

ACT 9

H.B. NO. 1650

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 102-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The bidding requirements of subsection (a) shall not apply to concessions or space on public property set aside for the following purposes:

- (1) For operation of ground transportation services and parking lot operations at airports, except for motor vehicle rental operations under chapter 437D;
- (2) For lei vendors;
- (3) For airline and aircraft operations;
- (4) For ~~automatic~~ automated teller machines and vending machines, except vending machines located at public schools operated by blind or visually handicapped persons in accordance with section 302A-412;
- (5) For operation of concessions set aside without any charge;
- (6) For operation of concessions by handicapped or blind persons; except concessions operated in the public schools by blind or visually handicapped persons in accordance with section 302A-412;
- (7) For operation of concessions on permits revocable on notice of thirty days or less; provided that no such permits shall be issued for more than a one year period;
- (8) For operation of concessions or concession spaces for a beach service association dedicated to the preservation of the Hawaii beach boy tradition, incorporated as a nonprofit corporation in accordance with state law, and whose members are appropriately licensed or certified as required by law;
- (9) For operation of concessions at county zoos, botanic gardens, or other county parks which are environmentally, culturally, historically, or operationally unique and are supported, by nonprofit corporations incorporated in accordance with state law solely for purposes of supporting county aims and goals of the zoo, botanic garden, or

- other county park, and operating under agreement with the appropriate agency solely for such purposes, aims, and goals;
- (10) For operation of concessions that furnish goods or services for which there is only one source, as determined by the head of the awarding government agency in writing that shall be included in the contract file; and
- (11) For any of the operations of the Hawaii health systems corporation and its regional system boards.”

SECTION 2. Section 209E-2, Hawaii Revised Statutes, is amended by amending the definition of “leased employee” to read as follows:

““Leased employee” means an employee under a professional [employment] employer organization arrangement who is assigned to a particular client company on a substantially full-time basis for at least one year.”

SECTION 3. Section 302A-101, Hawaii Revised Statutes, is amended by amending the definition of “charter schools” to read as follows:

““Charter schools” means public schools holding [~~charters~~] charter contracts to operate as charter schools under chapter [§]302D[§], including start-up and conversion charter schools, that have the flexibility to implement alternative frameworks with regard to curriculum, facilities management, instructional approach, length of the school day, week, or year, and personnel management.”

SECTION 4. 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~~] automated 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~~] automated teller machine network or from operating from any location in this State as a licensee under chapter 454F, or as a real estate collection servicing agent.”

SECTION 5. Section 412:12-101, Hawaii Revised Statutes, is amended by amending the definition of “branch” to read as follows:

““Branch” means a place of business of a bank, other than its main office, which is open to the public and at which deposits are received and paid. The term does not include an [~~automatic~~] automated teller machine as defined in section 412:3-501.”

SECTION 6. Section 454F-1, Hawaii Revised Statutes, is amended by amending the definitions of “exempt sponsoring mortgage loan originator company” and “unique identifier” to read as follows:

““Exempt sponsoring mortgage loan originator company” means any person exempt from or not included in the licensing requirements of this chapter who registers with [§]NMLS[§] for purposes of sponsoring a mortgage loan originator.

“Unique identifier” means a number or other identifier assigned by protocols established by [§]NMLS[§].”

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SECTION 7. Section 454F-25, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) An employee who performs mortgage loan originator activities for a nonprofit organization is exempt from registration and licensure as a mortgage loan originator; provided that:

- (1) The employee’s actions are part of the employee’s duties as an employee of the nonprofit organization;
- (2) The employee only provides mortgage loan originator services with respect to residential mortgage loans with terms favorable to the borrower; and
- (3) The nonprofit organization registers with ~~[[NMLS]]~~.

(b) The commissioner shall periodically examine the books and activities of nonprofit organizations as defined in section 454F-1 and shall revoke an organization’s registration as a nonprofit organization with ~~[[NMLS]]~~ if the nonprofit organization fails to meet the requirements to be a nonprofit organization.”

