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H.B. NO. 1108

A Bill for an Act Relating to Statutory Revision: Amending 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 Obsolete or Unnecessary Provisions.

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

SECTION 1. Section 6E-11, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) It shall be a civil and administrative violation for any person to take, appropriate, excavate, injure, destroy, or alter any historic property or aviation artifact located upon the private lands of any owner thereof without the owner’s written permission being first obtained. It shall be a civil and administrative violation for any person to take, appropriate, excavate, injure, destroy, or alter any historic property or aviation artifact located upon lands owned or [f]controlled by the State or any of its political subdivisions,[f] except as permitted by the department, or to knowingly violate the conditions set forth in an approved mitigation plan that includes monitoring and preservation plans.”

SECTION 2. Section 36-27, Hawaii Revised Statutes, is amended to read as follows:

“**§36-27 Transfers from special funds for central service expenses.** Except as provided in this section, and notwithstanding any other law to the

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contrary, from time to time, the director of finance, for the purpose of defraying the prorated estimate of central service expenses of government in relation to all special funds, except the:

- (1) Special out-of-school time instructional program fund under section 302A-1310;
- (2) School cafeteria special funds of the department of education;
- (3) Special funds of the University of Hawaii;
- (4) State educational facilities improvement special fund;
- (5) Convention center enterprise special fund under section 201B-8;
- (6) Special funds established by section 206E-6;
- (7) Housing loan program revenue bond special fund;
- (8) Housing project bond special fund;
- (9) Aloha Tower fund created by section 206J-17;
- (10) Funds of the employees' retirement system created by section 88-109;
- (11) Unemployment compensation fund established under section 383-121;
- (12) Hawaii hurricane relief fund established under chapter 431P;
- (13) Hawaii health systems corporation special funds;
- (14) Tourism special fund established under section 201B-11;
- (15) Universal service fund established under chapter 269;
- ~~[(16) Integrated tax information management systems special fund under section 231-3.2;~~
- [(17)] (16) Emergency and budget reserve fund under section 328L-3;
- [(18)] (17) Public schools special fees and charges fund under section 302A-1130(f);
- [(19)] (18) Sport fish special fund under section 187A-9.5;
- [(20)] (19) Neurotrauma special fund under section 321H-4;
- [(21)] (20) Deposit beverage container deposit special fund under section 342G-104;
- [(22)] (21) Glass advance disposal fee special fund established by section 342G-82;
- [(23)] (22) Center for nursing special fund under section [H]304A-2163[H];
- [(24)] (23) Passenger facility charge special fund established by section 261-5.5;
- [(25)] (24) Solicitation of funds for charitable purposes special fund established by section 467B-15;
- [(26)] (25) Land conservation fund established by section 173A-5;
- [(27)] (26) Court interpreting services revolving fund under section 607-1.5;
- [(28)] (27) Trauma system special fund under section 321-22.5;
- [(29)] (28) Hawaii cancer research special fund;
- [(30)] (29) Community health centers special fund; and
- [(31)] (30) Emergency medical services special fund[H];

shall deduct five per cent of all receipts of all other special funds, which deduction shall be transferred to the general fund of the State and become general realizations of the State. All officers of the State and other persons having power to allocate or disburse any special funds shall cooperate with the director in effecting these transfers. To determine the proper revenue base upon which the central service assessment is to be calculated, the director shall adopt rules pursuant to chapter 91 for the purpose of suspending or limiting the application of the central service assessment of any fund. No later than twenty days prior to the convening of each regular session of the legislature, the director shall report all central service assessments made during the preceding fiscal year.[H]"

SECTION 3. Section 36-30, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Each special fund, except the:

