
A BILL FOR AN ACT

RELATING TO STATUTORY REVISION: AMENDING, REENACTING, 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:

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

3 "(e) It shall be a civil and administrative violation for
4 any person to knowingly glue together any human skeletal
5 remains, label any human skeletal remains with any type of
6 marking pen, or conduct any tests that destroy human skeletal
7 remains, as defined in [~~chapter 6E,~~] section 6E-2, except as
8 permitted by the department."

9 SECTION 2. Section 40-82, Hawaii Revised Statutes, is
10 amended by amending subsection (b) to read as follows:

11 "(b) The judiciary, from time to time, may prepare lists
12 of all delinquent receivables that in its judgment are
13 uncollectible. The delinquent receivables that the judiciary
14 finds to be uncollectible shall be entered in a special record
15 and be deleted from the other books kept by the judiciary, and
16 the judiciary shall thereupon be released from any further



1 accountability for their collection; provided that no
2 [†]account[†] shall be so deleted until it has been delinquent
3 for at least two years. Any delinquent receivables so written
4 off may be transferred back to the judiciary's accounts
5 receivable if the judiciary finds that the facts as alleged and
6 previously presented to it were not true, or that the delinquent
7 receivables are in fact collectible, or that the delinquent
8 receivables have become collectible. Nothing in this subsection
9 shall preclude a person to whom restitution is owed from
10 pursuing collection of the debt.

11 As used in this section, "delinquent receivables" means
12 fines, restitution, monetary assessments, fees, surcharges,
13 penalties, sanctions, court costs, and other payment that is
14 past due.

15 SECTION 3. Section 87D-6, Hawaii Revised Statutes, is
16 amended by amending subsection (c) to read as follows:

17 "(c) In addition to any liability that a fiduciary may
18 have under this chapter, a fiduciary with respect to a plan
19 shall be liable for a breach of fiduciary responsibility of
20 another fiduciary with respect to the same plan in the following
21 circumstances:



1 (1) If the fiduciary participates knowingly in, or
 2 knowingly undertakes to conceal, an act or omission of
 3 the other fiduciary, knowing that act or omission is a
 4 breach;

5 (2) If, by the fiduciary's failure to comply with
 6 subsection (a) or (b), the fiduciary [†]has enabled[†]
 7 such other fiduciary to commit breach; or

8 (3) If the fiduciary has knowledge of the breach by such
 9 other fiduciary, unless the fiduciary makes reasonable
 10 efforts under the circumstances to remedy the breach.

11 If the assets of the plan are held by two or more trustees,
 12 each shall use reasonable care to prevent a co-trustee from
 13 committing a breach, and each shall be responsible for jointly
 14 managing and controlling the assets of the plan."

15 SECTION 4. Section 201G-441, Hawaii Revised Statutes, is
 16 amended to read as follows:

17 "**§201G-441 Expenditures of revolving funds under the**
 18 **administration exempt from appropriation and allotment.** Except
 19 as to administrative expenditures, and except as otherwise
 20 provided by law, expenditures from these revolving funds
 21 administered by the administration under subpart [~~H, N,~~] O[~~, P,~~]
 22 or Q or section 201G-170, 201G-223, [~~201G-401,~~] 201G-411, [~~201G-~~



1 ~~421,7~~] or 516-44 may be made by the administration without
2 appropriation or allotment of the legislature; provided that no
3 expenditure shall be made from and no obligation shall be
4 incurred against any revolving fund in excess of the amount
5 standing to the credit of the fund or for any purpose for which
6 the fund may not lawfully be expended. Nothing in sections 37-
7 31 to 37-41 shall require the proceeds of the revolving funds
8 identified in subpart [~~I, N,7~~] O[~~, P,7~~] or Q or section 201G-170,
9 201G-223, [~~201G-401,7~~] 201G-411, [~~201G-421,7~~] or 516-44 to be
10 reappropriated annually."

11 SECTION 5. Section 302A-1133.5, Hawaii Revised Statutes,
12 is amended by amending subsection (b) to read as follows:

13 "(b) The failure of a student to meet the requirements for
14 regular attendance and punctuality shall subject the student's
15 parent, parents, or guardian to the penalties provided in
16 section 302A-1135. Destruction of school property by a student,
17 in addition to all other legal action that may be taken, shall
18 subject the student's parent, parents, or guardian to
19 proceedings under section [~~302A-1130~~] 302A-1130.5 or 302A-1153,
20 as appropriate."

21 SECTION 6. Section 302A-1186, Hawaii Revised Statutes, is
22 amended by amending subsection (b) to read as follows:



1 "(b) The board shall adopt guidelines for multi-year
2 evaluations of charter schools that have been chartered for four
3 or more years, or for special evaluations at any time, including
4 a schedule of such evaluations.

5 (1) Based upon the findings of an evaluation, the board
6 may place a new century charter school on probationary
7 status. The board shall adopt guidelines for placing
8 new century charter schools on probation, provided
9 that:

10 ~~[(1)]~~ (A) The new century charter school and the charter
11 school administrative office are involved in
12 substantive discussions with the board regarding
13 the evaluation;

14 ~~[(2)]~~ (B) The notice of probation is delivered to the new
15 century charter school and specifies the
16 deficiencies requiring corrections, the probation
17 period, and monitoring and reporting
18 requirements; and

19 ~~[(3)]~~ (C) For deficiencies related to student performance,
20 a new century charter school shall be allowed two
21 years to improve student performance; and

1 ~~[(4)]~~ (D) For deficiencies related to financial plans, a
2 new century charter school shall be allowed one
3 year to develop a sound financial plan.

4 (2) The new century charter school shall remain on
5 probationary status until the board votes to either
6 remove the new century charter school from
7 probationary status or revoke the charter. If a new
8 century charter school fails to resolve deficiencies
9 by the end of the probation period, the board may, by
10 two-thirds vote, revoke the charter. The board may
11 revoke the charter for serious student or employee
12 health or safety deficiencies in accordance with
13 guidelines adopted by the board, provided that:

14 ~~[(1)]~~ (A) The new century charter school is given notice of
15 specific health or safety deficiencies and is
16 afforded an opportunity to present its case to
17 the board;

18 ~~[(2)]~~ (B) The chairperson of the board appoints a task
19 group to visit the new century charter school and
20 conduct meetings with its local school board and
21 its school community to gather input;

- 1 [~~(3)~~] (C) Two-thirds of the board vote to revoke the
2 charter;
- 3 [~~(4)~~] (D) The best interest of the school's students guide
4 all decisions; and
- 5 [~~(5)~~] (E) After a decision to revoke a charter, the new
6 century charter school shall be allowed to remain
7 open until a plan for an orderly shut-down or
8 transfer of students and assets is developed and
9 executed.
- 10 (3) If there is an immediate concern for student or
11 employee health or safety at a new century charter
12 school, the board, in consultation with the charter
13 school administrative office, may adopt an interim
14 restructuring plan that may include appointment of an
15 interim local school board, and interim local school
16 board chairperson, or a principal to temporarily
17 assume operations of the school.
- 18 (4) For the purposes of this subsection, "organizational
19 viability" means that a new century charter school:
- 20 [~~(1)~~] (A) Has been duly constituted in accordance with its
21 charter;



