
A BILL FOR AN ACT

RELATING TO EDUCATION.

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

1 PART I

2 SECTION 1. In October 2010, the United States Department
3 of Education issued new regulations for programs authorized
4 under Title IV of the Higher Education Act of 1965, as amended,
5 to hold programs accountable for preparing students for gainful
6 employment; protect students from misleading recruiting
7 practices; ensure that only eligible students receive financial
8 aid; and strengthen federal student aid programs at for-profit,
9 non-profit, and public institutions. The regulations also
10 include requirements for state authorization of institutions
11 that offer educational programs beyond secondary education for
12 purposes of federal program eligibility.

13 The state post-secondary education commission, established
14 under section 304A-3151, Hawaii Revised Statutes, qualifies the
15 State to receive funds made available under the Higher Education
16 Act of 1965, as amended, and may serve as the state agency for
17 the receipt of federal funds when necessary. However, the
18 commission does not authorize institutions to operate



1 educational programs beyond secondary education, as may be
2 required under new federal regulations. Further, the commission
3 is established under the University of Hawaii for administrative
4 purposes. The legislature finds that reconstituting the post-
5 secondary education commission and placing it under the
6 department of commerce and consumer affairs will result in an
7 entity that is more broadly representative of post-secondary
8 education in the State and more appropriate to serve as the
9 authorizing state agency for the diverse institutions that
10 operate educational programs beyond secondary education.

11 The State was unable to satisfy all of the requirements of
12 the Higher Education Act of 1965, as amended, relating to state
13 authorization by the deadline. However, the United States
14 Department of Education provided the opportunity for states and
15 institutions to receive an extension for certain regulations.
16 In the interim, it is the intent of the legislature to
17 proactively seek solutions by determining what actions and
18 changes are required for the State to comply with the new
19 regulations.

20 The purpose of this Act is to bring Hawaii into compliance
21 with Title IV of the Higher Education Act of 1965, as amended,
22 by establishing the post-secondary education commission within



1 the department of commerce and consumer affairs and creating the
2 framework for authorizing private post-secondary educational
3 institutions in the State.

4 SECTION 2. The Hawaii Revised Statutes is amended by
5 adding a new chapter to be appropriately designated and to read
6 as follows:

7 **"CHAPTER**

8 **POST-SECONDARY EDUCATION AUTHORIZATION**

9 § -1 **Definitions.** Whenever used in this chapter, unless
10 the context otherwise requires:

11 "Accredited" means the status of public recognition that a
12 nationally recognized accrediting agency grants to an
13 institution or educational program that meets the agency's
14 established requirements.

15 "Alternative enrollment" means the opportunity for a
16 student enrolled in a private college or university that ceases
17 operation to meet the student's educational objectives through
18 education provided by another authorized private college or
19 university, the University of Hawaii system, an area vocational
20 school, or any other educational arrangement acceptable to the
21 department and the commission.



1 "Authorization" means the authorization granted to a
2 private college, university, seminary, or religious training
3 institution by the commission as provided in this chapter and
4 any applicable rules and policies. Authorization is not an
5 endorsement by either the commission or the department.

6 "Commission" means the state post-secondary education
7 commission created pursuant to section -3.

8 "Degree" means a statement, diploma, certificate, or other
9 writing in any language that indicates or represents, or is
10 intended to indicate or represent, that the person named thereon
11 is learned in or has satisfactorily completed a prescribed
12 course of study in a particular field of endeavor or that the
13 person named thereon has demonstrated proficiency in a field of
14 endeavor as a result of formal preparation or training.

15 "Department" means the department of commerce and consumer
16 affairs.

17 "Director" means the director of commerce and consumer
18 affairs.

19 "Enrollment agreement" means the contract prepared by a
20 private college, university, seminary, or religious training
21 institution that a student signs to indicate agreement to the
22 terms of admission, delivery of instruction, and monetary terms



1 as outlined in the private college, university, seminary, or
2 religious training institution's student handbook or catalog.

3 "Governing board" means the elected or appointed group of
4 persons that oversees and controls a private college,
5 university, seminary, or religious training institution.

6 "Home state" means the state in which the institution holds
7 its principal accreditation.

8 "Honorary degree" means a statement, diploma, certificate,
9 or other writing in any language that indicates or represents,
10 or that is intended to indicate or represent, that the person
11 named thereon is learned in a field of public service or has
12 performed outstanding public service or that the person named
13 thereon has demonstrated proficiency in a field of endeavor
14 without having completed formal courses of instruction or study
15 or formal preparation or training.

16 "Nationally recognized accrediting agency" means an agency
17 or association that the Secretary of the United States
18 Department of Education recognizes as a reliable authority to
19 determine the quality of education or training offered by an
20 institution.



1 "Out-of-state public institution" means an institution of
2 higher education that is established by a government entity in a
3 state other than Hawaii.

4 "Owner" means:

- 5 (1) An individual, if a private for-profit college or
6 university is structured as a sole proprietorship;
- 7 (2) Partners, if a private for-profit college or
8 university is structured as a partnership;
- 9 (3) Members in a limited liability company, if a private
10 for-profit college or university is structured as a
11 limited liability company; and
- 12 (4) Shareholders in a corporation that hold a controlling
13 interest, if a private for-profit college or
14 university is structured as a corporation.

15 "Physical presence" means:

- 16 (1) Having a physical location in the State where students
17 receive synchronous or asynchronous instruction; and
- 18 (2) Establishing an administrative office in the State in
19 order to:
- 20 (A) Provide information to prospective students,
21 enrolling students, or the general public about
22 the institution;



- 1 (B) Provide services to enrolled students;
- 2 (C) Provide office space for instructional or non-
- 3 instructional staff; and
- 4 (D) Maintain an institutional mailing address, street
- 5 address, or phone number in the State.

6 "Private college or university" means a non-public post-

7 secondary educational institution having a physical presence in

8 the State that enrolls the majority of its students in an

9 associate, baccalaureate, or postgraduate degree program. For

10 purposes of the requirements of this chapter, an out-of-state

11 public institution shall be considered as a private college or

12 university.

13 "Seminary" or "religious training institution" means an

14 entity that is owned, controlled, operated, and maintained by a

15 religious organization lawfully operating as a nonprofit

16 religious corporation and awards only religious degrees or

17 certificates, including a certificate of Talmudic studies, an

18 associate of Biblical studies, a bachelor of religious studies,

19 a master of divinity, or a doctor of divinity.

20 "Unaccredited post-secondary educational institution" means

21 a degree-granting institution that is not accredited or that is



1 a candidate for accreditation by at least one accrediting agency
2 recognized by the United States Department of Education.

3 "University of Hawaii system" means the post-secondary
4 educational institution, including all campuses and community
5 colleges, established and existing pursuant to article X,
6 section 5, of the Hawaii state constitution and chapter 304A.

