyance shall allow for cancellation of the contract or conveyance should the director find the provider agency in default on any homeless services contract.

**§ -8 Program administration.** To the extent that appropriations are made available, the director shall contract one or more provider agencies to administer homeless facilities, or any other program for the homeless created by this chapter. Shelter, or assistance through any other program for the homeless authorized by this chapter, shall be available only in areas where there is a provider agency, qualified by the director, available and willing to manage and operate an available homeless facility, or any other program for the homeless authorized under this chapter.

**§ -9 Time limits.** To the extent that appropriations are made available, a provider agency shall provide shelter or any other program assistance autho-

rized by this chapter to eligible homeless families not later than two days, or such time as is set by rule which shall not be later than seven days, after they apply for the shelter or other program assistance.

§ -10 **Determination of eligibility and need.** (a) The provider agency operating and managing a homeless facility, or any other program for the homeless authorized by this chapter, shall be responsible for deciding if an applicant is eligible for shelter or other services at the homeless facility or through any other program for the homeless, pursuant to standards and criteria established by rule.

(b) The provider agency shall determine the degree of need for each homeless family, and in its determination shall consider the resources available and the number of potential eligible applicants in the area served by the provider agency.

§ -11 **Abuse of assistance.** (a) The provider agency operating and managing a homeless facility, or any other program for the homeless authorized by this chapter, shall be responsible for deciding if a participant is no longer eligible for shelter or other services at the homeless facility or through any other program for the homeless, pursuant to standards and criteria established by rule.

(b) Pursuant to rule and the right of due process, provider agencies and the director may act collectively in barring homeless families from participating further in any homeless facility, or through any other program for the homeless authorized by this chapter, and take such other actions as provided by rule.

(c) Any person who enters or remains unlawfully in or upon the premises or living quarters of any homeless facility, or any other program for the homeless authorized by this chapter, after reasonable warning or request to leave by that provider agency's authorities or a police officer, shall be guilty of a misdemeanor. A warning or request shall only be issued if the person has engaged in unlawful conduct or has violated house rules and regulations; provided that the warning or request for violation of house rules and regulations shall be issued only if that provider agency has filed a copy of its current rules and regulations governing tenancy or participation at the shelter, facility, or program, and any changes thereto, with the director of commerce and consumer affairs. The rules and regulations shall be reasonable and a copy shall be provided to each tenant or participant. The warning or request shall supersede any invitation by a tenant or participant at the shelter, facility, or program to that person to visit the premises or living quarters.

§ -12 **Exemptions.** (a) Any compensation received by a provider agency for services rendered to homeless families or in operating or managing a homeless facility authorized by this chapter is exempt from taxes under chapter 237.

(b) Any county mayor may exempt by executive order, donors and homeless provider agencies from real property taxes, water and sewer development fees, rates collected for water supplied to consumers and for use of sewers, and any other county taxes, charges, or fees; provided that any county may enact ordinances to regulate the exemptions granted by this subsection.

(c) Any provider agency operating or managing a homeless facility, or any other program for the homeless authorized by this chapter, is exempt from any requirements contained in part VIII of chapter 346, chapter 467, and chapter 521.

§ -13 **Emergency/transitional shelter volunteers exempted.** (a) For the purposes of this section, "emergency/transitional shelter volunteer" means an

## ACT 212

individual who:

- (1) Is a tenant at an emergency or transitional shelter administered pursuant to this chapter;
- (2) Is not an employee of the provider agency operating or managing the shelter;
- (3) Is under the direction of the provider agency operating or managing the shelter and not the director or State; and
- (4) Provides up to eighty hours of volunteer labor or services per month to the provider agency operating or managing the shelter, notwithstanding payment of stipends or credits for such labor and services.

(b) Provider agencies may accept labor and services from emergency/transitional shelter volunteers.

(c) In addition to any exemptions granted to nonpaid labor, emergency/transitional shelter volunteers who acknowledge in writing that they are emergency/transitional shelter volunteers, shall not be construed to be in the employ of the provider agency operating or managing the shelter. The volunteers' labor and services provided to the provider agency operating or managing the shelter shall not be construed to constitute employment, and the volunteers shall not be construed to be employees of the provider agency operating or managing the shelter, under title 21 or any other labor law.

