

ACT 160

S.B. NO. 646

A Bill for an Act Relating to Government.

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

PART I

SECTION 1. Section 92-21, Hawaii Revised Statutes, is amended to read as follows:

“§92-21 Copies of records; other costs and fees. Except as otherwise provided by law, a copy of any government record, including any map, plan, diagram, photograph, photostat, or geographic information system digital data file, which is open to the inspection of the public shall be furnished to any person applying for the same by the public officer having charge or control thereof upon the payment of the reasonable cost of reproducing such copy. The cost of reproducing any government record, except geographic information system digital data, shall not be less than [50] 5 cents per page, sheet, or fraction thereof. The cost of reproducing geographic information system digital data shall be in accordance with rules adopted by the agency having charge or control of that data. Such reproduction cost shall include, but shall not be limited to, labor cost for search and actual time for reproducing, material cost, including electricity cost, equipment cost, including rental cost, cost for certification, and other related costs. All fees shall be paid in by the public officer receiving or collecting the same to the state director of finance, the county director of finance, or to the agency or department by which the officer is employed, as government realizations; provided that fees collected by the public utilities commission pursuant to this section shall be deposited in the public utilities commission special fund established under section 269-33.”

PART II

SECTION 2. The purpose of this part is to authorize the Barbers Point naval air station redevelopment commission to arrange for or provide infrastructure services, including utilities, roadway maintenance and repair, security, and other services, that may be required by the owners of properties being conveyed by the United States Navy under the base realignment and closure action and to recoup the costs for these services, including maintenance and administrative costs, from the owners of the properties, make changes to the composition of the members of the commission to reflect the recent reorganization of the city and county of Honolulu administration; and authorize the commission to establish advisory committees as it deems appropriate.

SECTION 3. Section 206G-3, Hawaii Revised Statutes, is amended to read as follows:

“[[§206G-3]] Barbers Point Naval Air Station redevelopment commission; established. (a) There is established within the department of business, economic development, and tourism, for administrative purposes, the Barbers Point Naval Air Station redevelopment commission, which shall be a body corporate and a public instrumentality of the State for the purpose of implementing this chapter.

(b) The purpose of the commission shall be to act as the local redevelopment authority to facilitate the redevelopment of Barbers Point Naval Air Station in accordance with the Barbers Point Naval Air Station community reuse plan. The commission's duties shall include but not be limited to:

- (1) Coordinating with the Navy and other entities during the preparation of an environmental impact statement and conduct of remediation activities for the Barbers Point Naval Air Station community reuse plan;
- (2) Assisting the landholders designated by the plan in the marketing of their properties and the preparation and processing of conveyance requests;
- (3) Assisting the Navy by providing “caretaker services” after the closure of Barbers Point Naval Air Station as necessary;
- (4) Working with the Navy and others to ensure that infrastructure support is provided to the existing developed area, which is referred to as the “downtown area” and other federally retained areas;
- (5) Developing the infrastructure necessary to support the implementation of the Barbers Point Naval Air Station community reuse plan; and
- (6) Providing, to the extent feasible, maximum opportunity for the reuse of surplus property by private enterprise or state and local government.

(c) The commission shall consist of fifteen voting members as follows:

- (1) The state director of business, economic development, and tourism; the chairperson of the board of land and natural resources; the adjutant general; the chairperson of the Hawaiian homes commission; and the director of transportation, or their designated representatives, shall serve as ex-officio voting members;
- (2) [The county chief planning officer; the director and chief engineer of public works; the director of housing and community development; and the director of transportation services,] Four county department directors appointed by the mayor or their designated representatives, shall serve as [ex-officio] voting members;
- (3) Six voting members shall be appointed for staggered terms as follows:
 - (A) The governor shall appoint one member from a list of three nominees submitted by the chair of the Makakilo/Kapolei/Honokai Hale neighborhood board;
 - (B) The governor shall appoint one member from a list of three nominees submitted by the chair of the Ewa neighborhood board;
 - (C) The governor shall appoint, subject to the advice and consent of the senate, two members from the general public;
 - (D) The mayor of Honolulu shall select one member from the general public; and
 - (E) The Honolulu city council shall select one member from the general public.

(d) The commission shall select a chairperson and such other officers as it may deem necessary from among its members.

(e) The commander, naval base Pearl Harbor and commanding officer, naval air station Barbers Point may serve as non-voting ex-officio members of the commission.

(f) A majority of all voting members shall constitute a quorum to do business, and the concurrence of a majority of all voting members shall be necessary

to make any action of the commission valid. All members shall continue in office until their respective successors, selected in the same manner and representing the same community of interest, have been appointed and qualified.

(g) The commission shall hire an executive director for the commission. The Hawaii community development authority shall [make available employees of the authority to staff] assist the commission as the commission deems necessary.

(h) Members appointed under subsection (c) shall serve without compensation, but each shall be reimbursed for expenses including travel expenses incurred in the performance of their duties.

(i) The commission may establish advisory committees as it deems necessary.”

SECTION 4. Section 206G-4, Hawaii Revised Statutes, is amended to read as follows:

“[[§206G-4]] Powers; generally. In its role as the local redevelopment authority for the redevelopment of the Kalaeloa community development district, and except as otherwise limited by this chapter, the commission may:

- (1) Sue and be sued;
- (2) Have a seal and alter the same at pleasure;
- (3) Make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this chapter;
- (4) Make and alter bylaws for its organization and internal management;
- (5) Make rules with respect to its projects, operations, properties, and facilities, in conformance with chapter 91;
- (6) Through its executive director appoint officers, agents, and employees, prescribe their duties and qualifications, and fix their salaries, without regard to chapters 76 and 77;
- (7) Acquire, reacquire, or contract to acquire or reacquire by grant, lease, or purchase real, personal, or mixed property or any interest therein; to own, hold, clear, improve, and rehabilitate, and to sell, assign, exchange, transfer, convey, lease, or otherwise dispose of or encumber the same;
- (8) Acquire or reacquire by condemnation real, personal, or mixed property or any interest therein for public facilities, including but not limited to streets, sidewalks, parks, schools, utility systems, and other public improvements;
- (9) By itself, or in partnership with qualified persons, acquire, reacquire, construct, reconstruct, rehabilitate, improve, alter, or repair or provide for the construction, reconstruction, improvement, alteration, or repair of any project; own, hold, sell, assign, transfer, convey, exchange, lease, or otherwise dispose of or encumber any project, and in the case of the sale of any project, accept a purchase money mortgage in connection therewith; and repurchase or otherwise acquire any project which the commission has theretofore sold or otherwise conveyed, transferred, or disposed of;
- (10) Arrange or contract for the planning, replanning, opening, grading, or closing of streets, roads, roadways, alleys, or other places, or for the furnishing of facilities or for the acquisition of property or property rights or for the furnishing of property or services in connection with a project;

