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## A BILL FOR AN ACT

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 171-36, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§171-36 Lease restrictions; generally.** (a) Except as  
4 otherwise provided, the following restrictions shall apply to  
5 all leases:

- 6           (1) Options for renewal of terms are prohibited;
- 7           (2) No lease shall be for a longer term than sixty-five  
8 years, except in the case of a residential leasehold,  
9 which may provide for an initial term of fifty-five  
10 years with the privilege of extension to meet the  
11 requirements of the Federal Housing Administration,  
12 Federal National Mortgage Association, Federal Land  
13 Bank of Berkeley, Federal Intermediate Credit Bank of  
14 Berkeley, Berkeley Bank for Cooperatives, or  
15 Department of Veterans Affairs requirements; provided



- 1           that the aggregate of the initial term and extension  
2           shall in no event exceed seventy-five years;
- 3           (3) No lease shall be made for any land under a lease  
4           ~~[which]~~ that has more than two years to run;
- 5           (4) No lease shall be made to any person who is in arrears  
6           in the payment of taxes, rents, or other obligations  
7           ~~[owing]~~ owed to the State or any county;
- 8           (5) No lease shall be transferable or assignable, except  
9           by devise, bequest, or intestate succession; provided  
10          that with the approval of the board ~~[of land and~~  
11          ~~natural resources]~~, the assignment and transfer of a  
12          lease or unit thereof may be made in accordance with  
13          current industry standards, as determined by the  
14          board; provided further that prior to the approval of  
15          any assignment of lease, the board shall have the  
16          right to review and approve the consideration to be  
17          paid by the assignee and may condition its consent to  
18          the assignment of the lease on payment by the lessee  
19          of a premium based on the amount by which the  
20          consideration for the assignment, whether by cash,  
21          credit, or otherwise, exceeds the depreciated cost of



1 improvements and trade fixtures being transferred to  
2 the assignee; provided further that with respect to  
3 state agricultural leases, in the event of foreclosure  
4 or sale, the premium, if any, shall be assessed only  
5 after the encumbrances of record and any other  
6 advances made by the holder of a security interest are  
7 paid;

- 8 (6) The lessee shall not sublet the whole or any part of  
9 the demised premises, except with the approval of the  
10 board; provided that prior to the approval, the board  
11 shall have the right to review and approve the rent to  
12 be charged to the sublessee; provided further that in  
13 the case where the lessee is required to pay rent  
14 based on a percentage of its gross receipts, the  
15 receipts of the sublessee shall be included as part of  
16 the lessee's gross receipts; provided further that the  
17 board shall have the right to review and, if  
18 necessary, revise the rent of the demised premises  
19 based upon the rental rate charged to the sublessee,  
20 including the percentage rent, if applicable, and  
21 provided that the rent may not be revised downward;



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- 1           (7) The lease shall be for a specific use or uses and  
2           shall not include waste lands, unless it is  
3           impractical to provide otherwise;
- 4           (8) Mineral and metallic rights and surface and ground  
5           water shall be reserved to the State; and
- 6           (9) No lease of public lands, including submerged lands,  
7           ~~[nor]~~ or any extension of any ~~[such]~~ lease~~[,]~~ of  
8           public lands shall be issued by the State to any  
9           person to construct, use, or maintain a sunbathing or  
10          swimming pier or to use the lands for ~~[such]~~ those  
11          purposes, unless ~~[such]~~ the lease, or any extension  
12          thereof, contains provisions permitting the general  
13          public to use the pier facilities on the public lands  
14          and requiring that a sign or signs be placed on the  
15          pier, clearly visible to the public, ~~[which]~~ that  
16          indicates the public's right to the use of the pier.  
17          The board, at the earliest practicable date, and where  
18          legally possible, shall cause all existing leases to  
19          be amended to conform to this paragraph. The term  
20          "lease", for the purposes of this paragraph, includes



1 month-to-month rental agreements and similar  
2 tenancies.

3 (b) The board, from time to time, upon the issuance or  
4 during the term of any intensive agricultural, aquaculture,  
5 commercial, mariculture, special livestock, pasture, or  
6 industrial lease, may:

7 (1) Modify or eliminate any of the restrictions specified  
8 in subsection (a);

9 (2) Extend or modify the fixed rental period of the lease;  
10 provided that the aggregate of the initial term and  
11 any extension granted shall not exceed sixty-five  
12 years; or

13 (3) Extend the term of the lease,  
14 to the extent necessary to qualify the lease for mortgage  
15 lending or guaranty purposes with any federal mortgage lending  
16 agency, to qualify the lessee for any state or private lending  
17 institution loan, private loan guaranteed by the State, or any  
18 loan in which the State and any private lender participates, or  
19 to amortize the cost of substantial improvements to the demised  
20 premises that are paid for by the lessee without institutional  
21 financing [~~such~~].



1       (c) Any extension [being] authorized pursuant to  
2 subsection (b) shall be based on the economic life of the  
3 improvements as determined by the board or an independent  
4 appraiser; provided that the approval of any extension shall be  
5 subject to the following:

- 6       (1) The demised premises have been used substantially for  
7       the purpose for which they were originally leased;
- 8       (2) The aggregate of the initial term and any extension  
9       granted shall not be for more than sixty-five years;
- 10      (3) In the event of a reopening, the rental for any  
11      ensuing period shall be the fair market rental at the  
12      time of reopening;
- 13      (4) Any federal or private lending institution shall be  
14      qualified to do business in the State;
- 15      (5) Proceeds of any mortgage or loan shall be used solely  
16      for the operations or improvements on the demised  
17      premises;
- 18      (6) Where improvements are financed by the lessee, the  
19      lessee shall submit receipts of expenditures within a  
20      time period specified by the board[~~, otherwise~~] or  
21      else the lease extension shall be canceled; and



1           (7) The rules of the board~~[7]~~ setting forth any additional  
2           terms and conditions, which shall ensure and promote  
3           the purposes of the demised lands.

4           ~~[(e)]~~ (d) The board, at any time during the term of any  
5           intensive agricultural, aquaculture, or mariculture lease and  
6           when justified by sound economic practices or other  
7           circumstances, may permit an alternative agricultural,  
8           aquaculture, or mariculture use or uses for any portion or  
9           portions of the land demised. As a condition to permitting  
10          alternative uses, the board may require ~~[such]~~ any other  
11          modifications, including rental adjustments or changes in the  
12          lease, as may be necessary to effect or accommodate the  
13          alternative use or uses. An alternative use or uses may be  
14          allowed by the board upon:

- 15           (1) The application of the lessee;
- 16           (2) Consent of each holder of record having a security  
17           interest in the leasehold; and
- 18           (3) A finding by the board that the alternative use or  
19           uses are in the public interest.

20          ~~[(d)]~~ (e) The board, from time to time~~[7]~~ during the term  
21          of any agriculture, intensive agriculture, aquaculture,



1 commercial, mariculture, special livestock, pasture, or  
2 industrial lease, may modify or eliminate any of the  
3 ~~[+]restrictions[+]~~ specified in subsection (a), extend or modify  
4 the fixed rental period of the lease, or extend the term of the  
5 lease upon a showing of significant economic hardship directly  
6 caused by:

7 (1) State disaster, pursuant to chapter 209, including  
8 seismic or tidal wave, tsunami, hurricane, volcanic  
9 eruption, typhoon, earthquake, flood, or severe  
10 drought; or

11 (2) A taking of a portion of the area of the lease by  
12 government action by eminent domain, withdrawal, or  
13 conservation easement; provided that the portion taken  
14 shall not be less than ten per cent of the entire  
15 leased area unless otherwise approved by the board;  
16 and provided that the board determines that the lessee  
17 will not be adequately compensated pursuant to the  
18 lease provisions.

19 ~~[(e)]~~ (f) The approval of any extension granted pursuant to  
20 subsection ~~[(d)]~~ (e) shall be subject to the following:





- 1           (1) The demised premises [~~has~~] have been used
- 2                           substantially for the purposes for which they were
- 3                           originally leased;
- 4           (2) The aggregate of the initial term and any extension
- 5                           granted shall not be for more than fifty-five years;
- 6           (3) The rental shall not be less than the rental for the
- 7                           preceding term;
- 8           (4) The rules of the board[~~]~~ setting forth any additional
- 9                           terms and conditions, which shall ensure and promote
- 10                          the purposes of the demised lands; and
- 11           (5) The length of the extension shall not exceed a
- 12                          reasonable length of time for the purpose of providing
- 13                          relief and shall in no case exceed five years."

