

## ACT 2

H.B. NO. 455

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

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

SECTION 1. Section 11-193, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- “(a) The duties of the commission under this subpart are:
- (1) To develop and adopt reporting forms required by this subpart;
  - (2) To adopt and publish a manual for all candidates and committees, describing the requirements of this subpart, including uniform and simple methods of recordkeeping;
  - (3) To preserve all reports required by this subpart for at least ten years from the date of receipt;
  - (4) To permit the inspection, copying, or duplicating of any report required by this subpart pursuant to rules adopted by the commission; provided that no information or copies from the reports shall be sold or used by any person for the purpose of soliciting contributions or for any commercial purpose;
  - (5) To ascertain whether any candidate, committee, or party has failed to file a report required by this subpart or has filed a substantially defective or deficient report, and to notify such persons by first class mail that their failure to file or filing of a substantially defective or deficient report must be corrected and explained. The correction or explanation shall be submitted in writing to the commission not later than 4:30 p.m. on the fifth day after notification of the failure to file or deficiency has been mailed to such persons. The commission shall publish in the newspaper the names of all candidates, committees, and parties who have failed to file a report or to correct their deficiency within the time allowed by the commission. Failure to file or correct a report when due, as required by this subpart shall result in a penalty of \$50. Failure to respond after a newspaper notification shall result in an additional penalty of \$50 for each day a report remains overdue or uncorrected. All penalties collected under this section shall be deposited in the Hawaii election campaign fund;
  - (6) To hold public hearings;
  - (7) To investigate and hold hearings for receiving evidence of any violations;
  - (8) To adopt a code of fair campaign practices as a part of its rules;
  - (9) To establish rules pursuant to chapter 91;
  - (10) To request the initiation of prosecution for the violation of this subpart pursuant to section 11-229;

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- (11) To administer and monitor the distribution of public funds under this subpart;
- (12) To suggest accounting methods for candidates, parties, and committees, as the commission may deem advisable, in connection with reports and records required by this subpart;
- (13) To employ or contract, without regard to chapters 76 and 77 and section [103D-209(b),] 28-8.3, and, at pleasure, to dismiss persons it finds necessary for the performance of its functions, including a full-time executive director, and to fix their compensation;
- (14) To do random audits, field investigations, as necessary;
- (15) To file for injunctive relief when indicated; and
- (16) To censure any candidate who fails to comply with the code of fair campaign practices.”

SECTION 2. Section 76-5, Hawaii Revised Statutes, is amended by amending its title to read as follows:

**“§76-5 [Service to judiciary and counties by the State.] Furnishing of services and facilities.”**

SECTION 3. Section 155-14, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

“(b) All interest and fees collected by the department shall be deposited in the agricultural loan reserve fund to the extent needed to carry on the operations of the department including payments for consultative services that would strengthen the agriculture loan program; any moneys surplus to these needs shall be transferred to the [[agricultural[]] loan revolving fund at the discretion of the department. All payments received on account of principal shall be credited to the [[agricultural[]] loan revolving fund.

(c) A proper reserve shall be maintained in the [[agricultural[]] loan revolving fund to guarantee payment of loans under section 155-5.”

SECTION 4. Section 201-94, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is established within the department, for administrative purposes, an advisory council to be known as the Hawaii tourism marketing council, which shall review and make recommendations on matters relating to state tourism marketing and promotion programs and activities. The council shall be composed of nine voting members and four ex officio nonvoting members. The voting members shall be appointed in accordance with section 26-34, except as otherwise provided by law. The president of the [Hawaii Visitors Bureau,] Hawaii Visitors and Convention Bureau, the president of the Hawaii hotel association, the president of the Hawaii resort developers’ conference, and the director, or their respective designated representatives, shall serve as ex officio, nonvoting members.”

SECTION 5. Section 201-95, Hawaii Revised Statutes, is amended to read as follows:

**“§201-95 Contract with the [Hawaii Visitors Bureau] Hawaii Visitors and Convention Bureau and other organizations; report. (a) Any law to the contrary notwithstanding, the office may contract with the [Hawaii Visitors Bureau] Hawaii Visitors and Convention Bureau or any other visitor industry organization to**

perform tourism promotion, marketing, and development; provided that, whenever possible, the term of these contracts shall be for at least two years and, to the extent practicable, the office shall negotiate and execute all contracts under this subsection as early as possible following the beginning of each fiscal biennium.

(b) The office shall review annually the expenditure of public funds by the [Hawaii Visitors Bureau] Hawaii Visitors and Convention Bureau or any other visitor industry organization and shall make recommendations necessary to ensure the effective use of the funds for the development of tourism. The office shall also prepare annually a report of expenditures, including descriptions and evaluations of programs funded, together with any recommendations the deputy director may make and shall submit the report to the legislature as part of the annual report required under section 201-98.”