- (1) Transportation use special fund established by section 261D-1;
- (2) Special out-of-school time instructional program fund under section 302A-1310;
- (3) School cafeteria special funds of the department of education;
- (4) Special funds of the University of Hawaii;
- (5) State educational facilities improvement special fund;
- (6) Special funds established by section 206E-6;
- (7) Aloha Tower fund created by section 206J-17;
- (8) Funds of the employees’ retirement system created by section 88-109;
- (9) Unemployment compensation fund established under section 383-121;
- (10) Hawaii hurricane relief fund established under chapter 431P;
- (11) Convention center enterprise special fund established under section 201B-8;
- (12) Hawaii health systems corporation special funds;
- (13) Tourism special fund established under section 201B-11;
- (14) Universal service fund established under chapter 269;
- ~~[(15) Integrated tax information management systems special fund under section 231-3.2;~~
- ~~[(16)]~~ (15) Emergency and budget reserve fund under section 328L-3;
- ~~[(17)]~~ (16) Public schools special fees and charges fund under section 302A-1130(f);
- ~~[(18)]~~ (17) Sport fish special fund under section 187A-9.5;
- ~~[(19)]~~ (18) Neurotrauma special fund under section 321H-4;
- ~~[(20)]~~ (19) Center for nursing special fund under section ~~[[304A-2163]]~~;
- ~~[(24)]~~ (20) Passenger facility charge special fund established by section 261-5.5;
- ~~[(22)]~~ (21) Court interpreting services revolving fund under section 607-1.5;
- ~~[(23)]~~ (22) Trauma system special fund under section 321-22.5;
- ~~[(24)]~~ (23) Hawaii cancer research special fund;
- ~~[(25)]~~ (24) Community health centers special fund; and
- ~~[(26)]~~ (25) Emergency medical services special fund~~[[~~;

shall be responsible for its pro rata share of the administrative expenses incurred by the department responsible for the operations supported by the special fund concerned.~~[[~~”

SECTION 4. Section 84-17, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The following persons shall file annually with the state ethics commission a disclosure of financial interests:

- (1) The governor, the lieutenant governor, the members of the legislature, and delegates to the constitutional convention; provided that delegates to the constitutional convention shall only be required to file initial disclosures;
- (2) The directors and their deputies, the division chiefs, the executive directors and the executive secretaries and their deputies, the purchasing agents and the fiscal officers, regardless of the titles by which the foregoing persons are designated, of every state agency and department;
- (3) The permanent employees of the legislature and its service agencies, other than persons employed in clerical, secretarial, or similar positions;

- (4) The administrative director of the State, and the assistants in the office of the governor and the lieutenant governor, other than persons employed in clerical, secretarial, or similar positions;
- (5) The hearings officers of every state agency and department;
- (6) The president, the vice presidents, assistant vice presidents, the chancellors, and the provosts of the University of Hawaii and its community colleges;
- (7) The superintendent, the deputy superintendent, the assistant superintendents, the complex area superintendents, the state librarian, and the deputy state librarian of the department of education;
- (8) The administrative director and the deputy director of the courts;
- (9) The members of every state board or commission whose original terms of office are for periods exceeding one year and whose functions are not solely advisory; ~~[provided that the governor's special advisory council for technology development established pursuant to section 27-42 not otherwise subject to this subsection shall be exempt from this subsection;]~~
- (10) Candidates for state elective offices, including candidates for election to the constitutional convention, provided that candidates shall only be required to file initial disclosures; and
- (11) The administrator and assistant administrator of the office of Hawaiian affairs."

SECTION 5. Section 132D-16, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) No permit shall be issued under this section unless the applicant presents, at the applicant's option, either:

- (1) A written certificate of an insurance carrier, which has been issued to or for the benefit of the applicant, or a policy providing for the payment of damages in the amount of not less than \$5,000 for injury to, or death of, any one person, and subject to the foregoing limitation for one person; in the amount of not less than \$10,000 for injury to, or death of, two or more persons; and in the amount of not less than \$5,000 for damage to property, caused by reason of the authorized display and arising from any tortious acts or negligence of the permittee, the permittee's agents, employees, or subcontractors. The certificate shall state that the policy is in full force and effect and will continue to be in full force and effect for not less than ten days after the date of the display; or
- (2) The bond of a surety company duly authorized to transact business within the State, or a bond with not less than two individual sureties who together have assets in the State equal in value to not less than twice the amount of the bond, or a deposit of cash, in the amount of not less than \$10,000 conditioned upon the payment of all damages that may be caused to any person or property by reason of the authorized display and arising from any tortious acts or negligence of the permittee, the permittee's agents, employees, or subcontractors. The security shall continue to be in full force and effect for not less than ten days after the date of the display.