- 1 [~~+2~~] (B) Has a local school board established in
- 2 accordance with law and its charter;
- 3 [~~+3~~] (C) Employs sufficient faculty and staff to provide
- 4 the necessary educational program and support
- 5 services and to operate the facility in
- 6 accordance with its charter;
- 7 [~~+4~~] (D) Maintains accurate and comprehensive records
- 8 regarding students and employees as determined by
- 9 the charter school administrative office;
- 10 [~~+5~~] (E) Meets appropriate standards of student
- 11 achievement;
- 12 [~~+6~~] (F) Cooperates with board requirements in conducting
- 13 its function as charter authorizer;
- 14 [~~+7~~] (G) Complies with applicable federal, state, and
- 15 county laws and requirements;
- 16 [~~+8~~] (H) In accordance with the charter school
- 17 administrative office guidelines and procedures,
- 18 is financially sound and fiscally responsible in
- 19 its use of public funds, maintains accurate and
- 20 comprehensive financial records, operates in
- 21 accordance with generally accepted accounting
- 22 practices, and maintains a sound financial plan;



1 [~~9~~] (I) Operates within the scope of its charter and
 2 fulfills obligations and commitments of its
 3 charter;

4 [~~10~~] (J) Complies with all health and safety laws and
 5 requirements; and

6 [~~11~~] (K) Complies with all charter school administrative
 7 office directives, policies, and procedures."

8 SECTION 7. Section 302A-1312, Hawaii Revised Statutes, is
 9 reenacted as follows:

10 "**§302A-1312 Six-year program and financial plan for school**
 11 **repair and maintenance.** (a) The department of education shall
 12 prepare a six-year program and financial plan for school repair
 13 and maintenance that shall be:

14 (1) Based on:

15 (A) Estimated preventive and scheduled maintenance
 16 costs;

17 (B) Budgeted recurring maintenance;

18 (C) Health and safety requirements; and

19 (D) Legal mandates;

20 (2) Insofar as is practical, prepared in accordance with
 21 the principles and procedures contained in section
 22 514B-148; and



1 (3) Submitted initially to the legislature not less than
2 thirty days prior to the convening of the 2002 regular
3 session, with annual funding requirements for the
4 physical plant operations and maintenance account
5 submitted not less than thirty days prior to the
6 convening of the 2002 regular session and each regular
7 session thereafter;

8 provided that the governor may incorporate the six-year program
9 and financial plan required by this subsection into the six-year
10 program and financial plan required by section 37-69, if the
11 plan required by this subsection is incorporated without
12 reductions or restrictions.

13 (b) The department of education shall develop and maintain
14 a facilities physical analysis report and a facilities financial
15 analysis report for each public school. These reports shall be
16 posted electronically on the Internet.

17 (c) For the purposes of this section, the superintendent
18 of education shall develop and implement appropriate planning
19 procedures and follow-up accountability reports to ensure sound
20 planning, control, and accountability in the use of moneys
21 allocated by the legislature, as prescribed by section 302A-

1 1309. The department of education shall submit an annual report
2 to the legislature that shall include:

3 (1) The priority listing established by section 302A-1505;

4 (2) List of projects initiated by the department of
5 education; and

6 (3) List of projects completed with associated actual
7 cost."

8 SECTION 8. Section 325-9, Hawaii Revised Statutes, is
9 amended to read as follows:

10 **"§325-9 Quarantine without removal; duty of police**
11 **officers to assist in removals and enforcement of quarantine.**

12 If the department of health or its agent determines that the
13 removal of the person infected or suspected of being infected
14 would directly and seriously aggravate the disease so as to
15 endanger the person's life, the department, or its agent may
16 make provision for the person, as directed in section 325-8, in
17 the house in which the person may be; and, in such case, the
18 department or its agent may cause the persons in the
19 neighborhood to be removed, and may take such other measures as
20 it judges necessary for the public health and safety. The
21 department or its agent, in effecting any removal or quarantine
22 under this [+]section[+] or section 325-8, may require any



1 sheriff, deputy sheriff, chief of police, or police officer to
2 aid and assist it, and such force as is reasonably necessary to
3 effect any such removal or quarantine may be used.

4 Every sheriff, deputy sheriff, chief of police, or police
5 officer who is so required to aid and assist the department or
6 its agent shall immediately aid and assist it."

7 SECTION 9. Section 353-61, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§353-61 Hawaii paroling authority; appointment; tenure;**
10 **qualifications.** Members of the paroling authority shall be
11 nominated by a panel composed of the chief justice of the Hawaii
12 supreme court, the director, the president of the Hawaii
13 Criminal Justice Association, the president of the bar
14 association of Hawaii, a representative designated by the head
15 of the Interfaith Alliance Hawaii, a member from the general
16 public to be appointed by the governor, and the president of the
17 Hawaii chapter of the [~~national association of social workers.~~]
18 National Association of Social Workers. The panel shall submit
19 to the governor the names of not less than three persons,
20 designated as the nominees, for chairperson or as a member, for
21 each vacancy. The governor shall appoint, in the manner
22 prescribed by section 26-34, a paroling authority to be known as



1 the Hawaii paroling authority, to consist of three members one
 2 of whom shall be designated chairperson. [~~Of the members first~~
 3 ~~appointed after May 13, 1976, the member designated as~~
 4 ~~chairperson shall be appointed for a term of four years, one~~
 5 ~~member shall be appointed for a term of three years, and one~~
 6 ~~member shall be appointed for a term of two years; thereafter~~
 7 ~~all appointments]~~ Appointments shall be made for terms of four
 8 years, commencing from the date of expiration of the last
 9 preceding term. Any vacancy in an unexpired term shall be
 10 filled by appointment for the remainder of the unexpired term.
 11 Nominees to the authority shall be selected on the basis of
 12 their qualifications to make decisions that will be compatible
 13 with the welfare of the community and of individual offenders,
 14 including their background and ability for appraisal of
 15 offenders and the circumstances under which offenses were
 16 committed."

17 SECTION 10. Section 501-6, Hawaii Revised Statutes, is
 18 amended by amending its title to read as follows:

19 "**§501-6 Registrar and assistants[7]; appointment, tenure,**
 20 **powers, and duties.**"

21 SECTION 11. Section 501-23, Hawaii Revised Statutes, is
 22 amended to read as follows:



1 "**§501-23 Application, form, and contents.** The application
2 shall be in writing, signed, and sworn to by the applicant or by
3 some person duly authorized in the applicant's behalf. If there
4 is more than one applicant, the application shall be signed and
5 sworn to by, or in behalf of, each. It shall contain a
6 description of the land, with a statement of the estate or
7 interest of the applicant in the land. It shall state whether
8 the applicant is married, and if married, the name in full of
9 the wife or husband, the time and place of marriage, and the
10 name and office of the officer performing the marriage ceremony;
11 and if unmarried, whether [~~he or she~~] the applicant has been
12 married, and if so, when and how the marriage relation
13 terminated; and if by divorce, when, where, and by what court
14 the divorce was granted. It shall also state the name in full
15 and the address of the applicant and also the names and
16 addresses of the adjoining owners and occupants, if known; and
17 if not known, it shall state what search has been made to find
18 them. If the applicant has been known by more than one name,
19 the applicant shall state all the applicant's names in full. It
20 may be in form as follows:

21

22

State of Hawaii.