**§ -14 Annual program audits.** (a) The director shall ensure that a compliance audit, paid for by the department, by an independent auditing agency is carried out expeditiously for each fiscal year during which any provider agency dispensed shelter or assistance for any homeless facility or any other program for the homeless authorized by this chapter. The audit shall address all provider agencies for that type of facility or program and shall include recommendations to address any problems found. The auditing agency shall include a representative number of interviews with recipients of the shelter or other form of assistance as part of its compliance audit.

(b) Copies of each audit shall be submitted to the director, the director of finance, the president of the senate, and the speaker of the house of representatives.

(c) Continuing contracts with provider agencies to participate in any program for the homeless authorized by this chapter shall contain a requirement that the provider agency shall address the recommendations made by the auditing agency, subject to exceptions as set by the director.

(d) Failure to carry out the recommendations made by the auditing agency may be grounds for the director to bar a provider agency from further contracts for programs authorized by this chapter until the barred provider agency has addressed all deficiencies.

**§ -15 Provider agency and donor cooperation are not in restraint of trade.** No provider agency or agencies, or donor or donors, or method or act thereof that complies with this chapter, shall be deemed a conspiracy or combination in restraint of trade or an illegal monopoly, or an attempt to lessen competition or fix prices arbitrarily, or the creation of a combination or pool, or to accomplish any improper or illegal purpose. Any cooperation or agreement established pursuant to rule shall not be considered as illegal, in restraint of trade, or as part of a conspiracy or combination to accomplish an illegal purpose or act.

**§ -16 Construction of chapter.** If there is any conflict between this chapter and any other law, the provisions of this chapter shall control."

SECTION 2. Section 46-1.5, Hawaii Revised Statutes, is amended to read as follows:

**“§46-1.5 General powers and limitation of the counties.** Subject to general law, each county shall have the following powers and shall be subject to the following liabilities and limitations:

- (1) Each county shall have the power to frame and adopt a charter for its own self-government, which shall establish the county executive, administrative, and legislative structure and organization, including, but not limited to, the method of appointment or election of officials, their duties, responsibilities, and compensation, and the terms of their office.
- (2) Each county shall have the power to provide for and regulate the marking and lighting of all buildings and other structures which may be obstructions or hazards to aerial navigation, so far as may be necessary or proper for the protection and safeguarding of life, health, and property.
- (3) Each county shall have the power to enforce all claims on behalf of the county and approve all lawful claims against the county, but shall be prohibited from entering into, granting, or making in any manner any contract, authorization, allowance payment, or liability contrary to the provisions of any county charter or general law.
- (4) Each county shall have the power to make contracts and to do all things necessary and proper to carry into execution all powers vested in the county or any county officer.
- (5) Each county shall have the power to maintain channels, whether natural or artificial, including their exits to the ocean, in suitable condition to carry off storm waters; and to remove from the channels, and from the shores and beaches, any debris which is likely to create an unsanitary condition or to otherwise become a public nuisance; provided that to the extent any of the foregoing work is a private responsibility the responsibility may be enforced by the county in lieu of the work being done at public expense. Counties shall also have the power to construct, acquire by gift, purchase, or by the exercise of eminent domain, reconstruct, improve, better, extend, and maintain projects or undertakings for the control of and protection against floods and flood waters, including the power to drain and rehabilitate lands already flooded, and to enact zoning ordinances providing that lands deemed subject to seasonable or periodic, or occasional flooding shall not be used for residence or other purposes in such a manner as to endanger the health or safety of the occupants thereof, as required by the Federal Flood Insurance Act of 1956 (chapter 1025, Public Law 1016).
- (6) Each county shall have the power to exercise the power of condemnation by eminent domain when it is in the public interest to do so.
- (7) Each county shall have the power to exercise such regulatory powers over business activity as are assigned to them by chapter 445, or other general law.
- (8) Each county shall have the power to fix the fees and charges for all official services not otherwise provided for.
- (9) Each county shall have the power to provide by ordinance for the improvement or maintenance assessments of districts within the county.

