



GOV. MSG. NO. 1261

EXECUTIVE CHAMBERS  
HONOLULU

NEIL ABERCROMBIE  
GOVERNOR

June 26, 2012

The Honorable Shan Tsutsui, President  
and Members of the Senate  
Twenty-Sixth State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

The Honorable Calvin Say, Speaker  
and Members of the House  
Twenty-Sixth State Legislature  
State Capitol, Room 431  
Honolulu, Hawaii 96813

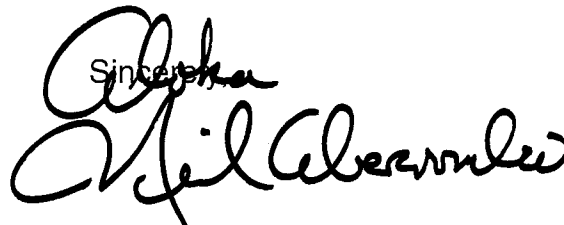
Dear President Tsutsui, Speaker Say and Members of the Legislature:

This is to inform you that on June 26, 2012, the following bill was signed into law:

SB2833 SD1 HD2 CD1

RELATING TO EMPLOYMENT EXEMPTION FOR  
DOMESTIC SERVICES FOR PERSONS WITH  
DEVELOPMENTAL AND INTELLECTUAL  
DISABILITIES.

**Act 158 (12)**

Sincerely,  


NEIL ABERCROMBIE  
Governor, State of Hawaii

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# A BILL FOR AN ACT

RELATING TO EMPLOYMENT EXEMPTION FOR DOMESTIC SERVICES FOR  
PERSONS WITH DEVELOPMENTAL AND INTELLECTUAL DISABILITIES.

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

1 SECTION 1. Section 383-7, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3 "(a) "Employment" shall not include:

4 (1) Agricultural labor as defined in section 383-9 if it  
5 is performed by an individual who is employed by an  
6 employing unit:

7 (A) That, during each calendar quarter in both the  
8 current and the preceding calendar years, paid  
9 less than \$20,000 in cash remuneration to  
10 individuals employed in agricultural labor,  
11 including labor performed by an alien referred to  
12 in subparagraph (C); and

13 (B) That had, in each of the current and the  
14 preceding calendar years:

15 (i) No more than nineteen calendar weeks,  
16 whether consecutive or not, in which  
17 agricultural labor was performed by its



1 employees, including labor performed by an  
2 alien referred to in subparagraph (C); or  
3 (ii) No more than nine individuals in its employ  
4 performing agricultural labor in any one  
5 calendar week, whether or not the same  
6 individuals performed the labor in each  
7 week, including labor performed by an alien  
8 referred to in subparagraph (C); or  
9 (C) If such agricultural labor is performed by an  
10 individual who is an alien admitted to the United  
11 States to perform agricultural labor pursuant to  
12 sections 214(c) and 101(a)(15)(H) of the  
13 Immigration and Nationality Act;  
14 (2) Domestic service in a private home, local college  
15 club, or local chapter of a college fraternity or  
16 sorority as set forth in section 3306(c)(2) of the  
17 Internal Revenue Code of 1986, as amended;  
18 (3) Service not in the course of the employing unit's  
19 trade or business performed in any calendar quarter by  
20 an individual, unless the cash remuneration paid for  
21 the service is \$50 or more and the service is  
22 performed by an individual who is regularly employed



1 by the employing unit to perform the service. For the  
2 purposes of this paragraph, an individual shall be  
3 deemed to be regularly employed to perform service not  
4 in the course of an employing unit's trade or business  
5 during a calendar quarter if:

6 (A) On each of some twenty-four days during the  
7 quarter the individual performs the service for  
8 some portion of the day; or

9 (B) The individual was regularly employed as  
10 determined under subparagraph (A) by the  
11 employing unit in the performance of the service  
12 during the preceding calendar quarter;

13 (4) (A) Service performed on or in connection with a  
14 vessel not an American vessel, if the individual  
15 performing the service is employed on and in  
16 connection with the vessel when outside the  
17 United States;