1 To the Honorable Judge of the Land Court:

2 I (or we), the undersigned, hereby apply to have the land
3 herein described brought under the operation and provisions of
4 chapter 501 of the Hawaii Revised Statutes and to have my (or
5 our) title therein registered and confirmed as an absolute
6 (qualified or possessory) title. And I (or we) declare:

7 (1) That I am (or we are) the owner (or owners) in fee
8 simple of a certain parcel of land, with the buildings
9 (if any, and if not, strike out the clause), situate
10 in (here insert accurate description).

11 (2) That the land at the last assessment for taxation was
12 assessed at....dollars; and the buildings (if any)
13 at....dollars.

14 (3) That I (or we) do not know of any mortgage or
15 [~~incumbrance~~] encumbrance affecting the land, or that
16 any other person has any estate or interest therein,
17 legal or equitable, in possession, remainder,
18 reversion, or expectancy. (If any, add "other than as
19 follows," and set forth each clearly.)

20 (4) That I (or we) obtained title (if by deed, state name
21 of grantor, date, and place of record, and file the

1 deed, or state reason for not filing. If in any other
2 way, state it).

3 (5) That the land is....occupied (state name in full,
4 residence and post office address of occupant and the
5 nature of [~~his~~] the occupancy. If unoccupied, insert
6 "not").

7 (6) That the names in full and addresses as far as known
8 to me (or us) of the occupants of all lands adjoining
9 the land are as follows: (give post office address,
10 street, and number wherever possible. If names not
11 known, state whether inquiry has been made, and what
12 inquiry.)

13 (7) That the names and addresses so far as known to me (or
14 us) of the owners of all lands adjoining above land
15 are as follows: (same directions as above.)

16 (8) That I am (or we are) married (follow literally the
17 directions given in section 501-23.)

18 (9) That my (or our) full name (or names), residence and
19 post office address are as follows:

1 Dated [~~this....day of....in the year 19....~~] :

2 (Schedule of documents.)

3

4 (Signature).

5

6 State of Hawaii } ss.

7

8

9 Dated: [~~7, 19....~~]

10 Then personally appeared the above named.....

11 known to me to be the signer (or signers) of the foregoing

12 application, and made oath before me, that the statements made

13 therein, so far as made of [~~his (or their)~~] the signer (or

14 signers) own knowledge are true, and so far as made upon

15 information and belief, that [~~he (or they)~~] the signer (or

16 signers) believes them to be true.

17

18, Notary Public."

19 SECTION 12. Section 501-41, Hawaii Revised Statutes, is

20 amended to read as follows:

21 "**§501-41 Notice of application.** If, in the opinion of the

22 examiner, the applicant has a good title as alleged, and proper



1 for registration, or, if the applicant after an adverse opinion
2 of the examiner, elects to proceed further, the registrar shall,
3 immediately upon the filing of the examiner's opinion, or the
4 applicant's election, cause notice of the filing of the
5 application to be published in some newspaper of general
6 circulation. The notice shall be issued by the order of the
7 court, attested by the registrar, and shall be in form
8 substantially as follows:

9 Registration of Title. Land Court. No....
10 State of Hawaii.

11 To (insert and classify the names of all persons known to
12 have an adverse interest, and the adjoining owners and
13 occupants, so far as known), and to all whom it may concern:

14 Whereas, an application has been presented to the court by
15 (name or names and address in full) to register and confirm [~~his~~
16 ~~(or their)~~] title in the following described land (insert
17 description):

18 You are hereby cited to appear at the land court to be held
19 at....in the Island of.....on the....day of.....A.D.....
20 at....o'clock....M., to show cause, if any you have, why the
21 prayer of the application should not be granted. And unless you
22 appear at the court at the time and place aforesaid your default

1 will be recorded, and the application will be taken as
2 confessed, and you will be forever barred from contesting the
3 application or any decree entered thereon.

4 Witness, the Presiding Judge of the court [~~7~~, ~~this....day~~
5 ~~of~~]. Dated: [19....]

6 Attest:
7
8 Registrar.

9 The description included in the notice in addition to the
10 number of award, patent, and grant and name of awardee or
11 original grantee need not be by metes and bounds, but may be a
12 brief general description of the land sufficient to identify the
13 same. The notice shall contain a statement that the map of the
14 land and the description thereof by metes and bounds are on file
15 in the land court and are open to inspection."

16 SECTION 13. Section 501-71, Hawaii Revised Statutes, is
17 amended to read as follows:

18 **"§501-71 Decree of registration; conditional when;**
19 **quieting title, exceptions; reopened when.** If the court after
20 hearing finds that the applicant, at the time of filing [~~his~~] an
21 application, or subsequently, had title, as stated in [~~his~~] the
22 application, that [~~his~~] the title is proper for registration,

1 and that since filing [~~his~~] the application the title of the
2 applicant has not been encumbered in any manner, then a decree
3 of confirmation and registration as prayed for shall be entered.

4 If the court finds that the applicant, at the time of
5 filing [~~his~~] an application, or subsequently, had title, as
6 stated in [~~his~~] the application, that [~~his~~] the title is proper
7 for registration, and that subsequent to the filing of [~~his~~] the
8 application, the title has been encumbered, then the title shall
9 be registered subject to the encumbrances so found.

10 If the court finds that the applicant, at the time of
11 filing an application, or subsequently, had title, as stated in
12 [~~his~~] the application, that [~~his~~] the title is proper for
13 registration, and that subsequent to filing [~~his~~] the
14 application, the applicant has conveyed away all or any portion
15 or portions of the premises or interest therein sought to be
16 registered, then a decree of confirmation and registration shall
17 be entered, covering the entire premises, confirming title in
18 the applicant and the person or persons deriving their title
19 through the applicant, to the premises or interest in accordance
20 with [~~his or~~] their respective true ownership of the whole or
21 any portion or portions thereof or interest therein at the time



1 of filing the decree, and subject to all encumbrances affecting
2 all or any portion thereof.

3 Every decree of registration of absolute title shall bind
4 the land, and quiet the title thereto, subject only to the
5 exceptions stated in section 501-82. It shall be conclusive
6 upon and against all persons, including the State, whether
7 mentioned by name in the application, notice, or citation, or
8 included in the general description "to all whom it may
9 concern." The decree shall not be opened by reason of the
10 absence, infancy, or other disability of any person affected
11 thereby, nor by any proceeding for reversing judgments or
12 decrees; subject, to the right of any person deprived of land or
13 of any estate or interest therein by a decree of registration
14 obtained by fraud to file a petition for review within one year
15 after the entry of the decree; provided no innocent purchaser
16 for value has acquired an interest. If there is any such
17 purchaser the decree of registration shall not be opened but
18 shall remain in full force and effect forever, subject only to
19 the right of appeal hereinbefore provided. Any person aggrieved
20 by the decree in any case may pursue [~~his~~] remedy by action of
21 tort against the applicant or any other person for fraud, in
22 procuring the decree."



1 SECTION 14. Section 501-139, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§501-139 Assistant registrar as official recorder.** All
4 the provisions of law relating to attachments of real estate and
5 leasehold estates on mesne process apply to registered land,
6 except that the duties required to be performed by the registrar
7 of conveyances shall be performed [~~by him~~] as the assistant
8 registrar, who shall register the facts required to be recorded,
9 and for that purpose shall keep books similar to those required
10 to be kept for attachments [~~by him~~] as the registrar of
11 conveyances, if any, and the fees for registering attachments
12 shall be the same as are provided for recording."