The county may require coverage in amounts greater than the minimum amounts set forth in paragraph (1) or (2) if deemed necessary or desirable in consideration of such factors as the location and scale of the display, the type of aerial devices, ~~[display]~~ fireworks, or articles pyrotechnic to be used, and the number of spectators expected."

SECTION 6. Section 134-2, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) No person shall acquire the ownership of a firearm, whether usable or unusable, serviceable or unserviceable, modern or antique, registered under prior law or by a prior owner or unregistered, either by purchase, gift, inheritance, bequest, or in any other manner, whether procured in the State or imported by mail, express, freight, or otherwise, until the person has first procured from the chief of police of the county of the person’s place of business or, if there is no place of business, the person’s residence or, if there is neither place of business nor residence, the person’s place of sojourn, a permit to acquire the ownership of a firearm as prescribed in this section. When title to any firearm is acquired by inheritance or bequest, the foregoing permit shall be obtained before taking possession of a firearm; provided that upon presentation of a copy of the death certificate of the owner making the bequest, any heir or legatee may transfer the inherited or bequested firearm directly to a dealer licensed under section 134-31 or licensed by the United States Department of ~~[the Treasury]~~ Justice without complying with the requirements of this section.”

2. By amending subsection (e) to read:

“(e) The permit application form shall be signed by the applicant and by the issuing authority. One copy of the permit shall be retained by the issuing authority as a permanent official record. Except for sales to dealers licensed under section 134-31, or dealers licensed by the United States Department of Justice, or law enforcement officers, or where a license is granted under section 134-9, or where any firearm is registered pursuant to section 134-3(a), no permit shall be issued to an applicant earlier than fourteen calendar days after the date of the application; provided that a permit shall be issued or the application denied before the twentieth day from the date of application. Permits issued to acquire any pistol or revolver shall be void unless used within ten days after the date of issue. Permits to acquire a pistol or revolver shall require a separate application and permit for each transaction. Permits issued to acquire any rifle or shotgun shall entitle the permittee to make subsequent purchases of rifles or shotguns for a period of one year from the date of issue without a separate application and permit for each acquisition, subject to the disqualifications under section 134-7 and subject to revocation under section 134-13; provided that if a permittee is arrested for committing a felony or any crime of violence or for the illegal sale of any drug, the permit shall be impounded and shall be surrendered to the issuing authority. The issuing authority shall perform an inquiry on an applicant who is a citizen of the United States by using the National Instant Criminal Background Check System before any determination to issue a permit or to deny an application is made. If the applicant is not a citizen of the United States and may be eligible to acquire a firearm under this chapter, the issuing authority shall perform an inquiry on the applicant, by using the National Instant Criminal Background Check System, to include a check of the Immigration and Customs Enforcement databases, ~~[where the applicant is not a citizen of the United States,]~~ before any determination to issue a permit or to deny an application is made.”

SECTION 7. Section 134-3, Hawaii Revised Statutes, is amended by amending subsections (c) and (d) to read as follows:

“(c) Dealers licensed under section 134-31 or dealers licensed by the United States Department of ~~[the Treasury]~~ Justice shall register firearms pursuant to this section on registration forms prescribed by the attorney general and shall not be

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required to have the firearms physically inspected by the chief of police at the time of registration.

- (d) Registration shall not be required for:
- (1) Any device that is designed to fire loose black powder or that is a firearm manufactured before 1899;
- (2) Any device not designed to fire or made incapable of being readily restored to a firing condition; or
- (3) All unserviceable firearms and destructive devices registered with the Bureau of Alcohol, Tobacco, and Firearms of the United States Department of ~~the Treasury~~ Justice pursuant to Title 27, Code of Federal Regulations.”