18 (B) Service performed by an individual in (or as an  
19 officer or member of the crew of a vessel while  
20 it is engaged in) the catching, taking,  
21 harvesting, cultivating, or farming of any kind  
22 of fish, shellfish, crustacea, sponges, seaweeds,



1 or other aquatic forms of animal and vegetable  
2 life, including service performed as an ordinary  
3 incident thereto, except:

4 (i) The service performed in connection with a  
5 vessel of more than ten net tons (determined  
6 in the manner provided for determining the  
7 register tonnage of merchant vessels under  
8 the laws of the United States);

9 (ii) The service performed in connection with a  
10 vessel of ten net tons or less (determined  
11 in the manner provided for determining the  
12 register tonnage of merchant vessels under  
13 the laws of the United States) by an  
14 individual who is employed by an employing  
15 unit which had in its employ one or more  
16 individuals performing the service for some  
17 portion of a day in each of twenty calendar  
18 weeks all occurring, whether consecutive or  
19 not, in either the current or the preceding  
20 calendar year; and



1 (iii) Service performed in connection with the  
2 catching or taking of salmon or halibut for  
3 commercial purposes;

4 (5) Service performed by an individual in the employ of  
5 the individual's son, daughter, or spouse, and service  
6 performed by a child under the age of twenty-one in  
7 the employ of the child's father or mother;

8 (6) Service performed in the employ of the United States  
9 government or an instrumentality of the United States  
10 exempt under the Constitution of the United States  
11 from the contributions imposed by this chapter, except  
12 that to the extent that the Congress of the United  
13 States permits states to require any instrumentalities  
14 of the United States to make payments into an  
15 unemployment fund under a state unemployment  
16 compensation law, all of the provisions of this  
17 chapter shall apply to those instrumentalities, and to  
18 services performed for those instrumentalities, in the  
19 same manner, to the same extent, and on the same terms  
20 as to all other employers, employing units,  
21 individuals, and services; provided that if this State  
22 is not certified for any year by the Secretary of



1 Labor under section 3304(c) of the federal Internal  
2 Revenue Code, the payments required of those  
3 instrumentalities with respect to that year shall be  
4 refunded by the department of labor and industrial  
5 relations from the fund in the same manner and within  
6 the same period as is provided in section 383-76 with  
7 respect to contributions erroneously collected;

8 (7) Service performed in the employ of any other state, or  
9 any political subdivision thereof, or any  
10 instrumentality of any one or more of the foregoing  
11 which is wholly owned by one or more states or  
12 political subdivisions; and any service performed in  
13 the employ of any instrumentality of one or more other  
14 states or their political subdivisions to the extent  
15 that the instrumentality is, with respect to the  
16 service, exempt from the tax imposed by section 3301  
17 of the Internal Revenue Code of 1986, as amended;

18 (8) Service with respect to which unemployment  
19 compensation is payable under an unemployment system  
20 established by an act of Congress;

21 (9) (A) Service performed in any calendar quarter in the  
22 employ of any organization exempt from income tax



1 under section 501(a) of the federal Internal  
2 Revenue Code (other than an organization  
3 described in section 401(a) or under section 521  
4 of the Internal Revenue Code), if:

5 (i) The remuneration for the service is less  
6 than \$50; or

7 (ii) The service is performed by a fully  
8 ordained, commissioned, or licensed minister  
9 of a church in the exercise of the  
10 minister's ministry or by a member of a  
11 religious order in the exercise of duties  
12 required by the order;

13 (B) Service performed in the employ of a school,  
14 college, or university, if the service is  
15 performed by a student who is enrolled and is  
16 regularly attending classes at the school,  
17 college, or university; or

18 (C) Service performed by an individual who is  
19 enrolled at a nonprofit or public educational  
20 institution which normally maintains a regular  
21 faculty and curriculum and normally has a  
22 regularly organized body of students in





