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## A BILL FOR AN ACT

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RELATING TO STATUTORY REVISION: AMENDING OR REPEALING VARIOUS PROVISIONS OF THE HAWAII REVISED STATUTES AND THE SESSION LAWS OF HAWAII FOR THE PURPOSES OF CORRECTING ERRORS AND REFERENCES, CLARIFYING LANGUAGE, AND DELETING OBSOLETE OR UNNECESSARY PROVISIONS.

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

1       SECTION 1. Section 5-7.7, Hawaii Revised Statutes, is  
2 amended to read as follows:

3       "~~[f]~~§5-7.7~~[f]~~ **Aloha order of merit location.** There shall  
4 be set aside within the ~~[Honolulu]~~ Daniel K. Inouye  
5 International Airport an area to exhibit commemorative displays  
6 honoring members of the order. The displays may include  
7 likenesses of members and descriptions of the meritorious  
8 achievements of each member."

9       SECTION 2. Section 102-11, Hawaii Revised Statutes, is  
10 amended by amending subsection (b) to read as follows:

11       "(b) All security provided under this section shall:

12       (1) Be conditioned on the full and faithful performance of  
13       the contract in accordance with the terms and intent  
14       thereof;



1           (2) Be in an amount not less than two months' rental and  
2           other charges, if any, required under the contract;  
3           provided that any contract for the sale and delivery  
4           of [~~in-bond~~] in-bond merchandise at [~~Honolulu~~] the  
5           Daniel K. Inouye International Airport shall require a  
6           bond in an amount not less than four months of the  
7           highest minimum annual rental guaranty required under  
8           the contract; and

9           (3) By its terms inure to the benefit of the State or of  
10          the county, as the case may be."

11          SECTION 3. Section 142-72, Hawaii Revised Statutes, is  
12          amended to read as follows:

13          "**§142-72 Procedure, if owner believes impounding illegal.**

14          If the owner of any animal taken up for trespass[~~7~~] has reason  
15          to believe that the taking up or impounding of the animal was  
16          illegal, or if [~~he~~] the owner regards the claim for damages or  
17          expenses as excessive, [~~he~~] the owner may have [~~his~~] the owner's  
18          animal returned to [~~him~~] the owner upon [~~his~~] the owner's  
19          delivering to the landowner or to the pound keeper, if the  
20          animal has been impounded, a certificate from any district judge  
21          of the circuit, stating that [~~he~~] the owner has deposited with



1 the judge the amount claimed by the landowner, together with the  
2 pound fees, if any, or a good and sufficient bond for the same  
3 and the costs of an action before ~~[him-]~~ the judge."

4 SECTION 4. Section 201B-4, Hawaii Revised Statutes, is  
5 amended by amending subsection (b) to read as follows:

6 "(b) The board shall be subject to the procedural  
7 requirements of section 92-4, and this authorization shall be in  
8 addition to the exceptions listed in section 92-5, to enable the  
9 ~~[authority]~~ board to respect the proprietary requirements of  
10 enterprises with which it has business dealings."

11 SECTION 5. Section 201M-5, Hawaii Revised Statutes, is  
12 amended by amending subsection (b) to read as follows:

13 "(b) The board shall consist of eleven members, who shall  
14 be appointed by the governor pursuant to section 26-34~~[7]~~;  
15 provided that:

16 (1) Three members shall be appointed from a list of  
17 nominees submitted ~~[+]~~by~~[+]~~ the president of the  
18 senate;

19 (2) Three members shall be appointed from a list of  
20 nominees submitted by the speaker of the house of  
21 representatives;



(3) Two members shall be appointed from a list of nominees submitted by the board;

(4) Two members shall be appointed by the governor;

(5) The director of business, economic development, and tourism, or the director's designated representative, shall serve as an ex officio, voting member of the board;

(6) The appointments shall reflect representation of a variety of businesses in the State;

(7) No more than two members shall be representatives from the same type of business; and

(8) There shall be at least one representative from each county.

For the purposes of paragraphs (1) and (2), nominations shall be solicited from small business organizations, state and county chambers of commerce, and other interested business organizations."

SECTION 6. Section 205A-22, Hawaii Revised Statutes, is amended by amending the definition of "department" to read as follows:



1 "Department" means the planning department in the counties  
2 of Kauai, Maui, and Hawaii[7] and the department of [land  
3 utilization] planning and permitting in the city and county of  
4 Honolulu, or other appropriate agency as designated by the  
5 county councils."

6 SECTION 7. Section 206-5, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 **"§206-5 Declaration of development areas. (a)** Whenever  
9 the board of land and natural resources, after due notice and  
10 public hearing, [~~the time and place of which have been duly~~  
11 ~~given by public notice in the city and county of Honolulu on at~~  
12 ~~least three different days, the last notice being not less than~~  
13 ~~five days before the date of hearing,~~] finds that [~~in any~~  
14 ~~locality on the island of Oahu~~] an acute shortage of residential  
15 fee simple property exists in any locality on the island of Oahu  
16 and that the shortage of residential fee simple holdings cannot  
17 practicably be alleviated within the reasonably near future by  
18 means other than those provided under this chapter, the board  
19 may declare a suitable area, not less than ten contiguous acres  
20 in extent, as a development area. The development area shall be  
21 reasonably accessible to persons in the locality and shall



1 consist of lands suitable for a development project. The time  
2 and place of the public hearing shall be given by public notice  
3 in the city and county of Honolulu on at least three different  
4 days, the last notice being not less than five days before the  
5 date of the hearing. Any finding of fact~~[7]~~ by the board, if  
6 supported by a preponderance of evidence, shall be conclusive in  
7 any suit, action, or proceeding.

8 (b) All development areas shall be compatible with any  
9 general plan for the long-range development of land in the  
10 political subdivision concerned under the terms of chapter ~~[201,~~  
11 ~~part II,~~] 225M and shall conform to and with all subdivision and  
12 zoning ordinances and requirements of the political  
13 subdivision."

14 SECTION 8. Section 206E-123, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 "**§206E-123 Loans; default.** The authority may  
17 ~~[renegotiate,~~]:

18 (1) Renegotiate, refinance, or foreclose any loan in  
19 default~~[7]~~;



1        (2)    ~~[The authority may waive]~~ Waive any default or consent  
2                   to the modification of the terms of any loan or  
3                   security agreement~~[-]~~;

4        (3)    ~~[The authority may commence]~~ Commence any action to  
5                   protect or enforce any right conferred upon it by any  
6                   law, mortgage, insurance policy, contract, or other  
7                   agreement~~[-]~~;

8        (4)    ~~[The authority may bid]~~ Bid for and purchase the  
9                   property secured by the loan at any foreclosure or  
10                  other sale~~[-]~~ or acquire or take possession of the  
11                  property secured by the loan~~[-]~~; and

12       (5)    ~~[The authority may operate,]~~ Operate, manage, lease,  
13                  dispose of, or otherwise deal with the property  
14                  secured by the loan."

15        SECTION 9. Section 235-7, Hawaii Revised Statutes, is  
16 amended by amending subsection (e) to read as follows:

17        "(e) There shall be disallowed as a deduction the amount  
18 of interest paid or accrued within the taxable year on  
19 indebtedness incurred or continued~~[-]~~ to purchase or carry:



(1) ~~[to purchase or carry bonds]~~ Bonds the interest upon which is excluded from gross income by subsection (a); or

(2) ~~[to purchase or carry property]~~ Property owned without the State, or to carry on trade or business without the State, if the taxpayer is a person taxable only upon income from sources in the State."

SECTION 10. Section 235-110.7, Hawaii Revised Statutes, is amended to read as follows:

**"§235-110.7 Capital goods excise tax credit.** (a) There shall be allowed to each taxpayer subject to the tax imposed by this chapter a capital goods excise tax credit, which shall be deductible from the taxpayer's net income tax liability, if any, imposed by this chapter for the taxable year in which the credit is properly claimed.

The amount of the tax credit shall be determined by the application of the following rates against the cost of the eligible depreciable tangible personal property used by the taxpayer in a trade or business and placed in service within Hawaii after December 31, 1987. For calendar years beginning after:



1 (1) December 31, 1987, the applicable rate shall be three  
2 per cent;

3 (2) December 31, 1988, the applicable rate shall be four  
4 per cent;

5 (3) December 31, 2008, the applicable rate shall be zero  
6 per cent; and

7 (4) December 31, 2009, and thereafter, the applicable rate  
8 shall be four per cent.

9 For taxpayers with fiscal taxable years, the applicable  
10 rate shall be the rate for the calendar year in which the  
11 eligible depreciable tangible personal property used in the  
12 trade or business is placed in service within Hawaii.

13 In the case of a partnership, S corporation, estate, or  
14 trust, the tax credit allowable is for eligible depreciable  
15 tangible personal property [~~which~~] that is placed in service by  
16 the entity. The cost upon which the tax credit is computed  
17 shall be determined at the entity level. Distribution and share  
18 of credit shall be determined by rules.

19 In the case of eligible depreciable tangible personal  
20 property for which a credit for sales or use taxes paid to  
21 another state is allowable under section 238-3(i), the amount of



1 the tax credit allowed under this section shall not exceed the  
2 amount of use tax actually paid under chapter 238 relating to  
3 ~~[such]~~ the tangible personal property.

4 If a deduction is taken under section 179 (with respect to  
5 election to expense certain depreciable business assets) of the  
6 Internal Revenue Code of 1954, as amended, no tax credit shall  
7 be allowed for that portion of the cost of property for which  
8 the deduction was taken.

9 (b) If the capital goods excise tax credit allowed under  
10 subsection (a) exceeds the taxpayer's net income tax liability,  
11 the excess of credit over liability shall be refunded to the  
12 taxpayer; provided that no refunds or payment on account of the  
13 tax credit allowed by this section shall be made for amounts  
14 less than \$1.

15 All claims for tax credits under this section, including  
16 any amended claims, must be filed on or before the end of the  
17 twelfth month following the close of the taxable year for which  
18 the credits may be claimed. Failure to comply with the  
19 foregoing provision shall constitute a waiver of the right to  
20 claim the credit.



(c) Application for the capital goods excise tax credit shall be upon forms provided by the department of taxation.

(d) Sections 47 (with respect to dispositions of section 38 property and the recapture percentages) of the Internal Revenue Code of 1954, as amended, as of December 31, 1984, and 280F as operative for this chapter (with respect to limitation on investment tax credit and depreciation for luxury automobiles; limitation where certain property used for personal purposes) of the Internal Revenue Code of 1954, as amended, shall be operative for purposes of this section.

(e) As used in this section, the definition of section 38 property (with respect to investment in depreciable tangible personal property) as defined by section 48(a)(1)(A), (a)(1)(B), (a)(3), (a)(4), (a)(7), (a)(8), (a)(10)(A), (b), (c), (f), (l), (m), and (s) of the Internal Revenue Code of 1954, as amended as of December 31, 1984, is operative for the purposes of this section only.