7 § -2 **Applicability of this chapter; exceptions.** (a)

8 This chapter shall apply to private colleges or universities,
9 seminaries, and religious training institutions.

10 (b) This chapter shall not apply to:

11 (1) The University of Hawaii system;

12 (2) Private colleges or universities, including
13 occupational or vocational schools, that enroll its
14 students only at the certificate level in order to
15 engage in a profession or vocation that are regulated
16 under another chapter;

17 (3) Schools or educational programs conducted by firms,
18 corporations, or persons for the training of their own
19 employees;

20 (4) Apprenticeship or other training programs provided by
21 labor unions to union members or applicants for
22 membership in the union;



- 1 (5) Schools or educational programs that provide courses
2 of instruction that do not lead to the conferring of a
3 degree;
- 4 (6) Schools or educational programs that offer seminars,
5 refresher courses, and programs of instruction
6 sponsored by professional, business, or farming
7 organizations or associations for their members or the
8 employees of their members;
- 9 (7) Schools or educational programs that offer courses of
10 instruction conducted by public school complex areas;
- 11 (8) Schools, courses of instruction, or courses of
12 training that are offered by a vendor or the purchaser
13 or prospective purchaser of the vendor's product when
14 the objective of the school or course is to enable the
15 purchaser or the purchaser's employees to gain the
16 skills and knowledge necessary to use the product;
- 17 (9) Schools and educational programs conducted by
18 religious organizations solely for the religious
19 instruction of their members;
- 20 (10) Non-degree-granting post-secondary educational
21 institutions licensed by the department of education



1 or the real estate commission and barber and
2 cosmetology schools licensed by the department; and
3 (11) Unaccredited post-secondary educational institutions
4 governed by chapter 446E, except as provided under
5 section -4.

6 (c) Nothing shall prohibit an entity listed in subsection
7 (b) from applying for authorization; provided that such entity
8 shall meet the criteria for and comply with all authorization
9 requirements under this chapter.

10 **§ -3 Establishment of the state post-secondary education**
11 **commission; membership; administration.** (a) There is
12 established a state post-secondary education commission. The
13 commission shall be placed within the department for
14 administrative purposes.

15 (b) The commission shall consist of five members, of whom
16 three shall be representative of the general public and two
17 shall be representative of public and private nonprofit and for-
18 profit institutions of post-secondary education in the State.
19 Commission members shall be appointed by the governor, without
20 regard to sections 26-34 and 78-4; provided that the
21 appointments shall be subject to the advice and consent of the
22 Senate.



1 (c) Upon the appointment of the initial members and by
2 July 1 of each year thereafter, the commission shall elect a
3 chairperson and vice chairperson. In the event that neither the
4 chairperson nor the vice chairperson is present to preside over
5 a meeting of the commission, the members present shall select a
6 chairperson pro tempore.

7 (d) Three members of the commission shall constitute a
8 quorum to do business and a concurrence of at least three
9 members shall be necessary to make any action of the commission
10 valid.

11 (e) Commission members shall not serve more than three
12 consecutive three-year terms, not including the initial members'
13 initial terms, with each term starting on July 1; provided that
14 the initial terms that commence after June 30, 2013, shall be
15 staggered as follows:

16 (1) Two members, including the chairperson, to serve
17 three-year terms;

18 (2) Two members to serve two-year terms; and

19 (3) One member to serve a one-year term.

20 (f) Notwithstanding the terms of the members, the governor
21 may fill vacancies on the commission at any time a vacancy
22 occurs due to resignation, non-participation, the request of a



1 majority of the commission members, or termination by the
2 governor for cause.

3 (g) Commission members shall serve without compensation.
4 When commission duties require that a commission member take
5 leave of the member's duties as a state employee, the
6 appropriate state department shall allow the commission member
7 to be placed on administrative leave with pay and shall provide
8 substitutes, when necessary, to fulfill that member's
9 departmental duties. Members shall be reimbursed for necessary
10 travel expenses incurred in the conduct of official commission
11 business.

12 (h) The commission shall establish operating procedures
13 that shall include:

14 (A) Conflict-of-interest procedures for any member
15 whose school of employment or governing board is
16 before the commission; and

17 (B) Procedures for the handling of proprietary
18 information.

19 (i) The commission shall operate with dedicated resources
20 and staff qualified to execute the day-to-day responsibilities
21 of the commission pursuant to this chapter.



1 (j) The commission shall meet not less than once per year
2 at a time and location to be determined by the commission.

3 § -4 **Commission powers and authority.** (a) The
4 commission shall:

- 5 (1) Adopt, amend, and repeal rules pursuant to chapter 91
6 to carry out the purposes of this chapter;
- 7 (2) Issue declaratory rulings or informal, non-binding
8 interpretations and conduct contested case proceedings
9 pursuant to chapter 91;
- 10 (3) Grant, deny, confirm, forfeit, renew, reinstate, or
11 restore authorizations, including conditional,
12 probationary, or qualified authorizations;
- 13 (4) Revoke, suspend, condition, or otherwise limit the
14 authorization of an institution for any violation of
15 this chapter, applicable rules, or the Higher
16 Education Act of 1965, as amended;
- 17 (5) Establish requirements for authorization in accordance
18 with the provisions of this chapter;
- 19 (6) Investigate and conduct hearings regarding any
20 violation of this chapter, applicable rules, or the
21 Higher Education Act of 1965, as amended;



- 1 (7) Create fact-finding committees, which may make
2 recommendations to the commission for its
3 consideration;
- 4 (8) Contract with qualified persons, including
5 investigative and legal staff, who may be exempt from
6 chapter 76, to assist the commission in exercising its
7 powers and duties;
- 8 (9) Subpoena witnesses and documents, administer oaths,
9 and receive affidavits and oral testimony, including
10 communications through electronic media;
- 11 (10) Establish the types and amounts of fees that a private
12 college, university, seminary, or religious training
13 institution shall pay pursuant to section -18;
- 14 (11) Establish policies to require authorized institutions,
15 upon request, to submit to the commission, data that
16 is directly related to student enrollment and degree
17 completion and, if applicable, student financial aid
18 and educator preparation programs, which policies
19 shall include a determination as to whether data
20 received may be disclosed to the public;
- 21 (12) Enter into any post-secondary education authorization
22 reciprocity agreement with other post-secondary



1 educational authorizers of schools whose home state is
2 not Hawaii; provided that the authorization standards
3 of the reciprocity agreement shall be substantially
4 comparable to or exceed the authorization requirements
5 of this chapter and applicable administrative rules;

6 (13) Do any and all things necessary or incidental to the
7 exercise of the commission's powers and duties; and

8 (14) Effective July 1, 2015, oversee the authorization of
9 unaccredited degree granting institutions pursuant to
10 chapter 446E.