14           SECTION 2. Section 171-41.6, Hawaii Revised Statutes, is

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

16           "(a) Notwithstanding any other provision of law to the

17 contrary, and except as otherwise provided in [~~sections~~] section

18 171-36(b), (c), and [~~(d)~~] (e) and section 171-193, a lessee of

19 public land that is classified as commercial and industrial use

20 pursuant to section 171-10[~~]~~ and that is subject to the

21 management, administration, or control of the board may[~~]~~



1 submit, during the last ten years of the term of the original  
2 lease, [~~submit~~] a written request to the board to initiate a  
3 request for interest process as provided in this section."

4 SECTION 3. Section 183D-4.5, Hawaii Revised Statutes, is  
5 amended by amending subsection (a) to read as follows:

6 "(a) There is established within the department a game  
7 management advisory commission, which shall serve in an advisory  
8 capacity to the board. The game management advisory commission  
9 shall consist of the following nine members [~~to be appointed by~~  
10 ~~the governor in the manner provided in section 26-34.~~  
11 ~~Membership on the game management advisory commission shall~~  
12 ~~include~~]:

- 13 (1) One member from the county of Kauai;
- 14 (2) Three members from the county of Maui, with one member  
15 from each of the islands of Maui, Lanai, and Molokai;
- 16 (3) Two members from the county of Hawaii, with one member  
17 from east Hawaii and one member from west Hawaii;
- 18 (4) One member from the city and county of Honolulu;
- 19 (5) One at-large member; and
- 20 (6) The chairperson of the board of land and natural  
21 resources or the chairperson's designated



1           representative, who shall serve as an ex officio,  
2           voting member;  
3 provided that each member, other than the chairperson of the  
4 board, shall be appointed by the governor in the manner provided  
5 in section 26-34, shall be a hunter licensed in the State under  
6 this chapter, and shall have leadership experience in working  
7 directly with local hunter or shooting organizations; provided  
8 further that at least one member shall have knowledge,  
9 experience, and expertise in the area of native Hawaiian  
10 cultural practices; and provided further that no more than three  
11 members shall represent, be employed by, or be under contract to  
12 any sector of government."

13           SECTION 4. Section 206N-3, Hawaii Revised Statutes, is  
14 amended to read as follows:

15           "[-]§206N-3[+] **General.** Except as provided in this  
16 chapter, the State or any county shall not prohibit or regulate  
17 the deployment of small wireless facilities or any associated  
18 modified or replaced utility poles used for the collocation of  
19 small wireless facilities. The State or a county may charge for  
20 the attachment of small wireless facilities on [~~solely owned~~]  
21 solely owned state or county utility poles used for the



1 [H]collocation[H] of small wireless facilities. Nothing in this  
2 chapter shall adversely impact the State's fiscal funding."

3 SECTION 5. Section 225M-2, Hawaii Revised Statutes, is  
4 amended by amending subsection (b) to read as follows:

5 "(b) The office of planning shall gather, analyze, and  
6 provide information to the governor to assist in the overall  
7 analysis and formulation of state policies and strategies to  
8 provide central direction and cohesion in the allocation of  
9 resources and effectuation of state activities and programs and  
10 effectively address current or emerging issues and  
11 opportunities. More specifically, the office shall engage in  
12 the following activities:

13 (1) State comprehensive planning and program coordination.  
14 Formulating and articulating comprehensive statewide  
15 goals, objectives, policies, and priorities, and  
16 coordinating their implementation through the  
17 statewide planning system established in part II of  
18 chapter 226;

19 (2) Strategic planning. Identifying and analyzing  
20 significant issues, problems, and opportunities  
21 confronting the State, and formulating strategies and



- 1 alternative courses of action in response to  
2 identified problems and opportunities by:
- 3 (A) Providing in-depth policy research, analysis, and  
4 recommendations on existing or potential areas of  
5 critical state concern;
  - 6 (B) Examining and evaluating the effectiveness of  
7 state programs in implementing state policies and  
8 priorities;
  - 9 (C) Monitoring through surveys, environmental  
10 scanning, and other techniques--current social,  
11 economic, and physical conditions and trends; and
  - 12 (D) Developing, in collaboration with affected public  
13 or private agencies and organizations,  
14 implementation plans and schedules and, where  
15 appropriate, assisting in the mobilization of  
16 resources to meet identified needs;
- 17 (3) Planning coordination and cooperation. Facilitating  
18 coordinated and cooperative planning and policy  
19 development and implementation activities among state  
20 agencies and between the state, county, and federal  
21 governments, by:



- 1 (A) Reviewing, assessing, and coordinating, as  
2 necessary, major plans, programs, projects, and  
3 regulatory activities existing or proposed by  
4 state and county agencies;
- 5 (B) Formulating mechanisms to simplify, streamline,  
6 or coordinate interagency development and  
7 regulatory processes; and
- 8 (C) Recognizing the presence of federal defense and  
9 security forces and agencies in the State as  
10 important state concerns;
- 11 (4) Statewide planning and geographic information system.  
12 Collecting, integrating, analyzing, maintaining, and  
13 disseminating various forms of data and information,  
14 including geospatial data and information, to further  
15 effective state planning, policy analysis and  
16 development, and delivery of government services by:
- 17 (A) Collecting, assembling, organizing, evaluating,  
18 and classifying existing geospatial and non-  
19 geospatial data and performing necessary basic  
20 research, conversions, and integration to provide



1 a common database for governmental planning and  
2 geospatial analyses by state agencies;

3 (B) Planning, coordinating, and maintaining a  
4 comprehensive, shared statewide planning and  
5 geographic information system and associated  
6 geospatial database. The office shall be the  
7 lead agency responsible for coordinating the  
8 maintenance of the multi-agency, statewide  
9 planning and geographic information system and  
10 coordinating, collecting, integrating, and  
11 disseminating geospatial data sets that are used  
12 to support a variety of state agency applications  
13 and other spatial data analyses to enhance  
14 decision-making. The office shall promote and  
15 encourage free and open data sharing among and  
16 between all government agencies. To ensure the  
17 maintenance of a comprehensive, accurate, up-to-  
18 date geospatial data resource that can be drawn  
19 upon for decision-making related to essential  
20 public policy issues such as land use planning,  
21 resource management, homeland security, and the



1 overall health, safety, and well-being of  
2 Hawaii's citizens, and to avoid redundant data  
3 development efforts, state agencies shall provide  
4 to the shared system either their respective  
5 geospatial databases or, at a minimum, especially  
6 in cases of secure or confidential data sets that  
7 cannot be shared or must be restricted, metadata  
8 describing existing geospatial data. In cases  
9 where agencies provide restricted data, the  
10 office of planning shall ensure the security of  
11 that data; and

12 (C) Maintaining a centralized depository of state and  
13 national planning references;

14 (5) Land use planning. Developing and presenting the  
15 position of the State in all boundary change petitions  
16 and proceedings before the land use commission,  
17 assisting state agencies in the development and  
18 submittal of petitions for land use district boundary  
19 amendments, and conducting periodic reviews of the  
20 classification and districting of all lands in the  
21 State, as specified in chapter 205;





1 (6) Coastal and ocean policy management. Carrying out the  
2 lead agency responsibilities for the Hawaii coastal  
3 zone management program, as specified in chapter 205A.

4 Also [~~developing~~]:

5 (A) Developing and maintaining an ocean and coastal  
6 resources information, planning, and management  
7 system [~~further~~];

8 (B) Further developing and coordinating  
9 implementation of the ocean resources management  
10 plan[~~ing~~]; and [~~formulating~~]

11 (C) Formulating ocean policies with respect to the  
12 exclusive economic zone, coral reefs, and  
13 national marine sanctuaries;

14 (7) Regional planning and studies. Conducting plans and  
15 studies to determine:

16 (A) The capability of various regions within the  
17 State to support projected increases in both  
18 resident populations and visitors;

19 (B) The potential physical, social, economic, and  
20 environmental impact on these regions resulting



1 from increases in both resident populations and  
2 visitors;

3 (C) The maximum annual visitor carrying capacity for  
4 the State by region, county, and island; and

5 (D) The appropriate guidance and management of  
6 selected regions and areas of statewide critical  
7 concern.

