
A BILL FOR AN ACT

MAKING VARIOUS HOUSEKEEPING AMENDMENTS TO VOLUME 11 OF THE
HAWAII REVISED STATUTES FOR THE PURPOSE OF CORRECTING
ERRORS AND REFERENCES, AND CLARIFYING LANGUAGE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 476-1, Hawaii Revised Statutes, is
2 amended by amending the definitions of "credit sale contract" or
3 "contract" and "goods" to read as follows:

4 "Credit sale contract" or "contract" means any agreement,
5 including a conditional sale contract, a retail installment
6 contract, or any other form of instrument ~~[7]~~ evidencing an
7 obligation to pay the price of goods, services, or both,
8 purchased in a credit sale, either:

- 9 (1) ~~[by]~~ By payment thereof over a period of time subject
10 to a finance charge ~~[or 7]~~; or
- 11 (2) ~~[pursuant]~~ Pursuant to a written agreement, subject to
12 payment in more than four installments not including a
13 down payment,
- 14 ~~[and in either case]~~ whether or not the contract contains a
15 title retention provision. ~~[This term]~~ "Credit sale contract"
16 includes any contract for the bailment or leasing of goods
17 (unless terminable without penalty at any time by the bailee or



1 lessee) by which the bailee or lessee contracts to pay as
2 compensation a sum substantially equivalent to or in excess of
3 the value of the goods and services involved and by which it is
4 agreed that the bailee or lessee is bound to become, or has the
5 option of becoming, for no additional consideration or for
6 nominal consideration, the owner of the goods upon full
7 compliance with the terms of the contract.

8 "Goods" [~~include~~] includes all things which are movable at
9 the time the credit sale is entered into or which will be
10 movable when they thereafter come into existence or which are or
11 will be fixtures (sections 490:9-334 and 490:9-604) [~~but~~
12 ~~except~~]. Except as provided in this paragraph, "goods" does not
13 include money, documents, instruments, accounts, chattel paper,
14 general intangibles, or minerals or the like (including oil and
15 gas) before extraction. "Goods" [~~include~~] includes standing
16 timber which is to be cut and removed under a conveyance or
17 contract for sale, the unborn young of animals, growing crops,
18 and merchandise certificates or coupons, issued by a credit
19 seller, to be used in the face amount in lieu of cash in
20 exchange for goods sold by such a seller."

21 SECTION 2. Section 476-8, Hawaii Revised Statutes, is
22 amended to read as follows:



1 "§476-8 Insurance provisions. (a) The amount, if any,
2 charged for insurance [7] shall not exceed the premiums
3 chargeable in accordance with rate filings made with the
4 [~~commissioner of insurance~~] state insurance commissioner under
5 chapter 431 for similar insurance.

6 The seller or holder, if dual interest insurance on the
7 goods is included in a credit sale contract [7] and a separate
8 charge is made therefor, shall, within thirty days after
9 execution of the credit sale contract, send or cause to be sent
10 to the buyer a policy or policies or certificate of insurance,
11 written by an insurance company authorized to do business in
12 this [~~State,~~] state, clearly setting forth the amount of the
13 premium, the kind or kinds of insurance, and the scope of the
14 coverage and all the terms, exceptions, limitations,
15 restrictions, and conditions of the contract or contracts of
16 insurance.

17 The buyer of goods under a credit sale contract may
18 purchase [~~such~~] any required insurance from [a] an insurance
19 producer of the buyer's own selection, and in an insurance
20 company of the buyer's own selection authorized to do business
21 in this [~~State,~~] state; provided that the seller or holder shall
22 have the right for reasonable cause to disapprove of the



1 insurance company selected by the buyer to underwrite the
2 insurance.

3 **(b)** In any credit sale contract for the sale of a motor
4 vehicle where insurance is contracted for as a part of the sale,
5 and the insurance does not include public liability insurance
6 for bodily injury and property [~~damages,~~] damage, the contract
7 shall contain, on the same page as the disclosures therein
8 concerning insurance, a notice substantially similar to the
9 following:

10 "THIS DOES NOT INCLUDE INSURANCE ON YOUR LIABILITY FOR
11 BODILY INJURY OR PROPERTY DAMAGE. IT DOES NOT MEET THE
12 REQUIREMENTS FOR PROOF OF FINANCIAL RESPONSIBILITY UNDER HAWAII
13 LAW."

14 **(c)** If any [~~such~~] insurance policy or certificate is
15 canceled, the unearned insurance premium refund received by the
16 holder of the contract shall, at the option of the holder,
17 either be credited to the final maturing installments of the
18 credit sale contract or be paid to the buyer, except to the
19 extent applied toward payment for similar insurance protecting
20 the interests of the buyer and holder of the contract or either
21 of them."



1 SECTION 3. Section 477E-2, Hawaii Revised Statutes, is
2 amended by amending the definition of "creditor" to read as
3 follows:

4 "Creditor" means any bank; savings and loan association;
5 trust company; financial services loan company [~~or small loan~~
6 ~~company~~]; credit union; mortgage banker, broker, or solicitor;
7 pawnbroker; mutual benefit society or fraternal benefit society;
8 debt adjuster; the issuer of a credit card as defined in section
9 708-800; any person who initiates, extends, renews, or continues
10 loans of money or credit; any person who regularly arranges for
11 the initiation, extension, renewal, or continuation of a loan of
12 money or credit; or any assignee of an original creditor who
13 participates in the decision to grant, extend, renew, or to
14 continue such loan or credit."

15 SECTION 4. Section 477E-5, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "~~§477E-5 [Civil penalties.]~~ Unfair or deceptive act or
18 practice. Any creditor who violates or attempts to violate any
19 provision of this chapter shall be deemed to have engaged in an
20 unfair [~~and~~] or deceptive act or practice in the conduct of
21 trade or commerce within the meaning of section 480-2."



1 SECTION 5. Section 480-14, Hawaii Revised Statutes, is
2 amended as follows:

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

4 "(a) Whenever the State, any county, [~~or city and county~~]
5 or any of its political subdivisions or governmental agencies,
6 is injured in its business or property by reason of anything
7 forbidden or declared unlawful by this chapter, it may sue to
8 recover threefold the actual damages sustained by it.

9 (b) The attorney general may bring an action on behalf of
10 the State, any county, or any of its political subdivisions or
11 governmental agencies to recover the damages provided for by
12 this section, or by any comparable provisions of federal law."

13 2. By amending subsection (d) to read:

14 "(d) If judgment is in favor of the State, any county, or
15 any of its political subdivisions or governmental agencies under
16 any provision of this chapter, the attorney general or the
17 director of the office of consumer protection shall be awarded
18 reasonable attorney's fees together with the cost of suit;
19 provided [~~further~~] that in any class action lawsuit brought by
20 the attorney general in behalf of indirect purchasers, the
21 attorney general shall in addition be awarded an amount



1 commensurate with expenses reasonably expected to be expended in
2 distribution of damages to the indirect purchasers."

3 SECTION 6. Section 480-20, Hawaii Revised Statutes, is
4 amended by amending subsections (a) and (b) to read as follows:

5 "(a) The attorney general shall enforce the criminal and
6 civil provisions of this chapter. The county attorney [~~of any~~
7 ~~county, the prosecuting attorney and the~~], corporation counsel,
8 or prosecuting attorney of [~~the city and county~~] any county
9 shall investigate and report suspected violations of this
10 chapter to the attorney general.

11 (b) Whenever this chapter authorizes or requires the
12 attorney general to commence any action or proceeding, including
13 proceedings under section 480-18, the attorney general may
14 require the county attorney, [~~prosecuting attorney, or~~]
15 corporation counsel, or prosecuting attorney of any [~~county or~~
16 ~~city and~~] county, holding office in the circuit where the action
17 or proceeding is to be commenced or maintained, to maintain the
18 action or proceeding under the direction of the attorney
19 general."

20 SECTION 7. Section 480-22, Hawaii Revised Statutes, is
21 amended by amending subsections (a) and (b) to read as follows:



1 "(a) A final judgment or decree rendered in any civil or
2 criminal proceeding brought by the State under this chapter
3 shall be prima facie evidence against the defendant in any
4 action or proceeding brought by any other party under this
5 chapter, or by the State, county, [~~or city and county,~~] or any
6 of its political subdivisions or governmental agencies, under
7 section 480-14, against the defendant as to all matters
8 respecting which the judgment or decree would be an estoppel
9 between the parties thereto. This section shall not apply to
10 consent judgments or decrees entered before any complaint has
11 been filed; provided that when a consent judgment or decree is
12 filed, the attorney general shall set forth at the same time the
13 alleged violations and reasons for entering into the consent
14 judgment or decree. No consent judgment or decree that is
15 entered before any complaint has been filed shall become final
16 until sixty days from the filing of the consent judgment or
17 decree or until the final determination of any exceptions filed,
18 as hereinafter provided, whichever is later. During the sixty-
19 day period any interested party covered under section 480-13 may
20 file verified exceptions to the form and substance of the
21 consent judgment or decree, and the court, upon a full hearing



1 thereon may approve, refuse to approve, or may modify the
2 consent judgment or decree.

3 (b) A plea of nolo contendere and a final judgment or
4 decree rendered pursuant to that plea in any criminal action
5 under this chapter shall not be admissible against the defendant
6 in any action or proceeding brought by any other party under
7 this chapter, or by the State, county, [~~or city and county,~~] or
8 any of its political subdivisions or governmental agencies,
9 under section 480-14 against the defendant."

10 SECTION 8. Section 480-23, Hawaii Revised Statutes, is
11 amended by amending subsection (b) to read as follows:

12 "(b) No individual shall be criminally prosecuted or
13 subjected to any criminal penalty under this chapter for or on
14 account of any transaction, matter, evidence, or thing
15 concerning which the individual may so testify or produce in any
16 investigation brought by the attorney general pursuant to
17 section 480-18, or any county attorney, [~~prosecuting attorney,~~
18 ~~or~~] corporation counsel, or prosecuting attorney of any [~~county~~
19 ~~or city and~~] county, when the individual has done so pursuant to
20 an order issued under section 480-23.1[~~7~~]; provided that no
21 individual so testifying shall be exempt from prosecution or



1 punishment for perjury, for giving a false statement, or for an
2 offense involving a failure to comply with the order."

3 SECTION 9. Section 480-23.1, Hawaii Revised Statutes, is
4 amended by amending subsection (b) to read as follows:

5 "(b) A judge of a circuit court or of a district court
6 may, upon application by the attorney general [7] or any county
7 attorney, [~~prosecuting attorney, or~~] corporation counsel, or
8 prosecuting attorney of any [~~county or city and~~] county, issue
9 an order requiring the person to testify or to produce a record,
10 document, or other object, notwithstanding the person's refusal
11 to do so on the basis of the person's privilege against self-
12 incrimination. The application shall specify whether the
13 immunity being sought is use immunity as set forth in section
14 480-23.2 or transactional immunity as set forth in section 480-
15 23.3."

16 SECTION 10. Section 480D-2, Hawaii Revised Statutes, is
17 amended by amending the definition of "debt collector" to read
18 as follows:

19 ""Debt collector" means any person, who is not a collection
20 agency [7] regulated pursuant to chapter 443B, and who in the
21 regular course of business collects or attempts to collect



1 consumer debts owed or due or asserted to be owed or due to the
2 collector."

3 SECTION 11. Section 480F-6, Hawaii Revised Statutes, is
4 amended by amending subsection (b) to read as follows:

5 "(b) Any person who is not a consumer and is injured by a
6 wilful violation of [~~the~~] this chapter may bring an action for
7 the recovery of damages, a proceeding to restrain and enjoin
8 those violations, or both. If judgment is for the plaintiff,
9 the plaintiff shall be awarded a sum not less than \$1,000 or
10 threefold damages, whichever sum is greater, and reasonable
11 attorneys' fees together with the costs of suit."

12 SECTION 12. Section 481B-1.6, Hawaii Revised Statutes, is
13 amended by amending subsection (e) to read as follows:

14 "(e) It shall be an unlawful practice and a violation of
15 this chapter for any person, in any contest or sweepstakes in
16 which the winning entry or entries are to be determined by a
17 drawing or some other method based on an element of chance[+]
18 to:

19 (1) [~~To promote~~] Promote a contest or sweepstakes in which
20 some or all of the prizes may not be awarded, or to
21 fail to award all prizes or awards offered, unless the
22 person makes the following disclosures to each offeree



1 in writing and in a conspicuous manner prior to the
2 acceptance of the offeree's entry:

3 (A) That some or all of the prizes may not be
4 awarded; and

5 (B) The date or dates on which a determination of
6 winners will be made; [~~and~~] or

7 (2) [~~To offer~~] Offer a prize of real property unless the
8 offeror files and maintains with the director of
9 commerce and consumer affairs a bond in a sum not less
10 than \$10,000, executed by the offeror, and naming the
11 director as the obligee and a surety company
12 authorized to do business in the [~~State~~] state as
13 surety. The bond shall be continuous in form and
14 conditioned upon the award of the real property to an
15 eligible participant. The bond shall run to the State
16 for the benefit of any person who failed to receive
17 the real property due to the failure of the offeror to
18 award the real property pursuant to the terms of the
19 offer. The surety may cancel the bond by giving sixty
20 days' notice in writing to the director[~~-~~] of commerce
21 and consumer affairs. Upon cancellation or expiration
22 of the bond, the surety shall remain liable for any



1 claims against the bond for a period of one year;
2 provided that the claim arose while the bond was in
3 effect and the director of commerce and consumer
4 affairs notifies the surety of any claims within
5 ninety days of discovery of the claim."