11 (b) The commission may cooperate with the federal
12 government to qualify the State to receive funds made available
13 under the Higher Education Act of 1965, as amended from time to
14 time, and in addition may serve as the state agency for the
15 receipt of federal funds when federal legislation dealing with
16 higher education or post-secondary education requires, as a
17 condition of the receipt of such funds, the designation of a
18 state agency that is broadly representative of the general
19 public and of post-secondary education in the State and when
20 agencies other than the commission do not qualify.

21 (c) No funds appropriated to the commission by the
22 legislature shall be used to aid a person attending an



1 institution not owned or exclusively controlled by the State or
2 a department of the State or to pay for any staff work
3 distributing federal or private funds to students attending such
4 schools. The maximum amount of any grant awarded under the
5 Hawaii state incentive grant program shall be equal to the
6 maximum allowed by federal law.

7 (d) The commission, when appropriate and necessary, may be
8 assisted by other state agencies, including but not limited to
9 the University of Hawaii system and the department of education.

10 **§ -5 Department powers and authority; delegated**

11 **authority.** (a) The department shall administer the provisions
12 of this chapter and any administrative rules, policies, and
13 procedures adopted by the commission.

14 (b) To administer this chapter, the commission shall
15 delegate to the department the following authority:

- 16 (1) Maintaining a list of institutions that have been
17 issued certificates of authorization by the commission
18 and making the list available to the public; provided
19 that the department shall be afforded a reasonable
20 period of time to update authorization status; and
21 (2) Receiving, arbitrating, and investigating complaints
22 or possible violations of the provisions of this



1 chapter concerning an institution authorized by the
2 commission or an institution engaged in activity for
3 which authorization by the commission is required and
4 publicly disclosing the nature and outcome of any
5 complaints received by or investigations initiated by
6 the department.

7 (c) The commission may also delegate to the department any
8 of its powers or duties as it deems reasonable and proper for
9 the administration of this chapter. Such delegated powers and
10 duties may be exercised by the department in the name of the
11 commission; provided that the commission shall not delegate the
12 authority to adopt, amend, or repeal rules, or take final
13 disciplinary action against an institution.

14 (d) In administering responsibilities delegated to it by
15 the commission, the department may assess fees sufficient to
16 provide for the self-sufficiency of the program pursuant to
17 section 26-9.

18 § -6 **Awarding degrees.** Notwithstanding any law to the
19 contrary, a person, partnership, corporation, company, society,
20 or association with a physical presence in the State shall not
21 award, bestow, confer, give, grant, convey, or sell to any other
22 person a degree or honorary degree upon which is inscribed, in



1 any language, the word "associate", "bachelor", "baccalaureate",
2 "master", or "doctor", or any abbreviation thereof, or offer
3 courses of instruction or credits purporting to lead to any such
4 degree, unless the person, partnership, corporation, company,
5 society, or association is:

6 (1) A private college or university, seminary, or
7 religious training institution that is authorized
8 pursuant to this chapter; or

9 (2) A part of the University of Hawaii system.

10 **§ -7 Authorization to operate in the State; private**

11 **college or university.** (a) To operate in the State, a private
12 college or university shall apply for, on a form prescribed by
13 the commission, and receive authorization from the commission;
14 provided that a private college or university shall apply for
15 and obtain a separate authorization for each campus, branch, or
16 site that is separately accredited. A separate authorization
17 shall not be required for additional professional
18 accreditations. A private, nonprofit college or university
19 shall submit verification of its nonprofit status with its
20 application.

21 (b) Upon receiving an application for authorization, the
22 commission shall review the application to determine whether the



1 private college or university is institutionally accredited by a
2 nationally recognized accrediting agency. The commission shall
3 not approve an application from a private college or university
4 that, in the two years preceding submission of the application,
5 has:

6 (1) Had its accreditation suspended or withdrawn;
7 (2) Been prohibited from operating in another state; or
8 (3) Substantially the same owners, governing board, or
9 principal officers as a private college or university
10 that has:

11 (A) Had its accreditation suspended or withdrawn; or
12 (B) Been prohibited from operating in another state.

13 (c) To operate in the State, a private college or
14 university shall be institutionally accredited on the basis of
15 an on-site review by a nationally recognized accrediting agency.

16 (d) A private college or university shall, within thirty
17 days of the action, notify the department of any material
18 information related to an action by the institution's
19 accrediting body concerning the institution's accreditation
20 status, including but not limited to reaffirmation or loss of
21 accreditation, approval of a request for change, a campus
22 evaluation visit, a focused visit, or approval of additional



1 locations. In addition, the institution shall immediately
2 notify the department if the institution's accrediting body is
3 no longer recognized by the United States Department of
4 Education.

5 (e) A private college or university authorized pursuant to
6 this chapter shall pay any and all fees established pursuant to
7 section -18.

8 **§ -8 Authorization to operate in the State; seminary or**
9 **religious training institutions.** (a) To operate in the State,
10 a seminary or religious institution shall apply for, on a form
11 prescribed by the commission, and receive authorization from the
12 commission; provided that the institution shall establish that
13 it qualifies as a bona fide religious training institution and
14 as an institution of post-secondary education.

15 (b) Nothing in this section shall preclude a seminary or
16 religious training institution from seeking authorization.

17 **§ -9 Confirmation of authorization.** Upon the request of
18 an institution to confirm authorization, the commission shall
19 consider whether an authorization shall be issued. The
20 commission shall issue written findings and if appropriate, a
21 certificate of authorization. The certificate of authorization
22 shall have the effect of establishing that the institution is



1 legally authorized by the State, as contemplated by 34 Code of
2 Federal Regulations section 600.9(a)(1)(i)(A), 600.9(a)(1)(ii),
3 or 600.9(b).

4 § -10 **Reauthorization.** (a) A private college or
5 university that is authorized pursuant to section -7 and
6 maintains its accreditation pursuant to this chapter shall apply
7 to the department for reauthorization in accordance with its
8 schedule for reaccreditation or every three years, whichever is
9 longer. A private college or university that has its
10 accreditation reaffirmed without sanction, continues to
11 demonstrate its compliance with section -14, and is not
12 subject to investigation pursuant to section -12, shall
13 otherwise be presumed to be qualified for reauthorization under
14 this chapter for a period of three years or the length of the
15 private college or university's accreditation, whichever is
16 longer.

17 (b) A seminary or religious training institution
18 authorized pursuant to section -8 shall apply to the
19 department for reauthorization every three years except as
20 provided under subsection (a). A seminary or religious training
21 institution that continues to meet the minimum operating
22 standards specified in this chapter and is not subject to



1 investigation pursuant to section -12, shall otherwise be
2 presumed to be qualified for reauthorization under this chapter
3 for a period of three years.

4 (c) By June 30, 2014, the commission shall adopt policies
5 and procedures, without regard to chapter 91, for
6 reauthorization under this section.

7 (d) Private colleges, universities, seminaries and
8 religious training institutions applying for reauthorization
9 under this section shall pay the fees required pursuant to
10 section -18.