ACT 212

- (10) Except as otherwise provided, each county shall have the power to, in any manner, give or loan credit to, or in aid of, any person or corporation, and any indebtedness or liability incurred contrary to this paragraph shall be void.
- (11) Where not within the jurisdiction of the public utilities commission, each county shall have the power to regulate by ordinance the operation of motor vehicle common carriers transporting passengers within the county and adopt and amend such rules as the county deems necessary for the public convenience and necessity.
- (12) Each county shall have the power to enact and enforce ordinances necessary to prevent or summarily remove nuisances, and compel the clearing of refuse and uncultivated undergrowth from unoccupied lots, and in these connections impose and enforce liens upon the property for the cost to the county of completing the necessary work where the owners fail after reasonable notice to comply with the ordinances.
- (13) Each county shall have the power to enact ordinances deemed necessary to protect health, life, and property, and preserve the order and security of the county and its inhabitants on any subject or matter not inconsistent with, or tending to defeat, the intent of any state statute, provided also that the [statute] ordinance does not disclose or express an implied intent that the [statute] ordinance shall be exclusive or uniform throughout the State.
- (14) Each county shall have the power to make and enforce within the limits of the county all necessary ordinances covering: all local police matters [and]; all matters of sanitation[.]; all matters of inspection of buildings[.]; all matters of condemnation of unsafe structures, plumbing, sewers, dairies, milk, fish, and morgues[, and]; all matters of the collection and disposition of rubbish and garbage[.]; and to provide exemptions for homeless facilities, and any other program for the homeless authorized by chapter \_\_\_\_\_, for all matters under this paragraph; and to appoint county physicians and such sanitary and other inspectors as may be necessary to carry into effect ordinances made under this paragraph, who shall have the same power as given by law to agents of the department of health, subject only to such limitations as may be placed on them by the terms and conditions of their appointments[.]; and to fix a penalty for the violations of any ordinance, which penalty may be a misdemeanor, petty misdemeanor, or violation as defined by general law.
- (15) Each county shall have the power to provide public pounds, to regulate the impounding of stray animals and fowl, and their disposition, and to provide for the appointment, powers, duties, and fees of animal control officers.
- (16) Each county shall have the power to purchase and otherwise acquire, lease, and hold real and personal property within the defined boundaries of the county and to dispose of the real and personal property as the interests of the inhabitants of the county may require, except that any property held for school purposes may not be disposed of without the consent of the superintendent of education, that no property bordering the ocean shall be sold or otherwise disposed of, and that all proceeds from the sale of park lands shall be expended only for the acquisition of property for park or recreational purposes.

- (17) Each county shall have the power to provide by charter for the prosecution of all offenses and to prosecute for offenses against the laws of the State under the authority of the attorney general of the State.
- (18) Each county shall have the power to make appropriations in amounts deemed appropriate from any moneys in the treasury, for the purpose of community promotion and public celebrations, the entertainment of such distinguished persons as may from time to time visit the county, for the entertainment of other distinguished persons as well as public officials when deemed to be in the best interest of the community, and the rendering of civic tribute to individuals who, by virtue of their accomplishments and community service, merit civic commendations, recognition, or remembrance.
- (19) Each county shall have the power to:
  - (A) Construct, purchase, take on lease, lease, sublease, or in any other manner acquire, manage, maintain, or dispose of buildings for county purposes, sewers, sewer systems, pumping stations, water works, including reservoirs, wells, pipelines, and other conduits for distributing water to the public, lighting plants, and apparatus and appliances for lighting streets and public buildings and manage, regulate, and control the same;
  - (B) Regulate and control the location and quality of all appliances necessary to the furnishing of water, heat, light, power, telephonic, and telegraphic service to the county;
  - (C) Acquire, regulate, and control any and all appliances for the sprinkling and cleaning of the streets and the public ways and for flushing the sewers; and
  - (D) Open, close, construct, or maintain county highways or charge toll on county highways; provided that all revenues received from a toll charge shall be used for the construction or maintenance of county highways.
- (20) Each county shall have the power to regulate the renting, subletting, and rental conditions of property for places of abode by ordinance.
- (21) Unless otherwise provided by law, each county shall have the power to establish by ordinance the order of succession of county officials in the event of a military civil disaster.
- (22) Each county shall have the power to sue and be sued in its corporate name.
- (23) Each county shall have the power to establish and maintain water works and sewer works; to collect rates for water supplied to consumers and for the use of sewers; to install water meters whenever deemed expedient; provided that owners of premises having vested water rights under existing laws appurtenant to the premises shall not be charged for the installation or use of the water meters on the premises; to take over from the State existing water works systems, including water rights, pipelines, and other appurtenances belonging thereto, and sewer systems, and to enlarge, develop, and improve the same.
- (24) Each county may impose civil fines, in addition to criminal penalties, for any violation of county ordinances or rules after reasonable notice and requests to correct or cease the violation have been made upon the violator. Any civil fine may be administratively imposed after an opportunity for a hearing under chapter 91. Such a



[[]proceeding[[]] shall not be a prerequisite for any civil fine or injunctive relief ordered by the circuit court.

