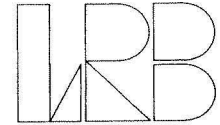


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HB2692

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

**Presented to the House Committees on Consumer Protection and Commerce
and Judiciary**

Twenty-fourth State Legislature, Regular Session of 2008

By Ken H. Takayama, Acting Director

or Myra Shozuya, Assistant Director for Revision of Statutes

Legislative Reference Bureau

Thursday, January 31, 2008

Chair Herkes and Waters and Members of the Committees:

Thank you for the opportunity to testify in support of House Bill 2692. This bill makes a variety of technical housekeeping amendments to a number of sections in volume 11 of the Hawaii Revised Statutes. House Bill 2692 is prepared and submitted pursuant to the Legislative Reference Bureau's statute revision functions.

The amendments proposed in this bill are of a housekeeping nature to correct errors and clarify language in various sections of volume 11 of the Hawaii Revised Statutes. This housekeeping bill was reviewed by the Office of the Attorney General. The rationale for the amendments made by each section of this bill accompanies this testimony as an attachment.

Subsequent to the introduction of this bill, our office has been contacted by the Securities Division and the Division of Financial Institutions of the Department of Commerce and Consumer Affairs. In separate discussions, the Divisions expressed concern that the amendments proposed to sections 482E-6 and 489D-8, Hawaii Revised Statutes, as proposed in sections 48 and 79 of this bill, respectively, may alter the substantive intent and meaning of those sections. We have no objections to removing those sections from the bill or, for that matter, any other sections about which concerns may be raised. Either way, the legislative process will have produced a "straight answer" for us.

The Bureau stands ready to assist the Committee in preparing the committee report and any changes to the volume 11 housekeeping bill the Committee deems appropriate.

Attachment

**SUMMARY OF AMENDMENTS CONTAINED IN
HB2692**

**(HOUSEKEEPING AMENDMENTS FOR VOLUME 11,
HAWAII REVISED STATUTES)**

Section 1. Section 476-1, HRS, provides general definitions under the credit sales law. The definition of "goods" should be amended to correct the reference to "unborn young animals" to "unborn young of animals". This change will conform the definition of "goods" used in this chapter to the definition of "goods" used in the Uniform Commercial Code. Further, the definitions of "credit sale contract" and "goods" should be amended to conform to the general style used in the HRS.

Section 2. Section 476-8, HRS, regulates instances where an insurance policy is required as part of a credit sale contract. In the first paragraph, "the commissioner of insurance" should be changed to "the state insurance commissioner under chapter 431" to clearly identify the position. This section should also be divided into subsections to simplify future amendment.

Section 3. Section 477E-2, HRS, sets forth general definitions under the fair credit extension act. In the definition of "creditor", reference to "small loan company" should be deleted. Small loan companies were formerly regulated under chapter 409, HRS, which was repealed and consolidated under chapter 412 with other laws on financial institutions in 1993. Further, the phrase "mutual or fraternal benefit society" should also be amended to correctly identify these as two separate entities ("mutual benefit society or fraternal benefit society"), consistent with their regulation under chapter 432, HRS.

Section 4. Section 477E-5, HRS, sets forth remedies available for violation of the fair credit extension act. The section was amended by Act 59, SLH 1996, by repealing the specific fine for violation of this chapter and providing instead that a violation of this chapter may be enforced as a violation of chapter 480. The title of this section should be changed from "civil penalties" to "unfair or deceptive act or practice" to conform to the content of the section's text. The section should also be amended by changing the phrase "unfair and deceptive act or practice" to "unfair or deceptive act or practice" to conform to the term used in section 480-2.

Sections 5 to 9. Sections 480-14, 480-20, 480-22, 480-23, and 480-23.1, HRS, relate to the powers of the State and counties to investigate and bring suit to enforce the State's antitrust laws. Each of these sections references the powers of the State and "any county or city and county". The separate reference to "city and county" should be deleted because it is redundant. Under section 1-22, HRS, the term "county" includes the city and county of Honolulu.

These sections should be further amended as follows:

Section 480-14, HRS, (section 5 of this bill) allows government agencies to bring suit for violation of the antitrust provisions of this chapter. The phrase "any of its political subdivisions or governmental agencies" should be added to subsection (a) to conform that subsection to the text of subsections (b) and (d) of this section, and the phrase "any county" should be added to subsections (b) and (d) to conform to its use in subsection (a).