11 (e) If a private college, university, seminary, or
12 religious training institution cannot demonstrate that it meets
13 the minimum operating standards of this chapter, the commission
14 shall deny the application for reauthorization. The commission
15 shall provide the private college or university, seminary, or
16 religious training institution with written notification of the
17 denial of the application for reauthorization and the basis for
18 the denial. If, within six months of receiving notice that its
19 application for reauthorization has been denied, the private
20 college or university, seminary, or religious training
21 institution corrects the action or condition upon which the
22 denial was based, it may reapply for reauthorization. If the

1 private college or university, seminary, or religious training
2 institution does not correct the action or condition upon which
3 the denial was based, it may submit a new application for
4 authorization pursuant to section -7 or -8, whichever is
5 applicable, once the action or condition has been corrected.

6 (f) If a private college or university is under a sanction
7 from its accrediting body at the time it submits its application
8 for reauthorization, the commission may:

- 9 (1) Approve the private college or university's
10 reauthorization; or
- 11 (2) Grant the probationary approval of the private college
12 or university's reauthorization; provided that if the
13 private college or university is granted probationary
14 reauthorization:
- 15 (A) The commission shall provide the private college
16 or university with written notice of its
17 probationary status;
- 18 (B) The private college or university shall reapply
19 for reauthorization on an annual basis until the
20 accrediting body lifts its sanction; and



1 (C) The private college or university shall provide
2 the commission with an annual report on its
3 progress toward removing the sanction.

4 § -11 Grounds for refusal to reauthorize, reinstate, or
5 restore and for revocation, suspension, probation, or denial;
6 condition of authorization or sanctions. (a) In addition to
7 any other acts or conditions provided by law, the commission may
8 refuse to reauthorize, reinstate or restore, or may deny,
9 revoke, suspend, or condition in any manner, including but not
10 limited to probation, any authorization for any one or more of
11 the following acts or conditions on the part of the institution
12 or applicant:

13 (1) Failure to meet or maintain the conditions and
14 requirements necessary to qualify for or maintain an
15 authorization;

16 (2) Engaging in false, fraudulent, or deceptive
17 advertising, or making untruthful or improbable
18 statements;

19 (3) Procuring an authorization, reauthorization, or
20 certification through fraud, misrepresentation,
21 material omission, or deceit;



- 1 (4) Misconduct, incompetence, gross negligence, or
2 manifest incapacity in the operation of the
3 institution;
- 4 (5) Failure to maintain a record or history of competency,
5 trustworthiness, fair dealing, and financial
6 integrity;
- 7 (6) Conduct or practice contrary to recognized standards
8 of ethics for the industry;
- 9 (7) Engaging in business under a past or present
10 authorization issued pursuant to this chapter in a
11 manner causing injury to one or more members of the
12 public;
- 13 (8) Failure to comply with, observe, or adhere to any law
14 in a manner such that the commission deems the
15 applicant or holder to be an unfit or improper
16 institution for authorization;
- 17 (9) Revocation, suspension, deauthorization, or other
18 disciplinary action by another state or federal agency
19 against an institution or applicant for any reason
20 provided by this chapter or rules adopted hereunder;
- 21 (10) Criminal conviction, whether by nolo contendere or
22 otherwise, of a penal crime directly related to the



1 qualifications, functions, or duties of the
2 institution or applicant in any jurisdiction in which
3 the institution operates;

4 (11) Failure to report in writing to the commission any
5 disciplariy decision issued against the institution or
6 the applicant in another jurisdiction within thirty
7 days of the disciplinary decision;

8 (12) Failure to report in writing to the commission any
9 change in accreditation status by any accrediting
10 agency; or

11 (13) Violating any provision of this chapter or rules
12 adopted hereunder.

13 The department may issue sanctions for any violation of this
14 subsection.

15 (b) It shall be a violation of this chapter for a private
16 college or university, seminary, or religious training
17 institution or its agent to:

18 (1) Make or cause to be made any statement or
19 representation, oral, written, or visual, in
20 connection with the offering of educational services
21 if the private college or university, seminary, or
22 religious training institution or its agent knows or



- 1 reasonably should have known the statement or
2 representation to be false, inaccurate, or misleading;
- 3 (2) Falsely represent or materially omit, directly or by
4 implication, through the use of a trade or business
5 name, the fact that the institution is a private
6 college or university, seminary, or religious training
7 institution;
- 8 (3) Adopt a name, trade name, or trademark that represents
9 falsely, directly or by implication, the quality,
10 scope, nature, size, or integrity of the private
11 college or university, seminary, or religious training
12 institution or its educational services;
- 13 (4) Represent falsely, directly or by implication, that
14 students who successfully complete a course or program
15 of instruction may transfer the credits earned to any
16 institution of higher education;
- 17 (5) Represent falsely, directly or by implication, in its
18 promotional materials or in any other manner:
- 19 (A) Its size, location, facilities, or equipment;
- 20 (B) The number, educational experience, or
21 qualifications of its faculty;



- 1 (C) The extent or nature of any approval received
2 from any state agency; or
- 3 (D) The extent or nature of any accreditation
4 received from any accrediting agency, body, or
5 association;
- 6 (6) Provide prospective students with testimonials,
7 endorsements, or other information that has the
8 tendency to mislead or deceive prospective students or
9 the public regarding its current practices;
- 10 (7) Designate or refer to its sales representatives by
11 titles that imply that the sales representatives have
12 training in academic counseling or advising if they do
13 not; or
- 14 (8) Represent, directly or by implication, that it is
15 authorized by the State or approved or accredited by
16 an accrediting agency or body when it has not been
17 authorized, approved, or accredited.
- 18 (c) Any private college or university, seminary, or
19 religious training institution or its agent that violates this
20 chapter may be subject to one or more of the following
21 sanctions:



- 1 (1) A fine equal to a sum of not less than \$500 or more
2 than \$10,000 for each violation. The penalties
3 provided in this subsection are cumulative to the
4 remedies or penalties available under all other laws
5 of this State. Each day that a violation occurs shall
6 be considered a separate violation;
- 7 (2) An order directing corrective action on the part of
8 the institution;
- 9 (3) An order of restitution to one or more affected
10 students;
- 11 (4) Revocation, suspension, probation, or conditions on
12 the institution's authorization;
- 13 (5) An order relating to cessation of operations or
14 alternate enrollment; or
- 15 (6) The payment of costs of investigation and legal
16 action, irrespective of the outcome.

17 § -12 **Requirements to maintain authorization.** (a)
18 Authorization by the commission shall be conditioned on the
19 maintenance of national accreditation by the institution and a
20 valid surety bond as provided for in section -14.
21 Authorization shall be automatically suspended effective as of
22 the date of the cancellation or expiration of accreditation or



1 the cancellation or expiration of the surety bond. The
2 commission shall not reinstate the affected institution until
3 satisfactory proof of compliance is submitted to the commission.
4 Failure to reinstate a suspended authorization within sixty days
5 of suspension shall result in the termination of the
6 authorization and the institution shall forfeit all fees and
7 shall be required to apply for authorization as a new applicant.