(f) As used in this section:

"Cost" means the:

(1) [~~the actual~~] Actual invoice price of the tangible personal property~~[-]~~; or



1           (2)   ~~[the basis]~~ Basis from which depreciation is taken  
2                   under section 167 (with respect to depreciation) or  
3                   from which a deduction may be taken under section 168  
4                   (with respect to accelerated cost recovery system) of  
5                   the Internal Revenue Code of 1954, as amended,  
6 whichever is less.

7           "Eligible depreciable tangible personal property" is  
8 section 38 property as defined by the operative provisions of  
9 section 48 and having a depreciable life under section 167 or  
10 for which a deduction may be taken under section 168 of the  
11 ~~[federal]~~ Internal Revenue Code of 1954, as amended.

12           "Placed in service" means the earliest of the following  
13 taxable years:

14           (1) The taxable year in which, under the:

15                   (A) Taxpayer's depreciation practice, the period for  
16                   depreciation; or

17                   (B) Accelerated cost recovery system, a claim for  
18                   recovery allowances~~[+]~~ ],

19                   with respect to ~~[such]~~ the property begins; or



(2) The taxable year in which the property is placed in a condition or state of readiness and availability for a specifically assigned function.

"Purchase" means an acquisition of property.

"Tangible personal property" means tangible personal property ~~[which]~~ that is placed in service within Hawaii after December 31, 1987, and the purchase or importation of which resulted in a transaction ~~[which]~~ that was subject to the imposition and payment of tax at the rate of four per cent under chapter 237 or 238. "Tangible personal property" does not include tangible personal property ~~[which]~~ that is an integral part of a building or structure or tangible personal property used in a ~~[foreign-trade]~~ foreign-trade zone, as defined under chapter 212."

SECTION 11. Section 237-27, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) As used in this section:

~~[(1)]~~ "Petroleum products" means petroleum~~[\_]~~; any distillate, fraction, or derivative of petroleum~~[\_]~~; natural gas or its components~~[\_]~~; gas manufactured from a petroleum product~~[\_]~~; and any product derived from the gas or from the



1 manufacture thereof, such as benzene, xylene, toluene,  
2 acetylene, tars, components of tars, and ammonia.

3       ~~[(2)]~~ "Refiner" means any person who, in the State, engages  
4 in the business of refining petroleum products and is taxable  
5 under this chapter, upon the value or gross proceeds of sales of  
6 the petroleum products resultant from the business. A person  
7 who is engaged in business as a refiner and also in other  
8 business shall be deemed a refiner only in respect of the  
9 business that produces the products included in the measure of  
10 the tax imposed by this chapter.

11       ~~[(3)]~~ "Refining" means:

12           ~~[(A)]~~ (1) Any process performed by a refiner that  
13 includes a change in the character or properties  
14 of a petroleum product through the application of  
15 heat~~[\_]~~; or

16           ~~[(B)]~~ (2) The compounding by a refiner of a petroleum  
17 product with a product that has been refined by  
18 the refiner by the process stated in ~~[clause~~  
19 ~~(A)]~~ paragraph (1)."

20       SECTION 12. Section 241-2, Hawaii Revised Statutes, is  
21 amended by amending subsection (b) to read as follows:



1       "(b) Nothing in this chapter shall be construed to:

2       (1) ~~[to exclude]~~ Exclude the application of other taxes  
3       imposed by the State or any political division thereof  
4       on national banking associations~~[,]~~ or their  
5       activities, property, income, shares, or dividends  
6       when ~~[such]~~ those taxes may be imposed in addition to  
7       those authorized by ~~[the above cited]~~ section 5219 ~~[of~~  
8       ~~the]~~, Revised Statutes[,] of the United States, as  
9       amended (12 U.S.C. 548), or other similar law[, or];

10      (2) ~~[to exempt]~~ Exempt the real property of national  
11      banking associations from taxation to the same extent,  
12      according to its value, as other real property is  
13      taxed~~[,]~~ ; or

14      (3) ~~[to preclude]~~ Preclude the inclusion of the dividends  
15      from national banking associations in the income of  
16      individuals taxable under chapter 235 to the same  
17      extent as are included dividends from domestic  
18      corporations."

19      SECTION 13. Section 245-16, Hawaii Revised Statutes, is  
20      amended by amending subsection (b) to read as follows:



1       "(b) This section shall not apply to the shipment of  
2 cigarettes if any of the following conditions are met:

3       (1) The cigarettes are exempt from taxes as provided by  
4 section 245-3(b) or are otherwise exempt from the  
5 applicability of this chapter as provided by section  
6 245-62;

7       (2) All applicable Hawaii taxes on the cigarettes are paid  
8 in accordance with the requirements of this chapter;  
9 or

10       (3) The person or entity engaged in the business of  
11 selling, advertising, or offering cigarettes for sale  
12 and transfer or shipment:

13       (A) Has fully complied with all of the requirements  
14 of chapter 10A (commencing with section 375) of  
15 title 15 of the United States Code, otherwise  
16 known as the Jenkins Act; and

17       (B) Includes on the outside of the shipping container  
18 an externally visible and easily legible notice  
19 located on the same side of the shipping  
20 container as the address to which the shipping  
21 container is delivered stating as follows:



1 "CIGARETTES: HAWAII LAW PROHIBITS THE SALE OF  
2 CIGARETTES TO INDIVIDUALS UNDER [~~EIGHTEEN~~]  
3 TWENTY-ONE YEARS OF AGE AND REQUIRES THE PAYMENT  
4 OF ALL APPLICABLE TAXES. YOU ARE LEGALLY  
5 RESPONSIBLE FOR ALL APPLICABLE UNPAID TAXES ON  
6 THESE CIGARETTES.""

7 SECTION 14. Section 261-7, Hawaii Revised Statutes, is  
8 amended by amending subsection (c) to read as follows:

9 "(c) The department shall enter into a contract with no  
10 more than one person ("contractor") for the sale and delivery of  
11 in-bond merchandise at [~~Honolulu~~] the Daniel K. Inouye  
12 International Airport, in the manner provided by law. The  
13 contract shall confer the right to operate and maintain  
14 commercial facilities within the airport for the sale of in-bond  
15 merchandise and the right to deliver to the airport in-bond  
16 merchandise for sale to departing foreign-bound passengers.

17 The department shall grant the contract pursuant to the  
18 laws of this State and may take into consideration:

19 (1) The payment to be made on in-bond merchandise sold at  
20 [~~Honolulu~~] the Daniel K. Inouye International Airport



1 and on in-bond merchandise displayed or sold elsewhere  
2 in the State and delivered to the airport;

3 (2) The ability of the applicant to comply with all  
4 federal and state rules and regulations concerning the  
5 sale and delivery of in-bond merchandise; and

6 (3) The reputation, experience, and financial capability  
7 of the applicant.

8 The department shall actively supervise the operation of  
9 the contractor to ensure its effectiveness. The department  
10 shall develop and implement [~~such~~] guidelines as it may find  
11 necessary and proper to actively supervise the operations of the  
12 contractor, and shall include guidelines relating to the  
13 department's review of the reasonableness of the contractor's  
14 price schedules, quality of merchandise, merchandise assortment,  
15 operations, and service to customers.

16 Apart from the contract described in this subsection, the  
17 department shall confer no right upon nor suffer nor allow any  
18 person to offer to sell, sell, or deliver in-bond merchandise at  
19 [~~Honolulu~~] the Daniel K. Inouye International Airport; provided  
20 that this section shall not prohibit the delivery of in-bond



1 merchandise as cargo to the [~~Honolulu~~] Daniel K. Inouye  
2 International Airport."

3 SECTION 15. Section 261-15.5, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "[~~+~~]**\$261-15.5[+]** **Aircraft registration.** Unless an  
6 aircraft is exempted by this section, no person shall operate or  
7 cause or authorize to be operated any aircraft at an airport  
8 owned or controlled by the department, unless the aircraft has a  
9 certificate of registration issued in accordance with rules  
10 adopted by the department. Aircraft exempt from registration  
11 required by this section include:

- 12 (1) Aircraft operating primarily in interstate or foreign  
13 commerce;
- 14 (2) Aircraft owned or operated by the United States;
- 15 (3) Aircraft in transit through the State; and
- 16 (4) Aircraft operated by any scheduled airline carrier  
17 [~~which~~] that is a lessee of the State under an  
18 airport-airline lease at the [~~Honolulu~~] Daniel K.  
19 Inouye International Airport and [~~which~~] that is  
20 commonly referred to as signatory airline."



SECTION 16. Section 261-23, Hawaii Revised Statutes, is amended to read as follows:

**"§261-23 [~~Honolulu~~] Daniel K. Inouye International Airport.** All that area set aside by executive order No. 1016 for John Rodgers Airport and Keehi Lagoon Seaplane Harbor to be under the control and management of the superintendent of public works under date of April 12, 1943, is designated as [~~"Honolulu~~] the "Daniel K. Inouye International Airport"."

SECTION 17. Section 286-202.6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) In addition to the requirements in title 49 Code of Federal Regulations [~~part~~] section 390.21, every motor carrier vehicle shall be marked as specified in subsections (b), (c), and (d)."

SECTION 18. Section 304A-1959, Hawaii Revised Statutes, is amended to read as follows:

**"[~~§~~304A-1959[~~]~~] **Biennial report.**** No later than twenty days prior to the convening of the regular session of each odd-numbered year, the University of Hawaii shall submit a report to the legislature concerning:



- 1           (1) All funds deposited into the university innovation and  
2           commercialization initiative special fund and a  
3           detailed description of the use of those funds; and  
4           (2) Coordinated efforts between the innovation and  
5           commercialization initiative program and other state  
6           agencies, including the [Hawaii] technology  
7           development corporation, the Hawaii strategic  
8           development corporation, and the Hawaii state energy  
9           office, to move the State's innovation goals forward,  
10          and to more efficiently and effectively utilize  
11          resources to achieve these outcomes."