1 attendance at the place where its educational  
2 activities are carried on as a student in a full-  
3 time program, taken for credit at the  
4 institution, which combines academic instruction  
5 with work experience, if the service is an  
6 integral part of such program, and the  
7 institution has so certified to the employer,  
8 except that this subparagraph shall not apply to  
9 service performed in a program established for or  
10 on behalf of an employer or group of employers;

11 (10) Service performed in the employ of a foreign  
12 government, including service as a consular or other  
13 officer or employee of a nondiplomatic representative;

14 (11) Service performed in the employ of an instrumentality  
15 wholly owned by a foreign government:

16 (A) If the service is of a character similar to that  
17 performed in foreign countries by employees of  
18 the United States government or of an  
19 instrumentality thereof; and

20 (B) If the United States Secretary of State has  
21 certified or certifies to the United States  
22 Secretary of the Treasury that the foreign



1 government, with respect to whose instrumentality  
2 exemption is claimed, grants an equivalent  
3 exemption with respect to similar service  
4 performed in the foreign country by employees of  
5 the United States government and of  
6 instrumentalities thereof;

7 (12) Service performed as a student nurse in the employ of  
8 a hospital or a nurses' training school by an  
9 individual who is enrolled and is regularly attending  
10 classes in a nurses' training school chartered or  
11 approved pursuant to state law; and service performed  
12 as an intern in the employ of a hospital by an  
13 individual who has completed a four-year course in a  
14 medical school chartered or approved pursuant to state  
15 law;

16 (13) Service performed by an individual for an employing  
17 unit as an insurance producer, if all service  
18 performed by the individual for the employing unit is  
19 performed for remuneration solely by way of  
20 commission;

21 (14) Service performed by an individual under the age of  
22 eighteen in the delivery or distribution of newspapers



1 or shopping news, not including delivery or  
2 distribution to any point for subsequent delivery or  
3 distribution;

4 (15) Service covered by an arrangement between the  
5 department and the agency charged with the  
6 administration of any other state or federal  
7 unemployment compensation law pursuant to which all  
8 services performed by an individual for an employing  
9 unit during the period covered by the employing unit's  
10 duly approved election, are deemed to be performed  
11 entirely within the agency's state;

12 (16) Service performed by an individual who, pursuant to  
13 the Federal Economic Opportunity Act of 1964, is not  
14 subject to the federal laws relating to unemployment  
15 compensation;

16 (17) Service performed by an individual for an employing  
17 unit as a real estate salesperson, if all service  
18 performed by the individual for the employing unit is  
19 performed for remuneration solely by way of  
20 commission;

21 (18) Service performed by a registered sales representative  
22 for a registered travel agency, when the service



1 performed by the individual for the travel agent is  
2 performed for remuneration by way of commission;

3 (19) Service performed by a vacuum cleaner salesperson for  
4 an employing unit, if all services performed by the  
5 individual for the employing unit are performed for  
6 remuneration solely by way of commission;

7 (20) Service performed for a family-owned private  
8 corporation organized for profit that employs only  
9 members of the family who each own at least fifty per  
10 cent of the shares issued by the corporation; provided  
11 that:

12 (A) The private corporation elects to be excluded  
13 from coverage under this chapter;

14 (B) The election for exclusion shall apply to all  
15 shareholders and under the same circumstances;

16 (C) No more than two members of a family may be  
17 eligible per entity for exclusion under this  
18 paragraph;

19 (D) The exclusion shall be irrevocable for five  
20 years;

21 (E) The family-owned private corporation presents to  
22 the department proof that it has paid federal



1                   unemployment insurance taxes as required by  
2                   federal law; and

3                   (F) The election to be excluded from coverage shall  
4                   be effective the first day of the calendar  
5                   quarter in which the application and all  
6                   substantiating documents requested by the  
7                   department are filed with the department;

8                   (21) Service performed by a direct seller as defined in  
9                   section 3508 of the Internal Revenue Code of 1986;

10                  (22) Service performed by an election official or election  
11                  worker as defined in section 3309(b)(3)(F) of the  
12                  Internal Revenue Code of 1986, as amended;

13                  (23) Service performed by an inmate or any person committed  
14                  to a penal institution[+]; and[+]