Section 480-20, HRS, (section 6 of this bill) specifies the powers and duties of state and county law enforcement agencies relating to antitrust violations. In subsections (a) and (b), the listing of county officers should be changed from "county attorney, prosecuting attorney, and corporation counsel" to "county attorney, corporation counsel, and prosecuting attorney". These offices are set by county charter, with the functions and duties of the county attorney of Kauai being similar to those of the corporation counsels of the counties of Hawaii, Maui, and the City and County of Honolulu. Moving the phrase "corporation counsel" after "county attorney" will more accurately reflect the similarity in the functions they serve.

Section 480-22, HRS, (section 7 of this bill) specifies use of a judgment in favor of the State under the antitrust law in a subsequent private action. Subsections (a) and (b) refer specifically to actions brought pursuant to section 480-14, HRS. We recommend that the phrase "or any of its political subdivisions or governmental agencies" be added to conform to the requirements of section 480-14, HRS.

In sections 480-23(b) and 480-23.1(a) and (b), HRS, (sections 8 and 9 of this bill) the listing of county officers should be changed from "county attorney, prosecuting attorney, and corporation counsel" to "county attorney, corporation counsel, and prosecuting attorney". These offices are set by county charter, with the functions and duties of the county attorney of Kauai being similar to those of the corporation counsels of the counties of Hawaii, Maui, and the City and County of Honolulu. Moving the phrase "corporation counsel" after "county attorney" will more accurately reflect the similarity in the functions they serve.

Section 10. The definition of "debt collector" in section 480D-2, HRS, exempts from regulation of debt collection practices, a "collection agency" without defining that term. We recommend adding the phrase "regulated pursuant to chapter 443B" to clarify that the exemption applies only to those businesses who are registered and bonded with the department of commerce and consumer affairs under chapter 443B, and whose collection practices are supervised under that chapter.

Section 11. Section 480F-6, HRS, provides penalties for violation of the check cashing law. In subsection (b), the phrase "the chapter" should be changed to "this chapter" to clarify that penalties apply to violations of chapter 480F.

Section 12. Section 481B-1.6, HRS, regulates the offer of gifts or prizes as an inducement for the sale, lease, or rental of consumer products. Subsection (e)(3) requires

bonding with the "director"; however, "director" is not defined in this chapter. We recommend that this paragraph be amended to specify that the "director" is the director of commerce and consumer affairs.

We also recommend that the word "and" at the end of subsection (e)(1)(B) be changed to "or" to clarify that either action enumerated as an unlawful practice is deemed a violation. The use of the present "and" may be interpreted to mean that both situations must be present before a violation is declared.

Section 13. The title of section 481B-4, HRS, should be changed from "penalty" to "remedies". Act 59, SLH 1996, amended this section by deleting the penalty provision and provided, instead, that a violation of this chapter is punished according to section 480-2. As this section specifically refers to a violation of section 480-2, we further recommend that the phrase "unfair method of competition or unfair and deceptive act or practice" be changed to "unfair method of competition and unfair or deceptive act or practice" to conform the term used here to the term used in section 480-2.

Section 14. Section 481B-5.5, HRS, specifies a consumer's rights and the merchant's responsibilities when merchandise sold to a consumer is returned for a refund, merchandise credit, or exchange. The definition of "refund" in subsection (a) should be amended by changing the phrase "in accordance with this chapter" to "in accordance with this section" for clarity. We further recommend that the definition of "repacking and transportation charges" be amended by changing the phrase "pickup" to "pick up".

Section 15. Section 481B-6, HRS, sets forth disclosures required in the sale of solar energy devices. The title to section 481B-6 should be amended by deleting the term "penalty" to conform to the contents of the section's text. Act 59, SLH 1996, amended this section by deleting the former subsection (c) that contained remedies for violations of this section. Remedies for violation of chapter 481B (including this section) are now governed by section 481B-4.

Section 16. Section 481B-11, HRS, deals exclusively with sensitivity-awareness group seminars. The broad nature of the section's present title (Refunds; offer of services) should be changed to more accurately reflect the contents of the section's text.

Section 17. Section 481B-13, HRS, regulates the issuance of gift certificates. Subsection (d) provides that a violation of this section may be prosecuted under section 480-2. We therefore recommend that the phrase "unfair and deceptive act or practice" be changed to "unfair or deceptive act or practice" to conform the term used here to the term used in section 480-2.

Section 18. Section 481C-1, HRS, provides general definitions relating to door-to-door sales. The definitions in this section should be amended to conform to the general style used in HRS for definitions.