8 (b) An institution's authorization shall be placed on
9 probationary status without further action by the commission or
10 department in the event that:

11 (1) The institution is placed on probationary status by
12 its nationally recognized accrediting agency,
13 contemporaneous with the action of such agency; or

14 (2) The institution's nationally recognized accrediting
15 agency ceases to be recognized by the United States
16 Department of Education.

17 (c) An institution may, within fifteen days of the receipt
18 of the notification of probation under this section, request an
19 administrative hearing for review pursuant to chapter 91.

20 (d) The commission may revoke a private college or
21 university's authorization or place a private college or
22 university on probationary status if:



- 1 (1) The private college or university fails to
2 substantially comply with the applicable laws or rules
3 of any other state board or agency that has
4 jurisdiction over the private college or university;
5 or
- 6 (2) The private college or university violates any
7 criminal law of this State, the federal government, or
8 any other state in which it operates, that is directly
9 relevant to the institution's authorization status.
- 10 (e) The commission may revoke a seminary or religious
11 training institution's authorization or place the seminary or
12 religious training institution on probationary status if the
13 seminary or religious training institution:
- 14 (1) No longer meets the definition of a seminary or
15 religious training institution under this chapter;
- 16 (2) Fails to meet any of the minimum standards set forth
17 in this chapter or in administrative rules adopted
18 pursuant to this chapter; or
- 19 (3) Violates any criminal law of this State, the federal
20 government, or any other state in which it operates,
21 that is directly relevant to the institution's
22 authorization status.



1 (f) If the commission has reason to believe that a private
2 college or university, seminary, or religious training
3 institution meets one or more of the grounds specified in
4 subsections (a), (b), (d), (e), or section -11, as
5 applicable, the commission may order the department to
6 investigate whether to revoke its authorization or place it on
7 probation.

8 (g) To assist the department in conducting an
9 investigation pursuant to subsection (f), the commission shall
10 have the power to:

11 (1) Subpoena any persons, books, records, or documents
12 pertaining to the investigation;

13 (2) Require answers in writing, under oath, to any
14 question from the commission or department; and

15 (3) Administer an oath or affirmation to any person in
16 connection with the investigation.

17 (h) In conducting an investigation, the department may
18 physically inspect the private college or university, seminary,
19 or religious training institution's facilities and records, and
20 the institution shall have an affirmative duty to cooperate with
21 requests from the department for information regarding any
22 investigation or inspection.



1 (i) Upon the conclusion of any investigation pursuant to
2 subsections (f) and (g), the department shall make available the
3 results of the investigation to the commission so the commission
4 may decide whether or not to revoke the private college or
5 university, seminary, or religious training institution's
6 authorization or place it on probation; provided that the
7 department shall identify the applicable grounds for revocation
8 or probation as specified in subsections (a), (b), (d), (e), or
9 section -11.

10 (j) If the commission revokes a private college or
11 university, seminary, or religious training institution's
12 authorization or places it on probationary status pursuant to
13 this section, the commission shall accord the private college or
14 university, seminary, or religious training institution the
15 right to contest the decision pursuant to chapter 91.

16 (k) If an institution's authorization is revoked due to
17 the institution's loss of accreditation, the institution shall
18 provide written notice to all students within thirty days.

19 (l) The commission may assess a fee of \$1,000 and impose
20 additional requirements as a condition of reinstatement. An
21 institution may, within fifteen days after receipt of the
22 notification of the suspension under this section, request an



1 administrative hearing to review the suspension pursuant to
2 chapter 91.

3 (m) A private college or university, seminary, or
4 religious training institution that is authorized pursuant to
5 this chapter shall:

6 (1) Not make or cause to be made any oral, written, or
7 visual statement or representation that violates
8 section -11(b);

9 (2) Provide the department with a copy of its enrollment
10 agreement, if applicable, in accordance with its
11 reauthorization schedule;

12 (3) Provide instruction, in accordance with the standards
13 and criteria set by its accrediting body; and

14 (4) If its ownership changes, provide the department with
15 any material information concerning the transaction at
16 least thirty days prior to the transaction.

17 (n) If a private college or university, seminary, or
18 religious training institution violates any of the requirements
19 of subsection (m), the commission shall determine whether the
20 institution shall be placed on probation or have its
21 authorization revoked.



1 § -13 **Deposit of records upon discontinuance.** (a) If a
2 private college or university, seminary, or religious training
3 institution ceases operating within the State, its owner or the
4 owner's designee shall deposit with the department the original
5 or legible copies of all of its educational records.

6 (b) If the commission determines that the records of a
7 private college or university, seminary, or religious training
8 institution that ceases operating within the State are in danger
9 of being destroyed, secreted, mislaid, or otherwise made
10 unavailable to the department, the commission may seek a court
11 order authorizing the department to seize or take possession of
12 the records.

13 (c) Upon the request of the commission, the department or
14 the department of the attorney general may enforce the
15 provisions of this section by filing a request for an injunction
16 with a court of competent jurisdiction.

17 (d) The department shall retain any other records obtained
18 pursuant to this section for ten years; provided that after this
19 period, the department shall dispose of the records in a manner
20 that will adequately protect the privacy of any personal
21 information included in the records.



1 (e) If a private college or university, seminary, or
2 religious training institution violates any of the requirements
3 of subsection (a), the commission may place it on probation or
4 revoke its authorization.

5 § -14 **Financial integrity; surety bond.** (a) A private
6 college or university shall provide evidence of financial
7 integrity at the time of its application for authorization. A
8 private college or university may demonstrate financial
9 integrity by meeting the criteria specified in subsection (b) or
10 (c).

11 (b) A private college or university may demonstrate
12 financial integrity if it:

13 (1) Has been accredited for at least ten years by an
14 accrediting agency that is recognized by the United
15 States Department of Education;

16 (2) Has operated continuously in the State for at least
17 ten years;

18 (3) Has not filed for bankruptcy protection pursuant to
19 title 11 of the United States Code;

20 (4) Maintains a composite score of at least 1.5 on its
21 equity, primary reserve, and net income ratios, as



1 required in title 34 Code of Federal Regulations
2 section 668.172; and
3 (5) Meets or exceeds the pro rata refund policies required
4 by the United States Department of Education in title
5 34 Code of Federal Regulations section 668; provided
6 that if it does not participate in federal financial
7 aid programs, its refund and termination procedures
8 comply with the requirements of its accrediting body;
9 provided that a private college or university is not required to
10 meet the criteria specified in paragraphs (1) and (2) if the
11 private college or university is part of a group of private
12 colleges or universities that is owned and operated by a common
13 owner and the other private colleges and universities meet the
14 specified criteria in paragraphs (1) and (2).