13 SECTION 15. Section 501-186, Hawaii Revised Statutes, is
14 amended to read as follows:

15 **"§501-186 Registration of adverse claims; notice; hearing;**
16 **costs.** Whoever claims any right or interest in registered land
17 adverse to the registered owner arising subsequent to the date
18 of original registration may, if no other provision is made in
19 this chapter for registering the same, make a statement in
20 writing setting forth fully [~~his~~] the alleged right or interest,
21 and how or under whom acquired, and a reference to the volume
22 and page of the certificate of title of the registered owner,



1 and a description of the land in which the right or interest is
2 claimed. The statements shall be signed and sworn to, and shall
3 state the adverse claimant's residence, and designate a place at
4 which all notices may be served upon [~~him.~~] the adverse
5 claimant. This statement is entitled to registration as an
6 adverse claim, and the court, upon the petition of any party in
7 interest, may require an approved bond to be filed for the
8 payment of double costs if so taxed, and shall grant a speedy
9 hearing upon the question of the validity of the adverse claim,
10 and shall enter such decree thereon as justice and equity may
11 require. If the claim is adjudged to be invalid or the bond is
12 not filed, the registration shall be canceled. If in any case
13 the court, after notice and hearing, finds that the claim thus
14 registered was frivolous or vexatious, it may tax the adverse
15 claimant double costs."

16 SECTION 16. Section 501-217, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§501-217 Limitation of actions.** All actions on contract
19 claims for compensation under this chapter by reason of any loss
20 or damage or deprivation of land, or any estate or interest
21 therein, shall be begun within the period of six years from the
22 time when the cause of action accrued, and not afterwards;

1 provided that the plaintiff in an action for the recovery of the
2 land or estate or interest therein in accordance with section
3 501-213, may bring the action on the contract claim within one
4 year after the termination of that action. The contract claim
5 herein provided shall survive to the personal representatives of
6 the registered owner, unless barred in [~~his~~] the registered
7 owner's lifetime, but the proceeds thereof shall be treated as
8 real estate."

9 SECTION 17. Section 502-16, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§502-16 Decennial indexes.** The registrar shall cause a
12 reclassification and consolidation of the yearly indexes
13 [~~referred to in section 502-15~~] to be made at least once in
14 every ten years as the convenience of the registrar may permit,
15 in the same manner as set forth in [~~the section.~~] section 502-
16 15. The registrar may cause copies of the indexes or new
17 indexes to the records existing in the registrar's office, to be
18 made by some competent person in the same manner as set forth in
19 [~~the section.~~] section 502-15."

20 SECTION 18. Section 502-41, Hawaii Revised Statutes, is
21 amended to read as follows:



1 **"§502-41 Certificate of acknowledgment; natural persons,**
2 **corporations.** Except as otherwise provided by sections 502-50
3 to 502-52, to entitle any conveyance or other instrument to be
4 recorded there shall be endorsed, subjoined, or attached thereto
5 an acknowledgment in the form provided or authorized in any of
6 sections 502-42, 502-43, or 502-45, or in substantially the
7 following form:

8 (Begin in all cases by a caption specifying the state or
9 territory and the place where the acknowledgment is taken.)

10 1. In the case of natural persons acting in their own
11 right:

12 ~~[On this....day of....., 19.....]~~ On(insert
13 date), before me personally appeared A.B. (or A.B. and C.D.), to
14 me known to be the person [+]or persons[+] described in and who
15 executed the foregoing instrument, and acknowledged that [~~he~~-(~~or~~
16 ~~she~~)-(or they)] the person or persons executed the same as [~~his~~
17 ~~(or her)~~-(or their)] the person's or persons' free act and deed.

18 2. In the case of natural persons acting by attorney:

19 ~~[On this....day of....., 19.....]~~ On(insert
20 date), before me personally appeared A.B., to me known to be the
21 person who executed the foregoing instrument in behalf of C.D.

1 and acknowledged that [~~he (or she)~~] the person executed the same
2 as the free act and deed of said C.D.

3 3. In the case of corporations or partnerships:

4 [~~On this....day of...., 19....,~~] On(insert
5 date), before me appeared A.B., to me personally known, who,
6 being by me duly sworn (or affirmed), did say that [~~he (or she)~~]
7 the person is the president (or other officer, partner, or agent
8 of the corporation, or partnership) of (describing the
9 corporation or partnership), and that the instrument was signed
10 in behalf of the corporation (or partnership) by authority of
11 its board of directors (partners or trustees), and A.B.
12 acknowledged the instrument to be the free act and deed of the
13 corporation (or partnership).

14 4. In the case of a corporation acknowledging by an
15 individual as its attorney, where the enabling power of attorney
16 has previously been recorded, the acknowledgment of the
17 instrument executed under the power of attorney shall be
18 substantially in the following form:

19 [~~On this....day of...., 19....,~~] On(insert
20 date), before me personally appeared A.B., to me personally
21 known, who being by me duly sworn (or affirmed), did say that
22 [~~he (or she)~~] the person is the attorney-in-fact of C.D. (here

1 name the corporation) duly appointed under power of attorney
 2 dated [~~the....day of...., 19....,~~], recorded in
 3 book...., at page..../as document no.; and that the
 4 foregoing instrument was executed in the name and behalf of said
 5 C.D. by A.B. as its attorney-in-fact; and A.B. acknowledged the
 6 instrument to be the free act and deed of C.D.

7 In case the enabling power of attorney has not previously
 8 been recorded, omit the reference to its place of record and
 9 insert in lieu thereof the words "which power of attorney is now
 10 in full force and effect[~~-"~~"]".

11 5. In the case of a corporation acknowledging by another
 12 corporation as its attorney, where the enabling power of
 13 attorney has previously been recorded, the acknowledgment of the
 14 instrument executed under the power of attorney shall be
 15 substantially in the following form:

16 [~~On this....day of...., 19....,~~] On (insert
 17 date), before me personally appeared A.B., to me personally
 18 known, who, being by me duly sworn (or affirmed), did say that
 19 [~~he (or she)~~] the person is the president (or other officer or
 20 agent of the corporation acting as attorney) of C.D. (here name
 21 the corporation acting as attorney) and that C.D. is the
 22 attorney-in-fact of E.F. (here name the corporation in whose

1 behalf the attorney is acting) duly appointed under power of
 2 attorney dated [~~the....day of...., 19....,~~],
 3 recorded in book...., at page..../as document no.; that the
 4 foregoing instrument was executed in the name and behalf of E.F.
 5 by C.D. as its attorney-in-fact; that the instrument was so
 6 executed by C.D. by authority of its board of directors; and
 7 A.B. acknowledged the instrument to be the free act and deed of
 8 E.F.

9 In case the enabling power of attorney has not previously
 10 been recorded, omit the reference to its place of record and
 11 insert in lieu thereof the words "which power of attorney is now
 12 in full force and effect [~~."~~]"

13 6. The following form may be used in lieu of any of the
 14 foregoing forms:

15 [~~On this....day of...., 19....,~~] On (insert
 16 date), before me personally appeared A.B. (or A.B. and C.D.), to
 17 me personally known, who, being by me duly sworn [~~or affirmed,~~]
 18 (or affirmed), did say that such [~~person(s)~~] person executed the
 19 foregoing instrument as the free act and deed of such
 20 [~~person(s)~~] person, and if applicable in the capacity shown,
 21 having been duly authorized to execute such instrument in such
 22 capacity.