Section 19. Section 481D-3, HRS, requires the posting of a sign in a "going out of business sale" and sets forth the requirements for the signage. The lead paragraph of this section sets forth this requirement, and paragraphs (1) to (8) contain specifications for the signage. Paragraph (9), however, contains exceptions to the signage requirements. We recommend that paragraph (9) be changed to a new subsection to properly reflect the contents of this subsection.

Section 20. Section 481D-5, HRS, provides that a violation of the going-out-of-business sales law is deemed a violation of section 480-2. The title of section 481D-5 should be amended to delete the word "penalties" as no penalties are specified in the text of this section.

Section 21. Section 481G-6, HRS, allows arbitration of disputes relating to office machine products dealerships. This section should be amended by adding conformance to chapter 658A, HRS (the Uniform Arbitration Act), as an alternative procedure in settling disputes through arbitration. Section 658A-3(c) provides that chapter 658A shall govern all agreements to arbitrate after June 30, 2004.

Section 22. Section 481H-8, HRS, provides that a violation of the water treatment unit law is deemed an unfair or deceptive act under section 480-2. As there are no specified penalties in the text of this section, we recommend that the title to this section be amended to delete the word "penalty".

Section 23. Section 481I-2, HRS, contains general definitions relating to motor vehicle express warranties. Definitions in this section should be amended to improve clarity.

Section 24. Section 481J-2, HRS, requires a used motor vehicle sold in the State to be covered by a written warranty against defects or malfunctions. Subsection (i) requires the motor vehicle dealer to provide the customer with a written warranty repair receipt when a vehicle is returned for diagnosis and repair. Subsection (i) should be amended to set apart the last sentence of paragraph (5) for clarity. The process for the consumer's informed consent of the repair receipt is not a per se content of the receipt itself.

We also recommend that subsection (j) be amended by changing "registered" motor vehicle repair dealers to "licensed" to conform to the standards found in chapter 437B.

Section 25. Section 481J-6, HRS, requires a motor vehicle dealer to refund the purchase price of a used motor vehicle returned by a customer upon failure to honor the warranty. In subsection (a) the reference to a "sales tax" should be changed to the "general excise tax" to more properly reference the tax in this State. Hawaii does not have a sales tax, although the general excise tax is frequently mistaken for one.

Section 26. Section 481J-7, HRS, provides a consumer a right of action for a dealer's failure to honor a used motor vehicle warranty. In subsections (a) and (b)(3), enforcement of "this section" should be changed to "this chapter" to more properly identify the scope of rights given to the consumer.

Section 27. Section 481K-3, HRS, establishes purchaser's rights under an assistive device warranty. In subsection (b)(1), the "dealer's early termination costs" should be changed to the "lessor's early termination costs" to conform to the definition of "early termination cost" found in section 481K-1.

Section 28. Section 481L-4, HRS, provides that a violation of the motor vehicle warranty law (lemon law) is deemed an unfair or deceptive act under section 480-2. The phrase "unfair and deceptive act or practice" should be changed to "unfair or deceptive act or practice" to conform to the term used in section 480-2.

Sections 29 and 30. Chapter 481M, HRS, regulates lease-purchase agreements for personal property. Sections 481M-4 and 481M-7 should be amended to conform the terms used in those sections to the terms defined for this chapter in section 481M-1.

Section 31. Section 481M-10, HRS, provides a consumer with a right of action for violation by a lessor of a lease-purchase agreement. Subsection (a) should be amended to improve clarity.

Sections 32 to 36. Sections 481M-12, 481M-13, 481M-14, 481M-15, and 481M-17, HRS, relating to disclosures required and consumer's rights under lease-purchase agreements should be amended to conform the terms used in those sections to the terms defined for this chapter in section 481M-1 and as generally used in this chapter.

We also recommend that sections 481M-13 and 481M-17 be divided into subsections to simplify future amendments. We further recommend that section 481M-14(c) be amended to correct the citation to the federal "Consumer Credit Protection Act".

Section 37. Section 481P-2, HRS, sets forth prohibited practices under the telemarketing fraud prevention act. The title to section 481P-2 should be changed from "Unfair or deceptive acts or practices prohibited" to "Violations". Section 481P-6 has a title that may be confusingly similar to this section ("Unfair or deceptive act or practice"); further, subsection (b) (aiding or abetting) and subsection (c) (other unfair conduct) are determined to be "violations of this chapter" without being declared to be unfair practices per se. Changing the title of this section to the broader "Violations" will clarify the scope of this section.

