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# 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 [~~I, N, P,~~] O [~~r, P,~~]  
22 or Q or section 201G-170, 201G-223, [~~201G-401,~~] 201G-411, [~~201G-~~



1 ~~421~~] 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,~~] O[~~, P,~~] or Q or section 201G-170,  
9 201G-223, [~~201G-401,~~] 201G-411, [~~201G-421,~~] 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           (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 [~~, 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



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."

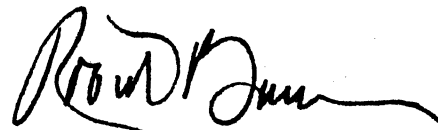
8 SECTION 34. Statutory material to be repealed is bracketed  
9 and stricken. New statutory material is underscored.

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:



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.