SECTION 8. Section 134-9, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) In an exceptional case, when an applicant shows reason to fear injury to the applicant’s person or property, the chief of police of the appropriate county may grant a license to an applicant who is a citizen of the United States of the age of twenty-one years or more or to a duly accredited official representative of a foreign nation of the age of twenty-one years or more to carry a pistol or revolver and ammunition therefor concealed on the person within the county where the license is granted. Where the urgency or the need has been sufficiently indicated, the respective chief of police may grant to an applicant of good moral character who is a citizen of the United States of the age of twenty-one years or more, is engaged in the protection of life and property, and is not prohibited under section 134-7 from the ownership or possession of a firearm, a license to carry a pistol or revolver and ammunition therefor unconcealed on the person within the county where the license is granted. The chief of police of the appropriate county, or the chief’s designated representative, shall perform an inquiry on an applicant by using the National Instant Criminal Background Check System, to include a check of the Immigration and Customs Enforcement databases[;] where the applicant is not a citizen of the United States, before any determination to grant a license is made. Unless renewed, the license shall expire one year from the date of issue.”

SECTION 9. Section 195F-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is established a special fund within the state treasury known as the forest stewardship fund which shall be used as follows:

- (1) Payments shall be made by the board pursuant to agreements entered into with qualified landowners to further the purposes of this chapter;
- (2) Moneys collected from:
  - (A) The harvest of non-native forest products from forest reserves;
  - (B) The harvest of native forest products from degraded forests as defined in section 186-5.5, within forest reserves;
  - (C) The sale of forest products found dead and lying on the ground;
  - (D) The sale of tree seedlings from state nurseries;
  - (E) The sale of any other products or services, or anything of value derived from forest reserves not described above; or
  - (F) The imposition of fines or penalties for violations of this chapter and chapters 183 and 185 ~~[and 195F]~~ or any rule adopted thereunder;

shall be used for: (i) ~~[Replanting,]~~ replanting, managing, and maintaining designated timber management areas; (ii) ~~[Enhancing]~~ enhancing the management of public forest reserves with an emphasis on restoring

- degraded koa forests; and (iii) ~~[Developing]~~ developing environmental education and training programs pertaining to sustainable forestry; provided that the activities described in clauses (ii) and (iii) may not be funded unless the activities described in approved management plans pertaining to clause (i) are adequately funded; and
- (3) Moneys deposited into the fund as authorized by section 247-7 may also be used by the department to administer the program and manage the forest reserve system."

SECTION 10. Section 211G-13, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) In carrying out the mission of the corporation, as authorized in this chapter, neither the corporation nor its officers, board members, or employees shall be considered to be broker-dealers, agents, investment advisors, or investment adviser representatives under chapter ~~[485.]~~ 485A. The tax credits issued or transferred pursuant to this chapter shall not be considered securities under chapter ~~[485.]~~ 485A."

SECTION 11. Section 235-51, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) There is hereby imposed on the taxable income of every head of a household a tax determined in accordance with the following table:

In the case of any taxable year beginning after December 31, 2001:

If the taxable income is:	The tax shall be:
Not over \$3,000	1.40% of taxable income
Over \$3,000 but not over \$6,000	\$42.00 plus 3.20% of excess over \$3,000
Over \$6,000 but not over \$12,000	\$138.00 plus 5.50% of excess over \$6,000
Over \$12,000 but not over \$18,000	\$468.00 plus 6.40% of excess over \$12,000
Over <del>[\$21,600]</del> <u>\$18,000</u> but not over \$24,000	\$852.00 plus 6.80% of excess over \$18,000
Over \$24,000 but not over \$30,000	\$1,260.00 plus 7.20% of excess over \$24,000
Over \$30,000 but not over \$45,000	\$1,692.00 plus 7.60% of excess over \$30,000
Over \$45,000 but not over \$60,000	\$2,832.00 plus 7.90% of excess over \$45,000
Over \$60,000	\$4,017.00 plus 8.25% of excess over \$60,000.

