

ACT 254

S.B. NO. 1238

A Bill for an Act Relating to Professions and Occupations.¹

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

SECTION 1. The legislature finds that government bureaucracy and red tape may be reduced by deregulating professions and vocations where appropriate. Streamlining government operations by terminating unnecessary programs will make government more cost-effective and efficient, an important and desirable outcome given Hawaii's struggling economy. Accordingly, the purpose of this Act is to:

- (1) Repeal the regulation of real estate collection servicing agents and make conforming amendments to related sections of the Hawaii Revised Statutes. The legislature finds regulation of real estate collection servicing agents is unnecessary; regulation does not serve to protect the public health, safety, and welfare and should therefore be eliminated;
- (2) Require that the legislative auditor report on whether regulation of barbering, beauty culture, and speech pathologists and audiologists should be continued or repealed, and if continued, whether it would be more efficient and cost-effective to regulate through a regulatory board, the department of commerce and consumer affairs, or some other agency or mechanism; and
- (3) Require that the legislative reference bureau report on whether the dental licensing exam developed and used by the board of dental examiners appropriately tests for competence or is an undue exclusionary barrier to entry into the profession, and whether the examination should be replaced by any of four regional examinations.

PART I
REPEAL OF BUSINESS REGULATION

SECTION 2. Section 412:3-502, Hawaii Revised Statutes, is amended to read as follows:

“§412:3-502 Foreign financial institution. No foreign financial institution shall receive deposits, lend money, or pay checks, negotiate orders of withdrawal or share drafts from any [[]principal[]] office, branch, agency, automatic teller machine, or other location in this State, unless expressly authorized by this chapter, other laws of this State, or federal law; provided[,] that nothing in this section shall prohibit any foreign financial institution from participating in the disbursement of cash through an automatic teller machine network or from operating from any location in this State as a mortgage broker licensed under chapter 454, or as a real estate collection servicing agent [registered under chapter 454D].”

SECTION 3. Section 443B-1, Hawaii Revised Statutes, is amended by amending the definition of “collection agency” to read as follows:

““Collection agency” means any person, whether located within or outside this State, who by oneself or through others offers to undertake or holds oneself out

as being able to undertake or does undertake to collect for another person, claims or money due on accounts or other forms of indebtedness for a commission, fixed fee, or a portion of the sums so collected.

“Collection agency” includes:

- (1) Any person using any name other than the person’s own in collecting the person’s own claims with the intention of conveying, or which tends to convey the impression that a third party has been employed;
- (2) Any person who, in the conduct of the person’s business for a fee, regularly repossesses any merchandise or chattels for another; and
- (3) Any person who regularly accepts the assignment of claims or money due on accounts or other forms of indebtedness and brings suits upon the assigned claims or money due on accounts or other forms of indebtedness in the person’s own name; provided that any suits shall be initiated and prosecuted by an attorney who shall have been appointed by the assignee; provided further that any person who by oneself or through others offers to undertake or holds oneself out as being able to undertake or does undertake to collect for another person the amounts due under any agreement which provides for installment payments and which is secured by an interest in real property, including without limitation, mortgage loans and agreements of sale, whether or not the collection servicing agent receives any compensation or other consideration for one’s services, shall fall within the purview of chapter 454D].

“Collection agency” does not include licensed attorneys at law acting within the scope of their profession, licensed real estate brokers, and salespersons residing in this State when engaged in the regular practice of their profession, nor banks, trust companies, building and loan associations, savings and loan associations, financial services loan companies, credit unions, companies doing an escrow business, individuals regularly employed on a regular wage or salary in the capacity of credit persons or in other similar capacity for a single employer who is not a collection agency, nor any public officer or any person acting under an order of court.”

SECTION 4. Chapter 454D, Hawaii Revised Statutes, is repealed.

PART II AUDITOR’S SUNSET REVIEW

SECTION 5. (a) The legislative auditor shall conduct a study, or a series of studies, as appropriate, as provided in subsection (b), regarding the regulation of the following professions or vocations:

- (1) Speech pathologists and audiologists (chapter 468E, Hawaii Revised Statutes);
- (2) Practice of barbering (chapter 438, Hawaii Revised Statutes); and
- (3) Beauty culture (chapter 439, Hawaii Revised Statutes).

(b) With respect to the professions or vocations specified in subsection (a), the auditor shall:

- (1) Determine whether, given the criteria in section 26H-2, Hawaii Revised Statutes, regulation of these professions or vocations should be continued or repealed;
- (2) Upon concluding that regulation of any of these professions and vocations should continue, determine whether regulation would be more efficiently and cost effectively administered by:
 - (A) A regulatory board;
 - (B) The department of commerce and consumer affairs; or
 - (C) An alternative regulatory mechanism.

(c) The auditor shall submit to the legislature a report of the findings and recommendations concerning the regulation of speech pathologists and audiologists no later than twenty days before the convening of the regular session of 2000, and the regulation of barbering and beauty culture no later than twenty days before the convening of the regular session of 2001.

PART III STUDY RELATING TO DENTISTRY

SECTION 6. The legislative reference bureau, with the assistance of the board of dental examiners and the department of commerce and consumer affairs, shall conduct a study of the state-constructed dental licensing examinations used by the board. The study shall include a determination of the following questions:

- (1) Given examination pass rates since 1992, does the state constructed dental licensing examination, including proposed changes to the examination, appropriately test for professional competency in the field of dentistry or serve as an undue exclusionary barrier to entry to the profession? In considering this question, the legislative reference bureau shall compare the dental licensing examination pass rates of the following groups of applicants:
 - (A) Graduates of institutions located in the United States and accredited by an accreditor recognized by the United States Secretary of Education;
 - (B) Graduates of institutions located in the United States not accredited by an accreditor recognized by the United States Secretary of Education;
 - (C) Graduates of institutions located in foreign countries that are accredited by the governments of those countries; and
 - (D) Graduates of institutions located in foreign countries that are not accredited by the governments of those countries;
- (2) Should any of the four regional dental examinations be used in lieu of, or as an alternative option to, the state-constructed dental licensing examination and, if so, under what conditions; and
- (3) Any other questions pertinent to an evaluation and determination of the fairness of the state-constructed dental licensing examination under section 26H-2, Hawaii Revised Statutes, criteria.

The legislative reference bureau shall submit the requested report, with its findings, recommendations, and proposed legislation, if necessary, to the legislature not later than twenty days prior to the convening of the regular session of 2000.

SECTION 7. Statutory material to be repealed is bracketed.

SECTION 8. This Act shall take effect upon its approval.

(Approved July 2, 1999.)

Note

1. In prior draft "Vocations" appeared here.