15                  (24) Domestic in-home and community-based services for  
16                  persons with developmental and intellectual  
17                  disabilities under the medicaid home and  
18                  community-based services program pursuant to Title 42  
19                  Code of Federal Regulations sections 440.180 and  
20                  441.300, and Title 42 Code of Federal Regulations,  
21                  Part 434, Subpart A, as amended, or when provided  
22                  through state funded medical assistance to individuals



1           ineligible for medicaid, and identified as chore,  
2           personal assistance and habilitation, residential  
3           habilitation, supported employment, respite, and  
4           skilled nursing services, as the terms are defined and  
5           amended from time to time by the department of human  
6           services, performed by an individual whose services  
7           are contracted by a recipient of social service  
8           payments and who voluntarily agrees in writing to be  
9           an independent contractor of the recipient of social  
10          service payments unless the individual is an employee  
11          and not an independent contractor of the recipient of  
12          social service payments under the Federal Unemployment  
13          Tax Act."

14          SECTION 2. Section 386-1, Hawaii Revised Statutes, is  
15          amended by amending the definition of "employment" to read as  
16          follows:

17          ""Employment" means any service performed by an individual  
18          for another person under any contract of hire or apprenticeship,  
19          express or implied, oral or written, whether lawfully or  
20          unlawfully entered into. It includes service of public  
21          officials, whether elected or under any appointment or contract  
22          of hire, express or implied.



1 "Employment" does not include:

2 (1) Service for a religious, charitable, educational, or  
3 nonprofit organization if performed in a voluntary or  
4 unpaid capacity;

5 (2) Service for a religious, charitable, educational, or  
6 nonprofit organization if performed by a recipient of  
7 aid there from and the service is incidental to or in  
8 return for the aid received;

9 (3) Service for a school, college, university, college  
10 club, fraternity, or sorority if performed by a  
11 student who is enrolled and regularly attending  
12 classes and in return for board, lodging, or tuition  
13 furnished, in whole or in part;

14 (4) Service performed by a duly ordained, commissioned, or  
15 licensed minister, priest, or rabbi of a church in the  
16 exercise of the minister's, priest's, or rabbi's  
17 ministry or by a member of a religious order in the  
18 exercise of nonsecular duties required by the order;

19 (5) Service performed by an individual for another person  
20 solely for personal, family, or household purposes if  
21 the cash remuneration received is less than \$225  
22 during the current calendar quarter and during each



1 completed calendar quarter of the preceding twelve-  
2 month period;

3 (6) Domestic, in-home and community-based services for  
4 persons with developmental and intellectual  
5 disabilities under the medicaid home and community-  
6 based services program pursuant to Title 42 Code of  
7 Federal Regulations sections 440.180 and 441.300, and  
8 Title 42 Code of Federal Regulations, Part 434,  
9 Subpart A, as amended, or when provided through state  
10 funded medical assistance to individuals ineligible  
11 for medicaid, and identified as chore, personal  
12 assistance and habilitation, residential habilitation,  
13 supported employment, respite, and skilled nursing  
14 services, as the terms are defined by the department  
15 of human services, performed by an individual whose  
16 services are contracted by a recipient of social  
17 service payments and who voluntarily agrees in writing  
18 to be an independent contractor of the recipient of  
19 social service payments;

20 (7) Service performed without wages for a corporation  
21 without employees by a corporate officer in which the





- 1 officer is at least a twenty-five per cent  
2 stockholder;
- 3 (8) Service performed by an individual for a corporation  
4 if the individual owns at least fifty per cent of the  
5 corporation; provided that no employer shall require  
6 an employee to incorporate as a condition of  
7 employment;
- 8 (9) Service performed by an individual for another person  
9 as a real estate salesperson or as a real estate  
10 broker, if all the service performed by the individual  
11 for the other person is performed for remuneration  
12 solely by way of commission;
- 13 (10) Service performed by a member of a limited liability  
14 company if the member is an individual and has a  
15 distributional interest, as defined in section 428-  
16 101, of not less than fifty per cent in the company;  
17 provided that no employer shall require an employee to  
18 form a limited liability company as a condition of  
19 employment;
- 20 (11) Service performed by a partner of a partnership, as  
21 defined in section 425-101, if the partner is an  
22 individual; provided that no employer shall require an