15 (c) A private college or university may demonstrate
16 financial integrity if it:

17 (1) Has received and maintains full accreditation without
18 sanction from an accrediting body that is recognized
19 by the United States Department of Education, and such
20 accrediting body requires the private college or
21 university to maintain a surety bond or an escrow
22 account or has affirmatively waived or otherwise



- 1 removed that requirement for the private college or
2 university;
- 3 (2) Has been continuously authorized by the commission for
4 at least five years;
- 5 (3) Owns and operates a permanent instructional facility
6 in the State;
- 7 (4) Annually provides to the commission audited financial
8 statements for the most recent fiscal year that
9 demonstrate that the private college or university
10 maintains positive equity and profitability;
- 11 (5) Maintains a composite score of at least 1.5 on its
12 equity, primary reserve, and net income ratios, as
13 required in title 34 Code of Federal Regulations
14 section 668.172; and
- 15 (6) Meets or exceeds the pro rata refund policies required
16 by the United States Department of Education in title
17 34 Code of Federal Regulations section 668; provided
18 that if it does not participate in federal financial
19 aid programs, its refund and termination procedures
20 comply with the requirements of its accrediting body.
- 21 (d) If a private college or university cannot demonstrate
22 financial integrity as provided in subsections (b) and (c), the



1 private college or university shall file with the director a
2 surety bond in favor of the State in an amount calculated
3 pursuant to subsection (f) prior to receiving authorization
4 under this chapter. The surety bond shall be executed by the
5 private college or university as the principal and by a surety
6 company authorized to do business in the State.

7 (e) The surety bond shall be conditioned to provide
8 indemnification to any student or enrollee, to any parent or
9 legal guardian of a student or enrollee, that the commission
10 finds to have suffered a loss of tuition or any fees as a result
11 of any act or practice that is a violation of this chapter and
12 to provide alternative enrollment as provided in section -15
13 for students enrolled in a private college or university that
14 ceases operation.

15 (f) The amount of the surety bond that a private college
16 or university submits pursuant to subsection (d) shall be the
17 greater of \$5,000 or an amount equal to a reasonable estimate of
18 the maximum prepaid, unearned tuition and fees of the private
19 college or university for the period or term during the
20 applicable academic year for which programs of instruction are
21 offered, including but not limited to programs offered on a
22 semester, quarter, monthly, or class basis; provided that the



1 private college or university shall use the period or term of
2 greatest duration and expense in determining this amount if its
3 academic year consists of one or more periods or terms.

4 Following the initial filing of the surety bond with the
5 department, the private college or university shall recalculate
6 the amount of the surety bond annually based on a reasonable
7 estimate of the maximum prepaid, unearned tuition and fees
8 received by the institution for the applicable period or term.

9 (g) The commission may disapprove a surety bond if it
10 finds that the surety bond is not sufficient to provide students
11 with indemnification and alternative enrollment as required by
12 this section.

13 (h) The authorization for a private college or university
14 shall be suspended by operation of law when it is no longer
15 covered by a surety bond as required by this section. The
16 department shall give written notice to the private college or
17 university at its last-known address, at least forty-five days
18 before the release of the surety bond, to the effect that the
19 private college or university's authorization is suspended by
20 operation of law until it files evidence of a surety bond in a
21 like amount as the surety bond being released.



1 (i) The principal on a surety bond filed under the
2 provisions of this section is released from the surety bond
3 after the principal serves written notice thereof to the
4 commission at least sixty days before the release. The release
5 does not discharge or otherwise affect a claim filed by a
6 student or enrollee or the student or enrollee's parent or legal
7 guardian pursuant to section -15 for loss of tuition or fees
8 that occurred while the surety bond was in effect or that
9 occurred under any note or contract executed during any period
10 of time when the surety bond was in effect, except when another
11 surety bond is filed in a like amount and provides
12 indemnification for any such loss.

13 (j) Each private college or university that files a surety
14 bond pursuant to this section shall provide annual verification
15 of continued coverage as required by this section in a report to
16 the commission no later than January 1 of each year.

17 (k) A seminary or religious training institution is not
18 subject to the requirements of this section.

19 **§ -15 Claims against a private college or university;**
20 **cessation of operation; alternative enrollment.** (a) A student
21 or enrollee, or a parent or guardian of the student or enrollee,
22 who claims loss of tuition or fees as a result of cessation of



1 operations may file a claim with the commission if the claim
2 results from an act or practice that violates a provision of
3 this chapter. The claims that are filed with the commission
4 shall be public records and subject to the provisions of chapter
5 92F; provided that the department shall not make the records
6 public if the release would violate a state or federal privacy
7 law.

8 (b) Notwithstanding the provisions of subsection (a), the
9 commission shall not consider a claim that is filed more than
10 two years after the date the student discontinues enrollment
11 with the private college or university.

12 (c) If a private college or university ceases operation,
13 the commission may make demand on the surety bond upon the
14 demand for a refund by a student or the implementation of
15 alternate enrollment for the students enrolled in the
16 institution, and the principal on the surety bond shall pay the
17 claim due in a timely manner. To the extent practicable, the
18 commission shall use the amount of the surety bond to provide
19 alternate enrollment for students of the institution that ceases
20 operation through a contract with another authorized private
21 college or university, the University of Hawaii system, an area
22 vocational school, or any other arrangement that is acceptable



1 to the department. The alternate enrollment provided to a
2 student shall replace the original enrollment agreement, if any,
3 between the student and the private college or university;
4 provided that the student shall make the tuition and fee
5 payments as required by the original enrollment agreement, if
6 any.

7 (d) A student who is enrolled in a private college or
8 university that ceases operation and who declines the alternate
9 enrollment required to be offered pursuant to subsection (c) may
10 file a claim with the commission for the student's prorated
11 share of the prepaid, unearned tuition and fees that the student
12 paid, subject to the limitations of subsection (e). The
13 commission shall not make a subsequent payment to a student
14 unless the student submits proof of satisfaction of any prior
15 debt to a financial institution in accordance with rules adopted
16 by the commission.

17 (e) If the amount of the surety bond is less than the
18 total prepaid, unearned tuition and fees that have been paid by
19 students at the time the private college or university ceases
20 operation, the department shall prorate the amount of the surety
21 bond among the students.



1 (f) The provisions of this section are applicable only to
2 those students enrolled in the private college or university at
3 the time it ceases operation, and once a private college or
4 university ceases operation, no new students shall be enrolled
5 therein.

6 (g) The commission shall be responsible for all prepaid,
7 unearned tuition and fees, student loans, Pell grants, and other
8 student financial aid assistance if an authorized private
9 college or university ceases operation.

10 (h) The commission shall determine whether offering
11 alternate enrollment for students enrolled in an authorized
12 private college or university that ceases operation is
13 practicable without federal government designation of the
14 commission as trustee for student loans, Pell grants, and other
15 student financial aid assistance pursuant to subsection (g).