- (11) Grant options to purchase any project or to renew any lease entered into by it in connection with any of its projects, on such terms and conditions as it deems advisable;
- (12) Prepare or cause to be prepared plans, specifications, designs, and estimates of costs for the construction, reconstruction, rehabilitation, improvement, alteration, or repair of any project, and from time to time to modify such plans, specifications, designs, or estimates;
- (13) Provide advisory, consultative, training, and educational services, technical assistance, and advice to any person, partnership, or corporation, either public or private, in order to carry out the purposes of this chapter, and engage the services of consultants on a contractual basis for rendering professional and technical assistance and advice;
- (14) Contract for and accept gifts [or], grants, utility systems, roadway systems, or other improvements in any form from any public agency or from any other source; [and]
- (15) Arrange for or provide interim services, including but not limited to utilities, roadway maintenance and repair, security, and other services to the owners of properties being conveyed by the Navy under the base realignment and closure action; and recoup the costs for these services including maintenance and administrative costs from the owners of the properties in proportion to their use of the services or benefits therefrom; and
- [(15)] (16) Do any and all things necessary to carry out its purposes and exercise the powers given and granted in this chapter.”

PART III

SECTION 5. Chapter 109, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§109- **Kapolei recreational sports complex special fund.** There is created a special fund to be known as the Kapolei recreational sports complex special fund into which funds appropriated by the legislature, received pursuant to a management contract under section 109-2(3), or collected by the authority from the operations of the Kapolei recreational sports complex shall be deposited subject to contracts entered into pursuant to section 109-2(3); provided that all funds received pursuant to this section shall be kept completely separate from the stadium special fund. Moneys may not be transferred between the Kapolei recreational sports complex special fund and the stadium special fund. The Kapolei recreation and sports complex special fund shall be applied, used, and disposed of for the payment of:

- (1) The expenses of the operation, maintenance, promotion, and management of; and
- (2) All or a portion of the cost of financing any capital improvement project for;

the Kapolei recreational sports complex; provided that all services required for the Kapolei recreational sports complex shall be performed by persons hired on contract or otherwise, without regard for chapters 76 and 77; provided further that the authority shall report annually to the legislature all receipts and expenditures of the Kapolei recreational complex special fund account no later than twenty days prior to the convening of each regular session.”

SECTION 6. Chapter 109, Hawaii Revised Statutes, is amended by amending the title to read as follows:

“STADIUMS AND RECREATIONAL FACILITIES”

SECTION 7. Section 109-1, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There shall be within the department of accounting and general services for administrative purposes only, a stadium authority whose responsibility shall be to maintain, operate, and manage the stadium and facilities attached thereto[,] and to provide for the maintenance, operation, management, and promotion of the Kapolei recreational sports complex. The authority shall consist of nine members who shall be appointed by the governor in the manner prescribed by section 26-34. Each member of the authority shall have been a citizen of the United States and a resident of the State for at least five years next preceding the member’s appointment. The president of the University of Hawaii and the superintendent of education shall be ex officio members of the authority but shall not vote.”

SECTION 8. Section 109-2, Hawaii Revised Statutes, is amended to read as follows:

“§109-2 Stadium authority; powers and duties. The powers and duties of the stadium authority shall be as follows:

- (1) To maintain, operate, and manage the stadium and related facilities[;], and to provide for the maintenance, operation, management, and promotion of the Kapolei recreational sports complex;
- (2) To prescribe and collect rents, fees, and charges for the use or enjoyment of the stadium or any of its facilities;
- (3) To make and execute contracts and other instruments necessary or convenient to exercise its powers under this chapter and subject to any limitations in this chapter, to exercise all powers necessary, incidental, or convenient to carry out and effectuate the purposes and provisions of this chapter[;], including entering into contracts under chapter 102 or 103D for the management of the Kapolei recreational sports complex, to include but not be limited to the operation, maintenance, and promotion of the complex in a manner that is beneficial to both the State and the contractor. These contracts may contain revenue sharing incentives based on increased usage of the complex;
- (4) To adopt, amend, and repeal in accordance with chapter 91 rules it may deem necessary to effectuate this chapter and in connection with its projects, operations, and facilities;
- (5) To appoint a manager and a deputy manager who shall have such qualifications as the authority deems necessary and who shall hold their respective offices at the pleasure of the authority. The manager and deputy manager shall be exempt from the requirements of chapters 76, 77, and 89. Effective January 1, 1989, and January 1, 1990, the salary of the manager shall be set by the governor within the range from \$69,748 to \$74,608 and \$72,886 to \$77,966 a year, respectively. Effective January 1, 1989, and January 1, 1990, the salary of the deputy manager shall be \$62,854 and \$65,683 a year, respectively. The manager shall have full power to administer the affairs of the stadium and related facilities, and to provide for a management contract for the Kapolei recreational sports complex, subject to the direction and approval of the authority. The manager shall, subject to the approval of the authority, have power to appoint, suspend, and discharge a secretary who shall be exempt from the requirements of chapters 76, 77, and 89, and such other employees, subordinates, and assistants as may be

necessary for the proper conduct of the business of the authority. Except for persons hired on contract or otherwise as provided in section 109-3 and except for the manager, deputy manager, and secretary, all appointments, suspensions, or discharges shall be made in conformity with the applicable provisions of chapters 76 and 77; and

- (6) To plan, promote, and market the stadium [and], its related facilities[,], and the Kapolei recreational sports complex.”