6 SECTION 13. Section 481B-4, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "§481B-4 [~~Penalty.~~] Remedies. Any person who violates
9 this chapter shall be deemed to have engaged in an unfair method
10 of competition [~~or~~] and unfair [~~and~~] or deceptive act or
11 practice in the conduct of any trade or commerce within the
12 meaning of section 480-2."

13 SECTION 14. Section 481B-5.5, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "~~§481B-5.5~~ Returns for refunds, merchandise credits, and
16 exchanges. [~~(a) As used in this section, unless the context~~
17 ~~otherwise requires.~~

18 "~~Ancillary charges~~" ~~includes all charges paid to the~~
19 ~~merchant that are necessary for the use of the goods for their~~
20 ~~purchased purpose and all sums paid for agreements for service,~~
21 ~~warranty, or replacement.~~



1 ~~"Conspicuous sign" means a sign posted in the merchant's~~
2 ~~place of business in a location reasonably calculated to bring~~
3 ~~the sign to the attention of purchasers before a purchaser makes~~
4 ~~a purchase.~~

5 ~~"Exchange" means a transaction between a merchant and a~~
6 ~~purchaser in which a previously purchased item is exchanged for~~
7 ~~another item.~~

8 ~~"Full amount of the payment" includes the amount paid for~~
9 ~~the returned goods, including any ancillary charges or taxes~~
10 ~~incident to the purchase of the returned goods, and without any~~
11 ~~deduction for restocking of the merchant's inventory, or for~~
12 ~~administration of the refund, exchange, or merchandise credit.~~

13 ~~"Merchandise credit" means the crediting to the purchaser~~
14 ~~of the full amount of the payment upon return of the goods and~~
15 ~~allowing the purchaser to purchase goods from the merchant with~~
16 ~~the merchandise credit, or applying to the purchaser's credit~~
17 ~~account with the merchant, in the amount of the merchandise~~
18 ~~credit.~~

19 ~~"Merchant" means any person engaged in the business of~~
20 ~~offering goods for sale to purchasers at retail.~~



1 ~~"Proof of purchase" means a sales slip, receipt, credit~~
2 ~~card slip, or any other documentation that substantiates the~~
3 ~~sale of the goods from the merchant and the amount of payment.~~

4 ~~"Purchaser" means a natural person who is returning goods~~
5 ~~that were purchased or received primarily for personal, family,~~
6 ~~or household purposes.~~

7 ~~"Refund" means the return to the purchaser of the full~~
8 ~~amount of the payment upon return of the goods, in accordance~~
9 ~~with this chapter.~~

10 ~~"Repacking and transportation charges" means the charges~~
11 ~~for repacking, pickup, and transportation of goods previously~~
12 ~~delivered, unpacked, and set up by the merchant at the direction~~
13 ~~of the purchaser.~~

14 ~~"Return" or "return of goods" means the acceptance by the~~
15 ~~merchant of goods from a purchaser, whether for refund,~~
16 ~~merchandise credit, or exchange, and includes the cancellation~~
17 ~~of a custom or special order before the merchant is obligated to~~
18 ~~make payment on the order and the cancellation of a layaway.] "~~

19 ~~[(b)]~~ (a) Except as provided in this section, all
20 merchants shall accept the return of goods for refund,
21 merchandise credit, or exchange, giving purchasers rights that



1 are no less than those provided in this section. The merchant
2 may:

3 (1) Choose one of the following policies by posting a
4 conspicuous sign notifying purchasers of any one of
5 the following limitations:

6 (A) Refunds only;

7 (B) Refunds or merchandise credit only;

8 (C) Exchanges or merchandise credit only; or

9 (D) No refunds, merchandise credits, or exchanges;

10 and

11 (2) Place specific limitations on the policy adopted by
12 posting a conspicuous sign notifying the purchasers of
13 any limitations allowed by subsections (c), (d), (e),
14 and (f).

15 [~~e~~] (b) Any merchant who does not accept the return of
16 goods shall post conspicuous signs bearing the words "All sales
17 final", or "No returns for refunds, merchandise credits, or
18 exchanges", or words or phrases of similar import, to inform
19 customers that no return of goods shall be accepted.

20 [~~d~~] (c) Any merchant who limits the period during which
21 goods may be returned to less than sixty days after the date of
22 purchase or delivery shall post conspicuous signs informing



1 purchasers of the limitation of the period during which the
2 return of goods shall be accepted.

3 ~~[(e)]~~ (d) Any merchant who excludes a certain category or
4 type of goods from its return policy shall post one or more
5 conspicuous signs identifying that type of goods.

6 ~~[(f)]~~ (e) Any merchant who excludes custom or specially
7 ordered goods from its return policy shall post conspicuous
8 signs, or otherwise notify the purchaser, with the purchaser's
9 written acknowledgment, of the return policy. For custom or
10 specially ordered goods, the policy may allow the merchant to
11 accept the return of the goods and to charge the purchaser for
12 the cost of shipping if the charge is disclosed prior to the
13 purchase.

14 ~~[(g)]~~ (f) Any person engaged in the business of offering
15 goods for sale at retail who fails to post a conspicuous sign as
16 required by this section shall accept the return of goods from
17 purchasers and make refunds in accordance with subsection (h).

18 ~~[(h)]~~ (g) All merchants, except as provided in subsection
19 (c), shall handle returns for refunds in the following manner:

20 (1) If payment was made in cash, the refund shall be made
21 in cash at the time of the return of goods, except
22 that if the amount to be returned exceeds \$25, cash



1 refunds may be made by check issued within ten days of
2 the date of the return;

3 (2) If payment was made by check, the refund shall be made
4 in cash upon acceptance of the returned goods by the
5 merchant, or by check issued within ten days of the
6 acceptance of the returned goods by the merchant,
7 except that if the purchaser's check has not cleared
8 the bank on which it was drawn, the refund may be
9 delayed for no more than ten days after the date the
10 purchaser's check has cleared; provided that the
11 merchant shall have complied with this provision if
12 the check is mailed to the purchaser at the address
13 provided by the purchaser within the ten-day period;

14 (3) If payment was made by credit card, the refund shall
15 be made by credit to the purchaser's credit card
16 account; provided that the merchant shall initiate the
17 submittal of the charge card credit memo or other
18 appropriate documentation to the merchant's financial
19 institution within five banking business days after
20 the return of goods or, at the merchant's option, the
21 refund may be made in cash at the time of the return



1 of the goods or by check issued and mailed within ten
2 days of the acceptance of the returned goods; or
3 (4) If payment was made by charging a credit account
4 administered by the merchant, the refund shall be made
5 by credit to the purchaser's credit account initiated
6 at the time of the return of the goods.

7 [~~(i)~~] (h) All merchants, except as provided in subsection
8 (c), shall handle returns for merchandise credit in the
9 following manner:

- 10 (1) If the purchaser does not select goods in exchange for
11 the returned goods within thirty days of the return,
12 the merchant shall make a full refund to the purchaser
13 in cash or in accordance with subsection (h). The
14 merchant shall not be required to return cash in
15 exchange for a merchandise credit issued pursuant to
16 this paragraph if the merchant posts a conspicuous
17 sign to notify purchasers that the merchandise credit
18 cannot be turned into cash;
- 19 (2) The merchandise credit shall be valid for a minimum of
20 two years; and
- 21 (3) Before exchanging the merchandise credit for cash or,
22 in the case of a purchaser selecting goods in exchange



1 costing less than the amount of the merchandise
2 credit, refunding the difference in cash, the merchant
3 may require proof of purchase and require the
4 surrender of the credit memo.

5 [~~(j)~~] (i) All merchants, except as provided in subsection
6 (c), shall handle returns for exchanges in the following manner:

7 (1) If the exchange involves an exchange for only size or
8 color, the exchange shall be made without regard to
9 the full amount of payment; provided that the merchant
10 may make an appropriate adjustment if the differing
11 size or color normally sells at a different price; and

12 (2) If the exchange does not involve an exchange for only
13 size or color, then if the full amount of the payment
14 for the goods received in exchange is less than the
15 full amount of the payment for the returned goods, the
16 merchant shall issue a refund or merchandise credit in
17 the amount of the difference.

18 [~~(k)~~] (j) In determining the full amount of the payment
19 for returns for reasons other than damaged or defective goods, a
20 deduction for repacking and transportation charges may be made
21 from the full amount of the payment, if the deduction is
22 disclosed to the purchaser prior to the purchase.



1 ~~[(1)]~~ (k) Any return policies adopted by the merchant
2 pursuant to this section that limits the purchaser's ability to
3 obtain a refund shall not apply if the goods were damaged or
4 defective prior to the time of sale, unless the merchant was
5 aware of the damage or defect and notified the purchaser of the
6 damage or defect in writing prior to the time of sale.

7 ~~[(m)]~~ (1) A merchant is not required to accept a return
8 if:

- 9 (1) There is no proof of purchase, by sales slips,
10 receipts, or other evidence of purchase of the goods
11 returned;
- 12 (2) The purchaser has retained the goods in excess of
13 sixty days after the purchase;
- 14 (3) The goods have been used or damaged after sale, or
15 altered by the purchaser at the time of or after the
16 sale; or
- 17 (4) The goods are of a type which are unsuitable for
18 resale, pursuant to any applicable law.

19 ~~[(n)]~~ (m) The following constitute unfair methods of
20 competition and unfair or deceptive acts or practices in the
21 conduct of any trade or commerce under section 480-2:

- 22 (1) Any violation of this section; and



1 (2) Any act or policy that causes a compromise of the
2 purchaser's rights and protections established by this
3 section.

4 (n) "Ancillary charges" includes all charges paid to the
5 merchant that are necessary for the use of the goods for their
6 purchased purpose and all sums paid for agreements for service,
7 warranty, or replacement.

8 "Conspicuous sign" means a sign posted in the merchant's
9 place of business in a location reasonably calculated to bring
10 the sign to the attention of purchasers before a purchaser makes
11 a purchase.

12 "Exchange" means a transaction between a merchant and a
13 purchaser in which a previously purchased item is exchanged for
14 another item.

15 "Full amount of the payment" includes the amount paid for
16 the returned goods, including any ancillary charges or taxes
17 incident to the purchase of the returned goods, and without any
18 deduction for restocking of the merchant's inventory, or for
19 administration of the refund, exchange, or merchandise credit.

20 "Merchandise credit" means the crediting to the purchaser
21 of the full amount of the payment upon return of the goods and
22 allowing the purchaser to purchase goods from the merchant with



1 the merchandise credit, or applying to the purchaser's credit
2 account with the merchant, in the amount of the merchandise
3 credit.

4 "Merchant" means any person engaged in the business of
5 offering goods for sale to purchasers at retail.

6 "Proof of purchase" means a sales slip, receipt, credit
7 card slip, or any other documentation that substantiates the
8 sale of the goods from the merchant and the amount of payment.

9 "Purchaser" means a natural person who is returning goods
10 that were purchased or received primarily for personal, family,
11 or household purposes.

12 "Refund" means the return to the purchaser of the full
13 amount of the payment upon return of the goods, in accordance
14 with this section.

15 "Repacking and transportation charges" means the charges
16 for repacking, pick up, and transportation of goods previously
17 delivered, unpacked, and set up by the merchant at the direction
18 of the purchaser.

19 "Return" or "return of goods" means the acceptance by the
20 merchant of goods from a purchaser, whether for refund,
21 merchandise credit, or exchange, and includes the cancellation



1 of a custom or special order before the merchant is obligated to
2 make payment on the order and the cancellation of a layaway."

3 SECTION 15. Section 481B-6, Hawaii Revised Statutes, is
4 amended by amending its title to read as follows:

5 "§481B-6 **Sale of solar energy devices; disclosure**
6 **requirements [; ~~penalty~~]."**

7 SECTION 16. Section 481B-11, Hawaii Revised Statutes, is
8 amended by amending its title to read as follows:

9 "§481B-11 [~~Refunds; offer of services.~~] Sensitivity-
10 awareness group seminars."