Section 38. Section 481P-3, HRS, sets forth additional prohibited practices under the telemarketing fraud prevention act. In paragraph (2)(B), "section 604" should be added to the Fair Credit Reporting Act citation to correctly identify the portion of that Act that corresponds to 15 U.S.C. §1681b (Permissible Purposes of Consumer Reports).

Section 39. Section 481P-5, HRS, exempts certain practices from the prohibitions of the telemarketing fraud prevention act. Paragraph (4) should be amended to change "commissioner of insurance" to "insurance commissioner" to correctly identify that position according to its standard title in Hawaii.

Section 40. Section 481P-6, HRS, provides that a violation of the telemarketing fraud prevention act is deemed to be an unfair or deceptive act under section 480-2. The phrase "unfair and deceptive act or practice" should be changed to "unfair or deceptive act or practice" to conform to the term used in section 480-2.

Section 41. Section 481R-4, HRS, requires vehicle protection product warrantors to register with the department of commerce and consumer affairs. The title of the section should be broadened to include "exemptions", as subsections (c), (d), and (e) are presently not covered by this section's title.

Subsection (b)(6) should also be amended to change the phrase "financial responsibility requirements" to "financial security requirements" to more properly identify the requirements of section 481R-5 referred to in subsection (b)(6).

Section 42. Section 481R-9, HRS, provides disclosures that are required in vehicle protection product warranties. Subsection (c) should be amended for clarity and to conform to the requirements of section 481R-6.

Section 43. Section 482-5, HRS, provides penalties for the illegal use of an identical or confusingly similar trade name. The title to the section should be amended from "Penalty" to "Unlawful use of trade name; penalty." There are currently two sections within this part I with the same title (sections 482-3.5 and 482-5). The text of section 482-5 specifies that it applies only to violations of section 482-4 (Certain trade names not to be adopted or used); thus, a more specific title to this section would avoid possible confusion.

Section 44. Section 482B-1, HRS, should be amended by changing the short title of this chapter from "Trades Secrets" to "Trade Secrets" to conform to the uniform law.

Section 45. Section 482D-1, HRS, provides general definitions under the gold and silver stamping law. The definition of "article of merchandise" should be amended to also be used to define the term "article". Both terms "article" and "article of merchandise" are used interchangeably in this chapter.

Section 46. Section 482E-1, HRS, sets forth legislative intent in the franchise investment law. The section presently contains two series of numbered paragraphs (paragraphs (1) to (3)) thereby creating ambiguity in citation. The section should be amended to place each set of numbered paragraphs in separate subsections.

Section 47. Section 482E-3, HRS, regulates offering circulars under the franchise investment law. Subsection (a)(5)(B) should be amended by changing "investment

advisor" to "investment adviser" to conform to the term used in the uniform securities act (chapter 485A). The subsection should further be amended by changing the "Securities and Exchange Act of 1934" to the "Securities Exchange Act of 1934" to correct the name of the federal act being cited.

Section 48. Section 482E-6, HRS, sets forth requirements in the relationship between a franchisor or subfranchisor and a franchisee. The section should be divided into subsections and paragraphs to simplify future amendments. We also recommend that subsection (e) be amended to change the term "franchise offering" to "offering circular" to conform to section 482E-3.

Section 49. Section 483-1, HRS, sets forth general definitions for the uniform joint obligations act. This section should be redrafted to conform to generally accepted style in the HRS for definition sections.

Section 50. Section 484-1, HRS, sets forth general definitions for the uniform land sales practices act. The "commissioner of securities", formerly a function of the director of commerce and consumer affairs, is now a separate position appointed by the director under section 485A-601. The definition should be amended to reflect this change.

We further recommend that this section be amended by adding a new definition of "director" as the director of commerce and consumer affairs.

Section 51. Section 484-2, HRS, provides that administration of the uniform land sales practices act is under the supervision of the director of commerce and consumer affairs. The amendment recommended in this section conforms this section to the definition of "director" proposed to be added to section 484-1 (Definitions)

Section 52. Section 484-3, HRS, provides exemptions from the uniform land sales practices act. Subsection (a)(3) exempts a division of a leasehold agricultural lot within state agricultural districts pursuant to section 205-4.5(e). Section 205-4.5 was amended by two acts in 2006. Act 237, SLH 2006, permitted plantation community subdivisions within agricultural districts and Act 271, SLH 2006, permitted agricultural subdivisions and created the exemption in this section. Both Acts 237 and 271 created a new "subsection (e)" in section 205-4.5. When both iterations of "subsection (e)" were codified, the subsection referring to agricultural subdivisions was redesignated as "subsection (f)". Section 484-3(a)(3) should be amended to conform to that redesignation.