SECTION 9. Section 109-3, Hawaii Revised Statutes, is amended to read as follows:

“§109-3 Stadium special fund. There is created a special fund to be known as the stadium special fund into which funds collected by the authority shall be deposited[.]; provided that all funds received pursuant to this section shall be kept completely separate from the Kapolei recreational sports complex special fund. Moneys may not be transferred between the stadium special fund and the Kapolei recreational sports complex special fund. The stadium special fund shall be applied, used and disposed of for the payment of:

- (1) The expenses of the operation, maintenance, promotion, and management of; and
- (2) All or a portion of the cost of financing any capital improvement project for;

the stadium and related facilities; provided that all services required for the stadium and related facilities shall be performed by persons hired on contract or otherwise, without regard for chapters 76 and 77; provided further that the authority shall report to the legislature all receipts and expenditures of the stadium special fund account twenty days prior to the convening of each regular session.”

SECTION 10. Section 109-5, Hawaii Revised Statutes, is amended to read as follows:

“[[§109-5]] Security personnel, powers. The person employed as the chief security officer by the authority shall have all of the powers of police officers, including the power of arrest; provided that such powers shall remain in force and in effect only while the person is in the actual performance of the person’s duties at the stadium[.] or the Kapolei recreational sports complex.”

SECTION 11. Section 109-7, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

“(b) Any person violating any rule of the stadium authority regulating conduct on the stadium or Kapolei recreational sports complex premises shall be guilty of a petty misdemeanor punishable by a fine not exceeding \$1,000, or imprisonment not exceeding thirty days, or both.

(c) Any person violating any rule of the stadium authority regulating parking or traffic on the stadium or Kapolei recreational sports complex premises shall have committed a traffic infraction as set forth in chapter 291D, the adjudication of which shall be subject to the provisions contained therein.”

PART IV

SECTION 12. Findings and purpose. (a) The legislature finds that the federal government has empowered federal agencies that award grants or that enter into intergovernmental agreements with state agencies to provide incentives, such as

decreased state matching funds, waived regulations, or additional federal funds, in exchange for measuring progress towards shared goals.

(b) The purpose of this part is to establish a Hawaii performance partnerships board on a special and temporary basis within the office of the governor for administrative purposes.

SECTION 13. Hawaii performance partnerships board; establishment. (a) There is established within the office of the governor, on a special and temporary basis, the Hawaii performance partnerships board.

(b) The board shall consist of the following nine members who shall be appointed by the governor in accordance with section 26-34, Hawaii Revised Statutes:

- (1) Three members representing business;
- (2) Three members representing philanthropy; and
- (3) Three members representing government.

(c) Members shall serve for five-year terms, except for appointed state officials, who shall serve for the length of their appointments.

(d) The members of the board shall serve without compensation and without reimbursement for expenses, including travel expenses.

(e) The governor shall designate a chairperson from among the members of the board.

SECTION 14. Duties of the board. The board shall:

- (1) Propose key community outcomes of well-being for the residents of the State to the legislature, and report to the legislature and the citizens of Hawaii on progress in attaining the outcomes adopted by the legislature;
- (2) Execute an agreement between the federal government, the state executive branch, and representatives of philanthropy and community service organizations to encourage intergovernmental partnerships with federal agencies and state, county, and community organizations for the purpose of measuring results in exchange for fiscal and regulatory flexibility in achieved shared goals;
- (3) Increase the use of performance measurement initiatives in each state agency through the governor's cabinet; and
- (4) Increase the number of performance partnerships between federal, state, county, and community-based agencies through the governor's cabinet.

SECTION 15. Annual report. The board shall prepare an annual report on progress towards key community outcomes adopted by the legislature, which shall be transmitted to the governor, the legislature, and the public.

PART V

SECTION 16. Section 171-19, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is created in the department a special fund to be designated as the “special land and development fund”. Subject to the Hawaiian Homes Commission Act of 1920, as amended, and section 5(f) of the Admission Act of 1959, and except as provided under section 171-138 for the industrial park special fund, all proceeds of sale of public lands, including interest on deferred payments; all rents from leases, licenses, and permits derived from public lands; all fees, fines, and other administrative charges collected under this chapter; a portion of the highway fuel tax collected

under chapter 243; fees charged by the department for the commercial use of public trails and trail accesses under the jurisdiction of the department; and private contributions for the management, maintenance, and development of trails and accesses shall be set apart in the fund and shall be used only as authorized by the legislature for the following purposes:

- (1) To reimburse the general fund of the State for advances made that are required to be reimbursed from the proceeds derived from sales, leases, licenses, or permits of public lands;
- (2) For the planning, development, management, operations, or maintenance of all lands and improvements under the control and management of the board, [including repairs or improvements thereon; provided that the department shall not expend in excess of \$500,000 in any fiscal year without the prior approval of the governor;] including but not limited to permanent or temporary staff positions who may be appointed without regard to chapter 76 and 77;
- (3) To repurchase any land, including improvements, in the exercise by the board of any right of repurchase specifically reserved in any patent, deed, lease, or other documents or as provided by law;
- (4) For the payment of all appraisal fees; provided that all fees reimbursed to the board shall be deposited in the fund;
- (5) For the payment of publication notices as required under this chapter; provided that all or a portion of the expenditures may be charged to the purchaser or lessee of public lands or any interest therein under rules adopted by the board;
- (6) For the management, maintenance, and development of trails and trail accesses under the jurisdiction of the department not to exceed \$500,000 in any fiscal year; [and]
- (7) For the payment to private land developers who have contracted with the board for development of public lands under section 171-60[.]; and
- (8) For other purposes of this chapter."

SECTION 17. The director of finance shall transfer the unexpended balance, including encumbrances and accrued liabilities, of the industrial park special fund as of the close of business on June 30, 1999, to the credit of the special land and development fund. Encumbered moneys shall continue to be encumbered until paid out or released from prior encumbrances.

PART VI

SECTION 18. The purpose of this part is to provide additional security for lenders on land or interests covered by a lease, patent, license, agreement, or other instrument and provides flexibility to the department of land and natural resources to assign or transfer leases based on current industry standards.

SECTION 19. Chapter 166, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§166- Rights of holders of security interests. (a) For the purpose of this section:

"Institutional lender" means a federal, state, or private lending institution licensed to do business in the State of Hawaii in making loans to qualified applicants under section 166-7 on the basis of a lease for security, in whole or in part, together with any other entity who acquires all or substantially all of an institutional lender's loan portfolio.

“Making a loan” means lending of new money after the effective date of this Act or the renewal or extension of indebtedness owing by a qualified applicant to an institutional lender.