12          SECTION 19. Section 321-5, Hawaii Revised Statutes, is  
13          amended to read as follows:

14          "**§321-5 Contract for exchange of Hawaii personnel.** (a)

15          The department of health may contract with any state, or the  
16          health department of any state having the power to so contract,  
17          for the exchange of Hawaii personnel for personnel of the health  
18          department of ~~[any such]~~ that state. Any ~~[such]~~ exchange shall  
19          be made under rules ~~[and regulations]~~ prescribed by the  
20          department, in no case shall be for a period exceeding one year,  
21          and in all cases shall be subject to the following provisions:



1           (1) That each person exchanged by the health department of  
2           any state shall possess qualifications equal to the  
3           qualifications of the person exchanged [~~for him~~] from  
4           Hawaii;

5           (2) That the person exchanged from Hawaii shall have  
6           served for not less than three years prior to the  
7           beginning of the exchange period [~~in the~~] as Hawaii  
8           personnel;

9           (3) That in the selection of Hawaii personnel for  
10          exchange, preference shall be given to persons born in  
11          the State;

12          (4) That each person exchanged by the health department of  
13          any state shall hold in the health department of  
14          [~~such~~] that state a position the same as or equivalent  
15          to the position held by the person exchanged [~~for him~~]  
16          from Hawaii;

17          (5) That the person exchanged from Hawaii shall be paid  
18          [~~his~~] that person's regular salary out of the funds  
19          appropriated therefor, but nothing in addition  
20          thereto;



- 1           (6) That the State shall not pay any traveling or other  
2           expenses of the Hawaii personnel or of the personnel  
3           of the health department of any state coming to Hawaii  
4           under any contract of exchange. This prohibition  
5           shall be construed to include all travel,  
6           transportation, board, lodging, or other expenses  
7           incidental to or arising out of any exchange;
- 8           (7) That the State shall not pay any compensation to the  
9           person coming to Hawaii under any contract of  
10          exchange; provided that in any case where the person  
11          so exchanged from Hawaii becomes incapacitated[7] or,  
12          for any reason, leaves the exchange position  
13          permanently, the department may pay the visiting  
14          exchange person an amount not to exceed the salary  
15          rating of the person so exchanged from Hawaii, such an  
16          arrangement to continue until the end of the period of  
17          exchange or until such time as some adjustment  
18          satisfactory to the department is made;
- 19          (8) That any provision of law to the contrary  
20          notwithstanding, the state requirements in respect to  
21          civil service, citizenship, or residence shall not



1           apply to any person coming to Hawaii under any ~~[such]~~  
2           contract of exchange; and

3           (9) That the appropriate collective bargaining agreement,  
4           executive order, executive directive, or rule  
5           regarding traveling expenses for state officials shall  
6           not apply to Hawaii personnel exchanged under this  
7           section.

8           (b) The department may ~~[make-such]~~ adopt rules ~~[and~~  
9 ~~regulations]~~ as it ~~[may-deem]~~ deems necessary concerning the  
10 powers, rights, functions, conduct, duties, and liabilities of,  
11 exercised by or imposed upon, any person coming to Hawaii under  
12 any contract of exchange.

13          (c) As used in this section, unless the text clearly  
14 otherwise indicates~~[7]~~:

15          "Hawaii personnel" means public health nurses, sanitary  
16 officers, and medical officers~~[7]~~.

17          "Health department" means the board of health, department  
18 of health, president of the board of health, or other public  
19 authority authorized by law to administer or administering the  
20 public health laws of any state.



1       ["state"] "State" means any state or territory of the  
2 United States, or county or municipality of any such state or  
3 territory[; and ~~"health department" means the board of health,~~  
4 ~~department of health, president of the board of health, or other~~  
5 ~~public authority authorized by law to administer or~~  
6 ~~administering the public health laws of any state]."~~

7       SECTION 20. Section 329-38, Hawaii Revised Statutes, is  
8 amended by amending subsection (h) to read as follows:

9       "(h) The effectiveness of a prescription for the purposes  
10 of this section shall be determined as follows:

11       (1) A prescription for a controlled substance shall be  
12 issued for a legitimate medical purpose by an  
13 individual practitioner acting in the usual course of  
14 the practitioner's professional practice. The  
15 responsibility for the proper prescribing and  
16 dispensing of controlled substances shall be upon the  
17 prescribing practitioner, but a corresponding  
18 responsibility shall rest with the pharmacist who  
19 fills the prescription. An order purporting to be a  
20 prescription issued not in the usual course of  
21 professional treatment or for legitimate and



1 authorized research shall not be deemed a prescription  
2 within the meaning and intent of this section, and the  
3 person who knowingly fills such a purported  
4 prescription, as well as the person who issues the  
5 prescription, shall be subject to the penalties  
6 provided for violations of this chapter;

7 (2) A prescription may not be issued to allow an  
8 individual practitioner to obtain controlled  
9 substances for supplying the individual practitioner  
10 for the purpose of general dispensing to patients;

11 (3) A prescription may not be issued for the dispensing of  
12 narcotic drugs listed in any schedule for the purpose  
13 of "medically managed withdrawal", also known as  
14 "detoxification treatment", or "maintenance treatment"  
15 except as follows:

16 (A) The administering or dispensing directly (but not  
17 prescribing) of narcotic drugs listed in any  
18 schedule to a narcotic drug-dependent person for  
19 "medically managed withdrawal", also known as  
20 "detoxification treatment", or "maintenance  
21 treatment" shall be deemed to be "in the course



1 of a practitioner's professional practice or  
2 research" so long as the practitioner is  
3 registered separately with the department and the  
4 federal Drug Enforcement [~~Agency~~] Administration  
5 as required by section 329-32(e) and complies  
6 with [~~Title~~] title 21 Code of Federal Regulations  
7 section 823(g) and any other federal or state  
8 regulatory standards relating to treatment  
9 qualification, security, records, and  
10 unsupervised use of drugs; and

11 (B) Nothing in this section shall prohibit a  
12 physician or authorized hospital staff from  
13 administering or dispensing, but not prescribing,  
14 narcotic drugs in a hospital to maintain or  
15 detoxify a person as an incidental adjunct to  
16 medical or surgical treatment of conditions other  
17 than addiction;

18 (4) An individual practitioner shall not prescribe or  
19 dispense a substance included in schedule II, III, IV,  
20 or V for that individual practitioner's personal use,  
21 except in a medical emergency; and



1           (5) A pharmacist shall not dispense a substance included  
2                   in schedule II, III, IV, or V for the pharmacist's  
3                   personal use."

4           SECTION 21. Section 329-125, Hawaii Revised Statutes, is  
5 amended by amending subsection (a) to read as follows:

6           "(a) A qualifying patient or the primary caregiver may  
7 assert the medical use of cannabis authorized under this part as  
8 an affirmative defense to any prosecution involving [~~cannabis~~  
9 ~~or~~] marijuana[+] under this part [~~or~~], part IV[+], or part IV of  
10 chapter 712; provided that the qualifying patient or the primary  
11 caregiver strictly complied with the requirements of this part."

12          SECTION 22. Section 329-125.6, Hawaii Revised Statutes, is  
13 amended by amending subsection (a) to read as follows:

14          "(a) An owner or employee of a medical cannabis dispensary  
15 that is licensed under chapter 329D may assert the production or  
16 distribution of medical cannabis as an affirmative defense to  
17 any prosecution involving [~~cannabis or~~] marijuana[+] under this  
18 part [~~or~~], part IV[+], chapter 329D[+], or part IV of chapter  
19 712; provided that the owner or employee strictly complied with  
20 the requirements of chapter 329D and any administrative rules  
21 adopted thereunder."



1       SECTION 23. Section 346G-10, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:

3       "(b) In accordance with title 42 Code of Federal  
4 Regulations [~~section~~] part 438, the department shall use  
5 revenues from the hospital sustainability fee and federal  
6 matching funds to enhance the capitated rates paid to medicaid  
7 managed care health plans for [~~the~~] state fiscal years 2017-2018  
8 and 2018-2019, consistent with the following objectives:

9       (1) The rate enhancement shall be used exclusively for  
10       increasing reimbursements to private hospitals to  
11       support the availability of services and to ensure  
12       access to care to the medicaid managed care health  
13       plan enrollees;

14       (2) The rate enhancement shall be made part of the monthly  
15       capitated rates by the department to medicaid managed  
16       care health plans, which shall provide documentation  
17       to the department and the hospital trade association  
18       located in Hawaii certifying that the revenues  
19       received under paragraph (1) are used in accordance  
20       with this section;



1           (3) The rate enhancement shall be actuarially sound and  
2                   approved by the federal government for federal fund  
3                   participation;

4           (4) The rate enhancements shall be retroactive to July 1,  
5                   2012, or the effective date approved by the federal  
6                   government, whichever is later. Retroactive rate  
7                   enhancements shall be paid within thirty days of  
8                   notification by the Centers for Medicare and Medicaid  
9                   Services to the department of all necessary approvals;  
10                  and

11          (5) Payments made by the medicaid managed care health  
12                  plans shall be made within thirty business days upon  
13                  receipt of monthly capitation rates from the  
14                  department."

15          SECTION 24. Section 431:2-203, Hawaii Revised Statutes, is  
16          amended by amending subsection (b) to read as follows:

17          "(b) (1) A person who intentionally or knowingly violates,  
18                  intentionally or knowingly permits any person over  
19                  whom the person has authority to violate, or  
20                  intentionally or knowingly aids any person in  
21                  violating any insurance rule or statute of this State



1           or any effective order issued by the commissioner[7]  
2           shall be subject to any penalty or fine as provided by  
3           this code or by the Hawaii Penal Code [~~of the Hawaii~~  
4           ~~Revised Statutes~~].

5           (2) If the commissioner has cause to believe that any  
6           person has violated any penal provision of this code  
7           or of other laws relating to insurance, the  
8           commissioner shall proceed against that person or  
9           certify the facts of the violation to the public  
10          prosecutor of the jurisdiction in which the offense  
11          was committed.

12          (3) Violation of any provision of this code is punishable  
13          by a fine of not less than \$100 nor more than \$10,000  
14          per violation, or by imprisonment for not more than  
15          one year, or both, in addition to any other penalty or  
16          forfeiture provided herein or otherwise by law.

17          (4) The terms "intentionally" and "knowingly" shall have  
18          the same meanings as defined in section 702-206(1) and  
19          (2)."

20          SECTION 25. Section 431:3-205, Hawaii Revised Statutes, is  
21          amended to read as follows:



1       "§431:3-205   **Funds required of new insurers.**   Subject to  
2   section 431:3-203(a)(2), to qualify to transact any one class of  
3   insurance, an insurer, not existing and authorized in this State  
4   on July 1, 1988, shall:

5       (1)   Deposit in a federally insured financial institution  
6             within the State, paid-up capital stock in the case of  
7             a stock insurer, or unimpaired surplus if:

8             (A)   [~~a~~] A reciprocal insurer[~~7~~]; or

9             (B)   [~~a~~] A mutual insurer [~~which~~] that does not seek  
10            to qualify upon the basis of applications and  
11            premiums collected as provided in sections 431:4-  
12            303 to 431:4-307,

13           in an amount not less than shown in the applicable  
14           Schedule "A";

15       (2)   Maintain this deposit at all times while the insurer  
16             is licensed and transacting insurance in this State;  
17             and

18       (3)   Secure the approval of the commissioner before making  
19             withdrawals from the depository.

21                               Schedule "A"



1	Class of Insurance	Amount Required
2	Life	\$ 600,000
3	Accident and Health or Sickness	450,000
4	Property	750,000
5	Marine and Transportation	1,000,000
6	Vehicle	1,000,000
7	General Casualty	1,500,000
8	Surety	1,000,000
9	Title	400,000."

