

ACT 49

H.B. NO. 2942

A Bill for an Act Relating to Offenses Against Property Rights.

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

SECTION 1. Section 708-801, Hawaii Revised Statutes, is amended to read as follows:

“§708-801 Valuation of property. Whenever the value of property or services is determinative of the class or grade of an offense, or otherwise relevant to a prosecution, the following shall apply:

- (1) Except as otherwise specified in this section, value means the market value of the property or services at the time and place of the offense, or the replacement cost of¹ the market value of the property or services cannot be determined.
- (2) Whether or not they have been issued or delivered, certain written instruments, not including those having a readily ascertained market value, shall be evaluated as follows:
 - (a) The value of an instrument constituting an evidence of debt, such as a check, traveler’s check, draft, or promissory note, shall be deemed the amount due or collectible thereon or thereby, that figure ordinarily being the face amount of the indebtedness less any portion thereof which has been satisfied;
 - (b) The value of any other instrument that creates, releases, discharges, or otherwise affects any valuable legal right, privilege, or obligation shall be deemed the greatest amount of economic loss which the owner of the instrument might reasonably suffer by virtue of the loss of the instrument.
- (3) When property has value but that value cannot be ascertained pursuant to the standards set forth above, the value shall be deemed to be an amount not exceeding \$100.
- (4) When acting intentionally or knowingly with respect to the value of property or services is required to establish an element of an offense, the value of property or services shall be prima facie evidence that the

defendant believed or knew the property or services to be of that value. When acting recklessly with respect to the value of property or services is sufficient to establish an element of an offense, the value of the property or services shall be prima facie evidence that the defendant acted in reckless disregard of the value.

- (5) When acting intentionally or knowingly with respect to the value of property or services is required to establish an element of an offense, it is a defense, which reduces the class or grade of the offense to a class or grade of offense consistent with the defendant's state of mind, that the defendant believed the valuation of the property or services to be less. When acting recklessly with respect to the value of property or services is required to establish an element of an offense, it is a defense that the defendant did not recklessly disregard a risk that the property was of the specified value.
- (6) Amounts involved in thefts committed pursuant to one scheme or course of conduct, whether the property [damaged] taken be of one person or several persons, may be aggregated in determining the class or grade of the offense. Amounts involved in offenses of criminal property damage committed pursuant to one scheme or course of conduct, whether the property damaged be of one person or several persons, may be aggregated in determining the class or grade of the offense."

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

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

(Approved April 29, 1998.)

Note

1. Prior to amendment "if" appeared here.