11 SECTION 17. Section 481B-13, Hawaii Revised Statutes, is
12 amended by amending subsection (d) to read as follows:

13 "(d) Any violation of this section shall constitute an
14 unfair [~~and~~] or deceptive act or practice in the conduct of
15 trade or commerce within the meaning of section 480-2."

16 SECTION 18. Section 481C-1, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "§481C-1 **Definitions.** In this chapter, unless the context
19 or subject matter otherwise requires:

20 [~~(1) (A) "Door to door sale" means (i) a sale of goods or~~
21 ~~services solicited in person and signed by the~~
22 ~~buyer at a place other than the seller's business~~



1 ~~address shown on the contract; or (ii) a sale of~~
2 ~~goods or services solicited in person or by mail,~~
3 ~~telephone; or public or private notice or~~
4 ~~advertisement if the solicitation includes an~~
5 ~~offer of a gift, prize, premiums, stamps,~~
6 ~~coupons, tickets or other redeemable devices as~~
7 ~~an inducement for the person solicited or a~~
8 ~~member of the person's immediate family to go to~~
9 ~~the seller's place of business, whether the buyer~~
10 ~~signs at the seller's place of business or~~
11 ~~elsewhere.~~

12 ~~(B) The term "door to door sale" does not include a~~
13 ~~transaction:~~

14 ~~(i) Made pursuant to prior negotiations in the~~
15 ~~course of a visit by the buyer to a retail~~
16 ~~business establishment having a fixed~~
17 ~~permanent location where the goods are~~
18 ~~exhibited or the services are offered for~~
19 ~~sale on a continuing basis; or~~

20 ~~(ii) In which the buyer has initiated the contact~~
21 ~~and the goods or services are needed to meet~~
22 ~~a bona fide immediate personal emergency of~~



1 ~~the buyer, and the buyer furnishes the~~
2 ~~seller with a separate dated and signed~~
3 ~~personal statement in the buyer's~~
4 ~~handwriting describing the situation~~
5 ~~requiring immediate remedy and expressly~~
6 ~~acknowledging and waiving the right to~~
7 ~~cancel the sale within three business days,~~
8 ~~or~~

9 ~~(iii) Conducted and consummated entirely by mail~~
10 ~~or telephone, and without any other contact~~
11 ~~between the buyer and the seller or its~~
12 ~~representative prior to delivery of the~~
13 ~~goods or performance of the services, or~~
14 ~~(iv) In which the buyer has initiated the contact~~
15 ~~and specifically requested the seller to~~
16 ~~visit the buyer's home for the purpose of~~
17 ~~repairing or performing maintenance upon the~~
18 ~~buyer's personal property. If in the course~~
19 ~~of such a visit, the seller sells the buyer~~
20 ~~the right to receive additional services or~~
21 ~~goods other than replacement parts~~
22 ~~necessarily used in performing the~~



1 ~~maintenance or in making the repairs, the~~
2 ~~sale of those additional goods or services~~
3 ~~would not fall within this exclusion.~~

4 ~~(2) "Goods" means all chattels personal, other than money~~
5 ~~and things in action, except as herein provided, and~~
6 ~~includes emblements, growing crops, and things which~~
7 ~~attach to or form a part of land which are agreed to~~
8 ~~be severed before sale under the contract and things~~
9 ~~which at the time of sale or subsequently are to be so~~
10 ~~affixed to real property as to become a part thereof,~~
11 ~~whether or not severable therefrom. The term includes~~
12 ~~merchandise certificates or coupons, issued by a~~
13 ~~seller, to be used in their face amount in lieu of~~
14 ~~cash in exchange for goods sold by such a seller. The~~
15 ~~term also includes services as herein defined.~~

16 ~~(3) "Services" means work, labor, or service of any kind~~
17 ~~whether purchased primarily for personal, family or~~
18 ~~household use, and whether or not furnished in~~
19 ~~connection with the delivery, installation, servicing,~~
20 ~~repair, or improvement of goods, and includes repairs,~~
21 ~~alterations, or improvements upon or in connection~~
22 ~~with real property.~~



1 ~~(4) "Seller" means any person, partnership, corporation,~~
2 ~~association, or other group, however organized,~~
3 ~~engaged in the door to door sale of goods or services.~~

4 ~~(5) "Sale" means and includes any sale with a purchase~~
5 ~~price of \$5 or more, or \$25 if the merchandise is~~
6 ~~capable of being delivered at one time, other than for~~
7 ~~resale, of goods to a buyer pursuant to a contract.~~
8 ~~It does not include a sale to a business~~
9 ~~establishment.~~

10 ~~(6) "Contract" means and includes any agreement, including~~
11 ~~a conditional sales contract or any other form of~~
12 ~~instrument, evidencing an obligation to pay the~~
13 ~~purchase price, or moneys advanced in payment of the~~
14 ~~purchase price of goods, by payment thereof in one~~
15 ~~payment, or more than one payment made in installments~~
16 ~~over a period of time, whether or not the contract~~
17 ~~contains a title retention provision.~~

18 ~~(7) "Cash sale price" means the cash sale price stated in~~
19 ~~a contract for which the seller would sell to the~~
20 ~~buyer, and the buyer would buy from the seller, the~~
21 ~~goods which are the subject matter of the contract if~~
22 ~~the sale were a sale for cash instead of by payments~~



1 ~~made in installments over a period of time. The cash~~
2 ~~sale price may include taxes, registration, license,~~
3 ~~and other fees and charges for accessories and their~~
4 ~~installation and for delivering, servicing, repairing,~~
5 ~~or improving the goods.~~

6 ~~(8) "Business day" means any calendar day, except~~
7 ~~Saturday, Sunday, or any state or federal holiday.]~~

8 "Business day" means any calendar day, except Saturday,
9 Sunday, or any state or federal holiday.

10 "Cash sale price" means the cash sale price stated in a
11 contract for which the seller would sell to the buyer, and the
12 buyer would buy from the seller, the goods which are the subject
13 matter of the contract if the sale were a sale for cash instead
14 of by payments made in installments over a period of time. The
15 cash sale price may include taxes, registration, license, and
16 other fees and charges for accessories and their installation
17 and for delivering, servicing, repairing, or improving the
18 goods.

19 "Contract" means any agreement, including a conditional
20 sales contract or any other form of instrument, evidencing an
21 obligation to pay the purchase price, or moneys advanced in
22 payment of the purchase price of goods, by payment thereof in



1 one payment, or more than one payment made in installments over
2 a period of time, whether or not the contract contains a title
3 retention provision.

4 "Door-to-door sale"

5 (1) Means:

6 (A) A sale of goods or services solicited in person
7 and signed by the buyer at a place other than the
8 seller's business address shown on the contract;

9 (B) A sale of goods or services solicited in person
10 or by mail, or telephone; or

11 (C) A public or private notice or advertisement if
12 the solicitation includes an offer of a gift,
13 prize, premiums, stamps, coupons, tickets, or
14 other redeemable devices as an inducement for the
15 person solicited or a member of the person's
16 immediate family to go to the seller's place of
17 business, whether the buyer signs at the seller's
18 place of business or elsewhere; and

19 (2) Does not include a transaction:

20 (A) Made pursuant to prior negotiations in the course
21 of a visit by the buyer to a retail business
22 establishment having a fixed permanent location



1 where the goods are exhibited or the services are
2 offered for sale on a continuing basis;

3 (B) In which the buyer has initiated the contact and
4 the goods or services are needed to meet a bona
5 fide immediate personal emergency of the buyer,
6 and the buyer furnishes the seller with a
7 separate dated and signed personal statement in
8 the buyer's handwriting describing the situation
9 requiring immediate remedy and expressly
10 acknowledging and waiving the right to cancel the
11 sale within three business days;

12 (C) Conducted and consummated entirely by mail or
13 telephone and without any other contact between
14 the buyer and the seller or its representative
15 prior to delivery of the goods or performance of
16 the services; or

17 (D) In which the buyer has initiated the contact and
18 specifically requested the seller to visit the
19 buyer's home for the purpose of repairing or
20 performing maintenance upon the buyer's personal
21 property. If in the course of such a visit, the
22 seller sells the buyer the right to receive



1 additional services or goods other than
2 replacement parts necessarily used in performing
3 the maintenance or in making the repairs, the
4 sale of those additional goods or services would
5 not fall within this exclusion.

6 "Goods" means all chattels personal, other than money and
7 things in action, except as herein provided, and includes
8 emblems, growing crops, and things which attach to or form a
9 part of land which are agreed to be severed before sale under
10 the contract and things which at the time of sale or
11 subsequently are to be so affixed to real property as to become
12 a part thereof, whether or not severable therefrom. The term
13 includes merchandise certificates or coupons, issued by a
14 seller, to be used in their face amount in lieu of cash in
15 exchange for goods sold by such a seller. The term also
16 includes services as herein defined.

17 "Sale" means any sale with a purchase price of \$5 or more,
18 or \$25 if the merchandise is capable of being delivered at one
19 time, other than for resale, of goods to a buyer pursuant to a
20 contract. It does not include a sale to a business
21 establishment.



1 "Seller" means any person, partnership, corporation,
2 association, or other group, however organized, engaged in the
3 door-to-door sale of goods or services.

4 "Services" means work, labor, or service of any kind
5 whether purchased primarily for personal, family, or household
6 use, and whether or not furnished in connection with the
7 delivery, installation, servicing, repair, or improvement of
8 goods, and includes repairs, alterations, or improvements upon
9 or in connection with real property."

10 SECTION 19. Section 481D-3, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "[+]§481D-3[+] **Posting of notice.** (a) A person required
13 to post notice under this chapter shall post a notice which
14 shall be not less than twenty-two inches by thirty-three inches
15 in size and posted in a conspicuous place [~~which~~] that is
16 visible and readable outside the place of business where the
17 sale is to be held. The notice shall be signed under penalty of
18 perjury. Where the person is a corporation, the notice shall be
19 signed by two officers. Where the person is a partnership, the
20 notice shall be signed by two partners. The notice shall
21 include the following:



- 1 (1) The name and address of the owner of the goods being
2 sold. If the [~~person~~] owner is a partnership,
3 corporation, firm, or association, the notice shall
4 contain the full name and position of the individual
5 filing the notice;
- 6 (2) The type of sale and manner in which the sale is to be
7 conducted and the address where the sale is to be
8 conducted;
- 9 (3) The dates and [~~time~~] times during which the sale is to
10 be conducted;
- 11 (4) The name and street address of the person in charge of
12 and responsible for the conduct of the sale;
- 13 (5) An explanation regarding the condition or necessity
14 for the sale, including a statement of the descriptive
15 name of the sale and the reasons why the name is
16 truthfully descriptive of the sale. The notice shall
17 contain a statement that the business will be
18 discontinued at the premises where the sale is to be
19 conducted upon termination of the sale. If the sale
20 is with respect to a removal sale, it shall contain a
21 statement that the business will be discontinued at
22 the premises where the sale is to be conducted upon



1 termination of the sale, in addition to the location
2 of the premises to which the business is to be moved.
3 If the sale is with respect to the sale of goods
4 damaged by fire, smoke, water, or otherwise, the
5 notice shall contain a statement as to the time,
6 location, and cause of the damage;

- 7 (6) The notice shall state that an inventory report form,
8 containing a detailed list and inventory of each item
9 of inventory costing over \$100 to be sold, itemizing
10 the goods to be sold, and containing sufficient
11 information concerning each item, including make and
12 brand name, shall be available for inspection on the
13 store premises on request. The inventory report form
14 shall list separately goods [~~which~~] that were
15 purchased during the sixty-day period immediately
16 prior to the date of posting the notice showing the
17 cost price of each item to the owner of the inventory
18 together with the name and address of the seller of
19 the item to the owner of the inventory, the date of
20 purchase, the date of delivery to the owner of the
21 inventory, and the total value of the inventory at
22 cost;



1 (7) A statement that no goods will be added to the
2 inventory after posting the notice or during the sale,
3 and that the inventory contains no goods received on
4 consignment; and

5 (8) A statement disclosing the date from which the person
6 has maintained a place of business within the [State]
7 state prior to the posting of the notice.

8 ~~[(9)]~~ (b) This section shall not apply to any person who
9 acquired a right, title, or interest in the goods:

10 ~~[(A)]~~ (1) As an heir, devisee, legatee, or surviving
11 joint tenant;

12 ~~[(B)]~~ (2) As an executor, administrator, trustee,
13 guardian, or conservator; or

14 ~~[(C)]~~ (3) Pursuant to an order or process of a court
15 of competent jurisdiction."