10 SECTION 26. Section 431:4-210, Hawaii Revised Statutes, is  
 11 amended to read as follows:

12 **"§431:4-210 Unlawful sales of equity security.** It shall  
 13 be unlawful for any beneficial owner, director, or officer,  
 14 directly or indirectly, to sell any equity security of [such]  
 15 the company if the person selling the security or the person's  
 16 principal:

- 17 (1) [~~does~~] Does not own the security sold[~~r~~]; or  
 18 (2) [~~if~~] If owning the security, does not deliver it  
 19 against [such] the sale within twenty days thereafter,  
 20 or does not within five days after [such] the sale



1           deposit it in the mails or other usual channels of  
2           transportation.

3   No person shall be deemed to have violated this section if the  
4   person proves that notwithstanding the exercise of good faith  
5   the person was unable to make [~~such~~] delivery or deposit within  
6   the required time, or that to do so would cause undue  
7   inconvenience or expense."

8           SECTION 27.   Section 431:10B-103, Hawaii Revised Statutes,  
9   is amended to read as follows:

10          "**§431:10B-103   Definitions.**   For the purpose of this  
11   article:

12          ~~[(1)   Credit life insurance means insurance on the life of a~~  
13               ~~debtor pursuant to or in connection with a specific~~  
14               ~~loan or other credit transaction;~~

15          ~~-(2)]~~   "Credit disability insurance" means insurance on a  
16   debtor to provide indemnity for payments becoming due on a  
17   specific loan or other credit transaction while the debtor is  
18   disabled as defined in the policy~~[-]~~.

19          "Credit life insurance" means insurance on the life of a  
20   debtor pursuant to or in connection with a specific loan or  
21   other credit transaction.



1        [~~(3)~~] "Creditor" means the lender of money, or seller or  
2    lessor of goods, services, [~~or~~] property, rights, or privileges,  
3    for which payment is arranged through a credit transaction, or  
4    any successor to the right, title, or interest of any [~~such~~]  
5    lender, seller, or lessor, and an affiliate, associate, or  
6    subsidiary of any of them or any director, officer, or employee  
7    of any of them, or any other person in any way associated with  
8    any of them[~~+~~].

9        [~~(4)~~] "Debtor" means a borrower of money or a purchaser or  
10   lessee of goods, services, property, rights, or privileges for  
11   which payment is arranged through a credit transaction[~~+~~].

12        [~~(5)~~] "Indebtedness" means the total amount payable by a  
13   debtor to a creditor in connection with a loan or other credit  
14   transaction."

15        SECTION 28. Section 431:26-108, Hawaii Revised Statutes,  
16   is amended by amending its title to read as follows:

17        "[~~+~~]**\$431:26-108[~~+~~—Regulations.**] Rules."

18        SECTION 29. Section 432:1-104, Hawaii Revised Statutes, is  
19   amended to read as follows:

20        "**\$432:1-104 Definitions.** For the purposes of this  
21   article:



1        [~~(1)~~] "Commissioner" means the insurance commissioner of  
2 the State [~~of Hawaii~~].

3        [~~(2)~~] "Mutual benefit society" [~~is~~] means any corporation,  
4 unincorporated association, society, or entity:

5        [~~(A)~~] (1) Organized and carried on for the primary benefit of  
6 its members and their beneficiaries and not for  
7 profit, and:

8        [~~(i)~~] (A) Making provision for the payment of benefits  
9 in case of sickness, disability, or death of its  
10 members, or disability, or death of its members'  
11 spouses or reciprocal beneficiaries or  
12 children[~~r~~]; or

13        [~~(ii)~~] (B) Making provision for the payment of any  
14 other benefits to or for its members,  
15 whether or not the amount of the benefits is fixed or  
16 rests in the discretion of the society, its officers,  
17 or any other person or persons; and the fund from  
18 which the payment of the benefits shall be defrayed is  
19 derived from assessments or dues collected from its  
20 members, and the payment of death benefits is made to  
21 the families, including reciprocal beneficiaries,



1 heirs, blood relatives, or persons named by its  
2 members as their beneficiaries; or

3 [~~(B)~~] (2) Organized and carried on for any purpose[~~, which~~]  
4 that:

5 [~~(i)~~] (A) Regularly requires money to be paid to it by  
6 its members, whether the money be in the form of  
7 dues, subscriptions, receipts, contributions,  
8 assessments, or otherwise[~~7~~]; and

9 [~~(ii)~~] (B) Provides for the payment of any benefit or  
10 benefits or the payment of any money or the  
11 delivery of anything of value to its members or  
12 their relatives, including reciprocal  
13 beneficiaries, or to any person or persons named  
14 by its members as their beneficiaries, or to any  
15 class of persons [~~which~~] that includes or may  
16 include its members,  
17 whether or not the amount or value of the benefit,  
18 benefits, money, or thing of value is fixed, or rests  
19 in the discretion of the society, its officers, or any  
20 other person or persons; or



1    [~~(C)~~] (3) Organized and carried on for any purpose[~~7~~] whose  
2                    requirements and provisions, although not identical  
3                    with, are determined by the commissioner to be  
4                    substantially similar to[~~7~~] those enumerated in  
5                    [~~subparagraphs (A)~~] paragraphs (1) and [~~(B)~~] (2).

6                    Participating in a legal service plan subject to chapter  
7    488 shall not in itself make a corporation, unincorporated  
8    association, society, or entity a mutual benefit society and  
9    subject to this article."

10                    SECTION 30. Section 432:1-301, Hawaii Revised Statutes, is  
11    amended by amending subsection (a) to read as follows:

12                    "(a) Before doing business or engaging in any act, any  
13    mutual benefit society as defined in section [~~432:1-104(2)~~]  
14    432:1-104 shall file with the commissioner:

15                    (1) Copies of its constitution or organic instrument under  
16                    which it purports to operate, [~~and~~] the bylaws, and  
17                    rules and regulations, if any;

18                    (2) If a society promising or offering to pay death, sick,  
19                    disability, or other benefits in an amount equal to or  
20                    in excess of \$25:



(A) Copies of all proposed forms of benefit certificates, applications, and circulars to be issued by the society; and

(B) A bond in the sum of \$25,000 with sureties approved by the commissioner. The bond shall be conditioned upon the return of the advance payments referred to in section 432:1-304, if the organization is not completed within one year; and

(3) Any additional information as the commissioner may require."

SECTION 31. Section 435E-25, Hawaii Revised Statutes, is amended to read as follows:

**"§435E-25 Voluntary termination of a member.** A participating member who is then in full compliance with the trust agreement may elect voluntarily to terminate ~~[his or her]~~ the participating member's membership in the interindemnity arrangement. Upon voluntary termination, ~~[such]~~ the person may further elect to cease being responsible for future assessments, or to continue to pay ~~[such]~~ the assessments until ~~[such time as]~~ such] the person's initial contribution is repaid. ~~[In the~~



1 ~~event-such]~~ If the person elects to cease being responsible for  
2 future assessments, the indemnity coverage shall thereupon  
3 terminate and ~~[such]~~ the person shall either be responsible for  
4 ~~[his or her]~~ the person's own exposure for acts committed while  
5 a participating member in the interindemnity arrangement, or ~~[he~~  
6 ~~or she]~~ the person may request the interindemnity arrangement to  
7 purchase or provide, at the cost of ~~[such]~~ the person, coverage  
8 for ~~[such]~~ the person's exposure. The initial contribution of  
9 ~~[such]~~ the person shall be repaid on the tenth anniversary of  
10 the date ~~[such]~~ the contribution was made. ~~[In the event such]~~  
11 If the person elects to continue to be responsible for  
12 assessments, the indemnity coverage shall continue in respect of  
13 occurrences prior to the date of the voluntary termination, and  
14 the initial contribution of ~~[such]~~ the person shall be repaid  
15 ~~[at such time as]~~ when the board of trustees is satisfied that:  
16       (1) ~~[there]~~ There are no claims pending against the person  
17           in respect of occurrences during the time the person  
18           was a participating member~~[r]~~; and  
19       (2) ~~[the]~~ The statute of limitations has run on all claims  
20           ~~[which]~~ that might be asserted against the person in  
21           respect of occurrences during ~~[such]~~ that time.



1 In no event shall [~~such~~] repayment be made earlier than the  
2 tenth anniversary of the date [~~such~~] the contribution was made."

3 SECTION 32. Section 435E-43, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "**§435E-43 Investigation, publication.** The commissioner  
6 [~~may~~], in the commissioner's discretion, may:

7 (1) [~~make-such~~] Make public or private investigations  
8 within or outside of this State as the commissioner  
9 deems necessary to determine whether any person has  
10 violated or is about to violate this chapter, or to  
11 aid in the enforcement of this chapter[~~7~~]; and

12 (2) [~~publish~~] Publish information concerning the violation  
13 of this chapter."

14 SECTION 33. Section 508D-15, Hawaii Revised Statutes, is  
15 amended by amending subsection (a) to read as follows:

16 "(a) When residential real property lies:

17 (1) Within the boundaries of a special flood hazard area  
18 as officially designated on Flood Insurance  
19 Administration maps promulgated by the United States  
20 Department of Housing and Urban Development for the



1 purposes of determining eligibility for emergency  
2 flood insurance programs;

3 (2) Within the boundaries of the noise exposure area shown  
4 on maps prepared by the department of transportation  
5 in accordance with Federal Aviation Regulation [~~Part~~  
6 ~~150-Airport~~] part 150, Airport Noise Compatibility  
7 Planning (14 [~~Code of Federal Regulations Part~~] C.F.R.  
8 part 150), for any public airport;

9 (3) Within the boundaries of the Air Installation  
10 [~~Compatibility~~] Compatible Use Zone of any Air Force,  
11 Army, Navy, or Marine Corps airport as officially  
12 designated by military authorities; or

13 (4) Within the anticipated inundation areas designated on  
14 the department of defense's emergency management  
15 tsunami inundation maps~~[+]~~, for

16 subject to the availability of maps that designate the four  
17 areas by tax map key (zone, section, parcel), the seller shall  
18 include [~~such~~] the material fact information in the disclosure  
19 statement provided to the buyer subject to this chapter. Each  
20 county shall provide, where available, maps of its jurisdiction  
21 detailing the four designated areas specified in this



1 subsection. The maps shall identify the properties situated  
2 within the four designated areas by tax map key number (zone,  
3 section, parcel) and shall be of a size sufficient to provide  
4 information necessary to serve the purposes of this section.  
5 Each county shall provide legible copies of the maps and may  
6 charge a reasonable copying fee."

7 SECTION 34. Section 514B-43, Hawaii Revised Statutes, is  
8 amended by amending subsection (a) to read as follows:

9 "(a) For purposes of this section:

10 [~~(1) "Visible commencement of operations" shall have the~~  
11 ~~meaning it has in section 507-41; and~~

12 ~~(2)] "Lien" means a lien created pursuant to chapter 507,~~  
13 part II.

14 "Visible commencement of operations" shall have the meaning  
15 it has in section 507-41."