16 (i) For claims made pursuant to this section that do not
17 involve a private college or university that ceases operation,
18 the commission shall conduct a public hearing, without regard to
19 chapter 91, to determine whether there is loss of tuition or
20 fees, and if the commission finds that a claim is valid and due
21 the claimant, the commission shall make demand upon the surety
22 bond. If the principal on the surety bond fails or refuses to



1 pay the claim due, the commission shall commence an action on
2 the surety bond in a court of competent jurisdiction; provided
3 that the commission shall not file an action more than six years
4 after the date of the violation that gives rise to the right to
5 file a claim pursuant to this section.

6 (j) If a private college or university that is exempt from
7 the provisions of, or that demonstrates financial integrity
8 pursuant to, section -14, ceases to operate in the State, the
9 department of the attorney general may file a claim against the
10 private college or university on behalf of students enrolled in
11 the private college or university at the time it ceases
12 operation to recover any amount of unearned, prepaid tuition
13 that may be owed to the students.

14 (k) A seminary or religious training institution is not
15 subject to the requirements of this section.

16 § -16 **Reciprocity.** The commission may enter into any
17 post-secondary education authorization reciprocity agreement;
18 provided that the authorization standards of the reciprocity
19 agreement shall be comparable to or exceed the authorization
20 requirements of this chapter and any applicable administrative
21 rules.



1 § -17 **Complaints; injunctive proceedings.** (a) By
2 July 1, 2014, the commission shall establish procedures, without
3 regard to chapter 91, by which a student or former student of a
4 private college or university, seminary, or religious training
5 institution may file a complaint with the department concerning
6 the institution in which the student is or was enrolled;
7 provided that if a former student files a complaint, the
8 complaint shall be filed within two years after the former
9 student discontinued enrollment at the institution.

10 (b) The department may investigate complaints based
11 possible violations of this chapter or rules adopted hereunder.
12 The commission and the department may initiate complaints based
13 on information received by the commission for possible
14 violations of this chapter or rules adopted hereunder.

15 (c) Nothing in this section shall give the commission or
16 department jurisdiction to consider complaints that infringe on
17 the academic or religious freedom of, or question the curriculum
18 content of, a private college, university, seminary, or
19 religious training institution.

20 (d) Upon receipt of a complaint filed by a student or
21 former student, the department shall verify that the complaint
22 was properly filed under the procedures established pursuant to



1 subsection (a). The complaint shall warrant investigation only
2 after the student or former student has exhausted all
3 administrative remedies available at the private college or
4 university, seminary, or religious training institution;
5 provided that if the complaint involves a violation of state or
6 federal criminal law, this requirement shall not apply. If a
7 complaint warrants investigation, the department shall forward
8 the complaint to the private college or university, seminary, or
9 religious training institution. The private college or
10 university, seminary, or religious training institution shall
11 have thirty days to respond in writing to the complaint unless
12 the commission, through procedures adopted pursuant to
13 subsection (a), determines that a shorter time frame is
14 required. If the department determines at any time that the
15 complaint no longer warrants investigation, the department shall
16 dismiss the complaint.

17 (e) If a complaint is not resolved within the thirty-day
18 period, the department may:

19 (1) Dismiss the complaint based on the private college,
20 university, seminary, or religious training
21 institution's response; or



1 (2) Investigate and, where appropriate, take disciplinary
2 action in a manner consistent with chapter 91.

3 (f) If the private college or university, seminary, or
4 religious training institution does not take the action
5 recommended by the commission, the commission may forward the
6 complaint and any of the commission's findings to the department
7 of the attorney general for appropriate action.

8 (g) The commission, acting through the department of the
9 attorney general, may proceed by injunction against any
10 violation of this chapter, but an injunction proceeding or an
11 order issued therein or as a result thereof shall not bar the
12 imposition of any other penalty for a violation of this chapter.
13 A private college or university, seminary, or religious training
14 institution shall be responsible for any and all fees and costs
15 associated with any prosecution under this chapter, regardless
16 of the outcome.

17 § -18 Fees; public hearing. (a) An educational
18 institution shall pay \$ to the department as a fee for
19 authorization under this chapter; provided that the commission
20 may change the amount of the fees required by this section or
21 assess additional fees at any time without regard to chapter 91,
22 if the commission:



1 (1) Holds at least one public hearing to discuss and take
2 testimony on the changing of the fees; and

3 (2) Provides public notice at least thirty days prior to
4 the date of the public hearing.

5 (b) Fees collected pursuant to this section shall be
6 deposited into the post-secondary education authorization
7 subaccount established pursuant to section 26-9(o).

8 **§ -19 Post-secondary education authorization subaccount.**

9 (a) All moneys collected pursuant to sections -11, -12,
10 -17, and -18 shall be deposited into the post-secondary
11 education authorization subaccount of the compliance resolution
12 fund established pursuant to section 26-9(o).

13 (b) Any law to the contrary notwithstanding, the moneys in
14 the subaccount shall be used to fund the operations of the
15 department in carrying out its duties under this chapter. Any
16 law to the contrary notwithstanding, the director may use the
17 moneys in the subaccount to employ, in accordance with chapter
18 76, personnel to carry out the department's duties under this
19 chapter. The moneys in the subaccount may be used to train
20 personnel as the director deems necessary and for any other
21 activity related to this chapter."



1 SECTION 3. Section 26-9, Hawaii Revised Statutes, is
2 amended by amending subsection (o) to read as follows:

3 "(o) Every person licensed under any chapter within the
4 jurisdiction of the department of commerce and consumer affairs
5 and every person licensed subject to chapter 485A or registered
6 under chapter 467B shall pay upon issuance of a license, permit,
7 certificate, or registration a fee and a subsequent annual fee
8 to be determined by the director and adjusted from time to time
9 to ensure that the proceeds, together with all other fines,
10 income, and penalties collected under this section, do not
11 surpass the annual operating costs of conducting compliance
12 resolution activities required under this section. The fees may
13 be collected biennially or pursuant to rules adopted under
14 chapter 91, and shall be deposited into the special fund
15 established under this subsection. Every filing pursuant to
16 chapter 514E or section 485A-202(a)(26) shall be assessed, upon
17 initial filing and at each renewal period in which a renewal is
18 required, a fee that shall be prescribed by rules adopted under
19 chapter 91, and that shall be deposited into the special fund
20 established under this subsection. Any unpaid fee shall be paid
21 by the licensed person, upon application for renewal,
22 restoration, reactivation, or reinstatement of a license, and by



1 the person responsible for the renewal, restoration,
2 reactivation, or reinstatement of a license, upon the
3 application for renewal, restoration, reactivation, or
4 reinstatement of the license. If the fees are not paid, the
5 director may deny renewal, restoration, reactivation, or
6 reinstatement of the license. The director may establish,
7 increase, decrease, or repeal the fees when necessary pursuant
8 to rules adopted under chapter 91. The director may also
9 increase or decrease the fees pursuant to section 92-28.