8 The studies in subparagraphs (A) to (C) shall be  
9 conducted at appropriate intervals, but not less than  
10 once every five years;

11 (8) Regional, national, and international planning.  
12 Participating in and ensuring that state plans,  
13 policies, and objectives are consistent, to the extent  
14 practicable, with regional, national, and  
15 international planning efforts;

16 (9) Climate adaptation planning. Conducting plans and  
17 studies and preparing reports as follows:

18 (A) Develop, monitor, and evaluate strategic climate  
19 adaptation plans and actionable policy  
20 recommendations for the State and counties  
21 addressing expected statewide climate change



- 1 impacts identified under Act 286, Session Laws of  
2 Hawaii 2012, through the year 2050;
- 3 (B) Provide planning and policy guidance and  
4 assistance to state and county agencies regarding  
5 climate change; and
- 6 (C) Publish its findings, recommendations, and  
7 progress reports on actions taken no later than  
8 December 31, 2017, and its annual report to the  
9 governor and the legislature thereafter; and
- 10 (10) Smart growth and transit-oriented development. Acting  
11 as the lead agency to coordinate and advance smart  
12 growth and transit-oriented development planning  
13 within the State as follows:
- 14 (A) Identify transit-oriented development  
15 opportunities shared between state and county  
16 agencies, including relevant initiatives such as  
17 the department of health's healthy Hawaii  
18 initiative and the Hawaii clean energy  
19 initiative;
- 20 (B) Refine the definition of "transit-oriented  
21 development" in the context of Hawaii, while



- 1 recognizing the potential for smart growth  
2 development patterns in all locations;
- 3 (C) Clarify state goals for transit-oriented  
4 development and smart growth that support the  
5 principles of the Hawaii State Planning Act by  
6 preserving non-urbanized land, improving worker  
7 access to jobs, and reducing fuel consumption;
- 8 (D) Target transit-oriented development areas for  
9 significant increase in affordable housing and  
10 rental units;
- 11 (E) Conduct outreach to state agencies to help  
12 educate state employees about the ways they can  
13 support and benefit from transit-oriented  
14 development and the State's smart growth goals;
- 15 (F) Publicize coordinated state efforts that support  
16 smart growth, walkable neighborhoods, and  
17 transit-oriented development;
- 18 (G) Review state land use decision-making processes  
19 to identify ways to make transit-oriented  
20 development a higher priority and facilitate  
21 better and more proactive leadership in creating



1 walkable communities and employment districts,  
2 even if transit will only be provided at a later  
3 date; and

4 (H) Approve all state agencies' development plans for  
5 parcels along the rail transit corridor. For the  
6 purposes of this subparagraph, "development  
7 plans" means conceptual land use plans that  
8 identify the location and planned uses within a  
9 defined area."

10 SECTION 6. Section 235-2.4, Hawaii Revised Statutes, is  
11 amended by amending subsection (aa) to read as follows:

12 "(aa) Section 451 (which provides general rules for  
13 taxable year of inclusion) of the Internal Revenue Code shall be  
14 operative, except that section [~~451(j)(3) and (6),~~] 451(k)(3)  
15 and (6), as it relates to a qualified electric utility, shall  
16 not be operative for purposes of this chapter."

17 SECTION 7. Section 241-2, Hawaii Revised Statutes, is  
18 amended by amending subsection (b) to read as follows:

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

20 (1) [~~to exclude~~] Exclude the application of other taxes  
21 imposed by the State or any political division thereof



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

7 (2) ~~[to exempt]~~ Exempt the real property of national  
8 banking associations from taxation to the same extent,  
9 according to its value, as other real property is  
10 taxed ~~[7]~~; or

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

16 SECTION 8. Section 264-101, Hawaii Revised Statutes, is  
17 amended by amending subsection (b) to read as follows:

18 "(b) The director of transportation, in the case of state  
19 highways, may, upon application in writing, issue a written  
20 permit, subject to any terms and conditions imposed by the  
21 director, authorizing the applicant to vend in the airspace, [as



1 ~~that term is defined in title 23 Code of Federal Regulations~~  
2 ~~section 710.105, as amended, of] which includes the space above~~  
3 ~~or below a highway, in the State's interstate highway system."~~

4 SECTION 9. Section 279D-1, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "[~~§~~279D-1~~]~~ **Statement of purpose.** The legislature  
7 finds that 23 United States Code sections 134-135 and 49 United  
8 States Code sections 5303-5304, as amended, and federal  
9 regulations adopted pursuant thereto, and other federal laws  
10 require that metropolitan planning organizations be designated  
11 based on a minimum population threshold as defined in federal  
12 law to act as a decision-making agency and to receive certain  
13 funds for the purpose of carrying out a continuing, cooperative,  
14 and comprehensive transportation planning process.

15 Metropolitan planning organizations have their own policy  
16 board and staff. It is the responsibility of the policy board  
17 to make decisions that are the result of the continuing,  
18 cooperative, and comprehensive transportation planning process,  
19 and the organization's staff support and provide technical  
20 resources to the policy board. The continuing, cooperative, and  
21 comprehensive planning process is designed to provide both



1 orderly and reasoned metropolitan transportation planning within  
2 the framework of federal law, and adequate and informed  
3 representation from state and county governments, operators of  
4 public transportation receiving federal funds, the public at  
5 large, and others as identified in 23 Code of Federal  
6 Regulations [~~section~~] part 450, subpart C."

7 SECTION 10. Section 286-28, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "§286-28 **Fines.** The department shall supervise and cause  
10 inspections to be made of official inspection stations and shall  
11 issue a fine, in an amount determined by the department by rule,  
12 to a station [~~which~~] that it finds is not properly conducting  
13 inspections. After three violations, the [~~vehicle inspection~~]  
14 permit issued to the station [~~license will~~] pursuant to section  
15 286-27 shall be subject to suspension or revocation. The  
16 department shall maintain and post at its office lists of all  
17 stations holding permits and those whose permits have been  
18 suspended or revoked."

19 SECTION 11. Section 291E-61, Hawaii Revised Statutes, is  
20 amended by amending subsection (b) to read as follows:





1           "(b) A person committing the offense of operating a  
2 vehicle under the influence of an intoxicant shall be sentenced  
3 without possibility of probation or suspension of sentence as  
4 follows:

5           (1) For the first offense, or any offense not preceded  
6 within a five-year period by a conviction for an  
7 offense under this section or section 291E-4(a):

8           (A) A fourteen-hour minimum substance abuse  
9 rehabilitation program, including education and  
10 counseling, or other comparable program deemed  
11 appropriate by the court;

12           (B) One-year revocation of license and privilege to  
13 operate a vehicle during the revocation period  
14 and installation during the revocation period of  
15 an ignition interlock device on any vehicle  
16 operated by the person;

17           (C) Any one or more of the following:

18           (i) Seventy-two hours of community service work;

19           (ii) Not less than forty-eight hours and not more  
20 than five days of imprisonment; or



- 1                   (iii) A fine of not less than \$150 but not more
- 2                                   than \$1,000;
- 3                   (D) A surcharge of \$25 to be deposited into the
- 4                                   neurotrauma special fund; and
- 5                   (E) A surcharge, if the court so orders, of up to \$25
- 6                                   to be deposited into the trauma system special
- 7                                   fund;
- 8                   (2) For an offense that occurs within five years of a
- 9                                   prior conviction for an offense under this section or
- 10                                  section 291E-4(a):
- 11                   (A) Revocation for not less than eighteen months nor
- 12                                   more than two years of license and privilege to
- 13                                   operate a vehicle during the revocation period
- 14                                   and installation during the revocation period of
- 15                                   an ignition interlock device on any vehicle
- 16                                   operated by the person;
- 17                   (B) Either one of the following:
- 18                                   (i) Not less than two hundred forty hours of
- 19   community service work; or
- 20                                   (ii) Not less than five days but not more than
- 21   thirty days of imprisonment, of which at



1                   least forty-eight hours shall be served  
2                   consecutively;

3           (C) A fine of not less than \$500 but not more than  
4                 \$1,500;

5           (D) A surcharge of \$25 to be deposited into the  
6                 neurotrauma special fund; and

7           (E) A surcharge of up to \$50 if the court so orders,  
8                 to be deposited into the trauma system special  
9                 fund;

