

## ACT 3

S.B. NO. 713

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

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

SECTION 1. Section 26-18, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The following are placed in the department of business, economic development, and tourism for administrative purposes as defined by section 26-35: Aloha Tower development corporation, Hawaii community development authority, high technology development corporation, land use commission, natural energy laboratory of Hawaii[,] authority, and any other boards and commissions as shall be provided by law.

The department of business, economic development, and tourism shall be empowered to establish, modify, or abolish statistical boundaries for cities, towns, or villages in the State and shall publish, as expeditiously as possible, an up-to-date list of cities, towns, and villages after changes to statistical boundaries have been made.”

SECTION 2. Section 103-3, Hawaii Revised Statutes, is amended to read as follows:

“**§103-3 Employment of attorneys.** No department of the State, other than the attorney general, shall make any expenditure of public funds for the employment or retention by contract or otherwise of any attorney for the purpose of representing the State or such department in any litigation, rendering legal counsel to the department, or drafting legal documents for the department; provided that the foregoing provision shall not apply:

- (1) To the housing finance and development corporation or the public utilities commission;
- (2) To any court or judicial or legislative officer of the State;
- (3) To the legislative reference bureau;
- (4) To such compilation commission as may be constituted from time to time;

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- (5) To the real estate commission in any action involving the real estate recovery fund, the contractors license board in any action involving the contractors recovery fund, and the trustees in any action involving the travel agency recovery fund;
- [(6)] To the Hawaii criminal justice commission;
- (7) (6) To grand jury counsel;
- [(8)] (7) To the office of Hawaiian affairs;
- [(9)] (8) To the department of commerce and consumer affairs; provided that its attorney shall be responsible for the prosecution of consumer complaints;
- [(10)] (9) To the employees' retirement system; or
- [(11)] (10) In the event the attorney general, for reasons deemed by the attorney general good and sufficient, declines representation or counsel, or approves a department's expenditures; provided that the governor thereupon waives the provision of this section.

For the purpose of this section the term "department of the State" means any department, board, commission, agency, bureau, or officer of the State.

Every attorney employed by any department on a full-time basis, except an attorney employed [by the Hawaii criminal justice commission or] as a grand jury counsel, or the department of commerce and consumer affairs in prosecution of consumer complaints, shall become a deputy attorney general."

SECTION 3. Section 353D-4, Hawaii Revised Statutes, is amended to read as follows:

**"§353D-4 Advisory council.** There is established within the department for administrative purposes an offender family service center program advisory council. The council shall consist of seven members, of whom two shall be offender family members. The members of the council shall be appointed by the director of [corrections] public safety in consultation with private secular and religious organizations. The council may review and make recommendations to the director to improve the services rendered by the center."

SECTION 4. Section 487-5, Hawaii Revised Statutes, is amended to read as follows:

**"§487-5 General functions, powers, and duties.** The director of the office of consumer protection is designated the consumer counsel for the State and shall represent and protect the State, the respective counties, and the general public as consumers. The director of the office of consumer protection shall have the following functions, powers, and duties:

- (1) Coordinate the consumer protection activities of all departments, divisions, and branches of state government, and of branches of the county government concerned with consumer protection;
- (2) Assist, advise, and cooperate with federal, state, and local agencies and officials to protect and promote the interests of the consumer public;
- (3) Conduct investigations, research, studies, and analysis of matters and take appropriate action affecting the interests of consumers;
- (4) Study the operation of laws affecting consumers and recommend to the governor and the legislature, new laws and amendments of laws in the consumers' interest;
- (5) Adopt rules pursuant to chapter 91 interpreting section 480-2; pro-

vided that in adopting rules, due consideration shall be given to the rules, regulations, and decisions of the Federal Trade Commission and the federal courts in interpreting section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C. 45(a)(1)), as from time to time amended;

- (6) Investigate reported or suspected violations of laws enacted and rules adopted for the purpose of consumer protection and shall enforce such laws and rules by bringing civil actions or proceedings;
- (7) Organize and hold conferences on problems affecting consumers; and undertake activities to encourage business and industry to maintain high standards of honesty, fair business practices, and public responsibility in the production, promotion, and sale of consumer goods and services;
- (8) Provide a central clearinghouse of information by collecting and compiling all consumer complaints and inquiries and making the collections and compilations available to the general public; provided that consumer complaints may not be made available to the general public if the office of consumer protection is conducting an investigation or review of the complaints, or if the complaints are being used in connection with civil actions or proceedings initiated by the office of consumer protection, or if the complaints have been referred to another state agency;
- (9) Appear before governmental commissions, departments, and agencies to represent and be heard on behalf of consumers' interest;
- (10) Contract with other county, state, or federal governmental agencies, with nonprofit social services societies, or with private nonprofit trade, professional, or business organizations for the performance of any of the functions of the office not involving the enforcement of rules for the purpose of consumer protection under this section, within the budget limitations for any period not exceeding a budget year, provided that the purposes and policies of this chapter are in no way diluted, abridged, misdirected, or destroyed; and
- [(11) Adopt rules pursuant to chapter 91 necessary to implement the provisions of chapter ; and
- (12)] (11) Perform such other acts as may be incidental to the exercise of the functions, powers, and duties set forth in this section, including but not limited to, compensation of witnesses in such amounts and for such purposes as shall be prescribed by rules.”

SECTION 5. Act 40, Session Laws of Hawaii 1990, is amended by amending the prefatory language in section 1 to read as follows:

“SECTION 1. Section 454-3, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:”

SECTION 6. This Act shall be amended to conform to all other acts passed by the legislature during this Regular Session of 1991, whether enacted before or after the effective date of this Act, unless the other acts specifically provided otherwise.

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.

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SECTION 8. This Act shall take effect on July 1, 1991; provided section 5 shall take effect retroactive to April 23, 1990.

(Approved March 28, 1991.)