16 SECTION 35. Section 514E-19, Hawaii Revised Statutes, is  
17 amended by amending subsections (a) and (b) to read as follows:

18 "(a) An escrow for the sale of a time share interest in a  
19 time share ownership plan may close only if the requirements of  
20 any one of the following alternatives for protecting the  
21 purchaser have been satisfied:



1       (1) The time share interest is conveyed to the purchaser  
2       free and clear of any blanket liens~~[-]~~;

3       (2) The time share unit is conveyed to a trustee:

4       (A) Free and clear of any blanket liens under a trust  
5       meeting the requirements of sections 514E-22 and  
6       ~~[23,]~~ 514E-23; or

7       (B) Under a lien payment trust meeting the  
8       requirements of sections 514E-22, ~~[23, 24, and~~  
9       ~~25.]~~ 514E-23, 514E-24, and 514E-25;

10      (3) (A) The time share interest is conveyed to the  
11      purchaser subject only to blanket liens:

12      (i) Where every person holding an interest in  
13      the blanket lien has executed and recorded a  
14      nondisturbance agreement; or

15      (ii) For which the director's acceptance of a  
16      surety bond or an irrevocable letter of  
17      credit meeting the requirements of section  
18      514E-28 has been recorded with respect to  
19      that time share unit; and



1 (B) If legal or equitable title will be held by  
2 anyone other than the purchaser, a notice of time  
3 share plan is recorded~~[.]~~; or

4 (4) The requirements of any alternative arrangements  
5 accepted by the director have been met.

6 (b) An escrow for the sale of a time share interest in a  
7 time share use plan may close only if the requirements of any  
8 one of the following alternatives for protecting purchasers have  
9 been satisfied:

10 (1) The time share unit is conveyed to a trustee:

11 (A) Free and clear of any blanket liens under a trust  
12 meeting the requirements of sections 514E-22 and  
13 ~~[23.]~~ 514E-23; or

14 (B) Under a lien payment trust meeting the  
15 requirements of sections 514E-22, ~~[23, 24, and~~  
16 ~~25.]~~ 514E-23, 514E-24, and 514E-25;

17 (2) A notice of time share plan is recorded and either:

18 (A) Every person holding an interest in a recorded  
19 blanket lien against any time share interests in  
20 that time share unit executes and records a  
21 nondisturbance agreement; or



(B) The director's acceptance of a surety bond or an irrevocable letter of credit meeting the requirements of section 514E-28 is recorded~~[+]~~;  
or

(3) The requirements of any alternative arrangements accepted by the director have been met."

SECTION 36. Section 514E-25, Hawaii Revised Statutes, is amended by amending subsections (a), (b), and (c) to read as follows:

"(a) The lien payment deposit shall consist of either ~~[(+)]~~  
~~nondelinquent]~~:

(1) Nondelinquent purchase money contracts from purchasers of time share interests in the time share plan; or  
~~[(+)]~~~~other]~~

(2) Other assets deposited into trust by the developer and approved by the director.

(b) (1) The purchase money contracts ~~[must]~~ shall have an aggregate remaining principal balance of not less than, and any other assets deposited ~~[must]~~ shall have a liquidated value of not less than, one hundred ten per cent of the difference between ~~[(+)]~~~~the]~~:



1           (A)   The aggregate remaining principal balance owing  
2                   under blanket liens against the time share unit  
3                   or time share interests in it, including any  
4                   prepayment penalties, release prices, and similar  
5                   charges[~~, (ii) the~~]; and

6           (B)   The amount of money, or its equivalent, in the  
7                   trust and available at any time to be applied to  
8                   the reduction of the principal balance of the  
9                   blanket lien.

10           The developer shall have the burden of establishing,  
11           to the satisfaction of the director, the liquidated  
12           value of assets other than purchase money contracts  
13           from purchasers in the time share plan.

14           (2)   If the blanket lien payment deposit consists of  
15                   purchase money contracts, the payments required to be  
16                   made by purchasers under the contracts shall:

17                   (A)   Be due on or before the dates on which payments  
18                           become due on the blanket liens;

19                   (B)   If paid when due, be equal to at least one  
20                           hundred ten per cent of the amount required to be



1           paid on the blanket liens on ~~[such]~~ that date;

2           and

3           (C) Be sufficient to pay, in full, during the term of  
4           ~~[such]~~ those contracts:

5           (i) ~~[all]~~ All amounts secured by the blanket  
6           liens, including prepayment penalties and  
7           release prices, if any; and

8           (ii) ~~[all]~~ All service charges payable to the  
9           trustee, any collection agent, and any other  
10          servicing agent pursuant to the trust  
11          instrument.

12          (3) If the developer proposes to deposit into trust assets  
13          other than purchase money contracts, ~~[such]~~ those  
14          assets ~~[must]~~ shall be sufficient to pay debt service  
15          installments on the blanket lien as they become due  
16          and to create a sinking fund or other arrangement  
17          adequate to extinguish the debt secured by the blanket  
18          lien at its maturity.

19          (c)(1) In lieu of the requirements of subsection (b), the  
20          developer may elect to follow the requirements of



1 paragraphs (2), (3), (4), and (5) [~~of this subsection~~]

2 if the following requirements are met:

3 (A) The developer owns or leases under a lease for a  
4 term of not less than thirty years all the  
5 noncommercial portions of a hotel, condominium,  
6 cooperative, or other project;

7 (B) No more than seventy-five per cent of the  
8 appraised value of the project is subject to a  
9 mortgage or other lien. The appraised value  
10 shall be based on the use of the project prior to  
11 the creation of the time share plan;

12 (C) [~~(i)~~] As security for the obligations of the  
13 developer to the owners[~~, the~~]:

14 (i) The developer executes and records a  
15 mortgage in favor of the trustee under the  
16 lien payment trust or the association, in  
17 either case as trustee on behalf of the  
18 owners, twenty-five per cent of the  
19 appraised value of the project; or

20 (ii) [~~the~~] The developer conveys or transfers the  
21 project to a trust meeting the requirements



1 of sections 514E-22 and [23,] 514E-23, and  
2 under the terms of the trust instrument the  
3 twenty-five per cent of the beneficial  
4 interest in the trust is held for the  
5 benefit of, or conveyed or transferred to,  
6 the association, acting as trustee for the  
7 owners[, ~~as security for the obligations of~~  
8 ~~the developer to owners~~]; and

9 (D) The developer files a verified statement of the  
10 program of financing, acceptable to the director,  
11 containing a cash flow analysis showing that the  
12 developer has adequate funds to pay the debt  
13 service installments on the blanket liens on the  
14 project during the sales period and to extinguish  
15 the debt secured by the blanket lien at its  
16 maturity, whether from sales proceeds, loan  
17 commitments, income from operations of the  
18 project, or other sources.

19 (2) The purchase money contracts [~~must~~] shall have an  
20 aggregate remaining principal balance of not less  
21 than, and any other assets deposited [~~must~~] shall have



1 a liquidated value of not less than, one hundred ten  
2 per cent of the difference between [~~(i)~~a]:

3 (A) A pro rata share of the aggregate remaining  
4 principal balance owing under blanket liens  
5 against the time share unit or time share  
6 interests in it, including any prepayment  
7 penalties, release prices, and similar charges[~~7~~  
8 ~~(ii)~~a]; and

9 (B) A pro rata share of the amount of money, or its  
10 equivalent, in the trust and available at any  
11 time to be applied to the reduction of the  
12 principal balance of the blanket lien.

13 The developer shall have the burden of establishing,  
14 to the satisfaction of the director, the liquidated  
15 value of assets other than purchase money contracts  
16 from purchasers in the time share plan.

17 (3) If the blanket lien payment deposit consists of  
18 purchase money contracts, the payments required to be  
19 made by purchasers under the contracts [~~must~~] shall:

20 (A) Be due on or before the dates on which payments  
21 become due on the blanket liens;



1 (B) If paid when due, be equal to at least one  
2 hundred ten per cent of a pro rata share of the  
3 amount required to be paid on the blanket liens  
4 on ~~[such]~~ that date; and

5 (C) Be sufficient to pay, in full, during the term of  
6 ~~[such]~~ those contracts:

7 (i) ~~[a]~~ A pro rata share of all amounts secured  
8 by the blanket liens, including prepayment  
9 penalties and release prices, if any; and

10 (ii) ~~[all]~~ All service charges payable to the  
11 trustee, any collection agent, and any other  
12 servicing agent pursuant to the trust  
13 instrument.

14 (4) If the developer proposes to deposit into trust assets  
15 other than purchase money contracts, ~~[such]~~ those  
16 assets ~~[must]~~ shall be sufficient to pay a pro rata  
17 share of the debt service installments on the blanket  
18 lien as they become due and to create a sinking fund  
19 or other arrangement adequate to extinguish the debt  
20 secured by the blanket lien at its maturity.



1       (5) For purposes of this subsection, the term "pro rata  
2       share" means a share proportionate to the ratio that  
3       the number of time share units in which the sale of  
4       time share interests have been closed bears to the  
5       total number of time share units in the project. No  
6       more than fifty-one weeks of use annually may be  
7       attributed to each time share unit in determining the  
8       pro rata share.

9       (6) The developer may elect to terminate the use of the  
10      provisions of this subsection upon satisfying all of  
11      the requirements of either subsection (b) or section  
12      514E-26(c)."

13      SECTION 37. Section 516-1, Hawaii Revised Statutes, is  
14      amended by amending the definition of "owner's basis" to read as  
15      follows:

16      "Owner's basis" means the value of the lessor's leased fee  
17      interest in the lot that would apply if ~~[such]~~ the interests  
18      were normally traded on an open market. The fair market value  
19      of the owner's basis shall be established to provide the lessor  
20      with just compensation for the lessor's interests in the lot and  
21      shall take into consideration every interest and equity of the



1 lessee in establishing that market value. The value may be  
2 determined by either of the following methods, or any other  
3 method ~~[which]~~ that is normally used by qualified appraisers in  
4 establishing the fair market value of a lessor's leased fee  
5 interest in land:

6 (1) The sum of: ~~[(i) the]~~

7 (A) The future rental income stream for the lot for  
8 the term of the lease discounted to present worth  
9 from the expiration date of the lease; and ~~[(ii) the]~~  
10 ~~the]~~

11 (B) The value of the lessor's reversionary interest  
12 in the lot discounted to present worth from the  
13 expiration date of the lease.