10       (3) For an offense that occurs within five years of two  
11         prior convictions for offenses under this section or  
12         section 291E-4(a):

13         (A) A fine of not less than \$500 but not more than  
14                 \$2,500;

15         (B) Revocation for two years of license and privilege  
16                 to operate a vehicle during the revocation period  
17                 and installation during the revocation period of  
18                 an ignition interlock device on any vehicle  
19                 operated by the person;



- 1 (C) Not less than ten days but not more than thirty
- 2 days imprisonment, of which at least forty-eight
- 3 hours shall be served consecutively;
- 4 (D) A surcharge of \$25 to be deposited into the
- 5 neurotrauma special fund; and
- 6 (E) A surcharge of up to \$50 if the court so orders,
- 7 to be deposited into the trauma system special
- 8 fund;
- 9 (4) In addition to a sentence imposed under paragraphs (1)
- 10 through (3), any person eighteen years of age or older
- 11 who is convicted under this section and who operated a
- 12 vehicle with a passenger, in or on the vehicle, who
- 13 was younger than fifteen years of age, shall be
- 14 sentenced to an additional mandatory fine of \$500 and
- 15 an additional mandatory term of imprisonment of forty-
- 16 eight hours; provided that the total term of
- 17 imprisonment for a person convicted under this
- 18 paragraph shall not exceed the maximum term of
- 19 imprisonment provided in paragraph (1), (2), or (3),
- 20 as applicable. Notwithstanding paragraphs (1) and
- 21 (2), the revocation period for a person sentenced



1 under this paragraph shall be not less than two years;  
2 and

3 (5) If the person demonstrates to the court that the  
4 person:

5 (A) Does not own or have the use of a vehicle in  
6 which the person can install an ignition  
7 interlock device during the revocation period; or

8 (B) Is otherwise unable to drive during the  
9 revocation period,

10 the person shall be absolutely prohibited from driving  
11 during the period of applicable revocation provided in  
12 paragraphs (1) to (4); provided that the court shall  
13 not issue an ignition interlock permit pursuant to  
14 subsection (i) and the person shall be subject to the  
15 penalties provided by section 291E-62 if the person  
16 drives during the applicable revocation period."

17 SECTION 12. Section 302A-805, Hawaii Revised Statutes, is  
18 amended by amending its title to read as follows:

19 "§302A-805 Teachers; license or permit required;  
20 renewals."



1 SECTION 13. Section 329D-1, Hawaii Revised Statutes, is  
2 amended by amending the definition of "manufactured cannabis  
3 product" to read as follows:

4 "Manufactured cannabis product" means any capsule,  
5 lozenge, oil or oil extract, tincture, ointment or skin lotion,  
6 pill, transdermal patch, or pre-filled and sealed container used  
7 to aerosolize and deliver cannabis orally, such as an inhaler or  
8 nebulizer, that has been manufactured using cannabis, or any  
9 other products as specified by the department pursuant to  
10 section [~~329D-10(a)(9)~~] 329D-10(a)(10)."

11 SECTION 14. Section 352D-4, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 "**§352D-4 Establishment; purpose.** There is established  
14 within the department of human services for administrative  
15 purposes only the office of youth services. The office of youth  
16 services is established to provide services and programs for  
17 youth at risk under one umbrella agency in order to facilitate  
18 optimum service delivery, to prevent delinquency, and to reduce  
19 the incidence of recidivism among juveniles through the  
20 provision of prevention, rehabilitation, and treatment services.  
21 The office shall also be responsible for program planning and



1 development, intake/assessment, oversight, as well as  
2 consultation, technical assistance, and staff training relating  
3 to the delivery of services.

4 The office shall provide a continuum of services as  
5 follows:

- 6 (1) An integrated intake/assessment and case management  
7 system;
- 8 (2) The necessary educational, vocational, social  
9 counseling and mental health services; provided that  
10 the department of education shall be the only provider  
11 of standards-based education services for all youth  
12 [~~adults~~] at risk and young adults identified with  
13 special education needs or actively receiving special  
14 education services, in accordance with the Individuals  
15 with Disabilities Education Act (20 U.S.C. [~~section~~]  
16 1400 et seq.) and all applicable federal and state  
17 educational requirements;
- 18 (3) Community-based shelter and residential facilities;
- 19 (4) Oversight of youth services; and



1           (5) Other programs [~~which~~] that encourage the development  
2                   of positive self-images and useful skills in [~~such~~  
3                   ~~youth.~~] youths.

4           The executive director of the office of youth services  
5 shall submit annual reports to the legislature no later than  
6 twenty days prior to the convening of each regular session,  
7 reporting the services or programs funded pursuant to this  
8 section, the number of [~~youth~~] youths served by each service or  
9 program, and the results of the services or programs funded.

10           To this end, on July 1, 1991, this office shall assume the  
11 responsibilities for juvenile corrections functions, which were  
12 temporarily placed in the department of corrections pursuant to  
13 Act 338, Session Laws of Hawaii 1987. These functions shall  
14 include[~~7~~] but not be limited to[~~7~~] all responsibilities, under  
15 chapter 352, for the Hawaii youth correctional facilities."

16           SECTION 15. Section 431:4-101, Hawaii Revised Statutes, is  
17 amended to read as follows:

18           "**§431:4-101 Definitions.** As used in this article:

19           [~~(1) Surplus funds means the excess of the insurer's assets~~  
20 ~~over its liabilities, including its capital stock as a~~  
21 ~~liability.~~





1       ~~(2) Available surplus~~ "Available surplus" means the  
2 excess over the minimum amount of surplus required for the  
3 classes of insurance the insurer is authorized to transact.

4       ~~[(3) Equity security]~~ "Equity security" means any stock or  
5 similar security; any security convertible, with or without  
6 consideration, into such a security, or carrying any warrant or  
7 right to subscribe to or purchase such a security; any such  
8 warrant or right; or any security ~~[which]~~ that the commissioner,  
9 by ~~[such]~~ rules and regulations as the commissioner may  
10 prescribe in the public interest or for the protection of  
11 investors ~~[designate]~~, designates as an equity security.

12       "Surplus funds" means the excess of the insurer's assets  
13 over its liabilities, including its capital stock as a  
14 liability."

15       SECTION 16. Section 431:4-119, Hawaii Revised Statutes, is  
16 amended to read as follows:

17       "**§431:4-119 Refund upon failure to complete or qualify or**  
18 **upon revocation of solicitation permit.** ~~[(a)]~~ The commissioner  
19 shall withdraw all funds held in escrow and refund to  
20 subscribers or applicants all sums paid in on stock  
21 subscriptions, less that part of ~~[such]~~ the sums paid in on



1 subscriptions as has been allowed and used for promotion and  
2 organization expenses, and all sums paid in on insurance  
3 applications, and shall dissolve the proposed insurer or  
4 corporation if:

5 (1) The proposed insurer or corporation [~~fails~~]:

6 (A) Fails to complete its organization and obtain  
7 full payment for subscriptions and applications;  
8 and

9 [~~(2) It fails~~] (B) Fails to secure its certificate of  
10 authority before expiration of the solicitation  
11 permit, if an insurer; or

12 [~~(b)~~] (2) The commissioner revokes the solicitation permit."

13 SECTION 17. Section 431:4-213, Hawaii Revised Statutes, is  
14 amended to read as follows:

15 "§431:4-213 **Exempt equity securities.** Section 431:4-208  
16 to section 431:4-210 shall not apply to equity securities of a  
17 domestic stock insurance company if:

18 (1) [~~if the~~] The equity securities of [~~such~~] the company  
19 have been registered with the United States Securities  
20 and Exchange Commission under section 12 of the  
21 Securities Exchange Act of 1934, as amended[~~7~~];



1           (2)   ~~[if the]~~ The equity securities of the company are  
 2                   required to be registered with the United States  
 3                   Securities and Exchange ~~[Commissioner]~~ Commission  
 4                   under section 12 of the Securities Exchange Act of  
 5                   1934, as amended~~[7]~~i or

6           (3)   ~~[if the]~~ The domestic stock insurance company ~~[shall]~~  
 7                   does not have any class of its equity securities held  
 8                   of record by at least one hundred persons on the last  
 9                   business day of the year next preceding the year in  
 10                  which equity securities of the company would be  
 11                  subject to ~~[section]~~ sections 431:4-208 to ~~[section]~~  
 12                  431:4-210 ~~[except]~~ but for ~~[item (3)]~~ this  
 13                  paragraph."