In the case of any taxable year beginning after December 31, 2006:

If the taxable income is:	The tax shall be:
Not over \$3,600	1.40% of taxable income
Over \$3,600 but not over \$7,200	\$50.00 plus 3.20% of excess over \$3,600
Over \$7,200 but not over \$14,400	\$166.00 plus 5.50% of excess over \$7,200
Over \$14,400 but not over \$21,600	\$562.00 plus 6.40% of excess over \$14,400
Over \$21,600 but not over \$28,800	\$1,022.00 plus 6.80% of excess over \$21,600

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Over \$28,800 but not over \$36,000	\$1,512.00 plus 7.20% of excess over [\$28,000] <u>\$28,800</u>
Over \$36,000 but not over \$54,000	\$2,030.00 plus 7.60% of excess over \$36,000
Over \$54,000 but not over \$72,000	\$3,398.00 plus 7.90% of excess over \$54,000
Over \$72,000	\$4,820.00 plus 8.25% of excess over \$72,000."

SECTION 12. Section 235-110.7, Hawaii Revised Statutes, is amended as follows:

1. By amending subsections (a) and (b) to read:

“(a) There shall be allowed to each taxpayer subject to the tax imposed by this chapter a capital goods excise tax credit which shall be deductible from the taxpayer’s net income tax liability, if any, imposed by this chapter for the taxable year in which the credit is properly claimed.

The amount of the tax credit shall be determined by the application of the following rates against the cost of the eligible depreciable tangible personal property used by the taxpayer in a trade or business and placed in service within Hawaii after December 31, 1987. For calendar years beginning after: December 31, 1987, the applicable rate shall be three per cent; December 31, 1988, and thereafter, the applicable rate shall be four per cent[~~, except that for the period January 1, 1993, through December 31, 2002, and for eligible depreciable tangible personal property used in a trade or business that is purchased in a county in which the county general excise and use tax surcharge is in effect and placed in service in any county the applicable rate shall be four and one-half per cent].~~ For taxpayers with fiscal taxable years, the applicable rate shall be the rate for the calendar year in which the eligible depreciable tangible personal property used in the trade or business is placed in service within Hawaii.

In the case of a partnership, S corporation, estate, or trust, the tax credit allowable is for eligible depreciable tangible personal property which is placed in service by the entity. The cost upon which the tax credit is computed shall be determined at the entity level. Distribution and share of credit shall be determined by rules.

In the case of eligible depreciable tangible personal property for which a credit for sales or use taxes paid to another state is allowable under section 238-3(i), the amount of the tax credit allowed under this section shall not exceed the amount of use tax[~~, and for the period January 1, 1993, through December 31, 2002, the amount of the county general excise and use tax surcharge,~~] actually paid under chapter 238 relating to such tangible personal property.

If a deduction is taken under section 179 (with respect to election to expense certain depreciable business assets) of the Internal Revenue Code of 1954, as amended, no tax credit shall be allowed for that portion of the cost of property for which the deduction was taken.

- (b) [If the tax credit is claimed by a taxpayer at the rate of four and one-half per cent, and the tangible personal property is purchased in a county in which the county general excise and use tax surcharge is not in effect, there shall be added to and become part of the tax liability of the taxpayer:
- (1) The amount of the tax credit claimed under this section multiplied by three; or
  - (2) Ten per cent of the income tax liability for the taxable year for which the income tax return is being filed,
- whichever is greater.]



If the capital goods excise tax credit allowed under subsection (a) exceeds the taxpayer's net income tax liability, the excess of credit over liability shall be refunded to the taxpayer; provided that no refunds or payment on account of the tax credit allowed by this section shall be made for amounts less than \$1.

All claims for tax credits under this section, including any amended claims, must be filed on or before the end of the twelfth month following the close of the taxable year for which the credits may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the credit."

2. By amending subsection (e) to read:

"(e) As used in this section, the definition of section 38 property (with respect to investment in depreciable tangible personal property) as defined by section 48(a)(1)(A), (a)(1)(B), (a)(3), (a)(4), (a)(7), (a)(8), (a)(10)(A), (b), (c), (f), (l), (m), and (s) of the Internal Revenue Code of 1954, as amended as of December 31, 1984, is operative for the purposes of this section only.

As used in this section:

"Cost" means (1) the actual invoice price of the tangible personal property, or (2) the basis from which depreciation is taken under section 167 (with respect to depreciation) or from which a deduction may be taken under section 168 (with respect to accelerated cost recovery system) of the Internal Revenue Code of 1954, as amended, whichever is less.