14 The discount rate shall be based on the maximum rate  
15 of return for insured passbook demand saving account  
16 paid by the savings and loan institutions in Hawaii  
17 plus three and three-fourths per cent; provided~~[,~~  
18 ~~however,~~] that the discount rate may be modified by  
19 mutual agreement of the lessor, lessee, and the  
20 corporation; or



1       (2) The current fair market value of the lot, valued as if  
2       it were a fee simple lot and as if the fee title were  
3       unencumbered, and excluding onsite improvements,  
4       established by a market data approach utilizing  
5       comparable sales, less the following:

6       (A) The value of the lease, including any rights  
7       therein, if any, [~~which~~] that accrues to the  
8       lessee;

9       (B) That percentage of the general enhancement of the  
10      neighborhood [~~which~~] that has been paid for or  
11      contributed directly or indirectly by the lessee;

12      (C) The current replacement cost of that portion of  
13      existing offsite improvements, including overhead  
14      and profit at prevailing rates, [~~which~~] that were  
15      paid for or otherwise contributed, directly or  
16      indirectly, by the lessee;

17      (D) That percentage of the general enhancement of the  
18      development tract and the lot caused by the  
19      onsite improvements on the lot paid for, or  
20      contributed, directly or indirectly, by the  
21      lessee;



1 (E) That amount, not otherwise deducted herein,  
2 allocated to the lot[~~which~~] that was paid for  
3 or otherwise contributed, directly or indirectly,  
4 by the original lessee, computed at prevailing  
5 rates for overhead and profit in developing the  
6 development tract established by existing  
7 practice in the community; and

8 (F) That amount for fees and costs [~~which~~] that would  
9 ordinarily be borne by the lessor in transferring  
10 [~~such~~] interest to the lessee, including[~~7~~] but  
11 not limited to[~~7~~] attorneys' or realtors'  
12 commissions, other costs of sale, and similar  
13 fee;

14 provided[~~7, however, 7~~] that the values established by  
15 any one of the [~~foregoing~~] provisions in subparagraphs  
16 (A) to (F) shall not be duplicated in any one of the  
17 other provisions."

18 SECTION 38. Section 516-32, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 "§516-32 **Not for profit.** It is declared to be the policy  
21 of the State that the Hawaii housing finance and development



1 corporation shall carry out its responsibilities under this part  
2 in an efficient manner so as to enable it to fix the sales  
3 prices and rentals for residential lots at the lowest possible  
4 rates consistent with the purpose of this part; and that the  
5 corporation shall not administer this part for profit~~[7]~~ or as a  
6 source of revenue to the State. To this end, the corporation  
7 shall fix the sales prices for residential lots or rentals for  
8 lots at no higher rates or prices than it shall find to be  
9 necessary in order to produce revenues ~~[which]~~ that (together  
10 with all other available moneys, revenues, income, and receipts  
11 of the corporation from whatever sources derived under the  
12 administration of this part) will be sufficient~~[÷]~~ to:

13 (1) ~~[to pay,]~~ Pay, as the same becomes due, the principal  
14 and interest on the bonds of the corporation;

15 (2) ~~[to meet]~~ Meet the cost of~~[7]~~ and ~~[to]~~ provide for the  
16 administration of this part; and

17 (3) ~~[to create]~~ Create a reserve sufficient to meet the  
18 largest principal and interest payments ~~[which]~~ that  
19 will be due on ~~[such]~~ the bonds in any one year  
20 thereafter and to maintain ~~[such]~~ the reserve."



1       SECTION 39. Section 516-43, Hawaii Revised Statutes, is  
2 amended to read as follows:

3       "**§516-43 Security for funds deposited.** The Hawaii housing  
4 finance and development corporation [~~may~~], by resolution, may  
5 provide that all moneys deposited by it shall be secured[+] by:

6       (1) [~~by any~~] Any securities by which funds deposited by  
7 the state director of finance may be legally secured  
8 as provided in section 38-3[~~r~~]; or

9       (2) [~~by an~~] An undertaking with [~~such~~] sureties as are  
10 approved by the corporation faithfully to keep and pay  
11 over upon the order of the corporation any [~~such~~]  
12 deposits and agreed interest thereon, and all banks  
13 and trust companies may give any [~~such~~] security for  
14 [~~such~~] those deposits."

15       SECTION 40. Section 516-63, Hawaii Revised Statutes, is  
16 amended to read as follows:

17       "**§516-63 Free assignability.** Except as otherwise provided  
18 in section 516-35 and restrictions placed in leases by state or  
19 county agencies, a lessee may assign the lessee's lease at any  
20 time without the approval or consent of the lessor, and the  
21 assignee shall have the same rights and obligations under the



1 lease as the original lessee; provided that no ~~[such]~~ assignment  
2 shall be effective to transfer any interest in the lease unless  
3 the lessor has received:

4 (1) ~~[either]~~ Either a true executed copy of ~~[such]~~ the  
5 assignment or written notice thereof~~[7]~~;

6 (2) ~~[a]~~ A reasonable service charge, except in case of an  
7 assignment by way of mortgage or assignment to or by  
8 the Federal Housing Administration ~~[or]~~, Department of  
9 Veterans Affairs, or ~~[the]~~ Federal National Mortgage  
10 Association or a foreclosure of mortgage or assignment  
11 in lieu of foreclosure~~[7]~~; and

12 (3) ~~[the]~~ The written undertaking of the assignee to  
13 perform all obligations of the lessee under the lease,  
14 which undertaking may be incorporated in ~~[such]~~ the  
15 assignment.

16 No ~~[such]~~ assignment shall release the assignor from liability  
17 under the lease unless the lessor consents in writing to the  
18 assignment. A consent to the assignment shall be deemed a  
19 consent to the release of the assignor from liability under the  
20 lease. The lessor shall not require payment of any money for  
21 the lessor's consent except the service charge, nor withhold



1 [such] consent unreasonably. Any person acquiring the leasehold  
2 estate in consideration of the extinguishment of a debt secured  
3 by mortgage of the lease or through foreclosure sale, judicial  
4 or otherwise, shall be liable to perform the obligations imposed  
5 on the lessee by the lease only during the period [such] the  
6 person has possession or ownership of the leasehold estate."

7 SECTION 41. Section 516-66, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "**§516-66 Lease rental.** (a) In every case of an extension  
10 under section 516-65, the annual lease rental during the first  
11 thirty years shall not exceed an amount determined as follows:

12 (1) Compute to the nearest whole year, one hundred per  
13 cent of the unexpired period of fixed rent at the  
14 commencement of the extended term;

15 (2) Multiply the number of years computed in paragraph (1)  
16 by the fixed annual rent in effect immediately prior  
17 to the extension;

18 (3) Deduct from thirty years the number of years computed  
19 in paragraph (1) and multiply that difference by the  
20 annual rent determined by mutual agreement of lessor  
21 and lessee within thirty days after [such] the



1 extension or by arbitration in ~~[accord]~~ accordance  
2 with chapter 658A; and

3 (4) Add the amounts computed in paragraphs (2) and (3) and  
4 divide that sum by thirty. This sum rounded to the  
5 nearest dollar shall be the annual rent for the first  
6 thirty years of the extended term; provided that  
7 ~~[such]~~ the rent shall not ~~[without the consent of the~~  
8 ~~lessor]~~ be less than the annual rent in effect  
9 immediately prior to ~~[such]~~ the extension~~[-]~~, unless  
10 otherwise consented to by the lessor.

11 (b) The annual rent payable ~~[hereunder]~~ under subsection

12 (a) for and during the remaining period of the extended term  
13 shall be determined by mutual agreement of the lessor and the  
14 lessee~~[-]~~ or, if they fail to reach ~~[such]~~ an agreement at least  
15 ninety days before the commencement of the period, by  
16 arbitration in accordance with chapter 658A."

17 SECTION 42. Section 519-3, Hawaii Revised Statutes, is  
18 amended by amending subsection (d) to read as follows:

19 "(d) For purposes of this section:

20 ~~[(1)]~~ "Cooperative housing corporation" means a  
21 corporation:



1     ~~[(A)]~~     (1)   Having ~~[one and]~~ only one class of stock  
2                   outstanding;

3     ~~[(B)]~~     (2)   Each of the stockholders of which is entitled,  
4                   solely by reason of the shareholder's ownership of  
5                   stock in the corporation, to occupy for dwelling  
6                   purposes the dwelling unit in a building~~[7]~~ owned or  
7                   leased by the corporation~~[7]~~ and situated on land  
8                   leased by the corporation;

9     ~~[(C)]~~     (3)   No stockholder of which is entitled ~~[(either)]~~,  
10                  either conditionally or unconditionally~~[7]~~, to receive  
11                  any distribution not out of earnings and profits of  
12                  the corporation, except in a complete or partial  
13                  liquidation of the corporation; and

14    ~~[(D)]~~     (4)   Eighty per cent or more of the gross income for  
15                  the taxable year in which the taxes and interest  
16                  described in title 26 United States Code section  
17                  216(a) are paid or incurred is derived from tenant  
18                  stockholders.

19           ~~[(2)]~~   "Offsite improvements" means all physical  
20   improvements ~~[such as]~~, including but not limited to~~[7]~~ roads,  
21   sewer lines, sewage treatment plants, and underground utility



1 cables, constructed or placed in a subdivision or development  
2 off the land intended for occupancy, which improvements are to  
3 be used in common by occupants of all lands adjoining ~~[such]~~ the  
4 improvements or by occupants of all lands for whose benefit the  
5 improvements have been constructed or placed.

6       ~~[(3)]~~ "Onsite improvements" means all physical  
7 improvements placed on a residential lot intended for occupancy,  
8 which improvements are for the benefit of occupants of that lot,  
9 including~~[(7)]~~ but not limited to~~[(7)]~~ dwelling units, garages,  
10 service buildings, stairs, walkways, driveways, walls, trees,  
11 shrubs, landscaping, and pools.

12       ~~[(4)] "Owner's basis" means the value of the lessor's~~  
13 ~~leased fee interest in the property that would apply if such~~  
14 ~~interest were normally traded on an open market. The fair~~  
15 ~~market value of the owner's basis shall be established to~~  
16 ~~provide the lessor with just compensation for the lessor's~~  
17 ~~interests in the lot and shall take into consideration every~~  
18 ~~interest and equity of the lessee in establishing that market~~  
19 ~~value. The value may be determined by any method which is~~  
20 ~~normally used by qualified appraisers in establishing the fair~~  
21 ~~market value of a lessor's leased fee interest in land.~~



1       ~~(5)]~~ "Original percentage rate" means the percentage  
2       derived by dividing the annual lease rent established for the  
3       first fixed rent period under the lease by the fair market value  
4       of the land as of the first day of the first fixed rent period.

5       "Owner's basis" means the value of the lessor's leased fee  
6       interest in the property that would apply if the interest were  
7       normally traded on an open market. The fair market value of the  
8       owner's basis shall be established to provide the lessor with  
9       just compensation for the lessor's interests in the lot and  
10      shall take into consideration every interest and equity of the  
11      lessee in establishing that market value. The value may be  
12      determined by any method that is normally used by qualified  
13      appraisers in establishing the fair market value of a lessor's  
14      leased fee interest in land."