1 In all cases add signature and title of the officer taking
2 the acknowledgment."

3 SECTION 19. Section 502-43, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§502-43 Form when person unknown.** When the person
6 offering the acknowledgment is unknown to the officer taking the
7 acknowledgment, the certificate may be substantially in the
8 following form, to-wit:

9

10 State of Hawaii) ss.

11 County of)

12

13 [~~On this....day of....., 19.....,~~] On (insert
14 date), personally appeared before me A.B., satisfactorily proved
15 to me to be the person described in and who executed the within
16 instrument, by the oath of C.D., a credible witness for that
17 purpose, to me known and by me duly sworn, and [~~he (or she),~~]
18 the person, A.B., acknowledged that [~~he (or she)~~] the person
19 executed the same freely and voluntarily for the uses and
20 purposes therein set forth."

21 SECTION 20. Section 502-85, Hawaii Revised Statutes, is
22 amended to read as follows:

1 **"§502-85 Agreements of sale; priority.** (a) The rights of
2 a buyer under an agreement of sale which has been duly recorded
3 in accordance with this chapter shall be entitled to priority
4 over the claim of any other person with respect to the real
5 estate covered by the agreement of sale where such claim
6 results:

7 (1) From a conveyance made to the claimant by the seller
8 of the real estate covered by the agreement of sale if
9 such conveyance was recorded after the recordation of
10 the agreement of sale; or

11 (2) From a judgment in favor of the claimant against the
12 seller affecting the real estate covered by the
13 agreement of sale if the judgment or a notice of the
14 action out of which the judgment arises was not
15 recorded prior to the recordation of the agreement of
16 sale.

17 (b) Upon the buyer's satisfaction of the agreement of
18 sale, the claim or lien upon the real estate covered by the
19 agreement of sale of any person who shall have such a claim
20 resulting from a conveyance or a judgment referred to in
21 subsection (a), shall be extinguished as to such real estate



1 upon the recording of a transfer of title to such real estate
2 from the seller to the buyer.

3 (c) For the purposes of this section, the following
4 definitions apply:

5 "Agreement of sale" means an executory contract for the
6 sale and purchase of real estate which binds one party to sell
7 and the other party to buy real estate which is the subject
8 matter of the transaction, and in which the seller retains legal
9 title to the real estate. As used in this section, an agreement
10 of sale includes a subagreement of sale or other subsequent
11 subagreement of sale.

12 "Buyer" means the party who has agreed to purchase, and
13 "seller" means the party who has agreed to sell the real estate
14 pursuant to an agreement of sale, and includes each of their
15 respective assignees and successors in interest in the agreement
16 of sale.

17 "Conveyance" means every written instrument by which any
18 estate or interest in real estate is voluntarily created,
19 alienated, mortgaged, or encumbered, or by which title to any
20 real estate may be voluntarily affected, other than wills.

21 "Real estate covered by the agreement of sale" means the
22 real estate which the seller has agreed to sell and the buyer

1 has agreed to buy pursuant to the agreement of sale, including
2 any portion of or any interest in such real estate.

3 "Recorded" or "recording" means recorded in accordance with
4 this chapter.

5 "Satisfaction of agreement of sale" means the full
6 performance of the buyer's obligations under the agreement of
7 sale, and:

8 (1) The buyer's compliance or tender of compliance with
9 all of the buyer's recorded written agreements and
10 recorded written consents, if any, with claimants
11 whose claims are superior or subject to the rights of
12 the buyer, and with all recorded written directions,
13 if any, of the seller to the buyer to make payments
14 under the agreement of sale to a claimant or
15 claimants;

16 (2) The buyer's compliance or tender of compliance with
17 all orders, which have been recorded, of any court of
18 competent jurisdiction relating to the agreement of
19 sale or to payments under or proceeds of the agreement
20 of sale; and

21 (3) The buyer's payment of all periodic, interim, prepaid,
22 and final payments under the agreement of sale.



1 (d) If a claimant's claim or lien upon the real estate
2 covered by the agreement of sale is extinguished according to
3 this section before the claimant actually receives satisfaction
4 of the claim or lien, the claim or lien shall be automatically
5 transferred to the proceeds from satisfaction of the agreement
6 of sale, in the same priority with respect to other transferred
7 claims or liens on such real estate and with respect to other
8 claims or liens on such proceeds, as the transferred claim or
9 lien had immediately before such extinguishment."

10 SECTION 21. Section 507-49, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§507-49 Exceptions.** (a) Anything contained in this part
13 to the contrary notwithstanding, in connection with any repairs
14 or improvements made or performed on property which before the
15 repairs or improvements was used primarily for dwelling
16 purposes, no lien shall exist either for the furnishing of
17 materials to a general contractor as defined in this chapter or
18 [~~his~~] the general contractor's subcontractor either of whom was
19 required to be licensed but was not licensed pursuant to chapter
20 444 or if unreasonable advancement of credit was given by the
21 furnisher of materials to the general contractor or



1 subcontractor whether such person is licensed, unlicensed or
2 exempted under chapter 444.

3 The issue of reasonable advancement of credit shall be
4 decided by the circuit judge at the return day hearing provided
5 for in section [~~507-43(e);~~] 507-43(a); provided that if a party
6 affected by the lien does not appear at the return day hearing,
7 [~~he~~] the party may raise the issue of unreasonable advancement
8 of credit at any time prior to the entry of a final or
9 interlocutory decree of foreclosure in the proceeding brought to
10 enforce the lien under section 507-47. For the purposes of this
11 section, if the furnisher of materials has secured a credit
12 application form from the general contractor or the
13 subcontractor to whom the materials were furnished or has
14 reasonably inquired into the credit status of the general
15 contractor or subcontractor, the advancement of credit by the
16 furnisher of materials shall be prima facie reasonable.

17 The credit application referred to herein shall be current
18 and shall include at least the following information:

19 A. For all persons:

20 1. Name

21 2. Address



- 1 3. Type of business (Example - plumbing
- 2 subcontractor)
- 3 4. Date business started
- 4 5. Contractor's license number
- 5 6. Bonding companies generally used
- 6 7. Banks used
- 7 8. List of current creditors
- 8 9. Balance sheet
- 9 10. Total of all outstanding construction contracts
- 10 \$.....
- 11 11. Incompleted portion of all contracts \$.....

12 B. In addition, for corporate accounts:

- 13 1. Names of officers
- 14 2. Authorized capital
- 15 3. Paid in capital

16 C. In addition, for noncorporate accounts:

- 17 1. Names of partners, co-venturers, etc.

18 (b) Anything contained in this chapter to the contrary

19 notwithstanding, no general contractor as defined in this

20 chapter or [~~his~~] the general contractor's subcontractor or the

21 subcontractor's subcontractor who is required to be licensed

22 pursuant to chapter 444[7] shall have lien rights unless [~~such~~]

1 the contractor was licensed pursuant to chapter 444 when the
2 improvements to the real property were made or performed, and no
3 subcontractor or subcontractor's subcontractor so licensed shall
4 have lien rights if [~~his~~] the work was subcontracted to [~~him~~]
5 them by a general contractor as defined in this chapter or [~~his~~]
6 the general contractor's subcontractor who was required to be
7 licensed but was not licensed pursuant to chapter 444."