"Eligible depreciable tangible personal property" is section 38 property as defined by the operative provisions of section 48 and having a depreciable life under section 167 or for which a deduction may be taken under section 168 of the federal Internal Revenue Code of 1954, as amended.

"Placed in service" means the earliest of the following taxable years:

- (1) The taxable year in which, under the:
  - (A) Taxpayer's depreciation practice, the period for depreciation; or
  - (B) Accelerated cost recovery system, a claim for recovery allowances; with respect to such property begins; or
- (2) The taxable year in which the property is placed in a condition or state of readiness and availability for a specifically assigned function.

"Purchase" means an acquisition of property.

"Tangible personal property" means tangible personal property which is placed in service within Hawaii after December 31, 1987, and the purchase or importation of which resulted in a transaction which was subject to the imposition and payment of tax at the rate of four per cent[~~, except that for the period January 1, 1993, through December 31, 2002, and if the county general excise and use tax surcharge is in effect the tax rate shall be four and one-half per cent,~~] under chapter 237 or 238. "Tangible personal property" does not include tangible personal property which is an integral part of a building or structure or tangible personal property used in a foreign trade zone, as defined under chapter 212."

SECTION 13. Section 367D-8, Hawaii Revised Statutes, is amended to read as follows:

"**[§367D-8] Annual report.** The department of public safety and the office of youth services shall submit an annual report to the legislature no later than twenty days before the convening of each regular session on the following areas: program descriptions, type and costs of contracts made, name of the private agency awarded each contract, and the success of each contract in meeting program specifications. The report shall detail the development of the comprehensive continuum of care to address the gender-responsive needs of Hawaii's female offenders and female adjudicated youth both in-state and abroad. The report shall also

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highlight the existing gaps in the system and include recommendations for resources needed to reach a seamless continuum of care and other relevant information concerning the creation of a gender-responsive environment for female offenders and female adjudicated youth. ~~[The first report shall be submitted no later than twenty days before the convening of the regular session of 2006.]~~”

SECTION 14. Section 412:3-201, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The application shall contain the following information, unless waived by the commissioner:

- (1) The proposed name of the financial institution;
- (2) The specific location of its principal office, branches, agencies, and support facilities, and any lease agreements for such principal office, branches, agencies, and support facilities;
- (3) Financial statements, employment history, education, management experience, and other biographical information for all applicants, organizers, proposed executive officers, and directors of the financial institution;
- (4) The name and address of each proposed subscriber of capital stock in the financial institution;
- (5) The proposed capital plan, if capital has not been fully raised, that shall include:
  - (A) A description of any stock options, debentures, and stock warrants offered or proposed to be offered to any person; and
  - (B) Any stock option plan;
- (6) The proposed capital stock solicitation plan, if subscriptions for capital stock will be solicited, that shall include:
  - (A) Information regarding the solicitation plan by which the applicant and the proposed financial institution propose to conduct the solicitation of subscribers;
  - (B) Information regarding the classes of shares, respective quantities of shares for each class, and the subscription price of each class of stock;
  - (C) A specimen subscription contract or purchase agreement and other related documents to be executed by subscribers;
  - (D) Any underwriting agreement or other agreement for the purchase or distribution of the capital stock;
  - (E) Any escrow agreements or other agreement for the holding of the purchase proceeds of the capital stock;
  - (F) Proposed advertising materials;
  - (G) If the offer and sale of the capital stock is subject to the Securities Act of 1933 and regulations thereunder, a copy of the registration statement most recently filed with the federal Securities and Exchange Commission or any other notices or other filings in lieu of registration required or permitted by that Act or regulation and any subsequent amendments thereto;
  - (H) If the offer and sale of the capital stock is subject to chapter [485,] 485A, a copy of the registration or qualification statement most recently filed with the commissioner of securities and any subsequent amendments thereto; and
  - (I) If the offer and sale of the capital stock is not subject to the Securities Act of 1933 or chapter [485,] 485A, whether exempted by law or regulation or otherwise, a copy of the most recent

version of any prospectus, offering memorandum, offering circular, or other offering document proposed to be delivered to prospective subscribers to the capital stock, and any subsequent amendments thereto;