16 SECTION 20. Section 481D-5, Hawaii Revised Statutes, is
17 amended by amending its title to read as follows:

18 "[~~f~~] ~~§481D-5~~ [~~]—Violation; penalties.~~] Violations."

19 SECTION 21. Section 481G-6, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "[~~f~~] ~~§481G-6~~ [~~h~~] **Exceptions.** No action may be brought under
22 section 481G-4 in connection with the termination, cancellation,



1 or nonrenewal of a dealership if the dealership provides for the
2 binding arbitration of disputes arising thereunder, including
3 disputes related to the termination, cancellation, or nonrenewal
4 of the dealership, in accordance with chapter 658A or the rules
5 of the American Arbitration Association."

6 SECTION 22. Section 481H-8, Hawaii Revised Statutes, is
7 amended by amending its title to read as follows:

8 "[~~f~~] ~~§481H-8 []—Penalty and remedies.~~ Remedies."

9 SECTION 23. Section 481I-2, Hawaii Revised Statutes, is
10 amended by amending the definitions of "lessee," "motor
11 vehicle," "purchase price," and "replacement motor vehicle" to
12 read as follows:

13 ""Lessee" means any consumer who leases a motor vehicle
14 [~~for~~] :

- 15 (1) For one year or more pursuant to a written lease
16 agreement which provides that the lessee is
17 responsible for repairs to such motor vehicle [~~, or any~~
18 ~~consumer who leases a motor vehicle pursuant~~]; or
19 (2) Pursuant to a lease-purchase agreement.

20 "Motor vehicle" [~~means~~] :

- 21 (1) Means a self-propelled vehicle primarily designed for
22 the transportation of persons or property over public



1 streets and highways which is used primarily for
2 personal, family, or household purposes [~~For~~
3 ~~purposes of this definition, a "motor vehicle" also~~
4 ~~includes a~~];

5 (2) Includes but shall not be limited to:

6 (A) A "demonstrator", which means a vehicle assigned
7 by a dealer for the purpose of demonstrating
8 qualities and characteristics common to vehicles
9 of the same or similar model or type [~~but does~~
10 not];

11 (B) An individually registered vehicle used for an
12 individual's business purposes, as well as for
13 personal, family, or household purposes; and

14 (C) A vehicle owned or leased by a sole
15 proprietorship, corporation, or partnership which
16 has purchased or leased no more than one vehicle
17 per year, used for household, individual, or
18 personal use in addition to business use;

19 and

20 (3) Shall not include mopeds, motorcycles, or motor
21 scooters, as those terms are defined in chapter 286,
22 or vehicles over [~~10,000~~] ten thousand pounds, gross



1 vehicle weight rating. [~~For purposes of this~~
2 ~~definition, a "motor vehicle" also includes (1) an~~
3 ~~individually registered vehicle used for an~~
4 ~~individual's business purposes and for personal,~~
5 ~~family, or household purposes; and (2) a vehicle owned~~
6 ~~or leased by a sole proprietorship, corporation or~~
7 ~~partnership which has purchased or leased no more than~~
8 ~~one vehicle per year, used for household, individual,~~
9 ~~or personal use in addition to business use.]~~

10 "Purchase price" means the cash price appearing in the
11 sales agreement or contract and paid for the motor vehicle,
12 including any net allowance for a trade-in vehicle. Where the
13 consumer is a second or subsequent purchaser and the arbitration
14 award is for a refund of the purchase price of the motor
15 vehicle, "purchase price" means the purchase price of the second
16 or subsequent purchase and shall not [~~to~~] exceed the purchase
17 price paid by the original purchaser.

18 "Replacement motor vehicle" means a motor vehicle which is
19 identical or reasonably equivalent to the motor vehicle to be
20 replaced, as the motor vehicle to be replaced existed at the
21 time of original acquisition, including any service contract,



1 undercoating, rustproofing, and [~~factory or dealer installed~~]
2 factory-installed or dealer-installed options."

3 SECTION 24. Section 481J-2, Hawaii Revised Statutes, is
4 amended by amending subsections (i) and (j) to read as follows:

5 "(i) The dealer shall provide to the consumer, each time
6 the consumer's vehicle is returned from being diagnosed or
7 repaired under the warranty, a fully itemized, legible warranty
8 repair receipt indicating any diagnosis made and all work
9 performed on the vehicle, including[~~7~~] but not limited to:

- 10 (1) The defect or malfunction complained of;
- 11 (2) The work performed in an attempt to correct the defect
12 or malfunction and the identity of the repairer if it
13 is not the dealer;
- 14 (3) The parts replaced in performing [~~such~~] the work;
- 15 (4) The date and odometer reading when the vehicle was
16 submitted for repair; and
- 17 (5) The date when the vehicle was made available to the
18 consumer.

19 The consumer shall sign a copy of the warranty repair receipt.

20 (j) A dealer may repair, within the meaning of this
21 section, either by performing the repair itself or, if the
22 dealer does not have a repair facility, by arranging and making



1 payment for prompt repair by a motor vehicle repair dealer
2 [~~registered~~] licensed under chapter 437B."

3 SECTION 25. Section 481J-6, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) If the dealer or its agent fails to correct a defect
6 or malfunction as required by the warranty specified in section
7 481J-2 after a reasonable period of time, the dealer shall
8 accept return of the used motor vehicle from the consumer and
9 refund the full purchase price, including [~~sales~~] general excise
10 tax, less a reasonable allowance for any damage not attributable
11 to normal wear or usage, and with an adjustment for any
12 modifications which either increase or decrease the market value
13 of the vehicle. A reasonable allowance for use shall be fifteen
14 cents for each mile the used motor vehicle has been operated
15 between its sale and its return."

16 SECTION 26. Section 481J-7, Hawaii Revised Statutes, is
17 amended to read as follows:

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

19 "(a) A consumer of a used motor vehicle shall have a
20 private right of action against a dealer to enforce this
21 [~~section~~] chapter and recover costs, including reasonable
22 attorney's fees, incurred in the civil action.



1 (b) It shall be an affirmative defense to any claim under
2 this section that:

3 (1) The alleged malfunction or defect does not
4 substantially impair the use or safety of the used
5 motor vehicle;

6 (2) The alleged malfunction or defect is the result of
7 abuse, neglect, or unreasonable modifications or
8 alterations of the used motor vehicle; or

9 (3) The alleged malfunction or defect was covered or
10 warranted under an express warranty issued by the
11 manufacturer of the used motor vehicle, and that such
12 warranty issued by the manufacturer of the used motor
13 vehicle was in effect during the warranty period
14 established by this ~~[section-]~~ chapter."

15 2. By amending subsection (e) to read:

16 "(e) A ~~[motor vehicle]~~ dealer's failure to comply with any
17 of the provisions of this chapter may result in disciplinary
18 action pursuant to chapter 437, which may result in sanctions,
19 including~~[7]~~ but not limited to~~[7]~~ suspension or revocation of
20 license, and the imposition of fines or restitution."

21 SECTION 27. Section 481K-3, Hawaii Revised Statutes, is
22 amended by amending subsection (b) to read as follows:



- 1 "(b) For purposes of subsection (a):
- 2 (1) The "current value of the written lease" equals the
- 3 total amount for which that lease obligates the
- 4 consumer during the period of the lease remaining
- 5 after its early termination, plus the assistive device
- 6 ~~[dealer's]~~ lessor's early termination costs and the
- 7 value of the assistive device at the lease expiration
- 8 date if the lease sets forth that value, less the
- 9 assistive device lessor's early termination savings;
- 10 (2) A "reasonable allowance for use" shall not exceed the
- 11 amount obtained by multiplying the total amount the
- 12 consumer paid or for which the written lease obligates
- 13 the consumer to pay by a fraction, the denominator of
- 14 which is one thousand eight hundred twenty-five and
- 15 the numerator of which is the number of days that the
- 16 consumer used the assistive device before first
- 17 reporting the nonconformity to the manufacturer, its
- 18 agent, assistive device lessor, or assistive device
- 19 dealer; and
- 20 (3) It shall be presumed that a manufacturer has had a
- 21 "reasonable opportunity to repair" if the manufacturer
- 22 or its agents fails to repair the same nonconformity



1 ~~with~~ within two attempts, or the assistive device is
2 out of service, including by reason of attempts to
3 repair one or more nonconformities, for a cumulative
4 total of more than thirty business days after the
5 consumer has returned it for repair."

6 SECTION 28. Section 481L-4, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "~~{~~ §481L-4 ~~}~~ **Civil remedies.** A retail lessor who fails
9 to comply with the requirements of this chapter shall be deemed
10 to have engaged in an unfair ~~and~~ or deceptive act or practice
11 in the conduct of trade or commerce within the meaning of
12 section 480-2."

13 SECTION 29. Section 481M-4, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "~~{~~ §481M-4 ~~}~~ **Provisions prohibited in agreements.** A
16 lease-purchase agreement may not contain:

- 17 (1) A confession of judgment;
- 18 (2) A negotiable instrument;
- 19 (3) A security interest or any other claim of a property
20 interest in any goods except those goods delivered by
21 the lessor pursuant to the lease-purchase agreement;
- 22 (4) A wage assignment;



- 1 (5) A waiver by the [~~consumer~~] lessee of claims or
2 defenses; or
- 3 (6) A provision authorizing the lessor or a person acting
4 on the lessor's behalf to enter upon the [~~consumer's~~]
5 lessee's premises or to commit any breach of the peace
6 in the repossession of goods."

7 SECTION 30. Section 481M-7, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "[~~f~~] **§481M-7** [~~f~~] **Additional charges.** (a) A lessor may
10 contract for and receive an initial nonrefundable fee not to
11 exceed \$10 per [~~contract.~~] lease-purchase agreement. If the
12 lessor requires a security deposit, the amount of the deposit
13 and the conditions under which it will be returned shall be
14 disclosed pursuant to section 481M-13.

15 (b) A lessor may contract for and receive an initial
16 delivery charge per [~~contract~~] lease-purchase agreement that
17 shall not [~~te~~] exceed \$15 in the case of [~~a lease-purchase~~] an
18 agreement covering five or fewer items if [~~, in either case,~~] the
19 lessor actually delivers the items to the lessee's dwelling and
20 the delivery charge is disclosed pursuant to section 481M-14.
21 The delivery charge shall be assessed in lieu of and not in
22 addition to the initial [~~charge~~] fee in subsection (a). A



1 lessor may not contract for or receive a delivery charge on
2 property redelivered after repair or maintenance.

3 (c) A lessor may contract for and receive a charge for
4 picking up late payments from the lessee if the lessor is
5 required to do so pursuant to the [~~rental-purchase~~] lease-
6 purchase agreement or is requested to visit the lessee to pick
7 up a payment. In a lease-purchase agreement with payment or
8 renewal dates [~~which~~] that are on a monthly basis, this charge
9 may not be assessed more than three times in any six-month
10 period. In lease-purchase agreements with payments or renewal
11 options on a weekly or biweekly basis, this charge may not be
12 assessed more than six times in any six-month period. No charge
13 assessed pursuant to this subsection may exceed \$10. A pickup
14 fee may be assessed pursuant to this subsection only in lieu of
15 and not in addition to any late charge assessed pursuant to
16 subsection (d).

17 (d) The parties may contract for late charges as follows:

18 (1) For lease-purchase agreements with monthly renewal
19 dates, a late charge not exceeding \$5 may be assessed
20 on any payment not made within five days after payment
21 is due, or return of the property is required; or



1 (2) For lease-purchase agreements with weekly or biweekly
2 renewal dates, a late charge not exceeding \$3 may be
3 assessed on any [~~payments~~] payment not made within
4 three days after payment is due, or return of the
5 property is required.

6 A late charge on lease-purchase agreements may be collected
7 only once on any accrued payment, no matter how long it remains
8 unpaid. A late charge may be collected at the time it accrues
9 or at any time thereafter. A lessor may elect to waive
10 imposition of a late charge due on an accrued payment in
11 accordance with the terms of the lease-purchase agreement;
12 [~~except that,~~] provided that the waiver shall be in writing and,
13 once a late charge is waived for a specific payment, the lessor
14 may not seek to impose a late [~~fee~~] charge for the accrued
15 payment in question. No late charge shall be assessed against a
16 payment that is timely, even though an earlier late charge has
17 not been paid in full."

18 SECTION 31. Section 481M-10, Hawaii Revised Statutes, is
19 amended by amending subsection (a) to read as follows:

20 "(a) In case of a violation by a lessor of any provision
21 of this chapter with respect to any lease-purchase agreement,
22 the lessee may bring a suit in any court of competent



1 jurisdiction to recover actual damages from the lessor, or may
2 set off or counterclaim in any action by the lessor [~~actual~~
3 ~~damages~~]. If the court finds that any violation by the lessor
4 has occurred, the court shall award to the lessee a minimum
5 recovery of \$250 or twenty-five per cent of the total cost to
6 acquire ownership under the lease-purchase agreement, whichever
7 is greater."