- (25) Any law to the contrary notwithstanding, any county mayor may exempt by executive order donors, provider agencies, homeless facilities, and any other program for the homeless under chapter \_\_\_\_\_, from real property taxes, water and sewer development fees, rates collected for water supplied to consumers and for use of sewers, and any other county taxes, charges, or fees; provided that any county may enact ordinances to regulate and grant the exemptions granted by this paragraph.”

SECTION 3. Section 171-43.1, Hawaii Revised Statutes, is amended to read as follows:

“§171-43.1 Lease to eleemosynary organizations. The board may lease, at a nominal consideration, by direct negotiation and without recourse to public auction, public lands to an eleemosynary organization which has been certified [by the director of taxation] to be tax exempt under [section 235-9(a)(2).] sections 501(c)(1) or 501(c)(3) of the Internal Revenue Code of 1986, as amended. The lands shall be used by such eleemosynary organizations for [charitable, religious, or educational purposes. If the eleemosynary organization has been chartered by the United States Congress for fraternal, patriotic, historical, and educational purposes, the lands shall be used for the purposes for which the congressional charter was issued.] the purposes for which their charter was issued and for which they were certified by the Internal Revenue Service.”

SECTION 4. Section 237-23, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- (a) This chapter shall not apply to the following persons:
- (1) Banks taxable under chapter 241;
  - (2) Public service companies (as that term is defined in section 239-2), with respect to the gross income, either actual gross income or gross income estimated and adjusted, which is included in the measure of the tax imposed by chapter 239;
  - (3) Public utilities owned and operated by the State or any county or other political subdivision thereof;
  - (4) Insurance companies which pay the State a tax upon their gross premiums under chapter 431;
  - (5) Fraternal benefit societies, orders, or associations, operating under the lodge system, or for the exclusive benefit of the members of the fraternity itself, operating under the lodge system, and providing for the payment of death, sick, accident, prepaid legal services, or other benefits to the members of such societies, orders, or associations, and to their dependents;
  - (6) Corporations, associations, trusts, or societies organized and operated exclusively for religious, charitable, scientific, or educational purposes, as well as that of operating senior citizens housing facilities qualifying for a loan under the laws of the United States as authorized by section 202 of the Housing Act of 1959, as amended [by the Housing Act of 1961, the Senior Citizens Housing Act of 1962, the Housing Act of 1964, and the Housing and Urban Development Act of 1965], as well as that of operating a prepaid

- legal services plan[;], as well as that of operating or managing a homeless facility, or any other program for the homeless authorized under chapter ;
- (7) Business leagues, chambers of commerce, boards of trade, civic leagues, and organizations operated exclusively for the benefit of the community and for the promotion of social welfare which shall include the operation of a prepaid legal service plan, and from which no profit inures to the benefit of any private stockholder or individual;
  - (8) Hospitals, infirmaries, and sanitararia;
  - (9) Cooperative associations incorporated under chapter 421 or 422 or Code section 521 cooperatives which fully meet the requirements of section 421-23 or 422-33, except Code section 521 cooperatives need not be organized in Hawaii; provided that:
    - (A) The exemption shall apply only to the gross income derived from activities which are pursuant to purposes and powers authorized by chapter 421 or 422, except those provisions pertaining to or requiring corporate organization in Hawaii do not apply to Code section 521 cooperatives;
    - (B) The exemption shall not relieve any person who receives any proceeds of sale from the association of the duty of returning and paying the tax on the total gross proceeds of the sales on account of which the payment was made, in the same amount and at the same rate as would apply thereto had the sales been made directly by the person, and all such persons shall be so taxable; and
    - (C) As used in this paragraph, "section 521 cooperatives" mean associations which qualify as a cooperative under section 521 (with respect to exemption of farmers' cooperatives from tax) of the Internal Revenue Code of 1986, as amended;
  - (10) Building and loan associations taxable under chapter 241;
  - (11) Persons affected with Hansen's disease and kokuas, with respect to business within the county of Kalawao;
  - (12) Corporations, companies, associations, or trusts organized for the establishment and conduct of cemeteries no part of the net earnings of which inures to the financial benefit of any private stockholder or individual (provided that the exemption shall apply only to the activities of such persons in the conduct of cemeteries and not to any activity the primary purpose of which is to produce income, even though the income is to be used for or in the furtherance of the exempt activities of such persons);
  - (13) Financial services loan companies taxable under chapter 241; provided that the exemption shall apply only to the gross income derived from the "engaging in the business of a financial services loan company" as defined in section 408-2;
  - (14) Development companies taxable under chapter 241; provided that the exemption shall apply only to gross income derived from interest on loans made to borrowers as provided by Title V of the federal Small Business Investment Act of 1958, Public Law 699, as amended;
  - (15) Nonprofit shippers associations operating under part 296 of the Civil Aeronautics Board Economic Regulations;
  - (16) Small business investment companies taxable under chapter 241; provided that the exemption shall apply only to the gross income