- (7) The financial institution's proposed policies concerning loans and concentrations of credit, asset and liability management, conflicts of interest, investments, community reinvestment, bank secrecy, anti-money laundering, and customer identification;
- (8) The financial institution's business plan for the first three years of operations;
- (9) Financial projections regarding the financial institution's profitability for the first three years of operations;
- (10) A market study or letters of support evidencing the need and advisability of granting authority to organize a financial institution;
- (11) Except for trust companies, evidence that the financial institution has applied for federal deposit insurance from the Federal Deposit Insurance Corporation or other appropriate federal deposit insurer;
- (12) Evidence that the financial institution has applied for fidelity bonds and other insurance appropriate to its size and operations, including the types and the amounts of coverage, and the respective deductible amounts, from insurance companies licensed in the United States;
- (13) Evidence that the proposed directors and executive officers of the financial institution have the financial ability, responsibility, and experience to engage in the business of a financial institution;
- (14) The employment agreements for all proposed executive officers of the financial institution;
- (15) The proposed articles of incorporation and bylaws of the financial institution;
- (16) A description of any existing or proposed service corporation, affiliate, or subsidiary; and
- (17) Any other information that the commissioner may require."

SECTION 15. Section 412:3-202, Hawaii Revised Statutes, is amended to read as follows:

**"§412:3-202 Additional requirements for holding company.** An applicant for the organization of a Hawaii financial institution that will be a subsidiary of a holding company shall furnish the commissioner with the following additional information regarding the holding company, unless waived by the commissioner:

- (1) If the holding company is a corporation, a certificate from the incorporating jurisdiction indicating that the corporation was properly organized under applicable corporate law, and that it is otherwise in good standing;
- (2) Its existing and proposed affiliates and subsidiaries, and the extent and nature of its control over the operations of the proposed financial institution;
- (3) Financial statements, employment history, education, management experience, and other biographical information for all of its executive officers and directors;
- (4) The name and address of each shareholder or each proposed subscriber of capital stock;
- (5) The proposed capital plan, if capital has not been fully raised, that shall include:

- (A) A description of any stock options, debentures, and stock warrants offered or proposed to be offered to any person; and
- (B) Any stock option plan;
- (6) The proposed capital stock solicitation plan, if subscriptions for capital stock will be solicited, that shall include:
  - (A) Information regarding the solicitation plan by which the applicant and the proposed holding company propose to conduct the solicitation of subscribers;
  - (B) Information regarding the classes of shares, respective quantities of shares for each class, and the subscription price of each class of stock;
  - (C) A specimen subscription contract or purchase agreement and other related documents to be executed by subscribers;
  - (D) Any underwriting agreement or other agreement for the purchase or distribution of the capital stock;
  - (E) Any escrow agreements or other agreement for the holding of the purchase proceeds of the capital stock;
  - (F) Proposed advertising materials;
  - (G) If the offer and sale of the capital stock is subject to the Securities Act of 1933 and regulations thereunder, a copy of the registration statement most recently filed with the federal Securities and Exchange Commission or any other notices or other filings in lieu of registration required or permitted by that Act or regulation and any subsequent amendments thereto;
  - (H) If the offer and sale of the capital stock is subject to chapter [485,] 485A, a copy of the registration or qualification statement most recently filed with the commissioner of securities and any subsequent amendments thereto; and
  - (I) If the offer and sale of the capital stock is not subject to the Securities Act of 1933 or chapter [485,] 485A, whether exempted by law or regulation or otherwise, a copy of the most recent version of any prospectus, offering memorandum, offering circular, or other offering document proposed to be delivered to prospective subscribers to the capital stock, and any subsequent amendments thereto;
- (7) The articles of incorporation and bylaws of the holding company;
- (8) Evidence that it has or will have the financial ability, responsibility, and experience to engage in the business of a financial institution holding company;
- (9) The employment agreements for all executive officers of the holding company; and
- (10) Any other information that the commissioner may require.”