1 employee to become a partner or form a partnership as  
2 a condition of employment;

3 (12) Service performed by a partner of a limited liability  
4 partnership if the partner is an individual and has a  
5 transferable interest as described in section 425-127  
6 in the partnership of not less than fifty per cent;  
7 provided that no employer shall require an employee to  
8 form a limited liability partnership as a condition of  
9 employment; and

10 (13) Service performed by a sole proprietor.

11 As used in this definition, "religious, charitable, educational,  
12 or nonprofit organization" means a corporation, unincorporated  
13 association, community chest, fund, or foundation organized and  
14 operated exclusively for religious, charitable, or educational  
15 purposes, no part of the net earnings of which inure to the  
16 benefit of any private shareholder or individual."

17 SECTION 3. Section 392-5, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 "§392-5 Excluded services. "Employment" as defined in  
20 section 392-3 shall not include:

21 (1) Domestic service in a private home, local college  
22 club, or local chapter of a college fraternity or



1           sorority, performed in any calendar quarter by an  
2           individual if the cash remuneration paid by the  
3           employer for such service is less than \$225;

4           (2) Service not in the course of the employer's trade or  
5           business performed in any calendar quarter by an  
6           individual, unless the cash remuneration paid for the  
7           service is \$50 or more and the service is performed by  
8           an individual who is regularly employed by the  
9           employer to perform the service. An individual shall  
10          be deemed to be regularly employed to perform service  
11          not in the course of the employer's trade or business  
12          during a calendar quarter only if:

13          (A) On each of some twenty-four days during the  
14               quarter the individual performs the service for  
15               some portion of the day; or

16          (B) The individual was regularly employed, as  
17               determined under subparagraph (A), by the  
18               employer in the performance of the service during  
19               the preceding calendar quarter;

20          (3) Service performed on or in connection with a vessel  
21          not an American vessel, if the individual performing



1 the service is employed on and in connection with the  
2 vessel when outside the United States;

3 (4) Service performed by an individual in (or as an  
4 officer or member of the crew of a vessel while it is  
5 engaged in) the catching, taking, harvesting,  
6 cultivating, or farming of any kind of fish,  
7 shellfish, crustacea, sponges, seaweeds, or other  
8 aquatic forms of animal and vegetable life, including  
9 service performed as an ordinary incident thereto,  
10 except:

11 (A) The service performed in connection with a vessel  
12 of more than ten net tons (determined in the  
13 manner provided for determining the register  
14 tonnage of merchant vessels under the laws of the  
15 United States);

16 (B) The service performed in connection with a vessel  
17 of ten net tons or less (determined in the manner  
18 provided for determining the register tonnage of  
19 merchant vessels under the laws of the United  
20 States) by an individual who is employed by an  
21 employer who, for some portion in each of twenty  
22 different calendar weeks in either the current or



1 preceding calendar year, had in the employer's  
2 employ one or more persons performing the  
3 service, whether or not the weeks were  
4 consecutive and whether or not the same  
5 individuals performed the service in each week;  
6 and

7 (C) The service performed in connection with the  
8 catching or taking of salmon or halibut for  
9 commercial purposes;

10 (5) Service performed by an individual in the employ of  
11 the individual's son, daughter, or spouse, and service  
12 performed by a child under the age of twenty-one in  
13 the employ of the child's father or mother;

14 (6) Service performed in the employ of the United States  
15 government or an instrumentality of the United States  
16 exempt under the Constitution of the United States  
17 from the contributions imposed by this chapter;

18 (7) Service performed in the employ of any other state, or  
19 any political subdivision thereof, or any  
20 instrumentality of any one or more of the foregoing  
21 that is wholly owned by one or more such states or  
22 political subdivisions; and any service performed in