14           SECTION 18. Section 431:5-201, Hawaii Revised Statutes, is  
 15           amended to read as follows:

16           "**§431:5-201 Qualified assets.** In any determination of the  
 17           financial condition of an insurer, only ~~[such]~~ the assets ~~[as~~  
 18           ~~are]~~ owned by the insurer~~[7]~~ and ~~[which]~~ that consist of the  
 19           following may be used:

20           (1)   Cash in the possession of the insurer or in transit  
 21                   under its control, and the true positive balance of



1 any deposit of the insurer in a solvent bank or trust  
2 company;

3 (2) Investments, securities, properties, and secured loans  
4 acquired or held in accordance with article 6, and in  
5 connection therewith the following items:

6 (A) Interest due or accrued on any bond or evidence  
7 of indebtedness [~~which~~] that is not in default  
8 and [~~which~~] that is not valued on a basis  
9 including accrued interest [-];

10 (B) Declared and unpaid dividends on stocks and  
11 shares unless the amount has otherwise been  
12 allowed as an asset [-];

13 (C) Interest due or accrued upon a collateral loan in  
14 an amount not to exceed six months' interest  
15 thereon [-];

16 (D) Interest due or accrued on:

17 (i) Deposits in solvent banks, trust companies,  
18 and financial investment companies; and

19 (ii) Other assets if [~~such~~] the interest is in  
20 the judgment of the commissioner a  
21 collectible asset [-];



- 1           (E) Interest due or accrued on a mortgage loan, in an  
2           amount not exceeding in any event the amount, if  
3           any, of the excess of the value of the property  
4           less delinquent taxes thereon over the unpaid  
5           principal; provided that interest due and unpaid  
6           for a period in excess of six months shall not be  
7           allowed as an asset [-]; or
- 8           (F) Rent due or accrued on real property if [~~such~~]  
9           the rent is not in arrears for more than three  
10           months, unless the rent is secured by property  
11           held in the name of the tenant and conveyed to  
12           the insurer as collateral [-];
- 13       (3) Premium notes, policy loans, and other policy assets  
14       and liens on policies of life insurance, in an amount  
15       not exceeding the legal reserve and other policy  
16       liabilities carried on each individual policy;
- 17       (4) The net amount of uncollected and deferred premiums on  
18       an effective date item basis and annuity  
19       considerations in the case of a life insurer,  
20       corresponding to the basis on which reserves are held;



- 1           (5)    Producer balances or uncollected premiums, other than  
2                   for life insurance and other receivables, not more  
3                   than ninety days past due, less commissions payable  
4                   thereon; provided that the foregoing limitation shall  
5                   not apply to premiums and other receivables payable  
6                   directly or indirectly by the United States government  
7                   or any of its instrumentalities;
- 8           (6)    Installment premiums other than life insurance  
9                   premiums, in accordance with rules adopted by the  
10                  commissioner consistent with practice formulated or  
11                  adopted by the National Association of Insurance  
12                  Commissioners;
- 13          (7)    Notes and like written obligations not past due, taken  
14                   for premiums other than life insurance premiums, on  
15                   policies permitted to be issued on such basis, to the  
16                   extent of the unearned premium reserves carried  
17                   thereon and unless otherwise required by rules adopted  
18                   by the commissioner;
- 19          (8)    (A)   The full amount of reinsurance recoverable by a  
20                   ceding insurer from a solvent reinsurer not



1                   disqualified to take [~~such~~] the reinsurance under  
2                   this code; or

3                   (B) So much of reinsurance recoverable from [~~such~~]  
4                   the reinsurer as does not exceed the liabilities  
5                   carried by the ceding insurer for amounts  
6                   withheld under a reinsurance treaty with [~~such~~]  
7                   the reinsurer as security for the payment of  
8                   obligations thereunder if [~~such~~] the funds are  
9                   held subject to withdrawal by, and under the  
10                  control of, the ceding insurer in the case of a  
11                  reinsurer disqualified under this code;

12                 (9) Amounts receivable by an assuming insurer representing  
13                  funds withheld by a solvent ceding insurer under a  
14                  reinsurance treaty;

15                 (10) Deposits or equities recoverable from underwriting  
16                  associations and reinsurance funds, or from any  
17                  suspended banking institution, to the extent deemed by  
18                  the commissioner available for the payment of losses  
19                  and claims and at values to be determined by the  
20                  commissioner;

21                 (11) Electronic data hardware;



1           (12) Other assets not inconsistent with the foregoing  
2                   provisions, deemed by the commissioner available for  
3                   the payment of losses and claims; and

4           (13) All assets, whether or not consistent with the  
5                   provisions of this code, as may be allowed pursuant to  
6                   the annual statement form provided for in section  
7                   431:3-301."

8           SECTION 19. Section 431:7-203, Hawaii Revised Statutes, is  
9 amended by amending subsection (c) to read as follows:

10           "(c) This subsection shall apply to a refund for an  
11 overpayment of tax.

12           (1) If the tax return as filed by a taxpayer shows the  
13                   amount already paid, whether or not on the basis of  
14                   installments, exceeds the amount determined to be the  
15                   correct amount of the tax due, and the taxpayer  
16                   requests a refund of the overpayment, the amount of  
17                   overpayment together with interest, if any, shall be  
18                   refunded in the manner provided in subsection (a).

19           The interest shall be allowed and paid at the rate of  
20                   two-thirds of one per cent for each calendar month or  
21                   fraction thereof, beginning with the first calendar





1 day after the due date of the return or, if the return  
2 is filed after the prescribed due date, the first  
3 month following the month the return is received, and  
4 continuing until the date that the commissioner  
5 approves the refund voucher. If the commissioner  
6 approves the refund voucher within ninety days from  
7 the due date or the date the return is received,  
8 whichever is later, and the comptroller of the State  
9 sends the taxpayer a refund warrant within forty-five  
10 days from the date of the commissioner's approval, no  
11 interest on the overpayment will be allowed or paid.  
12 However, if either the commissioner or the comptroller  
13 exceeds the time allowed herein, interest will be  
14 computed from the first calendar day after the due  
15 date of the return or from the first month following  
16 the month the return is received by the commissioner  
17 if the return is filed after the prescribed due date,  
18 until the date that the comptroller sends the refund  
19 warrant to the taxpayer.

20 (2) If any overpayment of taxes results or arises from:



- 1 (A) The taxpayer filing an amended return<sup>[7]</sup>; i or  
2 [~~from~~]
- 3 (B) A determination made by the commissioner, i  
4 and [~~such~~] the overpayment is not shown on the  
5 original return as filed by the taxpayer, interest on  
6 the overpayment shall be allowed and paid from the  
7 first calendar day after the due date of the original  
8 return or, if the original return is filed after the  
9 prescribed due date, the first month following the  
10 month the return is received, to the date that the  
11 commissioner signs the refund voucher. If the  
12 comptroller does not send the refund warrant to the  
13 taxpayer within forty-five days after the  
14 commissioner's approval, interest will continue until  
15 the date that the comptroller sends the refund warrant  
16 to the taxpayer.
- 17 (3) In the case of credit, interest shall be allowed and  
18 paid from the first calendar day after the due date of  
19 the return, the first month following the month the  
20 return is received by the commissioner, or the date of  
21 payment, whichever is later, to the date the credit is



1           taken; provided that the commissioner may make a  
2           refund of any credit to a taxpayer where the taxpayer  
3           has no underpayment against which to apply the  
4           credit."