SECTION 6. Section 203-1, Hawaii Revised Statutes, is amended to read as follows:

“**§203-1 Duties and conditions.** Any law to the contrary notwithstanding, the department of business, economic development, and tourism may contract with the [Hawaii Visitors Bureau.] Hawaii Visitors and Convention Bureau. The department may add any additional provisions in the contract which it may deem necessary for effective tourist promotion and development.”

SECTION 7. Section 203-2, Hawaii Revised Statutes, is amended to read as follows:

“**§203-2 Terms and conditions of contract.** The contract entered into with the [Hawaii Visitors Bureau] Hawaii Visitors and Convention Bureau shall contain the following terms and conditions:

- (1) The [Hawaii Visitors Bureau] Hawaii Visitors and Convention Bureau shall receive any complaints relating to tourist activities from any person who files complaints with the [Hawaii Visitors Bureau.] Hawaii Visitors and Convention Bureau, report monthly to the department of business, economic development, and tourism, and make these complaints available for the inspection of all interested parties;
- (2) No employee or officer of the department of business, economic development, and tourism shall serve as a member of the [Hawaii Visitors Bureau] Hawaii Visitors and Convention Bureau executive board; and
- (3) The [Hawaii Visitors Bureau] Hawaii Visitors and Convention Bureau shall submit an annual report to the legislature and the department of business, economic development, and tourism of its activities which compares anticipated results with funds expended and includes, but shall not be limited to:
  - (A) Goals and objectives in accordance with identified needs;
  - (B) Description and status of promotional projects and programs including those which may exceed the duration of the contract;
  - (C) Target markets;
  - (D) Analyses of programs and project effectiveness including their anticipated and actual results; and
  - (E) Program and project funding and costs.”

SECTION 8. Section 203-3, Hawaii Revised Statutes, is amended to read as follows:

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**“§203-3 County advisory committees.** There shall be established in each county including the city and county of Honolulu, an advisory committee to the department of business, economic development, and tourism. Each committee shall consist of five members who shall be appointed by the mayor of each county with the approval of the city or county council. The county advisory committees, in order to effectuate tourist promotion and development in their respective counties, shall:

- (1) Advise the department as to what provisions in addition to those specified in this chapter should be contained in the contract between the department and the [Hawaii Visitors Bureau;] Hawaii Visitors and Convention Bureau; and
- (2) Advise the department as to other matters relating to tourism promotion and development.”

SECTION 9. Section 203-4, Hawaii Revised Statutes, is amended to read as follows:

**“§203-4 Disclosure of gifts and in-kind contributions.** The [Hawaii Visitors Bureau] Hawaii Visitors and Convention Bureau shall disclose to the department in a quarterly report the value of all gifts and in-kind contributions received by the [Hawaii Visitors Bureau;] Hawaii Visitors and Convention Bureau; provided, however, that the [Hawaii Visitors Bureau] Hawaii Visitors and Convention Bureau shall not be required to disclose the names of the persons making the gifts and in-kind contributions. The director of business, economic development, and tourism shall adopt procedures and set parameters to implement the reporting requirements of the [Hawaii Visitors Bureau.] Hawaii Visitors and Convention Bureau.”

SECTION 10. Section 203-5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) All marketing programs, including those of destination marketing organizations receiving state funding and state department initiated plans, prior to finalization, shall be transmitted to the office of tourism for coordination with the office’s tourism marketing plan, in accordance with subsection (a). The office of tourism shall be responsible for establishing procedures for the selection and evaluation of statewide tourism promotion projects. The procedures shall include submission of proposals to the office prior to disbursement of any tourism promotion funds, and a final report at the completion of the project to be submitted by the funded entity to the office. All statewide tourism promotion contracts, including the [Hawaii Visitors Bureau,] Hawaii Visitors and Convention Bureau, shall be subject to this subsection.”