“Security interest” means any interest created or perfected by a mortgage, assignment by way of mortgage, or by a financing statement and encumbering a lease, land demised by the lease, or personal property located at, affixed or to be affixed to, or growing or to be grown upon the demised land.

(b) Board action shall be required when an institutional lender acquires the lessee’s interest through a foreclosure sale, judicial or nonjudicial, or by way of assignment in lieu of foreclosure, or when the institutional lender sells or causes the sale of the lessee’s interest in a lease by way of a foreclosure sale, judicial or nonjudicial. The institutional lender shall convey a copy of the sale or assignment as recorded in the bureau of conveyances.

(c) Notwithstanding any provisions of this chapter or any law to the contrary, if any lease is subject to a security interest held by an institutional lender, and provided the institutional lender has given to the board a copy of such encumbrance as recorded in the bureau of conveyances:

- (1) If the lease is cancelled for violation of any non-monetary lease term or condition, or if the lease is deemed terminated or rejected under bankruptcy laws, than in either event, the institutional lender shall be entitled to issuance of a new lease in its name for a term equal to the term of the lease remaining immediately prior to the cancellation, termination, or rejection, with all terms and conditions being the same as in the cancelled, terminated, or rejected lease, except only for such liens, claims, and encumbrances, if any, which were superior to the institutional lender prior to the cancellation, termination, or rejection. If a lease is rejected or deemed rejected under bankruptcy law, the lease shall be deemed to be cancelled and terminated for all purposes under state law;
- (2) If the lessee’s interest under a lease is transferred to an institutional lender, including by reason of the provisions of paragraph (1) by reason of acquisition of lessee’s interest pursuant to a foreclosure sale, judicial or nonjudicial, and by reason of an assignment in lieu of foreclosure, then:
 - (A) The institutional lender shall be liable for the obligations of the lessee under the lease for the period of time during which the institutional lender is the holder of lessee’s interest but shall not be liable for any obligations of the lessee arising after the institutional lender has assigned the lease;
 - (B) The provisions of subsections 166-6(a)(1) and (2) shall not apply to the lease or the demised land during such time the institutional lender holds the lease; provided, however, that for non-monetary lease violations, the institutional lender shall first remedy the lease terms which caused the cancellation, termination, or rejection to the satisfaction of the board; provided further that the new lease issued to the institutional lender shall have a sunset date (one hundred twenty days from the effective date of issuance), when the institutional lender shall either sell or assign the lease, after which date the provisions of subsection 166-6(a) shall become applicable to the new lease;
- (3) As long as there is a delinquent loan balance secured by a security interest, the lease may not be cancelled or terminated, except for cancellation by reason of default of the lessee, and no increase over and above the fair market rent, based upon the actual use of the land

demised and subject to the use restrictions imposed by the lease and applicable laws, may be imposed or become payable, and no lands may be withdrawn from the lease, except by eminent domain proceedings beyond the control of the board, except with prior written consent by the institutional lender and such consent shall not be unreasonably withheld; and

- (4) If the lease contains any provision requiring the payment of a premium to the lessor on assignment of the lease, any premium shall be assessed only after all amounts owing by any debt secured by a security interest held by a institutional lender shall have been paid in full.

(d) Ownership of both the lease and the security interest by an institutional lender shall not effect or cause a merger thereof, and both interests shall remain distinct and in full force and effect unless the institutional lender elects in writing to merge said estates with the consent of the board.

(e) The board may include in any consent form or document such provisions not inconsistent with the intent of this section as may be required to make a lease mortgageable or more acceptable for mortgageability by an institutional lender.

(f) The purchaser, including junior lien holder, of the institutional lender's security interest, and the same is assigned to such purchaser, then the rights herein shall be exercisable by such transferee as successor in interest to the institutional lender, except that such purchase shall conform with subsection (c)(4) and, further, the transfer of such rights shall be reserved unto and exercisable only to an institutional lender. Other purchasers may not be precluded in acquiring the institutional lender's security interest but cannot have exercisable rights as successor in interest to the original institutional lender."

SECTION 20. Section 171,¹ Hawaii Revised Statutes, is amended to read as follows:

"§171-21 Rights of holder of security interest. Whenever any notice of breach or default is given to any party under section 171-20, or under the terms of any lease, patent, license, agreement, or other instrument issued or to be issued under this chapter, a copy of the notice shall be delivered by the board of land and natural resources to all holders of record of any security interest in the land or interest covered by the lease, patent, license, agreement, or other instrument whose security interest has been recorded with the board. Should the board seek to forfeit the privilege, interest, or estate created by the lease, license, agreement, patent, or other instrument, each holder may, at its option, cure or remedy the breach or default, if the same can be cured or remedied, by the payment of money or, if such is not the case, by performing or undertake in writing to perform all the terms, covenants, restrictions, or conditions of any lease, patent, license, agreement, or other instrument capable of performance by the holder, as determined by the board, within the time period provided in section 171-20 or within such additional period as the board may allow for good cause and add the cost thereof to the mortgage debt and the lien of the mortgage. Any lease, patent, license, agreement, or other instrument transferred pursuant to this section shall not be subject to the requirements in section 171-14. Upon failure of the holder to exercise its option, the board may:

- (1) Pay to the holder from any moneys at its disposal, including the special land and development fund, which is made available for that purpose, the amount of the mortgage debt, together with interest and penalties, and secure an assignment of the debt and mortgage from the holder, or if ownership of the interest or estate shall then have vested in the holder by way of foreclosure or action in lieu thereof the board shall be entitled to a conveyance of the interest or estate upon payment to the

holder of the amount of the mortgage debt, including interest and penalties, and all reasonable expenses incurred by the holder in connection with the foreclosure and preservation of its security interest, less appropriate credits, including income received from the privilege, interest, or estate subsequent to the foreclosure; or

- (2) If the property cannot be reasonably reassigned without loss to the State, then terminate the outstanding privilege, interest, or estate without prejudice to any other right or remedy for arrears of rent or for any preceding or other breach or default, and use its best efforts to dispose of the affected land to a qualified and responsible person free and clear of the mortgage and the debt thereby secured; provided that a reasonable delay by the board in instituting or prosecuting any right or remedy it may have under this section shall not operate as a waiver of the right or to deprive it of the remedy when it may still hope otherwise to resolve the problems created by the breach or default involved.