5           SECTION 20. Section 431:10D-118, Hawaii Revised Statutes,  
6 is amended by amending subsection (a) to read as follows:

7           "(a) A domestic life insurance company may~~[-]~~ establish,  
8 by or pursuant to resolution of its board of directors,  
9 ~~[establish]~~ one or more separate accounts~~[-]~~ and may allocate  
10 thereto amounts, including without limitation proceeds applied  
11 under optional modes of settlement or under dividend options, to  
12 provide for life insurance or annuities (and benefits incidental  
13 thereto), payable in fixed or variable amounts or both, subject  
14 to the following:

15           (1) The income, gains, and losses, realized or unrealized,  
16 from assets allocated to a separate account shall be  
17 credited to or charged against the account, without  
18 regard to other income, gains, or losses of the  
19 company~~[-]~~;

20           (2) Except as hereinafter provided, amounts allocated to  
21 any separate account and accumulations thereon may be



1           invested and reinvested without regard to any  
2           requirements or limitations prescribed by the laws of  
3           this State governing the investments of life insurance  
4           companies; provided that to the extent that the  
5           company's reserve liability with regard to:

6           (A)   ~~[benefits]~~ Benefits guaranteed as to amount and  
7                    duration~~[7]~~; and

8           (B)   ~~[funds]~~ Funds guaranteed as to principal amount  
9                    or stated rate of interest,

10           is maintained in any separate account, a portion of  
11           the assets of ~~[such]~~ the separate account at least  
12           equal to ~~[such]~~ the reserve liability shall be~~[7]~~  
13           invested, except as the commissioner may otherwise  
14           approve, ~~[invested,]~~ in accordance with the laws of  
15           this State governing the investments of life insurance  
16           companies. The investments in ~~[such]~~ the separate  
17           account or accounts shall not be taken into account in  
18           applying the investment limitations otherwise  
19           applicable to the investments of the company~~[7]~~;

20           (3) Unless otherwise approved by the commissioner, assets  
21           allocated to a separate account shall be valued at



1           their market value on the date of valuation, or if  
2           there is no readily available market, then as provided  
3           under the terms of the contract or the rules or other  
4           written agreement applicable to [~~such~~] the separate  
5           account; provided that unless otherwise approved by  
6           the commissioner, a portion of the assets of [~~such~~]  
7           the separate account equal to the company's reserve  
8           liability with regard to the guaranteed benefits and  
9           funds referred to in [+]subparagraphs[+] (A) and (B)  
10          of subsection (a)(2), if any, shall be valued in  
11          accordance with the rules otherwise applicable to the  
12          company's assets[-];

- 13          (4) Amounts allocated to a separate account in the  
14          exercise of the power granted by this section shall be  
15          owned by the company, and the company shall not be,  
16          nor hold itself out to be, a trustee with respect to  
17          [~~such~~] those amounts. That portion of the assets of  
18          any [~~such~~] separate account equal to the reserves and  
19          other contract liabilities with respect to [~~such~~] the  
20          account shall not be chargeable with liabilities



1 arising out of any other business the company may  
2 conduct ~~[ ]~~;

3 (5) No sale, exchange, or other transfer of assets may be  
4 made by a company between any of its separate accounts  
5 or between any other investment account and one or  
6 more of its separate accounts unless, in case of a  
7 transfer into a separate account, ~~[such]~~ the transfer  
8 is made solely to establish the account or to support  
9 the operation of the contracts with respect to the  
10 separate account to which the transfer is made, and  
11 unless ~~[such]~~ the transfer, whether into or from a  
12 separate account, is made by:

13 (A) ~~[by a]~~ A transfer of cash ~~[ ]~~; or

14 (B) ~~[by a]~~ A transfer of securities having a readily  
15 determinable market value ~~[ ]~~; provided that

16 ~~[such]~~ the transfer of securities is approved by  
17 the commissioner.

18 The commissioner may approve other transfers among  
19 ~~[such]~~ the accounts ~~[ ]~~ if, in the commissioner's  
20 opinion, ~~[such]~~ the transfers would not be  
21 inequitable ~~[ ]~~; and



1           (6) To the extent [~~such~~] the company deems it necessary to  
2           comply with any applicable federal or state laws,  
3           [~~such~~] the company, with respect to any separate  
4           account, including without limitation any separate  
5           account [~~which~~] that is a management investment  
6           company or a unit investment trust, may provide [~~for~~]  
7           persons having an interest [~~therein~~] in the account  
8           with appropriate voting and other rights and special  
9           procedures for the conduct of the business of [~~such~~]  
10          the account, including without limitation special  
11          rights and procedures relating to investment policy,  
12          investment advisory services, selection of independent  
13          public accountants, and the selection of a committee,  
14          the members of which need not be otherwise affiliated  
15          with [~~such~~] the company, to manage the business of  
16          [~~such~~] the account."

17           SECTION 21. Section 431:10H-205, Hawaii Revised Statutes,  
18 is amended to read as follows:

19           "[-] §431:10H-205 [-] Continuation or conversion. (a)  
20 Group long-term care insurance issued in this State beginning



1 July 1, 2000, shall provide covered individuals with a basis for  
2 continuation or conversion of coverage.

3 (b) ~~[For purposes of this section, "a basis for~~  
4 ~~continuation of coverage" means a policy provision that~~  
5 ~~maintains coverage under the existing group policy when the~~  
6 ~~coverage would otherwise terminate and which is subject only to~~  
7 ~~the continued timely payment of premium when due.]~~ Group  
8 policies that restrict provision of benefits and services to, or  
9 contain incentives to use, certain providers or facilities may  
10 provide continuation benefits that are substantially equivalent  
11 to the benefits of the existing group policy. The commissioner  
12 shall make a determination as to the substantial equivalency of  
13 benefits, and in doing so, shall take into consideration the  
14 differences between managed care and non-managed care plans,  
15 including but not limited to [7] provider system arrangements,  
16 service availability, benefit levels, and administrative  
17 complexity.

18 ~~[(c) For purposes of this section, "a basis for conversion~~  
19 ~~of coverage" means a policy provision that entitles an~~  
20 ~~individual, whose coverage under the group policy would~~  
21 ~~otherwise terminate or has been terminated for any reason~~





1 ~~including discontinuance of the group policy in its entirety or~~  
2 ~~with respect to an insured class, and who has been continuously~~  
3 ~~insured under the group policy or any group policy that it~~  
4 ~~replaced for at least six months immediately prior to~~  
5 ~~termination shall be entitled to the issuance of a converted~~  
6 ~~policy by the insurer under whose group policy the individual is~~  
7 ~~covered, without evidence of insurability.~~

8 ~~(d) For purposes of this section, "converted policy" means~~  
9 ~~an individual policy of long term care insurance providing~~  
10 ~~benefits identical to or benefits determined by the commissioner~~  
11 ~~to be substantially equivalent to or in excess of those provided~~  
12 ~~under the group policy from which conversion is made.]~~

13 (c) Where the group policy from which conversion is made  
14 restricts provision of benefits and services to, or contains  
15 incentives to use, certain providers or facilities, the  
16 commissioner, in making a determination as to substantial  
17 equivalency of benefits, shall take into consideration the  
18 differences between managed care and non-managed care plans,  
19 including but not limited to [7] provider system arrangements,  
20 service availability, benefit levels, and administrative  
21 complexity.



1           ~~[(e)]~~ (d) Written application for the converted policy  
2 shall be made and the first premium, if any, shall be paid as  
3 directed by the insurer no later than thirty-one days after  
4 termination of coverage under the group policy. The converted  
5 policy shall be issued effective on the day following the  
6 termination of coverage under the group policy~~[7]~~ and shall be  
7 renewable annually.

8           ~~[(f)]~~ (e) Unless the group policy from which conversion is  
9 made replaced previous group policy coverage, the premium for  
10 the converted policy shall be calculated on the basis of the  
11 insured's age at inception of coverage under the group policy  
12 from which conversion is made. Where the group policy from  
13 which conversion is made replaced a previous group coverage, the  
14 premium for the converted policy shall be calculated on the  
15 basis of the insured's age at inception of coverage under the  
16 group policy replaced.

17           ~~[(g)]~~ (f) Continuation of coverage or issuance of a  
18 converted policy shall be mandatory, except where:

- 19           (1) Termination of group coverage resulted from an  
20                   individual's failure to make any required payment of  
21                   premium or contribution when due; or



1           (2) The terminating coverage is replaced not later than  
2           thirty-one days after termination by another group  
3           coverage [~~effective on the day following the~~  
4           ~~termination of coverage~~]:

5           (A) Effective on the day following the termination of  
6           coverage;

7           ~~[(A)]~~ (B) Providing benefits, or benefits determined  
8           by the commissioner to be, identical or  
9           substantially equivalent to, or in excess of,  
10          those provided by the terminating coverage; and

11          ~~[(B)]~~ (C) The premium for which is calculated in a  
12          manner consistent with the requirements of  
13          subsection ~~[(f)]~~ (e).