derived from activities engaged in as provided by the federal Small Business Investment Act of 1958, Public Law 699, as amended; provided further that the exemption shall not apply to gross income derived from consulting and advisory services engaged in under the first sentence of section 308(b) of Public Law 699; and

- (17) Financial corporations taxable under chapter 241; provided that the exemption shall apply only to interest, discount, points, loan fees, loan origination charges, and finance charges which are part of the computed annual percentage rate of interest and which are contracted and received for the use of money; provided further that in the case of financial corporations acting as interbank brokers taxable under chapter 241, the exemption shall apply only to gross income derived from brokerage services. As used in this paragraph, "finance charge" and "annual percentage rate" have the same meaning as defined in the federal Truth in Lending Act (15 U.S.C. 1601 et seq.)."

SECTION 5. Section 346-152, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Nothing in this part shall be construed to include:

- (1) A person caring for children related to the caregiver by blood, marriage, or adoption;
- (2) A person, group of persons, or facility caring for a child less than six hours a week;
- (3) A kindergarten, school, or program licensed by the department of education;
- (4) A program which provides exclusively for a specialized training or skill development for children, including but not limited to programs providing such activities as athletic sports, foreign language, the Hawaiian language, dance, drama, music, or martial arts;
- (5) A multiservice organization or community association duly incorporated under the laws of the State which operates for the purpose of promoting recreation, health, safety, or social group functions for eligible pupils in public and private schools through age seventeen; [and]
- (6) Programs for children four years and older, which operate for no more than two consecutive calendar weeks in a three-month period[.]; and
- (7) A provider agency operating or managing a homeless facility, or any other program for the homeless authorized under chapter \_\_\_\_\_."

SECTION 6. Section 467-2, Hawaii Revised Statutes, is amended to read as follows:

"§467-2 Exceptions. The provisions requiring a person to be licensed as a real estate broker or salesperson shall not apply:

- (1) To any person who, as owner of any real estate or acting under power of attorney from the owner, performs any of the acts enumerated in the definitions of real estate broker and real estate salesperson with reference to such real estate; provided that the term "owner" as used in this paragraph shall not include any person engaged in the business of real estate development or brokerage or include such person who acquires any interest in any real estate for

the purpose or as a means of evading the licensing requirements of this chapter; and provided further that the term person “acting under power of attorney” as used in this paragraph shall not include any person engaged in the business of real estate development or brokerage or such person who acts under a power of attorney for the purpose or as a means of evading the licensing requirements of this chapter;

- (2) To any person acting as a receiver, trustee in bankruptcy, personal representative, or trustee acting under any trust agreement, deed of trust, or will, or otherwise acting under any order of authorization of any court;
- (3) To any person who leases, offers to lease, rents, or offers to rent, any real estate or the improvements thereon of which the person is the custodian or caretaker;
- (4) To any person who manages, rents, or operates a hotel[.]; or
- (5) To any provider agency owning, leasing, operating or managing a homeless facility, or any other program for the homeless authorized under chapter \_\_\_\_\_.”