Section 171-19 to the contrary notwithstanding, the proceeds of any disposition under paragraph (2) shall be applied: first, to reimburse the board for costs and expenses in connection with the disposition; second, to discharge in full any unpaid purchase price or other indebtedness owing the State in connection with the privilege, interest, or estate terminated; third, to the mortgagee to the extent of the value received by the State upon disposition which exceeds the fair market lease value of the land as previously determined by the State's appraiser; and fourth, to the owner of the privilege, interest, or estate. Nothing contained in this section shall be construed in a manner as to infringe upon or prejudice in any way the rights of a holder of record having a security interest which shall have vested prior to the effective date hereof, and to the extent that this section and section 171-98 shall or may conflict and adversely affect such interests, the same shall be of no force and effect."

SECTION 21. Section 171-36, Hawaii Revised Statutes, is amended by amending subsection (a)¹ to read as follows:

"(a) Except as otherwise provided, the following restrictions shall apply to all leases:

- (1) Options for renewal of terms are prohibited;
- (2) No lease shall be for a longer term than sixty-five years, except in the case of a residential leasehold which may provide for an initial term of fifty-five years with the privilege of extension to meet the requirements of the Federal Housing Administration, Federal National Mortgage Association, Federal Land Bank of Berkeley, Federal Intermediate Credit Bank of Berkeley, Berkeley Bank for Cooperatives, or Veterans Administration requirements; provided that the aggregate of the initial term and extension shall in no event exceed seventy-five years;
- (3) No lease shall be made for any land under a lease which has more than two years to run;
- (4) No lease shall be made to any person who is in arrears in the payment of taxes, rents, or other obligations owing the State or any county;
- (5) No lease shall be transferable or assignable, except by devise, bequest, or intestate succession; provided that with the approval of the board of land and natural resources, the assignment and transfer of a lease or unit thereof may be made in accordance with current industry standards, as determined by the board [if:
 - (A) It contains the personal residence of the lessee;

- (B) In the case of commercial, industrial, hotel, resort, apartment, and other business uses, the lessee was required to put in substantial building improvements;
- (C) The lessee becomes mentally or physically disabled;
- (D) Extreme economic hardship is demonstrated to the satisfaction of the board;
- (E) It is to the corporate successor of the lessee; or
- (F) In the case of agricultural uses, the assignee meets the qualifications of a bona fide individual farmer or a nonindividual farm concern pursuant to section 171-14.5, in addition to or notwithstanding the other conditions of this paragraph];

provided further that prior to the approval of any assignment of lease, the board shall have the right to review and approve the consideration to be paid by the assignee and may condition its consent to the assignment of the lease on payment by the lessee of a premium based on the amount by which the consideration for the assignment, whether by cash, credit, or otherwise, exceeds the depreciated cost of improvements and trade fixtures being transferred to the assignee; provided further that with respect to state agricultural leases, in the event of foreclosure or sale, the premium, if any, shall be assessed only after the encumbrances of record and any other advances made by the holder of a security interest are paid;

- (6) The lessee shall not sublet the whole or any part of the demised premises except with the approval of the board; provided that prior to the approval, the board shall have the right to review and approve the rent to be charged to the sublessee; provided further that in the case where the lessee is required to pay rent based on a percentage of its gross receipts, the receipts of the sublessee shall be included as part of the lessee's gross receipts; provided further that the board shall have the right to review and, if necessary, revise the rent of the demised premises based upon the rental rate charged to the sublessee including the percentage rent, if applicable, and provided that the rent may not be revised downward;
- (7) The lease shall be for a specific use or uses and shall not include waste lands, unless it is impractical to provide otherwise;
- (8) Mineral and metallic rights and surface and ground water shall be reserved to the State; and
- (9) No lease of public lands, including submerged lands, nor any extension of any such lease, shall be issued by the State to any person to construct, use, or maintain a sunbathing or swimming pier or to use the lands for such purposes, unless such lease, or any extension thereof, contains provisions permitting the general public to use the pier facilities on the public lands and requiring that a sign or signs be placed on the pier, clearly visible to the public, which indicates the public's right to the use of the pier. The board, at the earliest practicable date, and where legally possible, shall cause all existing leases to be amended to conform to this paragraph. The term "lease", for the purposes of this paragraph, includes month-to-month rental agreements and similar tenancies.

(b) The board, from time to time, upon the issuance or during the term of any intensive agricultural, aquaculture, commercial, mariculture, special livestock, pasture, or industrial lease, may:

- (1) Modify or eliminate any of the restrictions specified in subsection (a);
- (2) Extend or modify the fixed rental period of the lease; or

(3) Extend the term of the lease

to the extent necessary to qualify the lease for mortgage lending or guaranty purposes with the Federal Housing Administration, Federal National Mortgage Association, Department of Veterans Affairs, Small Business Administration, United States Department of Agriculture, Federal Land Bank of Berkeley, Federal Intermediate Credit Bank of Berkeley, Berkeley Bank for Cooperatives, or any other federal mortgage lending agency qualified to do business in the State, and their respective successors and assignees, or to qualify the lessee for any state or private lending institution loan, private loan guaranteed by the State, or any loan in which the State and any private lender participates; provided that the private lender shall be qualified to do business in the State; provided further that the approval of any extension shall be subject to the following:

- (1) The demised premises have been used substantially for the purpose for which they were originally leased;
- (2) The aggregate of the initial term and any extension granted shall not be for more than fifty-five years;
- (3) In the event of a reopening, the rental for any ensuing period shall be the fair market rental at the time of reopening; and
- (4) The rules of the board, setting forth any additional terms and conditions, which shall ensure and promote the purposes of the demised lands.

(c) The board at any time during the term of any intensive agricultural, aquaculture, or mariculture lease and when justified by sound economic practices or other circumstances, may permit an alternative agricultural, aquaculture, or mariculture use or uses for any portion or portions of the land demised. As a condition to permitting alternative uses, the board may require such other modifications, including rental adjustments or changes in the lease as may be necessary to effect or accommodate the alternative use or uses. An alternative use or uses may be allowed by the board upon:

- (1) The application of the lessee;
- (2) Consent of each holder of record having a security interest in the leasehold; and
- (3) A finding by the board that the alternative use or uses are in the public interest.