14          ~~[(h)]~~ (g) Notwithstanding any other provision of this  
15          section, a converted policy issued to an individual who at the  
16          time of conversion is covered by another long-term care  
17          insurance policy that provides benefits on the basis of incurred  
18          expenses~~[7]~~ may contain a provision that results in a reduction  
19          of benefits payable if the benefits provided under the  
20          additional coverage, together with the full benefits provided by  
21          the converted policy, would result in payment of more than one



1 hundred per cent of incurred expenses. The provision shall only  
2 be included in the converted policy if the converted policy also  
3 provides for a premium decrease or refund [~~which~~] that reflects  
4 the reduction in benefits payable.

5 [~~(i)~~] (h) The converted policy may provide that the  
6 benefits payable under the converted policy, together with the  
7 benefits payable under the group policy from which conversion is  
8 made, shall not exceed those that would have been payable had  
9 the individual's coverage under the group policy remained in  
10 force and effect.

11 [~~(j)~~] (i) Notwithstanding any other provision of this  
12 section, an insured individual whose eligibility for group long-  
13 term care coverage is based upon the individual's relationship  
14 to another person shall be entitled to continuation of coverage  
15 under the group policy upon termination of the qualifying  
16 relationship by death or dissolution of marriage or reciprocal  
17 beneficiary relationship.

18 [~~(k)~~] (j) For purposes of this section [~~"managed care~~  
19 ~~plan" is a health care or assisted living arrangement designed~~  
20 ~~to coordinate patient care or control costs through utilization~~  
21 ~~review, case management, or use of specific provider networks.]:~~



1       "A basis for continuation of coverage" means a policy  
2 provision that maintains coverage under the existing group  
3 policy when the coverage would otherwise terminate and that is  
4 subject only to the continued timely payment of premium when  
5 due.

6       "A basis for conversion of coverage" means a policy  
7 provision that entitles an individual:

- 8       (1) Whose coverage under the group policy would otherwise  
9 terminate or has been terminated for any reason,  
10 including discontinuance of the group policy in its  
11 entirety or with respect to an insured class; and  
12       (2) Who has been continuously insured under the group  
13 policy or any group policy that it replaced for at  
14 least six months immediately prior to termination,  
15 to the issuance of a converted policy by the insurer under whose  
16 group policy the individual is covered, without evidence of  
17 insurability.

18       "Converted policy" means an individual policy of long-term  
19 care insurance providing benefits identical to, or benefits  
20 determined by the commissioner to be substantially equivalent to



1 or in excess of, those provided under the group policy from  
2 which conversion is made.

3 "Managed care plan" means a health care or assisted living  
4 arrangement designed to coordinate patient care or control costs  
5 through utilization review, case management, or use of specific  
6 provider networks."

7 SECTION 22. Section 431:14-116.6, Hawaii Revised Statutes,  
8 is amended by amending subsection (d) to read as follows:

9 "(d) The plan shall provide a formula allowing an insurer  
10 who voluntarily removes an insured risk from the residual market  
11 to be eligible for a take-out credit applicable against that  
12 insurer's residual market assessment base levied by the plan.  
13 The terms and conditions of the take-out credit shall be as  
14 follows:

15 (1) An insurer shall receive a credit against its  
16 assessment base for the amount of the annual premium  
17 reflected in [~~its~~] the insurer's financial statements  
18 for the respective calendar year. This reported  
19 premium shall be stated on the same financial basis as  
20 the premiums that are reported for use in determining



- 1 each insurer's residual market assessment base and  
2 shall be subject to subsequent adjustments and audits;
- 3 (2) The credit applicable to the residual market  
4 assessment base shall be as follows:
- 5 (A) First year: \$2 credit for every \$1 of premium  
6 removed;
- 7 (B) Second year: \$1 credit for every \$1 of premium  
8 removed; and
- 9 (C) Third year: \$1 credit for every \$1 of premium  
10 removed;
- 11 (3) If the insurer keeps the insured risk out of the  
12 residual market for three years, that insurer shall  
13 receive credit for each of three years. If the  
14 insurer does not write the business for three years,  
15 [~~it~~] the insurer shall receive credit only for the  
16 period of time that [~~it~~] the insurer covered the risk  
17 in the voluntary market. Under no circumstances shall  
18 an insurer receive credit for risks returned to the  
19 residual market within one policy year;
- 20 (4) An insurer shall not return an insured taken from the  
21 residual market to the residual market after one year



1 of coverage to subsequently reissue insurance to the  
 2 insured to obtain the higher credit established for  
 3 the first year of residual market removal in paragraph  
 4 [~~(2)~~] (2) (A);

5 (5) There shall be no maximum limit on credits received;  
 6 provided that the credits shall not reduce the  
 7 insurer's assessment base below zero;

8 (6) The kind and amount of coverage to be offered to  
 9 voluntary risks shall not be less than those afforded  
 10 by the policy being replaced, unless the kinds and  
 11 amounts are refused by the insureds;

12 (7) The commissioner may approve loss sensitive rating  
 13 plans for larger companies that generate more than  
 14 \$150,000 in insurance premiums; and

15 (8) The commissioner may adjust or terminate the credit  
 16 program depending on market conditions~~[ ]~~; provided  
 17 that any adjustment or termination shall not affect  
 18 any credit earned prior to the adjustment or  
 19 termination."

20 SECTION 23. Section 431:15-106, Hawaii Revised Statutes,  
 21 is amended to read as follows:





1           "§431:15-106 Cooperation of officers and employees. (a)

2 Any officer, manager, director, trustee, owner, employee, or

3 agent of any insurer, or any other persons with authority

4 over[~~7~~] or in charge of any segment of the insurer's affairs,

5 shall cooperate with the commissioner or the receiver in any

6 proceeding under this article or any investigation preliminary

7 to the proceeding. [~~The term person as used in this section,~~

8 ~~shall include any person who exercises control directly or~~

9 ~~indirectly over activities of an insurer through any holding~~

10 ~~company or other affiliate of the insurer. To cooperate shall~~

11 ~~include, but shall not be limited to the following:~~

12           ~~(1) To reply promptly in writing to any inquiry from the~~

13           ~~commissioner or the receiver requesting such a reply,~~

14           ~~and~~

15           ~~(2) To make available and deliver to the commissioner or~~

16           ~~receiver any books, accounts, documents, or other~~

17           ~~records, or information or property of or pertaining~~

18           ~~to the insurer and in its possession, custody or~~

19           ~~control.]~~

20           (b) No person shall obstruct or interfere with the

21 commissioner in the conduct of any delinquency proceeding or any



1 investigation preliminary or incidental [~~thereto~~] to the  
2 proceeding.

3 (c) This section does not make it illegal to resist by  
4 legal proceedings the petition for liquidation or other  
5 delinquency proceedings, or other orders.

6 (d) Any person included within subsection (a) who fails to  
7 cooperate with the commissioner, or any person who obstructs or  
8 interferes with the commissioner in the conduct of any  
9 delinquency proceeding or any investigation preliminary or  
10 incidental [~~thereto~~] to the proceeding, or who violates any  
11 order the commissioner issued validly under this article may:

12 (1) Be sentenced to pay a fine not exceeding \$10,000 or to  
13 be imprisoned for a term of not more than one year, or  
14 both; or

15 (2) After a hearing, be subject to the imposition by the  
16 commissioner, of a civil penalty not to exceed \$10,000  
17 and shall be subject [~~further~~] to the revocation or  
18 suspension of any insurance licenses issued by the  
19 commissioner.

20 (e) As used in this section:

21 "Cooperate" includes but is not limited to the following:



- 1        (1) To reply promptly in writing to any inquiry from the
- 2                commissioner or the receiver requesting a reply; and
- 3        (2) To make available and deliver to the commissioner or
- 4                receiver any books, accounts, documents, or other
- 5                records, or information or property of or pertaining
- 6                to the insurer and in its possession, custody, or
- 7                control.

8        "Person" includes any person who exercises control directly  
 9 or indirectly over activities of an insurer through any holding  
 10 company or other affiliate of the insurer."

11        SECTION 24. Section 431:20-102, Hawaii Revised Statutes,  
 12 is amended to read as follows:

13        **"§431:20-102 Definitions.** For the purposes of this  
 14 article:

15        [~~(1) Controlled escrow company~~] "Controlled escrow company"  
 16 means each person engaged in the business of handling escrows of  
 17 real property transactions in connection with which title  
 18 policies are issued by a title insurer, which person:

- 19        [~~(A)~~] (1) If an artificial person, directly or indirectly,
- 20                is controlled by or controls, or is under common
- 21                control with, a title insurer~~[7]~~ or is controlled by



1 or controls, or is under common control with, an  
2 underwritten title company; or

3 ~~[(B)]~~ (2) If a natural person, is employed by or controlled  
4 by a title insurer~~[7]~~ or by an underwritten title  
5 company.