Section 53. Section 484-5, HRS, sets forth the requirements for registration of subdivided lands under the uniform land sales practices act. Subsection (c) should be amended to change "inspection fees" to "inspection expenses" to conform to the term used in section 484-20.

Section 54. Section 486-77, HRS, sets forth prohibited practices relating to odometers. The title to this section reiterates two of these practices: tampering with an odometer (as set forth in subsection (a)(1) and (4)) and misrepresentation of distance traveled (as set forth in subsection (a)(5)). However, the practices in subsection (a)(2) (advertising or sale of vehicle) and (a)(3) (operating vehicle on public street or highway), as well as the exemptions from these prohibitions found in subsection (b) may be interpreted as presently beyond the scope of the description contained in this section's title. We therefore recommend that the title to this section be amended to read, "Odometers; prohibitions; exemptions".

We further recommend that subsection (a)(1) be amended to clarify that the exemption to tampering contained in the second sentence of that paragraph applies to "this paragraph" rather than "this section". The general exemption to prohibited practices for legitimate repair or adjustment is contained in subsection (b).

Section 55. Section 486-79, HRS, authorizes the administrator to issue a citation and notice to appear to a person violating the odometer law, and sets forth the form and content of the citation. The section, however, does not include a penalty provision; penalties are, instead, in section 486-87. We therefore recommend that the title to this section be amended to delete the word "penalty".

Section 56. In section 486-134(1), HRS, reference to a "city" agency or institution should be deleted. Under section 1-22, HRS, the term "county" includes the city and county of Honolulu.

We also recommend that the term "warehousepersons" in paragraph (3) be changed to "warehouse workers". Section 486-134, enacted in 1991, likely used the term "warehousepersons" in order to make the provision gender neutral; however, according to the LRB report ("Gender-Neutralizing the Hawaii Revised Statutes", 1992), the preferred substitution would be "warehouse workers".

Section 57. Section 486B-1, HRS, contains general definitions for the unfair trade practices by petroleum industry law. We recommend that the definition of "person" be amended for clarity.

Section 58. Section 486H-1, HRS, contains general definitions for the gasoline dealers law. We recommend that several definitions be amended for clarity.

The definition of "non-refiner marketer" should be amended by deleting the word "by" as unnecessary and confusing.

There are presently two definitions for the term "retail" in this section. Act 77, SLH 2002, repealed the definition of "retail" formerly found in section 486H-10.4(e) and added that definition to section 486H-1. However, the act did not repeal the definition of "retail" then existing in section 486H-1, resulting in two definitions for this term. We recommend that the prior definition of "retail" be deleted.

We recommend that the definition of "retail service station" and "retail station" be combined.

The definition of "secondary brand" should be amended by changing "manufacturer's retail service station" to "company retail station" to conform the term to the definitions found in this section as well as the use of the term in section 486H-10.4.

We also recommend that the definition of "self-serve basis" be deleted. The term was formerly used in section 486H-14, that was repealed by Act 242, SLH 2004.

Section 59. Section 486H-4, HRS, limits actions for unlawful termination or nonrenewal of a gasoline dealer's franchise where the franchise agreement provides for mandatory arbitration of disputes. The broad title of this section, "Exceptions", should be amended to more clearly and accurately describe the scope of the section's contents.

We further recommend that the arbitration provisions of this section be amended to include procedures under chapter 658A (the Uniform Arbitration Act). Section 658A-3(c) provides that chapter 658A provisions govern agreements to arbitrate after June 30, 2004.

Section 60. The title to section 486H-10.4, HRS, should be amended to delete "definitions". Most definitions applicable to this section were moved to section 486H-1 by L 2001, c 77. We also recommend that the only remaining definition, "gross amount", found in subsection (c)(2), be deleted. That term is not used in this section. The section should further be amended by conforming various terms used in the section to the terms defined in section 486H-1.

Sections 61 and 62. In sections 486H-10.5 and 486H-11, HRS, the references to section 486H-10 should be changed to section 486H-10.4. The former section 486H-10 (prohibition of manufacturer or jobber from operating a service station) was repealed by Act 257, SLH 1997, which also enacted a new section (section 486H-10.4) on the same subject matter. Conforming amendments to this section, however, were not made at that time.

Section 63. Definitions in section 486K-1, HRS, should be revised to conform to the terms being used in this chapter.