PART VII

SECTION 22. Section 1-28.5, Hawaii Revised Statutes, is amended to read as follows:

“[[§1-28.5]] Publication of notice. (a) [Whenever] Notwithstanding any other statute, law, charter provision, ordinance, or rule to the contrary, whenever a government agency is required to give public notice or to publish notice, the notice shall be given [by advertisement] only as follows:

- (1) For statewide publication:
 - (A) In a daily or weekly publication of statewide circulation; or
 - (B) By publication in separate daily or weekly publications whose combined circulation is statewide[.];

and
- (2) For county-wide publication, by publication in a daily or weekly publication in the affected county.

Additional supplemental notice may also be given through Hawaii FYI, the State's interactive computer system.

(b) For purposes of this section, the comptroller pursuant to chapter 103D shall determine a [consistent] publication [procedure] for all government agencies to enable the public to go to one source of publication for published public notice on each island.

(c) Whenever a public notice is published in a newspaper or other publication described in subsection (a), proof of the publication shall be the affidavit of the printer, publisher, principal clerk, or business manager of the newspaper or other publication or of the designated agent of the group that published the notice.

(d) This section shall not apply to notices required by chapters 103D and 103F.

(e) For purposes of this section, "government agency" means each department, board, commission, or officer of the State or any of its political subdivisions."

PART VIII

SECTION 23. Section 36-21, Hawaii Revised Statutes, is amended to read as follows:

"§36-21 Short-term investment of state moneys. The director of finance may invest any moneys of the State which in the director's judgment are in excess of the amounts necessary for meeting the immediate requirements of the State and where in the director's judgment the action will not impede or hamper the necessary financial operations of the State in:

- (1) Any bonds or interest-bearing notes or obligations:
 - (A) Of the State (including state director of finance's warrant notes issued pursuant to chapter 40);
 - (B) Of the United States;
 - (C) For which the faith and credit of the United States are pledged for the payment of principal and interest;
- (2) Federal land bank bonds;
- (3) [Joint stock farm loan bonds;] Federal Agricultural Mortgage Corporation notes and bonds;
- (4) Federal Home Loan Bank notes and bonds;
- (5) Federal Home Loan Mortgage Corporation bonds;
- (6) Federal National Mortgage Association notes and bonds;
- (7) Securities of a mutual fund whose portfolio is limited to bonds or securities issued or guaranteed by the United States or an agency thereof;
- (8) Repurchase agreements fully collateralized by any such bonds or securities;
- (9) Federally insured savings accounts;
- (10) Time certificates of deposit;
- (11) Certificates of deposit open account;
- (12) Repurchase agreements with federally insured banks, savings and loan associations, and financial services loan companies;
- (13) Student loan resource securities including:
 - (A) Student loan auction rate securities;
 - (B) Student loan asset-backed notes;
 - (C) Student loan program revenue notes and bonds; and
 - (D) Securities issued pursuant to Rule 144A of the Securities Act of 1933, including any private placement issues; issued with either bond insurance or overcollateralization guaranteed by the United States Department of Education; provided all insurers

- maintain a triple-A rating by Standard & Poor's, Moody's, Duff & Phelps, Fitch, or any other major national securities rating agency;
- (14) Commercial paper with an A1/P1 or equivalent rating by any national securities rating service; and
- (15) Bankers' acceptances with an A1/P1 or equivalent rating by any national securities rating service;

provided that the investments are due to mature not more than five years from the date of investment. Income derived from those investments shall be a realization of the general fund; provided that income earned from moneys invested by the general funds, special funds, bond funds, and trust and agency funds on an investment pool basis shall be paid into and credited to the respective funds based on the contribution of moneys into the investment pool by each fund. As used in this section, "investment pool" means the aggregate of state treasury moneys that are maintained in the custody of the director of finance for investment and reinvestment without regard to fund designation.

Except with respect to an early withdrawal penalty on an investment permitted by this section, the amount of such penalty being mutually agreed at the time of acquisition of such investment, no investment permitted by this section shall require or may in the future require payments by the State, whether unilateral, reciprocal, or otherwise, including margin payments, or shall bear interest at a variable rate which causes or may cause the market price of such investment to fluctuate; provided that such limitation shall not apply to money market mutual funds which:

- (1) [invest] Invest solely in:
 - (A) [direct] Direct and general obligations of the United States of America; or
 - (B) [obligations] Obligations of any agency or instrumentality of the United States of America the payment of the principal and interest on which are unconditionally guaranteed by the full faith and credit of the United States of America[.];¹
- (2) [are] Are rated at the time of purchase "AAAm-G" or its equivalent by Standard & Poor's Ratings Group[.]; and
- (3) [are] Are open-end management investment companies regulated under the Investment Company Act of 1940, as amended, which calculate their current price per share pursuant to Rule 2a-7 (17 Code of Federal Regulations section 270.2a-7) promulgated under such act.

Furthermore, the State shall not acquire any investment or enter into any agreement in connection with the acquisition of any investment or related to any existing investment held by the State, which would require or may in the future require any payment by the State, whether unilateral, reciprocal, or otherwise, such as swap agreements, hedge agreements, or other similar agreements. For purposes of this section, a swap or hedge payment is any payment made by the State in consideration or in exchange for a reciprocal payment by any person, such as a variable rate payment in exchange for a fixed rate payment, a fixed rate payment in exchange for a variable rate payment, a payment when a cap or a floor amount is exceeded, or other similar payment."

PART IX

SECTION 24. The legislature finds that an individual development account (IDA) is a special savings account program designed to:

- (1) Provide individuals and families, especially those with limited financial means, an opportunity to accumulate assets;
- (2) Facilitate and mobilize savings;

- (3) Promote post-secondary education, vocational training, home-ownership, and micro-enterprise development;
- (4) Stabilize families; and
- (5) Build communities.

Members of Hawaii's private sector, nonprofit organizations, and government recognize that IDAs are among the most promising anti-poverty ideas to emerge in the last few decades. In an effort to expand awareness of these accounts, these entities have joined together to form the Hawaii IDA collaborative. Partners in this new initiative include Parents and Children Together, Waimanalo Community Development Corporation, Maui Economic Opportunity, Mutual Housing Association of Hawaii, the Consuelo Zobel Alger Foundation, Bank of Hawaii, Hawaii Community Loan Fund, the Legal Aid Society of Hawaii, American Friends Service Committee, the department of human services, WorkHawaii, and the department of community services of the city and county of Honolulu.