8 SECTION 22. Section 514B-32, Hawaii Revised Statutes, is
9 amended by amending subsection (a) to read as follows:

10 "(a) A declaration shall describe or include the
11 following:

- 12 (1) The land submitted to the condominium property regime;
- 13 (2) The number of the condominium property regime map
14 filed concurrently with the declaration;
- 15 (3) The number of units in the condominium property
16 regime;
- 17 (4) The unit number of each unit and common interest
18 appurtenant to each unit;
- 19 (5) The number of buildings and projects in the
20 condominium property regime, and the number of stories
21 and units in each building;
- 22 (6) The permitted and prohibited uses of each unit;



- 1 (7) To the extent not shown on the condominium property
2 regime map, a description of the location and
3 dimensions of the horizontal and vertical boundaries
4 of any unit. Unit boundaries may be defined by
5 physical structures or, if a unit boundary is not
6 defined by a physical structure, by spatial
7 coordinates;
- 8 (8) The condominium property regime's common elements;
- 9 (9) The condominium property regime's limited common
10 elements, if any, and the unit or units to which each
11 limited common element is appurtenant;
- 12 (10) The total percentage of the common interest that is
13 required to approve rebuilding, repairing, or
14 restoring the condominium property regime if it is
15 damaged or destroyed;
- 16 (11) The total percentage of the common interest, and any
17 other approvals or consents, that are required to
18 amend the declaration. Except as otherwise
19 specifically provided in this chapter, and except for
20 any amendments made pursuant to reservations set forth
21 in paragraph (12), the approval of the owners of at
22 least sixty-seven per cent of the common interest

1 shall be required for all amendments to the
2 declaration;

3 (12) Any rights that the developer or others reserve
4 regarding the condominium property regime, including,
5 without limitation, any development rights, and any
6 reservations to modify the declaration or condominium
7 property regime map. An amendment to the declaration
8 made pursuant to the exercise of those reserved rights
9 shall require only the consent or approval, if any,
10 specified in the reservation; and

11 (13) A declaration, subject to the penalties set forth in
12 section 514B-69(b), that the condominium property
13 regime is in compliance with all zoning and building
14 ordinances and codes, and all other permitting
15 requirements pursuant to section 514B-5, and
16 specifying in the case of a property that includes one
17 or more existing structures being converted to
18 condominium property regime status:

19 (A) Any variances that have been granted to achieve
20 the compliance; and

21 (B) Whether, as the result of the adoption or
22 amendment of any ordinances or codes, the project

1 presently contains any legal nonconforming
2 conditions, uses, or structures;
3 except that a property that is registered pursuant to
4 section 514B-51 shall instead provide this declaration
5 pursuant to section 514B-54. If a developer is
6 converting a structure to condominium property regime
7 status and the structure is not in compliance with all
8 zoning and building ordinances and codes, and all
9 other permitting requirements pursuant to section
10 514B-5, and the developer intends to use purchaser's
11 funds pursuant to the requirements of section 514B-92
12 or 514B-93 to cure the violation or violations, then
13 the declaration required by this paragraph may be
14 qualified to identify with specificity each violation
15 and the requirement to cure the violation by a date
16 certain."

17 SECTION 23. Section 514B-91, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**[+]§514B-91[+]** **Escrow of deposits.** All moneys paid by
20 purchasers shall be deposited in trust under a written escrow
21 agreement with an escrow depository licensed pursuant to chapter



1 449. An escrow depository shall not disburse purchaser deposits
2 to or on behalf of the developer prior to closing except:

- 3 (1) As provided in sections 514B-92 and 514B-93; or
- 4 (2) As provided in the purchaser's sales contract in the
- 5 event the sales contract is canceled.

6 An escrow depository shall not disburse a purchaser's deposits
7 at closing unless the escrow depository has received
8 satisfactory assurances that all blanket mortgages and liens
9 have been released from the purchaser's unit in accordance with
10 section 514B-45. Satisfactory assurances shall include a
11 commitment by a title insurer licensed under chapter 431 to
12 issue the purchaser a title insurance policy ensuring the
13 purchaser that the unit has been conveyed free and clear of the
14 liens."

15 SECTION 24. Section 514B-140, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "~~§~~514B-140~~§~~ **Additions to and alterations of**
18 **condominium.** (a) No unit owner shall do any work that may
19 jeopardize the soundness or safety of the property, reduce the
20 value thereof, or impair any easement, as reasonably determined
21 by the board.

1 (b) Subject to the provisions of the declaration, no unit
2 owner may make or allow any material addition or alteration, or
3 excavate an additional basement or cellar, without first
4 obtaining the written consent of sixty-seven per cent of the
5 unit owners, the consent of all unit owners whose units or
6 appurtenant limited common elements are directly affected, and
7 the approval of the board, which shall not unreasonably withhold
8 such approval. The declaration may limit the board's ability to
9 approve or condition a proposed addition or alteration; provided
10 that the board shall always have the right to disapprove a
11 proposed addition or alteration that the board reasonably
12 determines could jeopardize the soundness or safety of the
13 property, impair any easement, or interfere with or deprive any
14 nonconsenting owner of the use or enjoyment of any part of the
15 property.

16 (c) Subject to the provisions of the declaration,
17 nonmaterial additions to or alterations of the common elements
18 or units, including, without limitation, additions to or
19 alterations of a unit made within the unit or within a limited
20 common element appurtenant to and for the exclusive use of the
21 unit, shall require approval only by the board, which shall not
22 unreasonably withhold the approval, and such percentage, number,



1 or group of unit owners as may be required by the declaration or
2 bylaws; provided that the installation of solar energy devices
3 shall be allowed on single-family residential dwellings or
4 townhouses pursuant to the provisions in section 196-7.

5 As used in this subsection:

6 "Nonmaterial additions and alterations"[7] means an
7 addition to or alteration of the common elements or a unit that
8 does not jeopardize the soundness or safety of the property,
9 reduce the value thereof, impair any easement, detract from the
10 appearance of the project, interfere with or deprive any
11 nonconsenting owner of the use or enjoyment of any part of
12 property, or directly affect any nonconsenting owner.

13 "Solar energy device" means any new identifiable facility,
14 equipment, apparatus, or the like which makes use of solar
15 energy for heating, cooling, or reducing the use of other types
16 of energy dependent upon fossil fuel for its generation;
17 provided that if the equipment sold cannot be used as a solar
18 device without its incorporation with other equipment, it shall
19 be installed in place and be ready to be made operational in
20 order to qualify as a "solar energy device"; provided further
21 that "solar energy device" shall not include skylights or
22 windows.

1 "Townhouse" means a series of individual houses, having
2 architectural unity and a common wall between each unit,
3 provided that each unit extends from the ground to the roof.