8 SECTION 32. Section 481M-12, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "[~~f~~]§481M-12[~~t~~] **Waivers.** A lessor shall not require a
11 lessee to waive:

- 12 (1) Service of process;
- 13 (2) Any defense;
- 14 (3) Any counterclaim; or
- 15 (4) Right of action against the lessor or a person acting
16 on the lessor's behalf as the lessor's agent [~~r~~],
17 in collection of payments under the [~~lease~~] lease-purchase
18 agreement or in repossession of the [~~lease~~] leased property."

19 SECTION 33. Section 481M-13, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "[~~f~~]§481M-13[~~t~~] **Disclosure of information.** (a) The
22 lessor shall disclose to the lessee the information required by



1 this chapter. In a transaction involving more than one lessor,
2 only one lessor need make the disclosures, but all lessors shall
3 be bound by these disclosures. The disclosures shall be made
4 before consummation of the lease-purchase agreement.

5 (b) The disclosures shall be made clearly and
6 conspicuously in writing [~~and a copy of~~] and in not less than
7 ten-point standard type. A copy of the disclosures shall be
8 included with the lease-purchase agreement provided to the
9 lessee [~~in not less than ten point standard type~~]. All
10 disclosures required by this chapter shall be printed or typed
11 in a color or shade that clearly contrasts with the background.
12 The disclosures required under section 481M-14 shall be made on
13 the face of the [~~contract~~] lease-purchase agreement above the
14 line for the lessee's signature. Before any payment is due, the
15 lessor shall furnish the lessee with an exact copy of the lease-
16 purchase agreement, which shall be signed by the lessee and
17 which shall evidence the lessee's agreement.

18 (c) If a disclosure becomes inaccurate as the result of
19 any act, occurrence, or agreement by the lessee after delivery
20 of the required disclosures, the resulting inaccuracy shall not
21 be a violation of this chapter."



1 SECTION 34. Section 481M-14, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending subsection (a) to read:

4 "(a) For each lease-purchase agreement, the lessor shall
5 disclose in the agreement the following items, as applicable:

6 (1) The total number, total amount, and timing of all
7 payments necessary to acquire ownership of the
8 property;

9 (2) A statement that the lessee shall not own the property
10 until the lessee has made the total payment necessary
11 to acquire ownership;

12 (3) A statement that the lessee shall be responsible for
13 the fair market value of the property if, and as of
14 the time, it is lost, stolen, damaged, or destroyed;

15 (4) A brief description of the leased property[~~7~~]
16 sufficient to identify the property to the lessee and
17 the lessor, including an identification number, if
18 applicable, and a statement indicating whether the
19 property is new or used[~~7~~, ~~but~~]; provided that a
20 statement that indicates that new property is used
21 property does not violate this chapter;



- 1 (5) A brief description of any damages to the leased
2 property;
- 3 (6) A statement of the cash price of the property. If the
4 agreement involves a lease of two or more items as a
5 set[~~7~~] in one agreement, a statement of the aggregate
6 cash price of all items is sufficient;
- 7 (7) The total of initial payments [~~paid~~] made or required
8 at or before consummation of the agreement or delivery
9 of the property, whichever is later;
- 10 (8) A statement that the total of payments shall not
11 include other charges, such as delivery, taxes, late
12 payment, pickup, and reinstatement fees, which fees
13 shall be separately disclosed in the [~~contract,~~]
14 agreement;
- 15 (9) A statement clearly summarizing the terms of the
16 lessee's option to purchase, including a statement
17 that the lessee has the right to exercise an early-
18 purchase option and the price, formula, or method for
19 determining the price at which the property may be so
20 purchased;
- 21 (10) A statement identifying the party responsible for
22 maintaining or servicing the property while it is



1 being leased, together with a description of that
2 responsibility, and a statement that if any part of a
3 manufacturer's express warranty covers the leased
4 property at the time the lessee acquires ownership of
5 the property, the warranty shall be transferred to the
6 lessee, if allowed by the terms of the warranty;

7 (11) The date of the transaction and the identities of the
8 lessor and lessee;

9 (12) A statement that the lessee may terminate the
10 agreement without penalty by voluntarily surrendering
11 or returning the property in good repair, ordinary
12 wear and tear excepted, upon expiration of any lease
13 term along with any past due rental payments; and

14 (13) Notice of the right to reinstate an agreement as
15 provided in this chapter."

16 2. By amending subsection (c) to read:

17 "(c) With respect to matters specifically governed by the
18 ~~[Federal]~~ federal Consumer Credit Protection Act (15 U.S.C.
19 sections 1601 to 1674), compliance with that Act satisfies the
20 requirements of this section."

21 SECTION 35. Section 481M-15, Hawaii Revised Statutes, is
22 amended by amending subsection (a) to read as follows:



1 "(a) A lessee who breaches any lease-purchase agreement,
2 including but not limited to the failure to make timely [~~rental~~]
3 lease payments, shall have the right to reinstate the original
4 lease-purchase agreement without losing any rights or options
5 previously acquired under the lease-purchase agreement if both
6 of the following apply:

- 7 (1) Subsequent to having failed to make a timely [~~rental~~]
8 lease payment, the lessee has promptly surrendered the
9 property to the lessor, in the manner as set forth in
10 the lease-purchase agreement, and if and when
11 requested by lessor; and
- 12 (2) Not more than thirty days have passed since the lessee
13 returned the [~~lease~~] property; [~~except~~] provided that
14 if the lessee has made more than sixty per cent of the
15 total number of payments required under the lease-
16 purchase agreement to acquire ownership, the thirty-
17 day period shall be extended to a sixty-day period."

18 SECTION 36. Section 481M-17, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "~~[f]~~ §481M-17 ~~[f]~~ **Renegotiation for new agreement and**
21 **extensions.** (a) A renegotiation shall occur when an existing
22 lease-purchase agreement is satisfied and replaced by a new



1 agreement undertaken by the same lessor and lessee. A
2 renegotiation shall be considered a new agreement requiring new
3 disclosures. [~~However, the~~]

4 (b) The following events shall not be treated as
5 renegotiations:

6 (1) The addition or return of property in a multiple-item
7 agreement or in the substitution of the [~~lease~~] leased
8 property, if in either case the average payment
9 allocable to a payment period is not changed by more
10 than twenty-five per cent;

11 (2) A deferral or extension of one or more periodic
12 payments, or portions of a periodic payment;

13 (3) A reduction in charges in the lease or agreement;
14 [~~and~~] or

15 (4) A lease or agreement involved in a court proceeding.

16 (c) No disclosures are required for any extension of a
17 lease-purchase agreement."

18 SECTION 37. Section 481P-2, Hawaii Revised Statutes, is
19 amended by amending its title to read as follows:

20 "§481P-2 [~~Unfair or deceptive acts or practices~~
21 ~~prohibited.~~] Violations."



1 SECTION 38. Section 481P-3, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[~~f~~] §481P-3 [~~+~~] **Abusive telemarketing acts or practices.**

4 It is an abusive telemarketing act or practice and a violation
5 of this chapter for any seller or telephone solicitor to engage
6 in the following conduct:

7 (1) Threaten, intimidate, or use profane or obscene
8 language;

9 (2) Request a fee to remove derogatory information from or
10 to improve a consumer's credit history or credit
11 record until:

12 (A) The time frame in which the seller or telephone
13 solicitor has represented that all of the goods
14 or services will be provided to that consumer has
15 expired; and

16 (B) The seller or telephone solicitor has provided
17 the consumer with documentation in the form of a
18 credit report from a credit reporting agency
19 demonstrating that the promised results have been
20 achieved, the report having been issued more than
21 six months after the results were achieved.

22 Nothing in this chapter [~~should~~] shall be



1 construed to affect the requirement of Section
2 604 of the Fair Credit Reporting Act, [~~15 U.S.C.~~
3 ~~section 1681b,~~] 15 U.S.C. Section 1618b, that a
4 consumer report may only be obtained for a
5 specified permissible purpose;

6 (3) Request or receive payment from a consumer to recover
7 or otherwise aid in the return of money or any other
8 item lost by the consumer in a telemarketing
9 transaction, until seven business days after the money
10 or other item is delivered to the consumer;

11 (4) Request or actually receive payment of any fee in
12 advance of obtaining a loan or other extension of
13 credit when a high likelihood of success has been
14 represented to the consumer by the seller or telephone
15 solicitor;

16 (5) Cause the telephone to ring more than ten times in an
17 outbound telephone call;

18 (6) Engage any consumer repeatedly or continuously with
19 behavior a reasonable person would deem to be
20 annoying, abusive, or harassing;

21 (7) Initiate an outbound telephone call to a consumer,
22 when the person has stated previously that the



1 consumer does not wish to receive telephone calls from
2 that seller or telephone solicitor; provided that the
3 seller or telephone solicitor [~~will~~] shall not be
4 liable for violating this paragraph if:

5 (A) It has established and implemented written
6 procedures to comply with this paragraph, which
7 procedures shall meet the minimum standards set
8 forth in Title 47 [C.F.R.] Code of Federal
9 Regulations Section 64.1200(e)(2);

10 (B) It has trained its personnel in the procedures
11 established pursuant to subparagraph (A);

12 (C) The seller, or telephone solicitor acting on
13 behalf of the seller, has maintained and recorded
14 lists of persons who may not be contacted in
15 compliance with this paragraph; and

16 (D) The call is the result of error;

17 or

18 (8) Initiate an outbound telephone call to a consumer's
19 residence at any time other than between 8:00 a.m. and
20 9:00 p.m. local time at the location of the consumer
21 called."



1 SECTION 39. Section 481P-5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[+]§481P-5[+] Exemptions. This chapter shall not apply
4 to:

- 5 (1) A person who initiates telephone calls to a residence
6 for the sole purpose of polling or soliciting the
7 expression of ideas, opinions, or votes, or a person
8 soliciting solely for a political or religious cause
9 or purpose;
- 10 (2) A securities broker-dealer, salesperson, investment
11 [{}adviser[{}], or investment [{}adviser[{}]
12 representative who is registered with this State to
13 sell securities or who is authorized to sell
14 securities in this [State] state pursuant to federal
15 securities laws, when soliciting over the telephone
16 within the scope of the person's registration;
- 17 (3) A financial institution that is authorized to accept
18 deposits under its chartering or licensing authority
19 where such deposits are insured by the Federal Deposit
20 Insurance Corporation or the National Credit Union
21 Administration, [~~such as~~] including but not limited to
22 a bank, savings bank, savings and loan association,



- 1 depository financial services loan company, or credit
2 union, or a nondepository financial services loan
3 company that is licensed or authorized to conduct
4 business in this State by the commissioner of
5 financial institutions, or an affiliate or subsidiary
6 of a financial institution as defined in chapter 412;
- 7 (4) A person or organization that is licensed or
8 authorized to conduct business in this [State] state
9 by the [~~commissioner of insurance~~] insurance
10 commissioner including but not limited to an insurance
11 company and its employees, while engaged in the
12 business of selling or advertising the sale of
13 insurance products or services;
- 14 (5) A college or university accredited by an accrediting
15 organization recognized by the United States
16 Department of Education;
- 17 (6) A person who publishes a catalog of at least fifteen
18 pages, four times a year, with a circulation of at
19 least one hundred thousand, where the catalog includes
20 clear disclosure of sale prices, shipping, handling,
21 and other charges;



- 1 (7) A political subdivision or instrumentality of the
2 United States, or any state of the United States;
- 3 (8) The sale of goods or services by telecommunications or
4 landline (i.e., cable) or wireless video service
5 providers, for which the terms and conditions of the
6 offering, production, or sale are regulated by the
7 public utilities commission or the Federal
8 Communications Commission, or pursuant to chapter
9 440G, including the sale of goods or services by
10 affiliates of these telecommunications or video
11 service providers [~~; provided that nothing~~]. Nothing
12 herein shall be construed to preclude or preempt
13 actions brought under any other laws including chapter
14 480;
- 15 (9) A real estate broker or salesperson who is licensed by
16 this State to sell real estate, when soliciting within
17 the scope of the license; or
- 18 (10) A travel agency that is registered with this State,
19 when engaging in the business of selling or
20 advertising the sale of travel services."

21 SECTION 40. Section 481P-6, Hawaii Revised Statutes, is
22 amended to read as follows:



1 " [†] §481P-6 [†] **Unfair or deceptive act or practice.** Any
2 person who violates this chapter shall be deemed to have engaged
3 in an unfair method of competition [~~or~~] and unfair [~~and~~] or
4 deceptive act or practice in the conduct [†]of[†] any trade or
5 commerce within the meaning of section 480-2."