The legislature further finds that Hawaii residents are already beginning to benefit from IDAs, such as:

- (1) Through a partnership between the Waimanalo Community Development Corporation and the housing and community development corporation of Hawaii, up to thirty-four public housing residents will be able to purchase a newly reconstructed unit using moneys the residents have saved in these accounts;
- (2) The Mutual Housing Association of Hawaii and the Pacific Housing Assistance Corporation have similar programs on Kauai and Oahu, respectively; and
- (3) Focusing on savings for business start-up, Parents and Children Together, in partnership with Bank of Hawaii and the city and county of Honolulu, runs a nationally recognized IDA program on Oahu.

The purpose of this part is to promote the growth of IDAs by:

- (1) Establishing IDAs and giving tax incentives to encourage private sector support of an IDA match; and
- (2) Making an appropriation to be used as matching funds.

SECTION 25. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

“CHAPTER INDIVIDUAL DEVELOPMENT ACCOUNTS

§ -1 **Definitions.** As used in this chapter:

“Eligible educational institution” means:

- (1) An institution described in sections 481(a)(1) or 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)(1) or 1141(a)), as such sections are in effect on the date of the enactment of this chapter; and
- (2) An area vocational education school defined in subparagraph (C) or (D) of section 521(4) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471(4)), as such sections are in effect on the date of the enactment of this chapter.

“Fiduciary organization” means an organization that serves as an intermediary between an individual account holder and the financial institution holding the individual's individual development account funds. Fiduciary organizations may include:

- (1) One or more not-for-profit organizations described in section 501(c)(3) of the Internal Revenue Code and exempt from taxation under section 501(a) of the Code; or

- (2) State or local government agencies submitting an application jointly with another organization.

Nothing in this definition shall be construed as preventing an organization described in paragraph (2) from cooperating with a financial institution or for-profit community development corporation to carry out the purposes of this chapter.

The fiduciary organization's responsibilities may include:

- (1) Marketing participation;
- (2) Soliciting matching contributions;
- (3) Counseling program participants; and
- (4) Conducting required verification and compliance activities.

"Financial institution" means an organization authorized to do business pursuant to chapter 412, or under federal laws relating to financial institutions, and includes a bank, trust company, savings bank, building and loan association, savings and loan company or association, and credit union.

"Household" means adults related by blood, marriage, or adoption, or who are unrelated but have maintained a stable family relationship together over a period of time, and individuals under eighteen years of age related to the above adults by marriage, blood, or adoption, who are living together. Living together refers to domicile as evidence by the parties' intent to maintain a home for their family and does not include a temporary visit.

"Individual development account" means an optional, interest bearing, subsidized, tax-benefitted account used exclusively for the purpose of paying the qualified expenditure of an eligible individual as determined by the fiduciary organization.

"Post-secondary educational expenses" means:

- (1) Tuition and fees required for the enrollment or attendance of a student at an eligible educational institution; and
- (2) Fees, books, supplies, and equipment required for courses of instruction at an eligible educational institution.

"Qualified acquisition costs" means the costs of acquiring, constructing, or reconstructing a residence and shall include any usual or reasonable settlement, financing, or other closing costs.

"Qualified business" means any business that does not contravene any law or public policy.

"Qualified business capitalization expenses" means qualified expenditures for the capitalization of a qualified business pursuant to a qualified plan.

"Qualified expenditures" means an expense as determined by a fiduciary organization, which may include but not be limited to:

- (1) Costs associated with first home-ownership;
- (2) Post-secondary education;
- (3) Vocational training; and
- (4) Small or micro-business capitalization.

"Qualified plan" means a business plan or a plan to use a business asset purchased, that:

- (1) Is approved by a financial institution, a micro-enterprise development organization, or a nonprofit loan fund having demonstrated fiduciary integrity;
- (2) Includes a description of services or goods to be sold, a marketing plan, and projected financial statements; and
- (3) May require the eligible individual to obtain the assistance of an experienced entrepreneurial advisor.

"Qualified principal residence" means a principal residence (within the meaning of section 1034 of the Internal Revenue Code of 1986), the qualified acquisition costs of which do not exceed one hundred per cent of the average area

purchase price applicable to such residence (determined in accordance with paragraphs (2) and (3) of section 143(e) of the Code).

§ **-2 Eligible individuals.** (a) The income of the household of the individual development account holder shall not exceed eighty per cent of the area household median income.

(b) The individual shall enter into an individual development account agreement with a fiduciary organization.

§ **-3 Fiduciary organizations.** (a) Fiduciary organizations shall serve as an intermediary between individual development account holders and financial institutions holding accounts. The fiduciary organization's responsibilities may include:

- (1) Marketing participation;
- (2) Soliciting matching contributions;
- (3) Counseling program participants; and
- (4) Conducting verification and compliance activities.

(b) Locally-based organizations shall enter into a competitive process for the right to become fiduciary organizations for a portion of the State matching dollars that would be authorized initially. Fiduciary organization proposals shall be evaluated and participation rights awarded on the basis of such items as:

- (1) Their ability to market the program to potential individual development account holders and potential matching fund contributors;
- (2) Their ability to provide safe and secure investments for individual development accounts;
- (3) Their overall administrative capacity, including:
 - (A) Certifications or verifications required to assure compliance with eligibility requirements;
 - (B) Authorized uses of the accounts matching contributions by individuals or businesses; and
 - (C) Penalties for unauthorized distributions;
- (4) Their capacity to provide financial counseling and other related services to potential participants; and
- (5) Their links to other activities designed to increase the independence of individuals and families through high return investments, including homeownership, education and training, and small business development.

(c) If the State approves an application to fund an individual development account project under this section, the State shall, not later than one month after the date of the enactment of this Act, authorize the applicant to conduct the project with state funds for five project years in accordance with the approved application and this section; provided that an applicant may apply for funding during future fiscal years for five project years if the State lacks the resources to fund an individual development account project pursuant to this subsection.

(d) For each individual development account program approved under this section, the State shall make a grant to the qualified entity or collaboration of entities authorized to conduct the project on the first day of the project year in an amount not to exceed \$100,000 per year for five years.

(e) From among the individuals eligible for assistance under the Hawaii individual development account program, each selected fiduciary organization shall select the individuals whom the fiduciary organization deems to be best suited to receive such assistance.