15       SECTION 43. Section 554-10, Hawaii Revised Statutes, is  
16       amended by amending subsection (a) to read as follows:

17       "(a) In the administration of any trust ~~[which]~~ that is a  
18       "private foundation", as defined in section 509 of the Code or  
19       to which section 4947 of the Code applies, the following shall  
20       be prohibited:



1       ~~[(i)]~~       (1)   Engaging in any act of "self-dealing" ~~[(as)]~~, as  
2                   defined in section 4941(d) of the Code~~[(+)]~~;  
3       ~~[(ii)]~~       (2)   Retaining any "excess business holdings" ~~[(as)]~~,  
4                   as defined in section 4943(c) of the Code~~[(+)]~~;  
5       ~~[(iii)]~~      (3)   Making any investments in ~~[such]~~ a manner as to  
6                   subject it to tax under section 4944 of the Code; and  
7       ~~[(iv)]~~      (4)   Making any "taxable expenditures" ~~[(as)]~~, as  
8                   defined in section 4945(d) of the Code~~[(+)]~~;  
9       provided that this subsection ~~[(a)]~~ shall not apply to ~~[such]~~  
10      amounts of any trust to which section 4947(a)(2) of the Code  
11      applies, as ~~[are]~~ described in the second sentence of ~~[said]~~  
12      section 4947(a)(2) of the Code, and ~~[items (ii) and (iii) of~~  
13      ~~this subsection (a)]~~ paragraphs (2) and (3) shall not apply to  
14      any trust to which ~~[said]~~ section 4947(a)(2) of the Code applies  
15      ~~[which is]~~, as described in section 4947(b)(3) of the Code."

16           SECTION 44.   Section 557A-104, Hawaii Revised Statutes, is  
17      amended by amending subsection (c) to read as follows:

18           "(c)   A trustee may not make an adjustment:

19           (1)   That diminishes the income interest in a trust that  
20                 requires all of the income to be paid at least  
21                 annually to a surviving spouse and for which an estate



1 tax or gift tax marital deduction would be allowed, in  
2 whole or in part, if the trustee did not have the  
3 power to make the adjustment;

4 (2) That reduces the actuarial value of the income  
5 interest in a trust to which a person transfers  
6 property with the intent to qualify for a gift tax  
7 exclusion;

8 (3) That changes the amount payable to a beneficiary as a  
9 fixed annuity or a fixed fraction of the value of the  
10 trust's assets;

11 (4) From any amount that is permanently set aside for  
12 charitable purposes under a will or the terms of a  
13 trust, unless both income and principal are so set  
14 aside; provided that a trustee may transfer income to  
15 principal only upon a court order (unless the trustee  
16 is holding institutional funds as defined in section  
17 [~~517D-3~~] 517E-2 exclusively for the benefit of a  
18 community foundation and section [~~517D-4~~] 517E-4  
19 applies);

20 (5) If possessing or exercising the power to make an  
21 adjustment may cause an individual to be treated as



1 the owner of all or part of the trust for income tax  
2 purposes, and the individual would not be treated as  
3 the owner if the trustee did not possess the power to  
4 make an adjustment;

5 (6) If possessing or exercising the power to make an  
6 adjustment causes all or part of the trust assets to  
7 be included for estate tax purposes in the estate of  
8 an individual who has the power to remove a trustee or  
9 appoint a trustee, or both, and the assets would not  
10 be included in the estate of the individual if the  
11 trustee did not have the power to make an adjustment;  
12 or

13 (7) If the trustee is a beneficiary of the trust."

14 SECTION 45. Section 571-21, Hawaii Revised Statutes, is  
15 amended by amending subsection (d) to read as follows:

16 "(d) In children's cases[7] under section 571-11(1) and  
17 (2), the petition and all subsequent court documents shall be  
18 suitably entitled so as to indicate that the proceeding is in  
19 the interest of rather than against the child or minor involved.  
20 The petition shall be verified and statements may be made upon



1 information and belief. ~~[It]~~ The petition shall set forth  
2 plainly~~[÷]~~ the:

3 (1) ~~[the facts which]~~ Facts that bring the child within  
4 the purview of this chapter;

5 (2) ~~[the name,]~~ Name, age, and residence of the child;

6 (3) ~~[the names]~~ Names and residences of the child's  
7 parents; and

8 (4) ~~[the name]~~ Name and residence of the child's legal  
9 guardian if there ~~[be]~~ is one, of the person or  
10 persons having custody or control of the child, or of  
11 the nearest known relative if no parent or guardian  
12 can be found.

13 If any of the facts required are not known by the petitioner,  
14 the petition shall so state. In cases brought pursuant to  
15 section 571-11(2)(A) and (C), a certified copy of the child's  
16 school attendance records shall constitute prima facie evidence  
17 of the child's nonattendance at school or nonreceipt of  
18 educational services. ~~[A certified copy is defined as]~~  
19 "Certified copy" means a copy signed by the principal and  
20 educator of the child ~~[from]~~ whose class the child did not  
21 attend."



1       SECTION 46. Section 571-31, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:

3       "(b) When an officer or other person takes a child into  
4 custody, the parents, guardian, or legal custodian shall be  
5 notified immediately. The child shall be:

6       (1) [~~released~~] Released to the care of the child's parent  
7 or other responsible adult;

8       (2) [~~referred~~] Referred or delivered to the court or other  
9 designated agency with or without simultaneous release  
10 to parent or other responsible adult; or

11       (3) [~~taken~~] Taken directly to a detention facility[~~7~~] if  
12 the child's immediate welfare or the protection of the  
13 community requires it[~~7~~] or if the child is subject to  
14 detention for violation of a court order of probation  
15 or protective supervision."

16       SECTION 47. Section 577-15, Hawaii Revised Statutes, is  
17 amended to read as follows:

18       "**§577-15 Children deemed to be orphans.** For the purpose  
19 of taking, or determining eligibility to take, any benefit under  
20 any law or under any private instrument by the terms of which  
21 orphans are eligible to receive benefits, a child born [~~of~~] to



1 parents not married to each other and not adopted shall be  
2 deemed an orphan; provided that nothing in this section shall be  
3 construed to:

4 (1) [~~to deprive~~] Deprive any [~~such~~] child of any rights of  
5 inheritance, [~~or~~] any rights to support, or any other  
6 rights[~~]~~ to which the child would be entitled[~~]~~; or

7 (2) [~~to affect~~] Affect the liabilities of any other person  
8 with respect to any [~~such~~] child to which the person  
9 would be subject[~~]~~ if this section had not been  
10 enacted."

11 SECTION 48. Section 578-7, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 "**§578-7 Substituted or constructive service.** Upon the  
14 filing of the affidavit referred to in section 578-6, the court  
15 may order service of the notice prescribed in sections 578-2 and  
16 578-4 to be made as follows:

17 (1) Personal service or service by registered mail without  
18 the State. If the residence of a nonresident legal  
19 parent is known or is ascertained at any stage of the  
20 proceeding prior to the filing of a return of service  
21 pursuant to section 578-5, the court may order that



1 service of notice of the time and place of hearing of  
2 the petition and of a copy thereof and of a copy of  
3 the court's order be made upon ~~[such]~~ the parent by:

4 (A) ~~[by personal]~~ Personal service thereof, without  
5 the State, by ~~[such]~~ a person and in ~~[such]~~ a  
6 manner as the court may direct~~[7]~~; or

7 (B) ~~[by sending]~~ Sending certified copies of the  
8 petition and of the notice of the time and place  
9 of the hearing thereof and of the court's order,  
10 by registered mail, addressed to ~~[such]~~ the  
11 parent, with request for return receipt, which  
12 service, evidenced by ~~[such]~~ the receipt signed  
13 by the parent and returned to the clerk of the  
14 court, shall be regarded as equivalent to service  
15 by publication or in lieu thereof.

16 When service is made pursuant to this paragraph, the  
17 time appointed for the hearing of the petition shall  
18 be not less than twenty-one days subsequent to the  
19 date of service as ~~[herein]~~ provided~~[7]~~ in this  
20 paragraph.



1           (2) Service by publication. If the residence of [~~such~~] a  
2           parent is not known and cannot be ascertained, or if  
3           an attempt to effect service by either of the methods  
4           authorized in paragraph (1) [~~hereof~~] is unsuccessful,  
5           the court may order that service shall be made by  
6           publication. The order shall direct that publication  
7           of notice of the pendency of the petition and of the  
8           time and place of the hearing thereof be made in a  
9           newspaper or newspapers suitable for the advertisement  
10          of notices of judicial proceedings once in each week  
11          for not less than four successive weeks as the court  
12          may prescribe, the last publication to be not less  
13          than twenty-one days prior to the time appointed for  
14          the hearing of the petition. The court [~~may~~], in  
15          addition to ordering publication, may direct that a  
16          copy of the petition and notice be forthwith deposited  
17          in the post office, addressed to [~~such~~] the parent at  
18          the parent's last known place of residence. The  
19          service of the notice required by section 578-2 shall  
20          be deemed complete at the expiration of the time  
21          prescribed by the order of publication."



SECTION 49. Section 580-3.5, Hawaii Revised Statutes, is amended to read as follows:

**"[f]§580-3.5[f] Personal judgment against absent defendant.** In any proceeding in the family court, the court ~~[shall have the power to]~~ may render a personal judgment against a party who is outside of this State and over whom jurisdiction is acquired by service of process in the manner set forth in section 580-3(b) or (c), if the party was personally served with a copy of the summons or order to show cause and complaint or other pleading upon which the judgment is based and if the party was a domiciliary of this State at the time:

(1) ~~[at the time that the]~~ The cause of action ~~[which]~~ that is the subject of the proceeding arose~~[, or]~~;

(2) ~~[at the time of]~~ Of the commencement of the proceeding~~[,]~~; or

(3) ~~[at the time of]~~ Of service."

SECTION 50. Section 831-3.1, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

"(f) Notwithstanding any law to the contrary, this section shall not apply to:



- 1       (1) Denials by the department of human services, the  
2       department of health, or any other branch, political  
3       subdivision, or agency of any certificate of approval,  
4       license, or permit to any organization, institution,  
5       home, or facility subject to licensure under chapters  
6       321, 333F, and 346;
- 7       (2) Denials of employment as a staff member of a youth  
8       correctional facility operated under chapter 352;
- 9       (3) Denials of employment as an employee of a detention or  
10      shelter facility established or designated pursuant to  
11      section 571-33;
- 12      (4) Denials of employment as a staff member of a  
13      correctional facility pursuant to chapter 353, or as a  
14      staff member that requires the exercise of police  
15      powers, including the power to arrest, in the  
16      performance of the staff member's duties pursuant to  
17      chapter 353C;
- 18      (5) Denials of employment of applicants or employees  
19      pursuant to section 78-2.7;
- 20      (6) Denials or termination of employment as an employee,  
21      employee applicant, or employee or agent of a



1 contractor of the department of taxation with access  
2 to federal tax information pursuant to section 231-  
3 1.6;

4 (7) Denials or termination of employment as an employee,  
5 employee applicant, or employee or agent of a  
6 contractor of the department of human services with  
7 access to federal tax information pursuant to section  
8 346-2.5;

9 (8) Denials or termination of employment as an employee,  
10 employee applicant, or employee or agent of a  
11 contractor of the department of labor and industrial  
12 relations with access to federal tax information  
13 pursuant to section 383-110; and

14 (9) Denials or termination of employment as an employee,  
15 employee applicant, or employee or agent of a  
16 contractor of the child support enforcement agency  
17 with access to federal tax information pursuant to  
18 section 576D-11.5."