SECTION 7. Section 480-11, Hawaii Revised Statutes, is amended to read as follows:

**“§480-11 Exemption of certain cooperative organizations; insurance transactions; approved mergers of federally regulated companies[.]; homeless facility and program donors and provider agencies.** (a) Nothing in this chapter shall be construed to forbid the existence and operation of fishery, agricultural, or consumer cooperative organizations or associations instituted for the purpose of mutual help, and which are organized and operated under chapter 421, 422, or 421C, or which conform and continue to conform to the requirements of the Capper-Volstead Act (7 U.S.C. 291 and 292); provided that if any such organization or association monopolizes or restrains trade or commerce in any section of this State to such an extent that the price of any fishery, agricultural, or consumer product is unduly enhanced by reason thereof this chapter shall apply to such acts.

(b) This chapter shall not apply to any transaction in the business of insurance which is in violation of any section of this chapter if the transaction is expressly permitted by the insurance laws of this State; and provided further that nothing in this section shall render this chapter inapplicable to any agreement to boycott, coerce, or intimidate or act of boycott, coercion, or intimidation.

(c) This chapter shall not apply to mergers of companies where such mergers are approved by the federal regulatory agency which has jurisdiction and control over such mergers.

(d) This chapter shall not apply to:

- (1) Any provider agencies or donors under chapter \_\_\_\_\_ ;
- (2) Any provider agency or donor method or act that complies with chapter \_\_\_\_\_ ; or
- (3) Any cooperation or agreement authorized pursuant to rule under chapter \_\_\_\_\_.”

SECTION 8. Section 521-7, Hawaii Revised Statutes, is amended to read as follows:

**“§521-7 Exclusions from application of chapter.** Unless created solely to avoid the application of this chapter, this chapter shall not apply to:

- (1) Residence at an institution, whether public or private, where residence is merely incidental to detention or the provision of medical, geriatric, educational, religious, or similar services[.];
- (2) Residence in a structure directly controlled and managed by the University of Hawaii for housing students or faculty of the University of Hawaii or residence in a structure erected on land leased from the University of Hawaii by a nonprofit corporation for the exclusive purpose of housing students or faculty of the University of Hawaii[.];
- (3) Occupancy under a bona fide contract of sale of the dwelling unit or the property of which it is a part where the tenant is, or succeeds to the interest of, the purchaser[.];
- (4) Residence by a member of a fraternal organization in a structure operated without profit for the benefit of the organization[.];
- (5) Transient occupancy on a day to day basis in a hotel or motel[.];
- (6) Occupancy by an employee of the owner or landlord whose right to occupancy is conditional upon such employment or by a pensioner of the owner or landlord[.];
- (7) A lease of improved residential land for a term of fifteen years or more, measured from the date of the commencement of the lease[.];
- (8) Occupancy by the prospective purchaser after an accepted offer to purchase and prior to the actual transfer of the owner’s rights[.]; or
- (9) [Except as provided in section 521-69.5, occupancy in a project for temporary or transitional housing for homeless persons operated by a nonprofit corporation; provided that the nonprofit corporation operating the project has filed a copy of its current rules and regulations governing tenancy at the project, and any changes thereto, with the director of commerce and consumer affairs, which rules and regulations shall be reasonable and a copy of which shall have been provided to each tenant.] Occupancy in a homeless facility, or any other program for the homeless authorized under chapter \_\_\_\_\_.”

SECTION 9. Section 521-8, Hawaii Revised Statutes, is amended by:

1. Deleting the definition of “homeless person”.

[“Homeless person” means a person who does not reside within a dwelling unit.”]

2. Deleting the definition of “nonprofit corporations”.

[“Nonprofit corporations” means organizations incorporated under chapter 415B.”]

3. Deleting the definition of “temporary housing for the homeless”.

[“Temporary housing for the homeless” means a shelter which provides short-term housing for homeless persons.”]

4. Deleting the definition of “transitional housing for the homeless”.

[““Transitional housing for the homeless” means a shelter which provides housing and social programs for homeless persons with the goal of assisting such persons to move into dwelling units.”]

SECTION 10. Section 521-69.5, Hawaii Revised Statutes, is repealed.

SECTION 11. Statutory material to be repealed is bracketed.<sup>1</sup> New statutory material is underscored.

SECTION 12. This Act shall take effect on its approval.

(Approved May 31, 1991.)

**Note**

1. Edited pursuant to HRS §23G-16.5.