§ **-4 Penalties.** (a) The fiduciary organization shall establish a grievance committee and a procedure to hear, review, and decide in writing any grievance made by an individual development account holder who disputes a decision of the operating organization that a withdrawal is subject to penalty.

(b) Each fiduciary organization shall establish regulations as are necessary, including prohibiting eligibility for further assistance under an individual development account project conducted under this chapter, to ensure compliance with this chapter if an individual participating in the individual development account project moves from the community in which the project is conducted or is otherwise unable to continue participating in the project.

§ **-5 Death.** In the event of an account holder's death, the account may be transferred to the ownership of a contingent beneficiary. An account holder shall name contingent beneficiaries at the time the account is established and may change beneficiaries at any time. If the named beneficiary is deceased or otherwise cannot accept the transfer, the moneys shall be transferred to the individual development account match fund of the fiduciary organization.

§ **-6 Financial institutions.** (a) Financial institutions shall be permitted to establish individual development accounts pursuant to this chapter. The financial institution shall certify to the fiduciary organization, on forms prescribed by same and accompanied by any documentation required by it, that such accounts have been established pursuant to all the provisions of this chapter and that deposits have been made on behalf of the account holder.

(b) A financial institution establishing an individual development account shall:

- (1) Keep the account in the name of the account holder;
- (2) Permit deposits to be made in the account by the following, subject to the indicated conditions:
 - (A) The account holder; or
 - (B) A contribution made on behalf of the account holder. Such deposits may include moneys to match the account holder's deposits.

§ **-7 Assets; disregarded.** The department of human services and the housing and community development corporation of Hawaii shall collaborate with individual development account fiduciary organizations to ensure that the accounts as provided for in this chapter, including any earned interest, shall be disregarded in the determination of benefits or eligibility for services account holders may receive from said agencies as allowed by federal and state laws and regulations.

The department of human services shall establish rules to be aligned with individual development accounts after the approval of this Act.

§ **-8 Matches.** (a) The State shall match an amount of up to \$100,000 per calendar year for individual development accounts.

(b) Not more than a 2:1 match of state funds to account holder deposits shall be deposited into any individual development account in a given year.

§ **-9 Tax exemption.** All moneys contributed into an individual development account, including state and private matches, individual savings, and interest earned, shall be exempt from taxation.

§ **-10 Tax credit.** (a) Individuals, organizations, or businesses contributing matching funds for individual development accounts shall receive a tax credit equal to fifty per cent of the amount contributed.

(b) Individuals, organizations, and businesses seeking the tax credit can contribute a matching share to designated individuals or contribute to a fiduciary organization and permit it to allocate the funds to all of its participants on a proportionate basis.

(c) The administrator of the fiduciary organization, with the cooperation of the participating organizations, shall maintain records of the names of contributors and the total amount each contributor contributes to an individual development account match fund for the calendar year.

(d) The state shall provide no more than \$1,000,000 in tax credits for private individuals, businesses, and organizations contributing funds to individual development account programs.

§ **-11 Administration; evaluation; information; reporting.** (a) The fiduciary organization running an individual development account program shall have sole authority over the administration of the project. The state may prescribe only such regulations with respect to demonstration projects under this chapter as are necessary to ensure compliance pursuant to this chapter.

(b) Each individual development account program shall annually report the number of accounts, the amount of savings and matches for each account, the uses of the account, and the number of businesses, homes, and educations purchased, as well as other information as may be required for responsible operation of the program.

(c) The fiduciary organization shall submit to the legislature its findings and recommendations no later than twenty days prior to the convening of each legislative session.

(d) Selected fiduciary organizations may use no more than ten per cent of state funds as appropriated under this Act to cover administrative costs in any given year."

SECTION 26. The department of taxation shall submit proposed legislation establishing a tax credit for individual development accounts to the legislature no later than twenty days prior to the convening of the regular session of 2000.

PART X

SECTION 27. Section 29-24, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) There is established in the state treasury an interagency federal revenue maximization revolving fund into which shall be deposited all funds and proceeds collected from the federal government and third-party payors for [reimbursable] costs not previously claimed by the State, with the exception of proceeds collected for services provided by the Hawaii health systems corporation, for reimbursement by federally-funded state programs. For purposes of this chapter, federally-funded state programs include but shall not be limited to those federally-funded programs within the departments of human services, education, and health. Expenditures and transfers from the fund shall be made by the comptroller in proportional allocations established by the comptroller and the director of finance. Transfers shall be made to the department claiming the reimbursement for expenses incurred related to federal fund reimbursement claims and to the general fund of the State. Moneys in the fund may be expended for consultant services rendered under subsection (b)."

SECTION 28. Act 11, Special Session Laws of Hawaii 1995, is amended by amending section 15 to read as follows:

- “SECTION 15. This Act shall take effect on July 1, 1995; provided that:
- (1) Section 10 shall take effect on June 29, 1995; and
 - (2) Sections 3, 4, and 8 shall take effect on July 1, 1996[; and
 - (3) Section 2 shall be repealed on June 30, 1999].”

SECTION 29. There is appropriated out of the revenues of the interagency federal revenue maximization revolving fund the sum of \$100,000 or so much thereof as may be necessary for fiscal year 1999-2000 and the sum of \$100,000 or so much thereof as may be necessary for fiscal year 2000-2001 to the department of education for expenses, including the creation and hiring of temporary staff, related to the recovery of federal fund reimbursements under section 29-24, Hawaii Revised Statutes.

The sums appropriated shall be expended by the department of education.

SECTION 30. There is appropriated out of the revenues of the interagency federal revenue maximization revolving fund the sum of \$150,000 or so much thereof as may be necessary for fiscal year 1999-2000 and the sum of \$150,000 or so much thereof as may be necessary for fiscal year 2000-2001 to the department of health for expenses, including the creation and hiring of temporary staff, related to the recovery of federal fund reimbursements under section 29-24, Hawaii Revised Statutes.

The sums appropriated shall be expended by the department of health.

PART XI

SECTION 31. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect the provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end, the provisions of this Act are severable.

SECTION 32. Statutory material to be repealed is bracketed. New statutory material is underscored.²

- SECTION 33. This Act shall take effect upon its approval; provided that:
- (1) Part I, Part III, and Part V, and sections 29 and 30 of this Act shall take effect on July 1, 1999; and
 - (2) Section 28 shall take effect on June 29, 1999.

(Approved June 28, 1999.)

Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.