4 (d) Notwithstanding any other provisions to the contrary
5 in this chapter or in any declaration or bylaws:

6 (1) Regarding the installment of telecommunications
7 equipment:

8 (A) The board shall have the authority to install or
9 cause the installation of antennas, conduits,
10 chases, cables, wires, and other television
11 signal distribution and telecommunications
12 equipment upon the common elements of the
13 project; provided that the same shall not be
14 installed upon any limited common element without
15 the consent of the owner or owners of the unit or
16 units for the use of which the limited common
17 element is reserved; and

18 (B) The installation of antennas, conduits, chases,
19 cables, wires, and other television signal
20 distribution and telecommunications equipment
21 upon the common elements by the board shall not
22 be deemed to alter, impair, or diminish the

1 common interest, common elements, and easements
2 appurtenant to each unit, or to be a structural
3 alteration or addition to any building
4 constituting a material change in the plans of
5 the project filed in accordance with sections
6 514B-33 and 514B-34; provided that no such
7 installation shall directly affect any
8 nonconsenting unit owner; and

9 (2) Regarding the abandonment of telecommunications
10 equipment:

11 (A) The board shall be authorized to abandon or
12 change the use of any television signal
13 distribution and telecommunications equipment due
14 to technological or economic obsolescence or to
15 provide an equivalent function by different means
16 or methods; and

17 (B) The abandonment or change of use of any
18 television signal distribution or
19 telecommunications equipment by the board due to
20 technological or economic obsolescence or to
21 provide an equivalent function by different means
22 or methods shall not be deemed to alter, impair,



1 or diminish the common interest, common elements,
2 and easements appurtenant to each unit or to be a
3 structural alteration or addition to any building
4 constituting a material change in the plans of
5 the project filed in accordance with sections
6 514B-33 and 514B-34.

7 As used in this subsection:

8 "Directly affect" means the installation of television
9 signal distribution and telecommunications equipment in a manner
10 which would specially, personally, and adversely affect a unit
11 owner in a manner not common to the unit owners as a whole.

12 "Television signal distribution" and "telecommunications
13 equipment" shall be construed in their broadest possible senses
14 in order to encompass all present and future forms of
15 communications technology."

16 SECTION 25. Section 514B-149, Hawaii Revised Statutes, is
17 amended by amending subsection (c) to read as follows:

18 "(c) (1) All funds collected by an association, or by a
19 managing agent for any association, shall be:

20 [~~(1)~~] (A) Deposited in a financial institution, including a
21 federal or community credit union, located in the
22 State, pursuant to a resolution adopted by the



- 1 board, and whose deposits are insured by an
- 2 agency of the United States government;
- 3 [~~(2)~~] (B) Held by a corporation authorized to do business
- 4 under article 8 of chapter 412;
- 5 [~~(3)~~] (C) Held by the United States Treasury; or
- 6 [~~(4)~~] (D) Purchased in the name of and held for the benefit
- 7 of the association through a securities broker
- 8 that is registered with the Securities and
- 9 Exchange Commission, that has an office in the
- 10 State, and the accounts of which are held by
- 11 member firms of the New York Stock Exchange or
- 12 National Association of Securities Dealers and
- 13 insured by the Securities Insurance Protection
- 14 Corporation.
- 15 (2) All funds collected by an association, or by a
- 16 managing agent for any association, shall be invested
- 17 only in:
- 18 [~~(1)~~] (A) Deposits, investment certificates, savings
- 19 accounts, and certificates of deposit;
- 20 [~~(2)~~] (B) Obligations of the United States government, the
- 21 State of Hawaii, or their respective agencies;
- 22 provided that those obligations shall have stated

1 maturity dates no more than ten years after the
2 purchase date unless approved otherwise by a
3 majority vote of the unit owners at an annual or
4 special meeting of the association or by written
5 consent of a majority of the unit owners; or

6 [~~(3)~~] (C) Mutual funds comprised solely of investments in
7 the obligations of the United States government,
8 the State of Hawaii, or their respective
9 agencies; provided that those obligations shall
10 have stated maturity dates no more than ten years
11 after the purchase date unless approved otherwise
12 by a majority vote of the unit owners at an
13 annual or special meeting of the association or
14 by written consent of a majority of the unit
15 owners;

16 provided that before any investment longer than one year is made
17 by an association, the board must approve the action; and
18 provided further that the board must clearly disclose to owners
19 all investments longer than one year at each year's association
20 annual meeting.

21 Records of the deposits and disbursements shall be
22 disclosed to the commission upon request. All funds collected



1 by an association shall only be disbursed by employees of the
2 association under the supervision of the association's board.
3 All funds collected by a managing agent from an association
4 shall be held in a client trust fund account and shall be
5 disbursed only by the managing agent or the managing agent's
6 employees under the supervision of the association's board."

7 SECTION 26. Section 514E-1, Hawaii Revised Statutes, is
8 amended by reenacting the definition of "blanket lien" as
9 follows:

10 ""Blanket lien" means any mortgage, deed of trust, option
11 to purchase, master lease, vendor's lien or interest under a
12 contract or agreement of sale, or any other lien or encumbrance
13 that (i) affects more than one time share interest either
14 directly or by reason of affecting an entire time share unit or
15 the property upon which the time share unit to be used by the
16 purchasers is located, and (ii) secures or evidences the
17 obligation to pay money or to sell or convey the property and
18 that authorizes, permits, or requires the foreclosure and sale
19 or other defeasance of the property affected; provided that for
20 the purpose of this chapter, the following shall not be
21 considered blanket liens:

22 (1) The lien of current real property taxes;

- 1 (2) Taxes and assessments levied by public authority and
2 that are not yet due and payable;
- 3 (3) A lien for common expenses under chapter 514B or a
4 lien on an individual time share unit for similar
5 expenses in favor of a homeowners or community
6 association;
- 7 (4) An apartment lease or condominium conveyance document
8 conveying or demising a single condominium apartment
9 or a lease of a single cooperative apartment; and
- 10 (5) Any lien for costs or trustee's fees charged by a
11 trustee holding title to time share units pursuant to
12 a trust created under section 514E-19; provided that
13 the costs or trustee's fees are not yet due and
14 payable."

15 SECTION 27. Section 516-28, Hawaii Revised Statutes, is
16 amended to read as follows:

17 **"§516-28 Disposition, generally.** It shall be the policy
18 of the Hawaii housing finance and development administration to
19 encourage the widespread fee simple ownership of residential
20 lots situated within a development tract. Where necessary or
21 desirable, the administration may lease the residential lots.
22 Not more than one lot shall be sold in fee simple or leased to a



1 purchaser or lessee. A husband and [~~his~~] wife together, unless
2 separated and living apart under a decree of separation issued
3 by a court of competent jurisdiction, shall be entitled to only
4 one lot."

5 SECTION 28. Section 523A-22, Hawaii Revised Statutes, is
6 amended by amending subsection (d) to read as follows:

7 "(d) Unless the director considers it to be in the best
8 interest of the State to do otherwise, all securities presumed
9 abandoned under section 523A-10 and delivered to the director
10 shall be held for at least three years before the director may
11 sell them. If the director sells any securities delivered
12 pursuant to section 523A-10 before the expiration of the three-
13 year period, any person making a claim pursuant to this part
14 before the end of the three-year period is entitled to either
15 the proceeds of the sale of the securities or the market value
16 of the securities at the time the claim is made, whichever
17 amount is greater, less any deduction for fees pursuant to
18 section [~~523A-23(b).~~] 523A-23.5(b). A person making a claim
19 under this part after the expiration of this period is entitled
20 to receive either the securities delivered to the director by
21 the holder, if they still remain in the hands of the director,
22 or the proceeds received from sale, less any amounts deducted



1 pursuant to section [~~523A-23(b)~~,] 523A-23.5(b), but no person
 2 has any claim under this part against the State, the holder, any
 3 transfer agent, registrar, or other person acting for or on
 4 behalf of a holder for any appreciation in the value of the
 5 property occurring after delivery by the holder to the
 6 director."