19 SECTION 51. Section 235-12, Hawaii Revised Statutes, is  
20 repealed.



1       ~~["§235-12 Energy conservation; income tax credit. (a)~~

2   ~~For taxable years ending before January 1, 1990, except in the~~  
3   ~~case of ice storage systems for taxable years ending before~~  
4   ~~January 1, 1991, each individual and corporate resident taxpayer~~  
5   ~~who files an individual or corporate net income tax return for a~~  
6   ~~taxable year, may claim a tax credit under this section against~~  
7   ~~the Hawaii state individual or corporate net income tax. The~~  
8   ~~tax credit may be claimed for any solar or wind energy device,~~  
9   ~~heat pump, or ice storage system in an amount not to exceed ten~~  
10   ~~per cent of the total cost of the device, heat pump, or ice~~  
11   ~~storage system; provided that the tax credit shall apply only to~~  
12   ~~the actual cost of the solar or wind energy device, the heat~~  
13   ~~pump, or ice storage system, their accessories, and installation~~  
14   ~~and shall not include the cost of consumer incentive premiums~~  
15   ~~unrelated to the operation of the solar or wind energy device,~~  
16   ~~the heat pump, or ice storage system offered with the sale of~~  
17   ~~the solar or wind energy device, the heat pump, or ice storage~~  
18   ~~system. The credit shall be claimed against net income tax~~  
19   ~~liability for the year in which the solar or wind energy device,~~  
20   ~~the heat pump, or ice storage system was purchased and placed in~~  
21   ~~use; provided:~~



1       ~~(1) The tax credit shall be applicable only with respect~~  
2       ~~to solar devices, which are erected and placed in~~  
3       ~~service after December 31, 1974, but before January 1,~~  
4       ~~1990;~~

5       ~~(2) In the case of wind energy devices and heat pumps, the~~  
6       ~~tax credit shall be applicable only with respect to~~  
7       ~~wind energy devices and heat pumps which are installed~~  
8       ~~and placed in service after December 31, 1980, but~~  
9       ~~before January 1, 1990; and~~

10       ~~(3) In the case of ice storage systems, the tax credit~~  
11       ~~shall be applicable only with respect to ice storage~~  
12       ~~systems which are installed and placed in service~~  
13       ~~after December 31, 1985, but before January 1, 1990.~~

14       ~~Tax credits which exceed the taxpayer's income tax liability may~~  
15       ~~be used as a credit against the taxpayer's income tax liability~~  
16       ~~in subsequent years until exhausted. If federal energy tax~~  
17       ~~credits are not extended beyond December 31, 1985, are not~~  
18       ~~retroactively extended or reenacted, or federal energy tax~~  
19       ~~credits the same as or less in amount than the credits in effect~~  
20       ~~during the 1985 taxable year are not enacted during the taxable~~  
21       ~~year 1986, then the state tax credit shall be increased to~~



1 ~~fifteen per cent of the total cost after December 31, 1985, but~~  
2 ~~before January 1, 1990.~~

3 ~~As used in this subsection:~~

4 ~~"Solar or wind energy device" means any new identifiable~~  
5 ~~facility, equipment, apparatus, or the like which makes use of~~  
6 ~~solar or wind energy for heating, cooling, or reducing the use~~  
7 ~~of other types of energy dependent upon fossil fuel for their~~  
8 ~~generation.~~

9 ~~"Heat pump" means and refers to an electric powered~~  
10 ~~compression heating system which extracts energy from warm~~  
11 ~~ambient air or recovers waste heat to assist in the production~~  
12 ~~of hot water.~~

13 ~~"Ice storage system" refers to ice banks or other cool~~  
14 ~~energy storage tanks, containers, accessories, and controls that~~  
15 ~~are specifically designed to store ice or chilled fluids for the~~  
16 ~~express purpose of shifting the consumption of energy to off-~~  
17 ~~peak periods.~~

18 ~~(b) For taxable years beginning after December 31, 1989,~~  
19 ~~each individual or corporate resident taxpayer who files an~~  
20 ~~individual or corporate net income tax return for a taxable~~  
21 ~~year, may claim a tax credit under this section against the~~



~~Hawaii state individual or corporate net income tax. The tax credit may be claimed as follows:~~

~~(1) For wind energy systems that are installed and placed in service after December 31, 1989, but before July 1, 2003, the credit shall be twenty per cent of the actual cost;~~

~~(2) For solar energy systems that are installed and placed in service after December 31, 1989, but before July 1, 2003, on new and existing single family residential buildings, the credit shall be in an amount not to exceed thirty-five per cent or \$1,750, whichever is less, of the actual cost of the solar energy system;~~

~~(3) For solar energy systems that are installed and placed in service after December 31, 1989, but before July 1, 2003, on new and existing multiunit buildings used primarily for residential purposes, the credit shall be in an amount not to exceed thirty-five per cent or \$350 per building unit, whichever is less, of the actual cost of the solar energy system;~~

~~(4) For solar energy systems that are installed and placed in service after December 31, 1989, but before July 1,~~



1           ~~2003, in new and existing hotel, commercial, and~~  
2           ~~industrial facilities, the credit shall be in an~~  
3           ~~amount not to exceed thirty-five per cent of the~~  
4           ~~actual cost of the solar energy system;~~

5       ~~(5) For heat pumps that are installed and placed in~~  
6           ~~service after December 31, 1989, but before July 1,~~  
7           ~~2003, in new and existing single-family residential~~  
8           ~~buildings, the credit shall be in an amount not to~~  
9           ~~exceed twenty per cent or \$400, whichever is less, of~~  
10          ~~the actual cost of the heat pump;~~

11       ~~(6) For heat pumps that are installed and placed in~~  
12           ~~service after December 31, 1989, but before July 1,~~  
13           ~~2003, in new and existing multiunit buildings used~~  
14           ~~primarily for residential purposes, the credit shall~~  
15           ~~be in an amount not to exceed twenty per cent or \$200~~  
16           ~~per building unit, whichever is less, of the actual~~  
17           ~~cost of the heat pump; provided that a licensed~~  
18           ~~professional engineer reviews the design of the system~~  
19           ~~and provides a written opinion that the system, in~~  
20           ~~accordance with recognized engineering practice, is~~  
21           ~~designed to provide not less than ninety per cent of~~



1           ~~the daily annual average hot water needs of all of the~~  
2           ~~occupants of the building;~~

3           ~~(7) For heat pumps that are installed and placed in~~  
4           ~~service after December 31, 1989, but before July 1,~~  
5           ~~2003, in new and existing hotel, commercial, and~~  
6           ~~industrial facilities, the credit shall be in an~~  
7           ~~amount not to exceed twenty per cent of the actual~~  
8           ~~cost of the heat pump; and~~

9           ~~(8) For ice storage systems that are installed and placed~~  
10           ~~in service after December 31, 1990, but before July 1,~~  
11           ~~2003, the credit shall be in an amount not to exceed~~  
12           ~~fifty per cent of the actual cost of the ice storage~~  
13           ~~system.~~

14           ~~The per unit of actual cost of a solar energy system or heat~~  
15           ~~pump referred to in subsection (b) (3) and (6) shall be~~  
16           ~~determined by multiplying the actual cost of the solar energy~~  
17           ~~system or heat pump installed and placed in service in the~~  
18           ~~multiunit building by a fraction, the numerator being the total~~  
19           ~~square feet of that unit in the multiunit building, and the~~  
20           ~~denominator being the total square feet of all the units in the~~  
21           ~~multiunit building.~~



1       ~~If federal energy tax credits similar to any of those~~  
2       ~~provided in paragraphs (1) to (8) are established after June 30,~~  
3       ~~1998, but before July 1, 2003, then the state tax credit~~  
4       ~~provided in the respective paragraph or paragraphs shall be~~  
5       ~~reduced by the amount of the applicable federal energy tax~~  
6       ~~credit.~~

7       ~~(c) Tax credits shall apply only to the actual cost of the~~  
8       ~~solar or wind energy system, heat pump, or ice storage system,~~  
9       ~~including their accessories and installation, and shall not~~  
10      ~~include the cost of consumer incentive premiums unrelated to the~~  
11      ~~operation of the system or offered with the sale of the system~~  
12      ~~or heat pump. The tax credit shall be claimed against net~~  
13      ~~income tax liability for the year in which the solar or wind~~  
14      ~~energy system, heat pump, or ice storage system was purchased~~  
15      ~~and placed in use in Hawaii. Tax credits that exceed the~~  
16      ~~taxpayer's income tax liability may be used as credit against~~  
17      ~~the taxpayer's income tax liability in subsequent years until~~  
18      ~~exhausted.~~

19      ~~(d) The director of taxation shall prepare such forms as~~  
20      ~~may be necessary to claim a credit under this section. The~~  
21      ~~director may also require the taxpayer to furnish reasonable~~



1 ~~information to ascertain the validity of the claim for credit~~  
2 ~~made under this section and may adopt rules necessary to~~  
3 ~~effectuate the purposes of this section pursuant to chapter 91.~~

4 ~~(c) As used in this section:~~

5 ~~"Solar or wind energy system" means any new identifiable~~  
6 ~~facility, equipment, apparatus, or the like that converts solar~~  
7 ~~insolation or wind energy to useful thermal or electrical energy~~  
8 ~~for heating, cooling, or reducing the use of other types of~~  
9 ~~energy dependent upon fossil fuel for their generation.~~

10 ~~"Heat pump" means an electric powered compression heating~~  
11 ~~system that extracts energy from warm ambient air or recovers~~  
12 ~~waste heat to assist in the production of hot water.~~

13 ~~"Ice storage system" refers to ice banks or other cool~~  
14 ~~energy storage tanks, containers, accessories, and controls that~~  
15 ~~are specifically designed to store ice or chilled fluids for the~~  
16 ~~express purpose of shifting the consumption of energy to off-~~  
17 ~~peak periods." ]~~

18 SECTION 52. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.

20 SECTION 53. This Act shall take effect upon its approval;  
21 provided that the amendments made to section 329-38(h), Hawaii



# H.B. NO. 2183

1 Revised Statutes, by section 20 of this Act shall not be  
2 repealed when that section is reenacted on June 30, 2023,  
3 pursuant to section 6 of Act 66, Session Laws of Hawaii 2017.  
4

INTRODUCED BY: 

JAN 22 2018



# H.B. NO. 2183

**Report Title:**

Revision Bill

**Description:**

Amends or repeals various provisions of the Hawaii Revised Statutes and the Session Laws of Hawaii for the purposes of correcting errors and references, clarifying language, and deleting obsolete or unnecessary provisions.

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