6 SECTION 41. Section 481R-4, Hawaii Revised Statutes, is
7 amended as follows:

8 1. By amending its title to read:

9 " [†] §481R-4 [†] **Registration requirements [†]; exemptions.**"

10 2. By amending subsection (b) to read:

11 "(b) Warrantor registration records shall be updated
12 annually and shall contain the following information:

13 (1) The address of the principal office of the warrantor;

14 (2) The name and address of the warrantor's agent for the
15 service of process in this [~~State~~] state if other than
16 the [~~provider,~~] warrantor;

17 (3) The identities of the warrantor's executive officer or
18 officers directly responsible for the warrantor's
19 vehicle protection product business;

20 (4) The name, address, and telephone number of any
21 administrators designated by the warrantor to be



- 1 responsible for the administration of vehicle
2 protection product warranties in this [~~State,~~] state;
- 3 (5) A copy of each warranty form the warrantor proposes to
4 use in this [~~State,~~] state; and
- 5 (6) A statement that the warrantor is in compliance with
6 the financial [~~responsibility~~] security requirements
7 of section 481R-5 and that details how the warrantor
8 intends to meet the requirements, and proof of
9 compliance with the requirements."

10 SECTION 42. Section 481R-9, Hawaii Revised Statutes, is
11 amended by amending subsection (c) to read as follows:

12 "(c) The vehicle protection product warranty shall state
13 the name and address of the insurer and state that if a covered
14 service is not provided by the warrantor before the sixty-first
15 day after the date the consumer provides proof of loss, the
16 consumer may apply for reimbursement directly to the vehicle
17 protection [~~product's~~] product warrantor's reimbursement
18 insurance company."

19 SECTION 43. Section 482-5, Hawaii Revised Statutes, is
20 amended by amending its title to read as follows:

21 "~~§482-5 [Penalty.]~~ Unlawful use of trade name; penalty."



1 SECTION 44. Section 482B-1, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[~~f~~] §482B-1 [~~f~~] **Short title.** This chapter may be cited as
4 the Uniform [~~Trades~~] Trade Secrets Act."

5 SECTION 45. Section 482D-1, Hawaii Revised Statutes, is
6 amended by amending the definition of "article of merchandise"
7 to read as follows:

8 "[~~Article~~] Article" or "article of merchandise" means any
9 goods, wares, works of art, commodities, or other things which
10 may be lawfully kept or offered for sale, imported into, or
11 exported from the [~~State~~] state."

12 SECTION 46. Section 482E-1, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "[~~f~~] §482E-1 [~~f~~] **Purpose and intent.** (a) The purpose of
15 this chapter is to regulate the sale of franchises in the
16 [~~State~~] state to minimize losses to the franchisee in cases
17 where the franchisor or the franchisor's representative has not
18 provided full and complete information regarding:

19 (1) [~~the~~] The franchisor-franchisee relationship;

20 (2) [~~the~~] The details of the contract between the
21 franchisor and franchisee; and

22 (3) [~~the~~] The prior business experience of the franchisor.



- 1 (b) It is the intent of the legislature to:
- 2 (1) [~~provide~~] Provide each prospective franchisee with the
- 3 information necessary to make an intelligent decision
- 4 regarding franchises being offered;
- 5 (2) [~~prohibit~~] Prohibit the sale of franchises [~~which~~]
- 6 that would lead to fraud or a likelihood that the
- 7 franchisor's promises would not be fulfilled; and
- 8 (3) [~~protect~~] Protect the franchisor or subfranchisor by
- 9 providing a better understanding of the relationship
- 10 between the franchisor or subfranchisor and the
- 11 franchisee with regard to their business
- 12 relationship."

13 SECTION 47. Section 482E-3, Hawaii Revised Statutes, is

14 amended by amending subsection (a) to read as follows:

15 "(a) It is unlawful for any person to sell a franchise in

16 this [~~State~~] state unless such person has presented to the

17 prospective franchisee or the franchisee's representative, at

18 least seven days prior to the sale of the franchise, an offering

19 circular containing the following information:

- 20 (1) The name of the franchisor, the name under which the
- 21 franchisor is doing or intends to do business, and the



- 1 name of any parent or affiliated company that will
2 engage in business transactions with franchisees[-] i
- 3 (2) The franchisor's principal business address and the
4 name and address of the franchisor's agent in the
5 [~~State~~] state authorized to receive service of
6 process[-] i
- 7 (3) The business form of the franchisor whether corporate,
8 partnership, or otherwise[-] i
- 9 (4) [~~Such~~] Any other information concerning the identity
10 and business experience of persons affiliated with the
11 franchisor, i including franchise brokers and selling
12 agents as the director may by rule prescribe[-] i
- 13 (5) A statement whether any person identified in the
14 offering circular, within ten years preceding the date
15 of the offering circular:
- 16 (A) Has been found guilty of a felony or held liable
17 in a civil action by final judgment if the civil
18 action involved fraud, embezzlement, fraudulent
19 conversion, or misappropriation of property; or
- 20 (B) Is subject to any currently effective order of
21 the Securities and Exchange Commission or the
22 securities administrator of any state denying



1 registration to or revoking or suspending the
2 registration of [~~such~~] the person as a securities
3 broker or dealer or investment [~~adviser~~] adviser
4 or is subject to any currently effective order of
5 any national security association or national
6 securities exchange (as defined in the Securities
7 [~~and~~] Exchange Act of 1934) suspending or
8 expelling such person from membership [~~of~~] in
9 such association or exchange; or

10 (C) Is subject to any currently effective order or
11 ruling of the Federal Trade Commission or is
12 subject to any currently effective order relating
13 to the business activity as a result of an action
14 brought by any public agency or department.

15 [~~Such~~] The statement shall set forth the court, the
16 date of conviction or judgment, any penalty imposed[~~-~~]
17 or damages assessed, or the date, nature, and issue of
18 [~~such~~] the order[~~-~~];

19 (6) A statement of when, where, and how long the
20 franchisor has:

21 (A) Conducted a business of the type to be operated
22 by the franchisees;



- 1 (B) Has granted franchises for such business; and
- 2 (C) Has granted franchises in other lines of
- 3 business ~~[]~~ i;
- 4 (7) A recent financial statement of the franchisor,
- 5 together with a statement of any material changes in
- 6 the financial condition of the franchisor from the
- 7 date ~~[thereof.]~~ of the financial statement. The
- 8 director may ~~[describe.]~~ prescribe:
- 9 (A) ~~[Form]~~ The form and content of the financial
- 10 statements required under this chapter;
- 11 (B) The circumstances under which consolidated
- 12 financial statements ~~[can]~~ may be filed; and
- 13 (C) The circumstances under which financial
- 14 statements shall be audited by independent,
- 15 certified public accountants ~~[]~~ i;
- 16 (8) A copy of the typical franchise contract or agreement
- 17 proposed for use in this ~~[State.]~~ state;
- 18 (9) A statement of the franchise fee charged, the proposed
- 19 application of the proceeds of the fee by the
- 20 franchisor, and the formula by which the amount of the
- 21 fee is determined if the fee is not the same in all
- 22 cases ~~[]~~ i;



- 1 (10) A statement describing a payment of fees other than
2 franchise fees that the franchisee or subfranchisor is
3 required to pay to the franchisor, including royalties
4 and payments or fees ~~which~~ that the franchisor
5 collects in whole or in part on behalf of a third
6 party or parties[-] i;
- 7 (11) A statement of the conditions under which the
8 franchise agreement may be terminated or renewed or
9 renewal refused, or repurchased at the option of the
10 franchisor[-] i;
- 11 (12) A statement of the conditions under which the
12 franchise may be sold, transferred, or assigned[-] i;
- 13 (13) A statement of the conditions imposed by the
14 franchisor whether by the terms of the franchise
15 agreement or by other device or practice whereby the
16 franchisee or subfranchisor is required to purchase
17 services, supplies, products, fixtures, or other goods
18 relating to the establishment or operation of the
19 franchise business from the franchisor or the
20 franchisor's designee[-] i;
- 21 (14) A statement of any restriction or condition imposed by
22 the franchisor whether by the terms of the franchise



1 agreement or by other device or practice whereby the
2 franchisee is limited or required in the goods and
3 services offered by the franchisee[-];

4 (15) A statement of the terms and conditions of any
5 financing arrangements when offered directly or
6 indirectly by the franchisor or the franchisor's agent
7 or affiliate[-];

8 (16) A statement of any intent of the franchisor to sell,
9 assign, or discount to a third party any note,
10 contract, or other obligation of the franchisee in
11 whole or in part[-];

12 (17) A copy of any financial statement prepared for
13 presentation to prospective franchisees or other
14 persons together with a statement setting forth the
15 basis for such statements[-];

16 (18) A statement of the number of franchise businesses in
17 each of the following categories [~~which~~] that within
18 the three-year period preceding the date of the
19 offering circular have:

20 (A) Been canceled or terminated by either the
21 franchisor or franchisee;



- 1 (B) Not been renewed by either the franchisor or
2 franchisee;
- 3 (C) Been reacquired through purchase by the
4 franchisor;
- 5 (D) Been otherwise reacquired by the franchisor; and
6 (E) Been transferred or sold by the franchisee to
7 persons other than a corporation or other
8 business entity controlled by the transferring or
9 selling franchisee[-];
- 10 (19) A statement describing the training program,
11 supervision, and assistance the franchisor has and
12 will provide the franchisee[-];
- 13 (20) A statement as to whether franchisees or
14 subfranchisors receive an exclusive area or
15 territory[-];
- 16 (21) A statement of any compensation or other benefit given
17 or promised to a public figure arising, in whole or in
18 part, from:
- 19 (A) [~~the~~] The use of the public figure in the name or
20 symbol of the franchise; or



1 (B) [~~the~~] The endorsement or recommendation of the
2 franchise by the public figure in
3 advertisements [~~-~~];

4 (22) [~~Such~~] Any other information as the director may
5 reasonably require [~~-~~];

6 (23) [~~Such~~] Any other information as the franchisor may
7 wish to present [~~-~~];

8 (24) When the person selling the franchise is a
9 subfranchisor, the offering circular shall also
10 include the same information concerning the
11 subfranchisor as is required from the franchisor
12 pursuant to this subsection [~~-~~]; and

13 (25) List of names and addresses of all franchisees of the
14 franchisor whose franchise businesses are situated in
15 this [~~State-~~] state."

16 SECTION 48. Section 483-1, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§483-1 Definitions; limitations of law.** In this chapter,
19 unless otherwise expressly stated [~~, obligation~~]:

20 "Obligation" does not include a liability in tort [~~-~~
21 obligor].



1 "Obligor" does not include a person liable for a tort [~~+~~
2 ~~obligee~~].

3 "Obligee" does not include a person having a right based on
4 a tort. [~~Several obligors~~]

5 "Several obligors" means obligors severally bound for the
6 same performance."

7 SECTION 49. Section 484-1, Hawaii Revised Statutes, is
8 amended as follows:

9 1. By adding a new definition to be appropriately inserted
10 and to read:

11 "Director" means the director of commerce and consumer
12 affairs."

13 2. By amending the definition of "commissioner of
14 securities" to read:

15 "Commissioner of securities" means the [~~director of~~
16 ~~commerce and consumer affairs in the director's capacity as~~]
17 commissioner of securities [~~-~~] as defined in section 485A-102."

18 SECTION 50. Section 484-2, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "~~§484-2 [Administrative director.] Administration.~~ This
21 chapter shall be administered by the director of commerce and
22 consumer affairs [~~, hereinafter called the director~~]."



1 SECTION 51. Section 484-3, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) Unless the method of disposition is adopted for the
4 purpose of evasion of this chapter, or unless the subdivider
5 files in writing with the director that this chapter shall apply
6 to the subdivider's subdivision, this chapter shall not apply to
7 offers or dispositions of an interest in land:

- 8 (1) By a purchaser of subdivided lands for the purchaser's
9 own account in a single or isolated transaction;
- 10 (2) If fewer than twenty separate lots, parcels, units, or
11 interests in subdivided lands are offered by a person
12 in a period of twelve months;
- 13 (3) Where the division of lands is a leasehold
14 agricultural lot within state agricultural districts
15 on which no dwelling structures are constructed as
16 provided in section [~~205-4.5(e);~~] 205-4.5(f);
- 17 (4) On which there is a residential, commercial, or
18 industrial building, or as to which there is a legal
19 obligation on the part of the seller to construct a
20 building on the land within two years from the date of
21 disposition; provided that the obligation to construct
22 shall not be, directly [†] or [†] indirectly,



- 1 transferred to or otherwise imposed upon the
2 purchaser;
- 3 (5) To persons who are engaged in, and are duly licensed
4 to engage in, the business of construction of
5 buildings for resale, or to persons who acquire an
6 interest in subdivided lands for the purpose of
7 engaging, and do engage in, and are duly licensed to
8 engage in, the business of construction of buildings
9 for resale;
- 10 (6) Pursuant to court order;
- 11 (7) By any government or government agency;
- 12 (8) As cemetery lots or interests; or
- 13 (9) Registered as a condominium property regime pursuant
14 to chapter 514B."