7 SECTION 29. Section 46-16.7, Hawaii Revised Statutes, is
 8 repealed.

9 "~~§46-16.7 County general excise and use tax surcharge.~~

10 ~~(a) Each county, except the county of Kalawao, may establish a~~
 11 ~~general excise and use tax surcharge of one-half per cent. Each~~
 12 ~~county shall establish the general excise and use tax surcharge~~
 13 ~~by ordinance adopted before October 1, 1992, which shall take~~
 14 ~~effect on January 1, 1993, and remain in effect for ten years~~
 15 ~~through December 31, 2002, unless earlier repealed, pursuant to~~
 16 ~~subsection (c). No ordinance shall be adopted until the county~~
 17 ~~has conducted a public hearing on the proposed ordinance.~~
 18 ~~Notice of the public hearing shall be published in a newspaper~~
 19 ~~of general circulation within the county at least twice within a~~
 20 ~~period of thirty days immediately preceding the date of the~~
 21 ~~hearing. If a county fails to adopt a county general excise and~~

1 ~~use tax surcharge ordinance by October 1, 1992, the county shall~~
2 ~~not be covered by this section.~~

3 ~~(b) Each county shall notify the director of taxation~~
4 ~~within ten days after the county has adopted a general excise~~
5 ~~and use tax surcharge ordinance, and the director of taxation~~
6 ~~shall levy, assess, collect, and otherwise administer the~~
7 ~~general excise and use tax surcharge for the taxable year~~
8 ~~beginning January 1, 1993, and for taxable years thereafter~~
9 ~~through December 31, 2002, as provided by chapters 237 and 238.~~

10 ~~(c) The general excise and use tax surcharges received~~
11 ~~from the State by each county shall be used as follows:~~

12 ~~(1) The city and county of Honolulu shall use the~~
13 ~~surcharges to develop a fixed rail rapid transit~~
14 ~~system. All private source revenues generated or~~
15 ~~pledged to develop a fixed rail rapid transit system~~
16 ~~that are received prior to the operation of the system~~
17 ~~shall be used as county matching funds for moneys~~
18 ~~requested from the transit capital development fund,~~
19 ~~pursuant to chapter 51D, before surcharges may be~~
20 ~~used. The director of finance shall determine whether~~
21 ~~or not private sources are adequate to meet county~~
22 ~~matching requirements. The director of finance shall~~

1 ~~submit a report of the findings to the legislature.~~
2 ~~Upon legislative acceptance of the findings, within~~
3 ~~sixty days of the first regular legislative session~~
4 ~~convened following the submittal of the findings, no~~
5 ~~additional moneys may be expended from the transit~~
6 ~~fund; provided that:~~

7 ~~(A) Such limitation on the expenditure of moneys from~~
8 ~~the transit fund shall not occur prior to~~
9 ~~December 31, 1992; and~~

10 ~~(B) Private source revenues received prior to the~~
11 ~~operation of the system or received in each year~~
12 ~~that the surcharge is in effect shall be~~
13 ~~committed to the funding of the capital costs of~~
14 ~~the fixed rail rapid transit system prior to any~~
15 ~~determination regarding the duration of the~~
16 ~~surcharge.~~

17 ~~(2) All surcharges collected by the State for the city and~~
18 ~~county of Honolulu but not used for the purpose of~~
19 ~~developing a fixed rail rapid transit system shall be~~
20 ~~deposited into the state treasury to be returned to~~
21 ~~the taxpayers who resided in the city and county of~~
22 ~~Honolulu for more than two hundred days of the taxable~~



1 ~~year in the aggregate during the time that the~~
2 ~~surcharges were collected, in the form of an income~~
3 ~~tax credit, the amount of the credit to be determined~~
4 ~~by law.~~

5 ~~(3) The general excise and use tax surcharge shall be~~
6 ~~repealed upon the determination by the director of~~
7 ~~finance that all authorized capital costs of the fixed~~
8 ~~rail rapid transit system or county projects under~~
9 ~~paragraph (4) have been collected and distributed~~
10 ~~pursuant to chapter 248.~~

11 ~~(4) The counties of Hawaii, Kauai, and Maui shall use the~~
12 ~~surcharges for public transportation systems,~~
13 ~~including mass transportation, sewage, or water~~
14 ~~development, and parks, including park operation,~~
15 ~~maintenance, infrastructure, or purchase.~~

16 ~~(d) As used in this section:~~

17 ~~"Capital costs" means nonrecurring costs required to~~
18 ~~construct a transit facility or system, including debt service,~~
19 ~~costs of land acquisition and development, acquiring of rights-~~
20 ~~of-way, planning, design, and construction, including equipping~~
21 ~~and furnishing the facility or system.~~



1 ~~"Private source revenue" means all funds, concessions,~~
2 ~~development rights, or those assets of value contractually~~
3 ~~agreed upon with the county from sources other than state,~~
4 ~~county, or federal governments as a result of, or for the~~
5 ~~purposes of, developing mass transportation.]"~~

6 SECTION 30. Act 33, Session Laws of Hawaii 2005, is
7 amended by amending the prefatory language in section 1 to read
8 as follows:

9 "SECTION 1. Section 291E-61, Hawaii Revised Statutes, is
10 amended by amending subsection (b) to read as follows:"

11 SECTION 31. Act 129, Session Laws of Hawaii 2005, is
12 amended by amending the prefatory language in section 2 to read
13 as follows:

14 "SECTION 2. Act 261, Session Laws of Hawaii 2000, as
15 amended by Act 68, Session Laws of Hawaii 2002, section 2 [~~as~~
16 ~~amended by~~] and Act 103, Session Laws of Hawaii 2002, section 1,
17 is amended by amending section 5 to read as follows:"

18 SECTION 32. Act 202, Session Laws of Hawaii 2005, is
19 amended by amending section 5 to read as follows:

20 "SECTION 5. This Act shall take effect upon its
21 approval[-]; provided that the amendments made to section 89-6,
22 Hawaii Revised Statutes, by this Act, shall not be repealed when



H.B. NO. 2476

1 section 89-6, Hawaii Revised Statutes, is reenacted on July 1,
2 2008, pursuant to Act 245, Session Laws of Hawaii 2005."

3 SECTION 33. Act 236, Session Laws of Hawaii 2005, is
4 amended by amending section 27 to read as follows:

5 "SECTION 27. This Act shall take effect on July 1, 2005;
6 provided that [~~section 2~~] sections 2, 20, and 24 of this Act
7 shall take effect on June 30, 2005."

8 SECTION 34. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 35. This Act shall take effect on July 1, 2006;
11 provided that:

- 12 (1) Section 30 shall take effect retroactive to April 27,
13 2005;
- 14 (2) Section 31 shall take effect retroactive to June 29,
15 2005;
- 16 (3) Section 32 shall take effect retroactive to July 6,
17 2005; and
- 18 (4) Section 33 shall take effect retroactive to June 30,
19 2005.

20

INTRODUCED BY: Calvin K. King

JAN 23 2006

BY REQUEST

Report Title:

Revision Bill

Description:

Amends, reenacts, or repeals 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.