1 the employ of any instrumentality of one or more other  
2 states or their political subdivisions to the extent  
3 that the instrumentality is, with respect to such  
4 service, exempt from the tax imposed by section 3301  
5 of the Internal Revenue Code [~~of 1986~~];

6 (8) Service with respect to which temporary disability  
7 compensation is payable for sickness under a temporary  
8 disability insurance system established by an act of  
9 Congress;

10 (9) Service performed in any calendar quarter in the  
11 employ of any nonprofit organization exempt from  
12 income tax under section 501 of the Internal Revenue  
13 Code [~~of 1986~~], if:

14 (A) The remuneration for such service is less than  
15 \$50;

16 (B) The service is performed by a student who is  
17 enrolled and is regularly attending classes at a  
18 school, college, or university;

19 (C) The service is performed by a duly ordained,  
20 commissioned, or licensed minister or licensed  
21 minister of a church in the exercise of the  
22 minister's ministry or by a member of a religious



1 order in the exercise of nonsecular duties  
2 required by the order; or  
3 (D) The service is performed for a church by an  
4 employee who fails to meet the eligibility  
5 requirements of section 392-25;  
6 (10) Service performed in the employ of a voluntary  
7 employees' beneficiary association providing for the  
8 payment of life, sick, accident, or other benefits to  
9 the members of the association or their dependents,  
10 if:  
11 (A) No part of its net earnings inures (other than  
12 through such payments) to the benefit of any  
13 private shareholder or individual; and  
14 (B) Eighty-five per cent or more of its income  
15 consists of amounts collected from members and  
16 amounts contributed by the employer of the  
17 members for the sole purpose of making such  
18 payments and meeting expenses;  
19 (11) Service performed in the employ of a voluntary  
20 employees' beneficiary association providing for the  
21 payment of life, sick, accident, or other benefits to



1 the members of the association or their dependents or  
2 their designated beneficiaries, if:

3 (A) Admission to membership in the association is  
4 limited to individuals who are officers or  
5 employees of the United States government; and

6 (B) No part of the net earnings of the association  
7 inures (other than through such payments) to the  
8 benefit of any private shareholder or individual;

9 (12) Service performed in the employ of a school, college,  
10 or university, not exempt from income tax under  
11 section 501 of the Internal Revenue Code [~~of 1986~~], if  
12 the service is performed by a student who is enrolled  
13 and is regularly attending classes at the school,  
14 college, or university;

15 (13) Service performed in the employ of any instrumentality  
16 wholly owned by a foreign government, if:

17 (A) The service is of a character similar to that  
18 performed in foreign countries by employees of  
19 the United States government or of an  
20 instrumentality thereof; and

21 (B) The United States Secretary of State has  
22 certified or certifies to the United States





1 Secretary of the Treasury that the foreign  
2 government, with respect to whose instrumentality  
3 exemption is claimed, grants an equivalent  
4 exemption with respect to similar service  
5 performed in the foreign country by employees of  
6 the United States government and of  
7 instrumentalities thereof;

8 (14) Service performed as a student nurse in the employ of  
9 a hospital or a nurses' training school by an  
10 individual who is enrolled and is regularly attending  
11 classes in a nurses' training school chartered or  
12 approved pursuant to state law; and service performed  
13 as an intern in the employ of a hospital by an  
14 individual who has completed a four years' course in a  
15 medical school chartered or approved pursuant to state  
16 law;

17 (15) Service performed by an individual for an employer as  
18 an insurance producer, if all such service performed  
19 by the individual for the employer is performed for  
20 remuneration solely by way of commission;

21 (16) Service performed by an individual under the age of  
22 eighteen in the delivery or distribution of newspapers



1 or shopping news, not including delivery or  
2 distribution to any point for subsequent delivery or  
3 distribution;

4 (17) Service covered by an arrangement between the  
5 department and the agency charged with the  
6 administration of any other state or federal  
7 unemployment compensation law pursuant to which all  
8 services performed by an individual for an employer  
9 during the period covered by the employer's duly  
10 approved election, are deemed to be performed entirely  
11 within the agency's state;