15 SECTION 52. Section 484-5, Hawaii Revised Statutes, is
16 amended by amending subsection (c) to read as follows:

17 "(c) The application shall be submitted with payment of
18 the appropriate registration[~~7~~] and consultant[~~7~~] fees and
19 inspection [~~fees-~~] expenses."

20 SECTION 53. Section 486-77, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§486-77 ~~[Tampering with passenger car odometer~~
2 ~~prohibited; misrepresentation of distance traveled prohibited.]~~
3 Odometers; prohibitions; exemptions. (a) It shall be unlawful

4 to:

- 5 (1) Tamper with an odometer, installed in a passenger car,
6 for any purpose. This ~~[section]~~ paragraph shall not
7 be construed to preclude legitimate repair,
8 replacement, or adjustment of an odometer~~[-]~~; provided
9 that the administrator may require documentation of
10 ~~[such]~~ the repair, replacement, or adjustment~~[-]~~;
11 (2) Advertise for sale, or sell, rent, lease, or export
12 any passenger car, the odometer of which has been
13 tampered with in such a fashion or manner as to
14 mislead the prospective buyer to believe that the
15 passenger car traveled a lesser distance than it
16 actually has traveled~~[-]~~;
17 (3) Operate a passenger car on any street or highway,
18 knowing that the odometer of the passenger car is
19 disconnected or nonfunctional~~[-]~~;
20 (4) Disconnect, turn back, advance, or reset the odometer
21 of any passenger car with intent to alter the distance
22 indicated on the odometer~~[-]~~; or



1 (5) Misrepresent the true distance traveled by any
2 passenger car subject to this part, so as to mislead a
3 prospective buyer.

4 (b) This section shall not preclude the installation,
5 maintenance, repair, or replacement of odometers when [~~such~~] the
6 action is necessary to cause compliance with this part. Any
7 such action, however, shall expressly be noted on the
8 certificate of ownership and called to the attention of a
9 prospective buyer, in writing."

10 SECTION 54. Section 486-79, Hawaii Revised Statutes, is
11 amended by amending its title to read as follows:

12 "~~§486-79 Citation and notice to appear~~ [~~,-penalty~~]."

13 SECTION 55. Section 486-134, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "[~~§~~486-134[~~§~~] **Optional licensing.** The following persons
16 shall not be required, but shall be permitted, to obtain
17 licenses as public measuremasters:

18 (1) A law enforcement or measurement standards officer, or
19 other qualified employee of a state [~~,-city,~~] or county
20 agency or institution when acting within the scope of
21 the officer's or employee's official duties;



1 (2) A person weighing property, produce, commodities, or
2 articles that the person, or the person's employer [~~7~~
3 ~~if any,~~] is either buying or selling; and

4 (3) A person weighing property, produce, commodities, or
5 articles in conformity with the requirements of
6 federal statutes or the statutes of this State
7 relative to [~~warehousepersons~~] warehouse workers or
8 processors."

9 SECTION 56. Section 486B-1, Hawaii Revised Statutes, is
10 amended by amending the definition of "person" to read as
11 follows:

12 "Person" means an individual, corporation, government [~~7~~]
13 or governmental subdivision or agency, business trust, estate,
14 trust, partnership, unincorporated association, two or more of
15 any of the foregoing having a joint or common interest, or any
16 other legal or commercial entity."

17 SECTION 57. Section 486H-1, Hawaii Revised Statutes, is
18 amended as follows:

19 1. By amending the definitions of "non-refiner marketer,"
20 "retail," "retail service station," and "secondary brand" to
21 read:



1 "Non-refiner marketer" means any person who acquires
2 gasoline for sale in the [~~State of Hawaii,~~] state and who is not
3 a refiner located and operating in the [~~State of Hawaii~~], nor an
4 importer owned by or affiliated with, directly or indirectly,
5 [by] a refiner located and operating in the [~~State of Hawaii.~~]
6 state.

7 "Retail" means [~~the sale of a product for purposes other~~
8 ~~than resale.~~] a sale of gasoline made to the general public at
9 prices that are displayed on the dispensing equipment.

10 "Retail service station" or "retail station" means a place
11 of business where motor vehicle fuel is sold and delivered into
12 the tanks of motor vehicles[~~-~~

13 "~~Retail station~~" means] and includes a company retail
14 station, a dealer retail station, and an independent retail
15 station.

16 "Secondary brand" means a trade name or trademark, other
17 than a major brand, used to identify a [~~manufacturer's~~] company
18 retail [~~service~~] station."

19 2. By repealing the definition of "self-serve basis."

20 "~~"Self serve basis" means that the retail station allows~~
21 ~~customers to dispense gasoline into vehicles.~~"



1 SECTION 58. Section 486H-4, Hawaii Revised Statutes, is
2 amended to read as follows:

3 " ~~[f] §486H-4 [f]—Exceptions.~~ Wrongful termination,
4 cancellation, or nonrenewal; exception to actions. No action
5 may be brought under section 486H-2 in connection with the
6 termination, cancellation, or nonrenewal of a franchise if the
7 franchise agreement provides for the binding arbitration of
8 disputes arising under the agreement, including disputes related
9 to the termination, cancellation, or nonrenewal of the
10 franchise, in accordance with chapter 658A and the rules of the
11 American Arbitration Association."

12 SECTION 59. Section 486H-10.4, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "§486H-10.4 **Restrictions on manufacturers or jobbers in**
15 **operating service stations; lease rent controls**~~[, definitions]~~.

16 (a) Beginning August 1, 1997, no manufacturer or jobber shall
17 convert an existing dealer retail station to a company retail
18 station; provided that nothing in this section shall limit a
19 manufacturer or jobber from:

20 (1) Continuing to operate any company ~~operated~~ retail
21 ~~[service stations]~~ station legally in existence on
22 July 31, 1997;



1 (2) Constructing and operating any new retail service
2 ~~[stations]~~ station as a company retail ~~[stations]~~
3 station constructed after August 1, 1997, subject to
4 subsection (b); or

5 (3) Operating a former dealer retail station for up to
6 twenty-four months until a replacement dealer can be
7 found if the former dealer vacates the ~~[service]~~
8 retail station, cancels the franchise, or is properly
9 terminated or not renewed.

10 (b) No new company retail station shall be located within
11 one-eighth mile of a dealer retail station in an urban area, and
12 within one-quarter mile in other areas.

13 (c) All leases as part of a franchise as defined in
14 section 486H-1, existing on August 1, 1997, or entered into
15 thereafter, shall be construed in conformity with the following:

16 (1) Such renewal shall not be scheduled more frequently
17 than once every three years; and

18 (2) Upon renewal, the lease rent payable shall not exceed
19 fifteen per cent of the gross sales, except for
20 gasoline, which shall not exceed fifteen per cent of
21 the gross profit of product, excluding all related
22 taxes by the dealer ~~[operated]~~ retail ~~[service]~~



1 station as defined in section 486H-1 [~~and 486H-10.4~~],
2 plus, in the case of a retail service station at a
3 location where the manufacturer or jobber is the
4 lessee and not the owner of the ground lease, a
5 percentage increase equal to any increase [~~which~~] that
6 the manufacturer or jobber is required to pay the
7 lessor under the ground lease for the service station.
8 [~~For the purposes of this subsection, "gross amount"~~
9 ~~means all monetary earnings of the dealer from a~~
10 ~~dealer operated retail service station after all~~
11 ~~applicable taxes, excluding income taxes, are paid.]~~

12 The provisions of this subsection shall not apply to any
13 existing contracts that may be in conflict with its provisions.

14 (d) Nothing in this section shall prohibit a gasoline
15 dealer from selling a retail service station in any manner."

16 SECTION 60. Section 486H-10.5, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "[~~+~~] **§486H-10.5 [~~+~~]** **Violation; penalties.** Any person who
19 violates section [~~486H-10~~] 486H-10.4 shall be assessed a civil
20 penalty of \$1,000 per day for each violation."

21 SECTION 61. Section 486H-11, Hawaii Revised Statutes, is
22 amended to read as follows:



1 " ~~[f]~~ §486H-11 ~~[f]~~ Enforcement of prohibition. (a) The
2 attorney general shall commence a civil action to enforce
3 section ~~[486H-10,]~~ 486H-10.4 by seeking injunctive or any other
4 appropriate relief. The civil action shall be brought in the
5 circuit court of the circuit where the alleged violation
6 occurred, or where the defendant resides or is doing business.

7 (b) Any person who is injured in ~~[another]~~ that person's
8 business or property by the violation of section ~~[486H-10,]~~
9 486H-10.4 may bring a civil action for damages or injunctive
10 relief, or both, against the person violating section ~~[486H-10,]~~
11 486H-10.4. If the plaintiff prevails, the plaintiff shall be
12 awarded reasonable ~~[attorneys]~~ attorneys' and expert witness
13 fees; provided that if a court awards only nominal damages to
14 the plaintiff, those fees, in the court's discretion, need not
15 be awarded to the plaintiff. Any action brought under this
16 subsection shall be brought in the circuit court of the circuit
17 where the alleged violation occurred, or where the defendant
18 resides or is doing business."

19 SECTION 62. Section 486K-1, Hawaii Revised Statutes, is
20 amended by amending the definitions of "guest," "hotel/hotel-
21 condo," and "keeper" to read as follows:



1 "Guest" means a person who is registered at the hotel and
2 to whom a bedroom is assigned. The term "guest" shall include
3 not only the guest, but the members of the guest's family and
4 other persons who accompany the guest.

5 [~~"Hotel/hotel-condo"~~] "Hotel", "hotel-condominium" or
6 "condominium-hotel" means an establishment consisting of any
7 building or structure used primarily for the business of
8 providing for consideration transient accommodation lodging
9 facilities and that furnishes, as part of its routine
10 operations, one or more customary lodging services, other than
11 living accommodations and the use of furniture and fixtures,
12 including[~~7~~] but not limited to[~~7~~] restaurant facilities, or
13 room attendant, bell, telephone switchboard, laundering, or
14 concierge services, and is subject to the transient
15 accommodations tax under chapter 237D.

16 [~~"Keeper"~~] "Hotelkeeper" or "keeper" includes any [~~person,7~~]
17 individual, firm, or corporation actually operating a hotel."

18 SECTION 63. Section 486K-2, Hawaii Revised Statutes, is
19 amended by amending its title to read as follows:

20 "[~~4~~] §486K-2 [~~7~~—~~Hotelkeepers~~] Hotelkeeper's lien on
21 baggage, etc., of guests; summary ejection of delinquents."



1 SECTION 64. Section 486K-4, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) If the keeper of any hotel provides a safe or vault
4 in its office [~~thereof~~] at the hotel for the safekeeping of any
5 valuables belonging to the guests of the hotel, and prominently
6 posts a notice in the room or rooms occupied by the guest
7 stating that a safe or vault is provided in which valuables may
8 be deposited and if any guest neglects to deliver valuables to
9 the person in charge of the safe or vault, the keeper of the
10 hotel shall not be liable in any sum for any loss of valuables
11 sustained by the guest by theft or otherwise unless the loss is
12 due to the negligence or fault of the keeper of the hotel. If
13 the guest delivers valuables to the person in charge of the
14 office for deposit in the safe or vault, the keeper shall not be
15 liable for any loss [~~thereof~~] sustained by the guest[~~7~~] by theft
16 or otherwise[~~7~~] in any sum exceeding \$500; provided that the
17 keeper's liability is limited to \$500 only if:

18 (1) [~~the~~] The keeper gives a receipt for the valuables on
19 a form which states, in type large enough to be
20 clearly noticeable, that the keeper is not liable for
21 any loss exceeding \$500 except by special agreement in



1 writing in which the keeper agrees to accept liability
2 for losses in excess of \$500; and

3 (2) ~~[the]~~ The loss is not due to the negligence or fault
4 of the keeper of the hotel.

5 The keeper may accept liability for losses in excess of \$500 by
6 special agreement in writing between a guest and the keeper or
7 the keeper's duly authorized representative."

8 SECTION 65. Section 486K-5, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "[~~f~~] ~~§486K-5~~ [~~]~~ **Hotelkeeper's liability for personal**
11 **property.** (a) No ~~[keeper of any hotel]~~ hotelkeeper shall be
12 liable in any sum to any guest of the hotel for the loss of
13 wearing apparel, goods, merchandise, or other personal property
14 not mentioned in section 486K-4, unless it appears that the loss
15 occurred through the fault or negligence of the ~~[keeper. Nor~~
16 ~~shall any keeper]~~ hotelkeeper.