SECTION 8. Section 466J-8, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) The board shall not renew or reinstate, or shall deny or suspend, any license or application~~;~~ if the board has received certification from an administering entity pursuant to chapter 436C that the licensee or applicant either: is in default or breach of any obligation under any student loan, student loan repayment contract, or scholarship contract that financed the licensee’s or applicant’s education; or has failed to comply with a repayment plan.

~~[The board in]~~ Upon receipt of a certification pursuant to chapter 436C ~~[shall, as applicable, and], the board, without further review or hearing[;] shall, as applicable:~~

- (1) Suspend the license ~~[without further review or hearing]~~;
- (2) Deny the application or request for renewal of the license; or
- (3) Deny the request for reinstatement of the license;

~~and unless].~~

Unless otherwise provided by law, the board shall renew, reinstate, or grant the license only upon receipt of an authorization from the administering entity.”

SECTION 9. Section 459-16, Hawaii Revised Statutes, is repealed.

SECTION 10. Act 212, Session Laws of Hawaii 2008, as amended by Acts 11 and 96, Session Laws of Hawaii 2009, as amended by Act 184, Session Laws of Hawaii 2013, is amended by amending section 7 to read as follows:

“SECTION 7. This Act shall take effect upon its approval and shall be repealed on January 1, 2016~~[-]~~; provided that section 461-14, Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day before the effective date of this Act.”

SECTION 11. Section 321-15.62, Hawaii Revised Statutes, is amended by ratifying the reenactment by the revisor of subsection (b) to read as follows:

“(b) The director of health shall adopt rules regarding expanded adult residential care homes in accordance with chapter 91 that shall implement a social model of health care designed to:

- (1) Protect the health, safety, civil rights, and rights of choice of residents in a nursing facility or in home- or community-based care;

- (2) Provide for the licensing of expanded adult residential care homes for persons who are certified by the department of human services, a physician, advanced practice registered nurse, or registered nurse case manager as requiring skilled nursing facility level or intermediate care facility level of care who have no financial relationship with the home care operator or facility staff; provided that the rules shall allow group living in the following two categories of expanded adult residential care homes as licensed by the department of health:
- (A) A type I home shall consist of five or fewer residents with no more than two nursing facility level residents; provided that more nursing facility level residents may be allowed at the discretion of the department; and provided further that up to six residents may be allowed at the discretion of the department to live in a type I home; provided that the primary caregiver or home operator is a certified nurse aide who has completed a state-approved training program and other training as required by the department; and
- (B) A type II home shall consist of six or more residents, with no more than twenty per cent of the home's licensed capacity as nursing facility level residents; provided that more nursing facility level residents may be allowed at the discretion of the department;
- provided further that the department shall exercise its discretion for a resident presently residing in a type I or type II home, to allow the resident to remain as an additional nursing facility level resident based upon the best interests of the resident. The best interests of the resident shall be determined by the department after consultation with the resident, the resident's family, primary physician, case manager, primary caregiver, and home operator;
- (3) Comply with applicable federal laws and regulations of title XVI of the Social Security Act, as amended; and
- (4) Provide penalties for the failure to comply with any rule.”

SECTION 12. Act 175, Session Laws of Hawaii 2010, is amended by amending section 5 to read as follows:

“SECTION 5. This Act shall take effect on July 1, 2010[-]; provided that the amendments made to section 201-12.8(a), Hawaii Revised Statutes, by this Act shall not be repealed when that section is reenacted on June 30, 2015, pursuant to section 14 of Act 73, Session Laws of Hawaii 2010.”

SECTION 13. Act 205, Session Laws of Hawaii 2013, is amended by amending the prefatory language in section 4 to read as follows:

“SECTION 4. Section [711-1110,] 711-1100, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:”

SECTION 14. Statutory material to be repealed is bracketed and stricken.¹ New statutory material is underscored.

SECTION 15. This Act shall take effect upon its approval.

(Approved April 7, 2014.)

Note

1. Edited pursuant to HRS §23G-16.5.