SECTION 11. Section 431:10C-117(a), Hawaii Revised Statutes, is reenacted to read as follows:

- “(a) (1) Any person subject to this article in the capacity of the operator, owner, or registrant of a motor vehicle in this State, or registered in this State, who violates any applicable provision of this article, shall be subject to citation for the violation by any county police department in a form and manner approved by the violations bureau of the district court of the first circuit.
- (2) Notwithstanding any provision of the Hawaii Penal Code:
- (A) Each violation shall be deemed a separate offense and shall be subject to a fine of not less than \$100 nor more than \$5,000 which shall not be suspended except as provided in subparagraph (B);

- (B) If the person is convicted of not having had a no-fault policy in effect at the time the citation was issued, the fine shall be \$500 for the first offense and a minimum of \$1,500 for each subsequent offense that occurs within a five-year period from any prior conviction; provided that the judge:
- (i) Shall have the discretion to suspend the fine for the first offense; provided further that upon the defendant's request, the judge may grant community service in lieu of the fine, of not less than seventy-five hours and not more than one hundred hours for the first offense, and not less than two hundred hours nor more than two hundred seventy-five hours for the second offense; and
  - (ii) May grant community service in lieu of the fine for subsequent offenses at the judge's discretion.
- (3) In addition to the fine in paragraph (2), for the first conviction within a five-year period for the offense of driving without no-fault policy, the court shall either:
- (A) Suspend the driver's license of the driver or of the registered owner for three months, provided that they shall not be required to obtain proof of financial responsibility pursuant to section 287-20, or
  - (B) Require the driver or the registered owner to keep a nonrefundable no-fault insurance policy in force for six months.
- In addition to the fine in paragraph (2), if the violation is a subsequent offense of driving without a valid no-fault policy, within a five-year period of any prior conviction, the driver's licenses of the driver or the registered owner shall be suspended for one year and the driver or the registered owner shall be required to maintain proof of financial responsibility pursuant to section 287-20.
- (4) Any person cited under this section shall have an opportunity to present a good faith defense, including but not limited to lack of knowledge or proof of insurance. The general penalty provision of this section shall not apply to:
- (A) Any operator of a motor vehicle owned by another person if the operator's own insurance covers such driving; or
  - (B) Any operator of a motor vehicle owned by that person's employer during the normal scope of that person's employment; or
  - (C) Any operator of a borrowed motor vehicle if the operator holds a reasonable belief that the subject vehicle is insured.
- (5) In the case of multiple convictions for driving without a valid no-fault policy within a five-year period from any prior conviction, the court, in addition to any other penalty, shall impose the following penalties:
- (A) Imprisonment of not more than thirty days;
  - (B) Suspension or revocation of the motor vehicle registration plates of the vehicle involved;
  - (C) Impoundment, or impoundment and sale, of the motor vehicle for the costs of storage and other charges incident to seizure of the vehicle, or any other cost involved pursuant to section 431:10C-301; or
  - (D) Any combination of those penalties."

SECTION 12. Section 607-25, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

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“(c) For purposes of this section, the permits or approvals required by law shall include compliance with the requirements for permits or approvals established by chapters 6E, 46, 54, 171, 174C, 180C, 183, 183C, 184, 195, 195D, 205, 205A, 266, 342B, 342D, 342F, 342H, 342J, 342L, and 343 and ordinances or rules adopted pursuant thereto under chapter 91.”

SECTION 13. Act 9, Session Laws of Hawaii 1996, is amended by amending the prefatory language in section 2 to read as follows:

“SECTION 2. Section [421:9-400,] 412:9-400, Hawaii Revised Statutes, is amended to read as follows:”

SECTION 14. Act 13, Session Laws of Hawaii 1996, is amended by amending section 22 to read as follows:

“SECTION 22. This Act shall be amended to conform to all other acts passed by the legislature during this regular session of [1995,] 1996, whether enacted before or after the effective date of this Act, unless the other acts specifically provide otherwise.”

SECTION 15. Act 20, Session Laws of Hawaii 1996, is amended by amending the prefatory language in section 2 to read as follows:

“SECTION 2. Section 287-20, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:”

SECTION 16. Act 87, Session Laws of Hawaii 1996, is amended by amending the prefatory language in section 2 to read as follows:

“SECTION 2. [Section] Chapter 708, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:”

SECTION 17. Act 173, Session Laws of Hawaii 1996, is amended by amending section 8 to read as follows:

“SECTION 8. This Act shall take effect upon its approval; provided that Section [1] 2 shall take effect on July 1, 1999; Section [2] 3 shall be repealed on June 30, 1999; and Section 6 shall take effect on July 1, 1996.”

SECTION 18. This Act shall be amended to conform to all other acts passed by the legislature during this regular session of 1997, whether enacted before or after the effective date of this Act, unless the other acts specifically provide otherwise.

SECTION 19. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 20. This Act shall take effect upon its approval; provided that:

- (1) Section 11 shall take effect retroactive to April 22, 1996;
- (2) Section 13 shall take effect retroactive to April 12, 1996;
- (3) Sections 14 and 15 shall take effect retroactive to April 22, 1996;
- (4) Section 16 shall take effect retroactive to June 6, 1996; and
- (5) Section 17 shall take effect retroactive to June 17, 1996.

(Approved March 17, 1997.)