10 There is created in the state treasury a special fund to be
11 known as the compliance resolution fund to be expended by the
12 director's designated representatives as provided by this
13 subsection. Notwithstanding any law to the contrary, all
14 revenues, fees, and fines collected by the department shall be
15 deposited into the compliance resolution fund. Unencumbered
16 balances existing on June 30, 1999, in the cable television fund
17 under chapter 440G, the division of consumer advocacy fund under
18 chapter 269, the financial institution examiners' revolving
19 fund, section 412:2-109, the special handling fund, section
20 414-13, and unencumbered balances existing on June 30, 2002, in
21 the insurance regulation fund, section 431:2-215, shall be
22 deposited into the compliance resolution fund. This provision



1 shall not apply to the drivers education fund underwriters fee,
2 sections 431:10C-115 and 431:10G-107, insurance premium taxes
3 and revenues, revenues of the workers' compensation special
4 compensation fund, section 386-151, the captive insurance
5 administrative fund, section 431:19-101.8, the insurance
6 commissioner's education and training fund, section 431:2-214,
7 the medical malpractice patients' compensation fund as
8 administered under section 5 of Act 232, Session Laws of Hawaii
9 1984, and fees collected for deposit in the office of consumer
10 protection restitution fund, section 487-14, the real estate
11 appraisers fund, section 466K-1, the real estate recovery fund,
12 section 467-16, the real estate education fund, section 467-19,
13 the contractors recovery fund, section 444-26, the contractors
14 education fund, section 444-29, the condominium education trust
15 fund, section 514B-71, and the mortgage foreclosure dispute
16 resolution special fund, section 667-86. Any law to the
17 contrary notwithstanding, the director may use the moneys in the
18 fund to employ, without regard to chapter 76, hearings officers
19 and attorneys. All other employees may be employed in
20 accordance with chapter 76. Any law to the contrary
21 notwithstanding, the moneys in the fund shall be used to fund
22 the operations of the department. The moneys in the fund may be



1 used to train personnel as the director deems necessary and for
2 any other activity related to compliance resolution.

3 A separate subaccount of the compliance resolution fund
4 shall be established for the deposit of fees collected by the
5 state post-secondary education commission established pursuant
6 to section -3, which shall be called the post-secondary
7 education authorization subaccount. The subaccount shall be
8 governed by section -19.

9 As used in this subsection, unless otherwise required by
10 the context, "compliance resolution" means a determination of
11 whether:

12 (1) Any licensee or applicant under any chapter subject to
13 the jurisdiction of the department of commerce and consumer
14 affairs has complied with that chapter;

15 (2) Any person subject to chapter 485A has complied with
16 that chapter;

17 (3) Any person submitting any filing required by chapter
18 514E or section 485A-202(a)(26) has complied with chapter 514E
19 or section 485A-202(a)(26);

20 (4) Any person has complied with the prohibitions against
21 unfair and deceptive acts or practices in trade or commerce; or



1 (5) Any person subject to chapter 467B has complied with
2 that chapter;
3 and includes work involved in or supporting the above functions,
4 licensing, or registration of individuals or companies regulated
5 by the department, consumer protection, and other activities of
6 the department.

7 The director shall prepare and submit an annual report to
8 the governor and the legislature on the use of the compliance
9 resolution fund. The report shall describe expenditures made
10 from the fund including non-payroll operating expenses."

11 SECTION 4. Chapter 304A, part VII, subpart C, Hawaii
12 Revised Statutes, is repealed.

13 SECTION 5. There is appropriated out of the general
14 revenues of the State of Hawaii the sum of \$ or so
15 much thereof as may be necessary for fiscal year 2013-2014 and
16 the same sum or so much thereof as may be necessary for fiscal
17 year 2014-2015 to be paid into the post-secondary education
18 authorization subaccount of the compliance resolution fund
19 established pursuant to section 26-9(o), Hawaii Revised
20 Statutes.

21 The sums appropriated shall be expended by the department
22 of commerce and consumer affairs for the purposes of this Act.



1 SECTION 6. There is appropriated out of the post-secondary
2 education authorization subaccount of the compliance resolution
3 fund established pursuant to section 26-9(o), Hawaii Revised
4 Statutes, the sum of \$ or so much thereof as may be
5 necessary for fiscal year 2013-2014 and the same sum or so much
6 thereof as may be necessary for fiscal year 2014-2015 for four
7 full-time equivalent (4.0 FTE) permanent positions at the
8 department of commerce and consumer affairs to implement the
9 provisions of this Act.

10 The sums appropriated shall be expended by the department
11 of commerce and consumer affairs for the purposes of this Act.

12 SECTION 7. All appropriations, records, equipment,
13 machines, files, supplies, contracts, books, papers, documents,
14 maps, and other personal property heretofore made, used,
15 acquired, or held by the University of Hawaii relating to the
16 functions transferred to the department of commerce and consumer
17 affairs shall be transferred with the functions to which they
18 relate.

19 SECTION 8. To ensure that the post-secondary education
20 commission established by this Act is formed in time to meet the
21 July 1, 2013, federal deadline, the governor shall immediately
22 appoint, without regard to chapter 78 and section 26-34, five



1 interim commissioners, of whom three shall be representative of
2 the general public and two shall be representative of public and
3 private nonprofit and for-profit institutions of post-secondary
4 education in the State. The interim commissioners shall be
5 authorized to exercise all duties and responsibilities accorded
6 the post-secondary education commission under this Act and shall
7 serve until the appointment and confirmation of all members of
8 the post-secondary education commission pursuant to this Act, at
9 which time the interim commissioners shall be discharged and the
10 confirmed members shall begin their service.

11 PART II

12 SECTION 9. Section 446E-1, Hawaii Revised Statutes, is
13 amended by adding a new definition to be appropriately inserted
14 and to read as follows:

15 "Commission" means the state post-secondary education
16 commission established under section -3."

17 SECTION 10. Section 446E-1, Hawaii Revised Statutes, is
18 amended by deleting the definition of "director".

19 [~~"Director" means the director of commerce and consumer~~
20 ~~affairs."~~]

21 SECTION 11. Section 446E-1.5, Hawaii Revised Statutes, is
22 repealed.



1 SECTION 15. This Act does not affect rights and duties
2 that matured, penalties that were incurred, and proceedings that
3 were begun before its effective date.

4 SECTION 16. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 17. This Act shall take effect upon its approval;
7 provided that sections 5 and 6 shall take effect on July 1,
8 2013; provided further that part II shall take effect on July 1,
9 2015.



Report Title:

Post-Secondary Education; Department of Commerce and Consumer Affairs; Appropriation

Description:

Creates the framework for authorizing private post-secondary educational institutions in the State. Creates the post-secondary education authorization subaccount of the compliance resolution fund established pursuant to section 26-9(o), Hawaii Revised Statutes. Repeals the Post-secondary Education Commission within the University of Hawaii. (HB1200 HD2)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