SECTION 16. Section 412:3-206, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) The applicant and the proposed Hawaii financial institution shall not solicit subscriptions for the capital stock of the Hawaii financial institution until the written decision and order granting the application for preliminary approval to organize has been issued and the articles of incorporation have been accepted for filing by the director of commerce and consumer affairs. The approval shall not constitute a determination that the applicant has complied with chapter [485] 485A or any other state or federal law.”

SECTION 17. Section 417E-1, Hawaii Revised Statutes, is amended by amending the definition of “broker-dealer” to read as follows:

““Broker-dealer” means a [~~“dealer”~~] “broker-dealer” as defined in section [485-1-] 485A-102.”

SECTION 18. Section 706-606.2, Hawaii Revised Statutes, is amended to read as follows:

**“[§706-606.2] Special sentencing considerations for arson; other actions not prohibited.** (1) In addition to any other penalty imposed, a person convicted of arson involving fire set to brush, grass, vegetation on the land resulting in damage to [40,000] ten thousand square feet of property, may be required to:

- (a) Pay any costs associated with extinguishing the fire; and
- (b) Perform community service work in the region in which the property damage occurred.

With regard to any [[fine]] or monetary penalty that may be imposed on a minor convicted or adjudicated for an offense of arson, the parents or legal guardians of the minor shall be liable for the percentage of costs associated with extinguishing the fire based upon the apportionment of fire damage to real or personal property caused by the minor as a result of committing the offense of arson, regardless of whether the property is publicly or privately owned.

- (2) Nothing in this section shall prohibit a separate criminal action being brought by the State or a civil action being brought by the State or a third party for conduct that constitutes an offense of arson.”

SECTION 19. Section 707-711, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

- “(1) A person commits the offense of assault in the second degree if:
  - (a) The person intentionally or knowingly causes substantial bodily injury to another;
  - (b) The person recklessly causes serious or substantial bodily injury to another person;
  - (c) The person intentionally or knowingly causes bodily injury to a correctional worker, as defined in section 710-1031(2), who is engaged in the performance of duty or who is within a correctional facility;
  - (d) The person intentionally or knowingly causes bodily injury to another person with a dangerous instrument; or
  - (e) The person intentionally or knowingly causes bodily injury to an educational worker who is engaged in the performance of duty or who is within an educational facility. For the purposes of this paragraph, “educational worker” means: any administrator, specialist, counselor, teacher, or employee of the department of education [[or]] an employee of a charter school; a person who is a volunteer in a school program, activity, or function that is established, sanctioned, or approved by the department of education; or a person hired by the department of education on a contractual basis and engaged in carrying out an educational function.”

SECTION 20. Section 27-42, Hawaii Revised Statutes, is repealed.

SECTION 21. Section 231-3.2, Hawaii Revised Statutes, is repealed.

SECTION 22. Section 231-8.6, Hawaii Revised Statutes, is repealed.

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SECTION 23. Section 235-110.4, Hawaii Revised Statutes, is repealed.

SECTION 24. Section 235-110.45, Hawaii Revised Statutes, is repealed.

SECTION 25. Section 235-110.92, Hawaii Revised Statutes, is repealed.

SECTION 26. Section 237-29.65, Hawaii Revised Statutes, is repealed.

SECTION 27. Section 237-29.75, Hawaii Revised Statutes, is repealed.

SECTION 28. Section 239-13, Hawaii Revised Statutes, is repealed.

SECTION 29. Act 184, Session Laws of Hawaii 2006, is amended by amending the prefatory language in section 3 to read as follows:

“SECTION 3. Section 414-64, Hawaii Revised Statutes, is amended by amending subsections (b) and ~~[(d)]~~ (c) to read as follows:”

SECTION 30. This Act shall be amended to conform to all other acts passed by the legislature during this regular session of 2007, whether enacted before or after the effective date of this Act, unless the other acts specifically provide otherwise.

SECTION 31. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 32. This Act shall take effect upon its approval; provided that:

- (1) Section 10 shall take effect July 1, 2008;
- (2) Section 11 shall take effect retroactive to May 19, 2006;
- (3) Sections 14, 15, 16, and 17 shall take effect July 1, 2008; and
- (4) Section 29 shall take effect retroactive to July 1, 2006.

(Approved April 9, 2007.)