12 (18) Service performed by an individual who, pursuant to  
13 the [~~Federal~~] federal Economic Opportunity Act of  
14 1964, is not subject to the federal laws relating to  
15 unemployment compensation;

16 (19) Domestic in-home and community-based services for  
17 persons with developmental and intellectual  
18 disabilities under the medicaid home and community-  
19 based services program pursuant to Title 42 Code of  
20 Federal Regulations sections 440.180 and 441.300, and  
21 Title 42 Code of Federal Regulations, Part 434,  
22 Subpart A, as amended, or when provided through state



1           funded medical assistance to individuals ineligible  
2           for medicaid, and identified as chore, personal  
3           assistance and habilitation, residential habilitation,  
4           supported employment, respite, and skilled nursing  
5           services, as the terms are defined by the department  
6           of human services, performed by an individual whose  
7           services are contracted by a recipient of social  
8           service payments and who voluntarily agrees in writing  
9           to be an independent contractor of the recipient of  
10          social service payments;

11          (20) Service performed by a vacuum cleaner salesperson for  
12          an employing unit, if all such services performed by  
13          the individual for such employing unit are performed  
14          for remuneration solely by way of commission; or

15          (21) Service performed by an individual for an employer as  
16          a real estate salesperson or as a real estate broker,  
17          if all the service performed by the individual for the  
18          employer is performed for remuneration solely by way  
19          of commission."

20          SECTION 4. Section 393-5, Hawaii Revised Statutes, is  
21          amended to read as follows:



1           "§393-5 Excluded services. "Employment" as defined in  
2 section 393-3 does not include:

3           (1) Service performed by an individual in the employ of an  
4 employer who, by the laws of the United States, is  
5 responsible for care and cost in connection with such  
6 service;

7           (2) Service performed by an individual in the employ of  
8 individual's spouse, son, or daughter, and service  
9 performed by an individual under the age of twenty-one  
10 in the employ of the individual's father or mother;

11          (3) Service performed in the employ of a voluntary  
12 employee's beneficiary association providing for the  
13 payment of life, sick, accident, or other benefits to  
14 the members of the association or their dependents or  
15 their designated beneficiaries, if:

16           (A) Admission to membership in the association is  
17 limited to individuals who are officers or  
18 employees of the United States government; and

19           (B) No part of the net earnings of the association  
20 inures (other than through such payments) to the  
21 benefits of any private shareholder or  
22 individual;



- 1 (4) Service performed by an individual for an employer as  
2 an insurance agent or as an insurance solicitor if all  
3 service performed by the individual for the employer  
4 is performed for remuneration by way of commission;
- 5 (5) Service performed by an individual for an employer as  
6 a real estate salesperson or as a real estate broker  
7 if all service performed by the individual for the  
8 employer is performed for remuneration by way of  
9 commission;
- 10 (6) Service performed by an individual who, pursuant to  
11 the [~~Federal~~] federal Economic Opportunity Act of  
12 1964, is not subject to the provisions of law relating  
13 to federal employment, including unemployment  
14 compensation; and
- 15 (7) Domestic in-home and community-based services for  
16 persons with developmental and intellectual  
17 disabilities under the medicaid home and community-  
18 based services program pursuant to Title 42 Code of  
19 Federal Regulations sections 440.180 and 441.300, and  
20 Title 42 Code of Federal Regulations, Part 434,  
21 Subpart A, as amended, or when provided through state  
22 funded medical assistance to individuals ineligible



1           for medicaid, and identified as chore, personal  
2           assistance and habilitation, residential habilitation,  
3           supported employment, respite, and skilled nursing  
4           services, as the terms are defined and amended from  
5           time to time by the department of human services,  
6           performed by an individual whose services are  
7           contracted by a recipient of social service payments  
8           and who voluntarily agrees in writing to be an  
9           independent contractor of the recipient of social  
10          service payments."

11          SECTION 5. Statutory material to be repealed is bracketed  
12          and stricken. New statutory material is underscored.

13          SECTION 6. This Act shall take effect upon its approval.

APPROVED this 26 day of JUN, 2012



GOVERNOR OF THE STATE OF HAWAII