17 (b) No hotelkeeper shall be liable in any event in any sum
18 for the loss of any article or articles of wearing apparel,
19 cane, umbrella, satchel, valise, bag, box, bundle, or other
20 chattel belonging to any guest of, or in, any hotel, and not
21 within a room or rooms assigned to the guest, unless the same is
22 specially ~~[intrusted]~~ entrusted to the care and custody of the



1 keeper or the keeper's duly authorized agent [~~and if~~]. If so
2 specially [~~intrusted~~] entrusted with any such article belonging
3 to the guest, the keeper shall not be liable for the loss of the
4 [~~same~~] article in any sum exceeding \$500 [~~except~~]; provided that
5 the keeper's liability may be in excess of \$500 by special
6 agreement in writing with the keeper or the keeper's duly
7 authorized representative."

8 SECTION 66. Section 486K-6, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "[~~f~~] ~~§486K-6~~ [~~f~~] **Hotelkeeper's [~~responsibility~~] liability in**
11 **case of fire, etc.** [~~The keeper of any hotel~~] A hotelkeeper
12 shall only be liable to any guest of the hotel [~~]~~ for ordinary
13 and reasonable care in the custody of money, jewels, bank notes,
14 precious stones, transportation tickets, negotiable or valuable
15 papers, ornaments, baggage, wearing apparel, or other chattels
16 or property belonging to any guest, whether specially
17 [~~intrusted~~] entrusted to the keeper or the keeper's agent, or
18 deposited in the safe of the hotel, for any loss occasioned by
19 fire or by any other cause or force [~~]~~ over which the
20 [~~proprietor~~] hotelkeeper had no control."

21 SECTION 67. Section 487-13, Hawaii Revised Statutes, is
22 amended as follows:



1 1. By amending its title to read:

2 "§487-13 [~~Penalties for unlicensed~~] Unlicensed acts [~~;~~];
3 penalties."

4 2. By amending subsection (c) to read:

5 "(c) Any contract for the furnishing of commodities or
6 services by an unlicensed, unregistered, or [~~uncertified~~]
7 uncertificated person shall be void and shall prevent such
8 person from recovering the contract price or the reasonable
9 value thereof."

10 SECTION 68. Section 487J-2, Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

12 "(a) Except as otherwise provided in subsection (b), a
13 business or government agency may not do any of the following:

14 (1) Intentionally communicate or otherwise make available
15 to the general public an individual's entire social
16 security number;

17 (2) Intentionally print or imbed an individual's entire
18 social security number on any card required for the
19 individual to access products or services provided by
20 the [~~person or entity;~~] business or government agency;

21 (3) Require an individual to transmit the individual's
22 entire social security number over the [~~internet;~~]



1 Internet, unless the connection is secure or the
2 social security number is encrypted[+]. For purposes
3 of this paragraph, "encrypted" means that an
4 algorithmic process has been used to transform data
5 into a form in which the data is rendered unreadable
6 or unusable without the use of a confidential process
7 or key;

8 (4) Require an individual to use the individual's entire
9 social security number to access an internet website,
10 unless a password or unique personal identification
11 number or other authentication device is also required
12 to access the internet website; [~~and~~] or

13 (5) Print an individual's entire social security number on
14 any materials that are mailed to the individual,
15 unless the materials are employer-to-employee
16 communications, or where specifically requested by the
17 individual."

18 SECTION 69. Section 487N-1, Hawaii Revised Statutes, is
19 amended by amending the definition of "encryption" to read as
20 follows:

21 ""Encryption" or "encrypted" means the use of an
22 algorithmic process to transform data into a form in which the



1 data is rendered unreadable or unusable without the use of a
2 confidential process or key."

3 SECTION 70. Section 487N-2, Hawaii Revised Statutes, is
4 amended by amending subsection (g) to read as follows:

5 "(g) The following businesses shall be deemed to be in
6 compliance with this section:

- 7 (1) A financial institution that is subject to the
8 [~~Federal~~] federal Interagency Guidance on Response
9 Programs for Unauthorized Access to [~~Consumer~~]
10 Customer Information and Customer Notice published in
11 the Federal Register on March 29, 2005, by the Board
12 of Governors of the Federal Reserve System, the
13 Federal Deposit Insurance Corporation, the Office of
14 the Comptroller of the Currency, and the Office of
15 Thrift Supervision, or subject to 12 [~~C.F.R.~~] Code of
16 Federal Regulations Part 748, and any revisions,
17 additions, or substitutions relating to [~~said~~] the
18 interagency guidance; and
- 19 (2) Any health plan or healthcare provider that is subject
20 to and in compliance with the standards for privacy or
21 individually identifiable health information and the
22 security standards for the protection of electronic



1 health information of the Health Insurance Portability
2 and Accountability Act of 1996."

3 SECTION 71. Section 487R-1, Hawaii Revised Statutes, is
4 amended by amending the definition of "personal information" to
5 read as follows:

6 ""Personal information" means an individual's first name or
7 first initial and last name in combination with any one or more
8 of the following data elements, when either the name or the data
9 elements are not encrypted:

- 10 (1) Social security number;
- 11 (2) Driver's license number or Hawaii identification card
12 number; or
- 13 (3) Account number, credit or debit card number, access
14 code, or password that would permit access to an
15 individual's financial account.

16 "Personal information" shall not include publicly available
17 information that is lawfully made available to the general
18 public from federal, state, or local government records.

19 "Encrypted", as used in this definition, means the use of an
20 algorithmic process to transform data into a form in which the
21 data is rendered unreadable or unusable without the use of a
22 confidential process or key."



1 SECTION 72. Section 487R-2, Hawaii Revised Statutes, is
2 amended by amending subsection (c) to read as follows:

3 "(c) A business or government agency may satisfy its
4 obligation hereunder by exercising due diligence and entering
5 into a written contract with, and thereafter monitoring
6 compliance by, another party engaged in the business of [~~record~~]
7 records destruction to destroy personal information in a manner
8 consistent with this section. Due diligence should ordinarily
9 include one or more of the following:

- 10 (1) Reviewing an independent audit of the disposal
11 business' operations or its compliance with this
12 [~~statute or its equivalent,~~] chapter;
- 13 (2) Obtaining information about the disposal business from
14 several references or other reliable sources and
15 requiring that the disposal business be certified by a
16 recognized trade association or similar third party
17 with a reputation for high standards of quality
18 review; or
- 19 (3) Reviewing and evaluating the disposal business'
20 information security policies or procedures, or taking
21 other appropriate measures to determine the competency
22 and integrity of the disposal business."



1 SECTION 73. Section 488-1, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§488-1 Definitions.** As used in this chapter:

4 [~~(1) "Department" means the department of commerce and
5 consumer affairs.~~

6 ~~(2) "Plan administrator" means those persons who have
7 discretionary authority for the management of the plan
8 or for the collection, management, or disbursement of
9 plan moneys.~~

10 ~~(3) "Prepaid legal service plan" ("Plan") means a group
11 legal service plan in which the cost of the services
12 are prepaid by the group member or by some other
13 person or organization in the member's behalf. A
14 group legal service plan is a plan by which legal
15 services are rendered to individual members of a group
16 identifiable in terms of some common interest.]~~

17 "Department" means the department of commerce and consumer
18 affairs.

19 "Group legal service plan" means a plan by which legal
20 services are rendered to individual members of a group
21 identifiable in terms of some common interest.



1 "Plan administrator" means those persons who have
2 discretionary authority for the management of the plan or for
3 the collection, management, or disbursement of plan moneys.

4 "Prepaid legal service plan" or "plan" means a group legal
5 service plan in which the cost of the services are prepaid by
6 the group member or by some other person or organization in the
7 member's behalf."

8 SECTION 74. Section 488-2, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "[+]§488-2[+] **Applicability; other statutes, rules of**
11 **court.** (a) This chapter shall apply to all plans in the
12 [~~State~~] state other than:

13 (1) Plans in which either the group or the plan
14 administrator is otherwise subject to regulation under
15 chapter 431 or [~~433-~~] 432;

16 (2) Plans in which any party to the plan is the federal
17 government or any agency thereof[~~-~~]; or

18 (3) Any employer-employee plan [~~which~~] that is subject to
19 the federal Employee Retirement Income Security Act of
20 1974, Public Law 93-406.

21 (b) The operation of all plans subject to this chapter
22 shall also be subject to chapters 480, [~~481, part I,~~] part I of



1 chapter 481, 481A, and 481B, and other provisions of law [which]
2 that may be applicable. Chapters ~~431[, 433, and 434]~~ and 432
3 shall not apply to any plans or the operations thereof ~~[which]~~
4 that are subject to this chapter, except as provided in sections
5 488-5 and 488-6.

6 (c) No plan subject to this chapter shall contravene rules
7 of court adopted by the Hawaii supreme court."

8 SECTION 75. Section 488-5, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "[+] §488-5 [+] **Annual exhibits; examination by director.**

11 (a) Each plan shall file with the director of commerce and
12 consumer affairs within thirty days after the end of its fiscal
13 year, a statement under oath in such form as the director
14 prescribes containing:

15 (1) A statement setting forth the total amount of gross
16 receipts and expenditures of the plan during its
17 fiscal year;

18 (2) The assets and liabilities of the plan at the close of
19 its fiscal year; and

20 (3) The profit and loss of the plan during its fiscal
21 year.



1 (b) The powers, authorities, and duties relating to
2 examinations vested in and imposed upon the insurance
3 commissioner under chapter 431 are extended to and imposed upon
4 the director in respect to examinations of the plans; provided
5 that no examination shall attempt to obtain or inspect written
6 or oral information or documents in violation of the [~~attorney-~~
7 ~~client-privilege~~] rules for client-lawyer confidentiality as [~~it~~
8 ~~is~~] contained in the [~~Code of Professional Responsibility~~]
9 Hawaii Rules of Professional Conduct adopted by the supreme
10 court."

11 SECTION 76. Section 488-6, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "[~~f~~] **§488-6** [~~t~~] **Investments of certain plans.** No plan
14 promising or offering to pay for legal services in an amount
15 equal to or in excess of \$25 a year shall invest any of its
16 assets other than as authorized and provided for in respect to
17 domestic insurance companies and societies under [~~chapter~~]
18 chapters 431 [~~7~~] and 432, which provisions are hereby extended to
19 and made applicable to prepaid legal service plans."

20 SECTION 77. Section 489D-4, Hawaii Revised Statutes, is
21 amended by amending the definition of "permissible investments"
22 to read as follows:



1 "Permissible investments" means:

2 (1) Cash;

3 (2) Certificates of deposit or other debt obligations of a
4 financial institution, either domestic or foreign;

5 (3) Bills of exchange or time drafts drawn on and accepted
6 by a commercial bank, known as bankers' acceptances,
7 that are eligible for purchase by member banks of the
8 Federal Reserve System;

9 (4) Any investment bearing a rating of one of the three
10 highest grades as defined by a nationally recognized
11 organization that rates securities;

12 (5) Investment securities that are obligations of the
13 United States, its agencies, or its instrumentalities,
14 obligations that are guaranteed fully as to principal
15 and interest of the United States, or any obligations
16 of any state, municipality, or any political
17 subdivision thereof;

18 (6) Shares in a money market mutual fund, interest-bearing
19 bills, notes, or bonds, debentures or stock traded on
20 any national securities exchange or on a national
21 over-the-counter market, mutual funds primarily
22 composed of these securities, or a fund composed of



1 one or more permissible investments as set forth in
2 ~~[this subsection;]~~ paragraphs (1) to (5);

3 (7) Any demand borrowing agreement or agreements made with
4 a corporation or a subsidiary of a corporation whose
5 capital stock is listed on a national exchange;

6 (8) Receivables that are due to a licensee from its
7 authorized delegates pursuant to a contract under
8 section 489D-21, that are not past due or doubtful of
9 collection; or

10 (9) Any other investments or security device approved by
11 the commissioner."

12 SECTION 78. Section 489E-3, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

14 "(a) This chapter shall apply to electronic records and
15 electronic signatures relating to a transaction. ~~[A transaction~~
16 ~~subject to this chapter shall be subject to other applicable~~
17 ~~substantive law.]"~~

18 SECTION 79. This Act shall be amended to conform to all
19 other acts passed by the legislature during the regular session
20 of 2008, whether enacted before or after the effective date of
21 this Act, unless the other act specifically provides otherwise.



1 SECTION 80. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 81. This Act shall take effect upon its approval.



Report Title:

Volume 11; Housekeeping Amendments

Description:

Amends various provisions of volume 11 of the Hawaii Revised Statutes for the purpose of correcting errors and references, and clarifying language. (HB2692 HD1)