Section 64. The title of section 486K-2, HRS, should be amended to correct a misspelling.

Sections 65 and 66. Sections 486K-4(a) and 486K-5, HRS, should be amended to conform to the general style used in the HRS.

Sections 67 and 68. The titles of sections 486K-6 and 487-13, HRS, should be amended to more correctly identify the contents of the sections.

We also recommend that section 487-13 (c) be amended to change "uncertified" to "uncertificated" persons to conform to the terminology used in this section.

Section 69. Section 487J-2, HRS, regulates the use and disclosure of social security numbers. Subsection (a)(2) should be amended to change "person or entity" to "business or government agency" to conform to the lead paragraph of this subsection. Further, subsection (a)(3) uses the term "encrypted", which is not defined in this chapter. We recommend that a definition of "encrypted" be added to this paragraph. The definition suggested mirrors the definition of "encryption" found in section 487N-1, the section containing general definitions relating to a security breach of personal information.

Section 70. Section 487N-1, HRS, provides general definitions for the security breach of personal information law. We recommend that the definition of "encryption" be amended to also include the term "encrypted". In this chapter, the term used is "encrypted".

Section 71. Section 487N-2, HRS, requires any government agency or business suffering a security breach involving personal information to provide notice of that breach to its customers or other affected persons. Subsection (g)(1) should be amended to correctly identify the policy guidelines published in the Federal Register that is cited in that subsection.

Section 72. Section 487R-1, HRS, contains general definitions relating to the destruction of personal information records. The definition of "personal information" uses the term "encrypted", which is not defined in this chapter. We recommend that a definition of "encrypted" be added to this paragraph. The definition suggested mirrors the definition of "encryption" found in section 487N-1, the section containing general definitions relating to a security breach of personal information.

Section 73. Section 487R-2, HRS, sets forth the requirements for the destruction of records containing personal information. Subsection (c)(1) should be amended by changing the phrase "compliance with this statute or its equivalent" to "compliance with this chapter" in order to clarify the scope of procedures to be followed.

Section 74. Section 488-1, HRS, provides general definitions relating to the regulation of prepaid legal service plans. The section should be amended to conform to the style generally found in the HRS and to promote ease of future amendment.

Section 75. Section 488-2, HRS, should be amended by changing the references to chapters 433 and 434 in subsections (a)(1) and (b) to chapter 432. The former chapters 433 and 434 regulated mutual and fraternal benefit societies. Those chapters were repealed, and regulation of these societies is presently found in chapter 432, HRS.

Section 76. Section 488-5, HRS, relating to prepaid legal service plans should be amended to correctly identify the rules of court regulating the conduct of attorneys cited

in the last paragraph. We further recommend that this section be divided into subsections to simplify future amendments.

Section 77. Section 488-6, HRS, regulates investments by prepaid legal services plans, specifically authorizing these plans to invest their moneys under the same conditions as are applicable to domestic insurance companies.

We recommend that the reference to "chapter 431" be amended to include chapter 432. The former chapter 431 that existed when this section was enacted regulated both insurance companies and mutual and fraternal benefit societies. Those regulations are now contained in chapters 431 (insurers) and 432 (benefit societies). Both chapters contain provisions for regulated investments by companies. This section should be amended to clarify that division.

Section 78. Chapter 489D (money transmitters act), HRS, is based on a portion of the Uniform Money Services Act as adopted by the National Conference of Commissioners on Uniform State Law in 2000.

Section 489D-4 contains general definitions relating to money transmitters. We recommend that the definition of "permissible investments" be amended by replacing the phrase "in this subsection" with the phrase "in paragraphs (1) to (5)" because there are no subsections in this section. We further base this recommendation on the language of the uniform law upon which this chapter is based. Section 702 of the uniform law sets forth permissible investments of money transmission businesses. The types of investments enumerated in paragraphs (1) to (5) and the language of the proposed paragraph (6) in this definition will correspond to the language of the uniform law.

Section 79. Section 487D-8(a), HRS, should be amended by adding the payment instruments sold by an authorized delegate of the licensee. This addition follows the definition of "outstanding payment instrument" in section 489D-4, and also the tenor of section 701 of the Uniform Money Services Act (2000).

Section 80. Chapter 489E (uniform electronic transactions act), HRS, adopts the uniform law as promulgated by the National Conference of Commissioners on Uniform State Law. Section 489E-3(a) should be amended by deleting the last sentence regarding applicability of other substantive law because it is also in subsection (d). This amendment corresponds to the language of the uniform law.