6 ~~[-(2) Title insurance business or business of title~~  
7 ~~insurance]~~ "Title insurance business" or "business of title  
8 insurance" means:

9 ~~[-(A)]~~ (1) Issuing as insurer or offering to issue as  
10 insurer a title insurance policy; or

11 ~~[-(B)]~~ (2) Transacting or proposing to transact by a title  
12 insurer any of the following activities when conducted  
13 or performed in contemplation of the issuance of a  
14 title insurance policy:

15 ~~[-(i)]~~ (A) Soliciting or negotiating the issuance of a  
16 title insurance policy;

17 ~~[-(ii)]~~ (B) Guaranteeing, warranting, or otherwise  
18 insuring the correctness of title searches;

19 ~~[-(iii)]~~ (C) Handling of escrows, settlements, or  
20 closings;

21 ~~[-(iv)]~~ (D) Execution of title insurance policies;



- 1           ~~[(v)]~~ (E)   Effecting contracts of reinsurance;
- 2           ~~[(vi)]~~ (F)   Abstracting, searching, or examining titles;
- 3                               or
- 4           ~~[(vii)]~~ (G)   Doing or proposing to do any business in
- 5                               substance equivalent to any of the foregoing in a
- 6                               manner designed to evade the provisions of this
- 7                               article.

8           ~~[(3) Title insurance policy or policy]~~ "Title insurance

9 policy" or "policy" means a contract issuing or indemnifying

10 against loss or damage arising from any or all of the following

11 existing on or before the policy date:

- 12           ~~[(A)]~~ (1)   Defects in, liens against, or encumbrances on the
- 13                               insured title;
- 14           ~~[(B)]~~ (2)   Unmarketability of the insured title; or
- 15           ~~[(C)]~~ (3)   Invalidity or unenforceability of liens or
- 16                               encumbrances on the stated property. Title
- 17                               insurance policy does not include a preliminary
- 18                               report, binder, commitment, or abstract.

19           ~~[(4) Title insurer or insurer]~~ "Title insurer" or "insurer"

20 means a company organized under laws of this State for the

21 purpose of transacting as insurer the business of title



1 insurance, and any foreign or alien title insurer engaged in  
2 this State in the business of title insurance as insurer.

3 [~~(5) Underwritten title company~~] "Underwritten title  
4 company" means each person engaged in the business of preparing  
5 lien or title searches, title examinations, certificates of  
6 searches of title, or abstracts of title upon the basis of which  
7 a title insurer regularly writes title policies."

8 SECTION 25. Section 432:1-601, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 **"§432:1-601 Contract limitations for handicapped children**  
11 **and children with intellectual disabilities.** All individual and  
12 group hospital or medical service plan contracts, delivered or  
13 issued for delivery in this State after May 8, 1968, [~~which~~]  
14 that provide that coverage of a dependent child shall terminate  
15 upon attainment of the limiting age for dependent children  
16 specified in the contract shall also provide in substance that  
17 attainment of [~~such~~] the limiting age shall not operate to  
18 terminate the coverage of [~~such~~] the child while the child is  
19 and continues to be both:



1 (1) [~~incapable~~] Incapable of self-sustaining employment by  
2 reason of intellectual disability or physical  
3 handicap[~~]~~; and

4 (2) [~~chiefly~~] Chiefly dependent upon the policyholder,  
5 subscriber, or employee, as the case may be, for  
6 support and maintenance[~~]~~;

7 provided that proof of [~~such~~] the child's incapacity and  
8 dependency is furnished to the hospital service or medical  
9 indemnity association by the policyholder, subscriber, or  
10 employee within thirty-one days of the child's attainment of the  
11 limiting age and subsequently as may be required by [~~such~~] the  
12 association."

13 SECTION 26. Section 432:2-103, Hawaii Revised Statutes, is  
14 amended to read as follows:

15 "§432:2-103 **Definitions.** For the purposes of this  
16 article:

17 [~~(1) Benefit contract shall mean~~] "Benefit contract" means  
18 the agreement for provision of benefits authorized by section  
19 432:2-401, as that agreement is described in section 432:2-  
20 404(a).



1            [~~(2) Benefit member shall mean~~] "Benefit member" means an  
2 adult member who is designated by the laws or rules of the  
3 society to be a benefit member under a benefit contract.

4            [~~(3) Certificate shall mean~~] "Certificate" means the  
5 document issued as written evidence of the benefit contract.

6            [~~(4) Commissioner~~] "Commissioner" means the insurance  
7 commissioner of this State.

8            [~~(5) Laws shall mean~~] "Laws" means the society's articles  
9 of incorporation, constitution, and bylaws, however designated.

10           [~~(6) Lodge shall mean~~] "Lodge" means subordinate member  
11 units of the society, known as camps, courts, councils,  
12 branches, or by any other designation.

13           [~~(7) Premiums shall mean~~] "Premiums" means premiums, rates,  
14 dues, or other required contributions by whatever name known,  
15 which are payable under the certificate.

16           [~~(8) Rules shall mean~~] "Rules" means all rules,  
17 regulations, or resolutions adopted by the supreme governing  
18 body or board of directors [~~which~~] that are intended to have  
19 general application to the members of the society.

20           [~~(9) Society shall mean~~] "Society" means a fraternal  
21 benefit society, unless otherwise indicated."





1 SECTION 27. Section 480E-10, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3 "(a) A distressed property consultant shall not:

4 (1) Represent, expressly or by implication, in connection  
5 with the advertising, marketing, promotion, offering  
6 for sale, or performance of any mortgage assistance  
7 relief service, that a distressed property owner  
8 cannot or should not contact or communicate with the  
9 distressed property owner's lender or servicer;

10 (2) Misrepresent, expressly or by implication, any  
11 material aspect of any mortgage assistance relief  
12 service, including but not limited to:

13 (A) The likelihood of negotiating, obtaining, or  
14 arranging any represented service or result, such  
15 as those set forth in the definition of mortgage  
16 assistance relief service;

17 (B) The amount of time it will take the distressed  
18 property consultant to accomplish any represented  
19 service or result, such as those set forth in the  
20 definition of [~~mortgage assistance relief~~  
21 ~~service,~~] "mortgage assistance relief service";



- 1           (C) That a mortgage assistance relief service is
- 2                   affiliated with, endorsed or approved by, or
- 3                   otherwise associated with:
- 4                   (i) The United States government;
- 5                   (ii) Any governmental homeowner assistance plan;
- 6                   (iii) Any federal, state, or local government
- 7                           agency, unit, or department;
- 8                   (iv) Any nonprofit housing counselor agency or
- 9                           program;
- 10                   (v) The maker, holder, or servicer of the
- 11                           consumer's residential loan; or
- 12                   (vi) Any other individual, entity, or program;
- 13           (D) The distressed property owner's obligation to
- 14                   make scheduled periodic payments or any other
- 15                   payments pursuant to the terms of the distressed
- 16                   property owner's residential loan;
- 17           (E) The terms or conditions of the distressed
- 18                   property owner's residential loan, including but
- 19                   not limited to the amount of the debt owed;
- 20           (F) The terms or conditions of any refund,
- 21                   cancellation, exchange, or repurchase policy for



- 1           any mortgage assistance relief service, including  
2           but not limited to the likelihood of obtaining a  
3           full or partial refund, or the circumstances in  
4           which a full or partial refund will be granted,  
5           for a mortgage assistance relief service;
- 6           (G) That the distressed property consultant has  
7           completed the represented services or has a right  
8           to claim, demand, charge, collect, or receive  
9           payment or other consideration;
- 10          (H) That the distressed property owner will receive  
11          legal representation;
- 12          (I) The availability, performance, cost, or  
13          characteristics of any alternative to for-profit  
14          mortgage assistance relief services through which  
15          the distressed property owner can obtain mortgage  
16          assistance relief, including negotiating directly  
17          with the residential loan holder or servicer, or  
18          using any nonprofit housing counselor agency or  
19          program;



- 1 (J) The amount of money or the percentage of the debt  
2 amount that a distressed property owner may save  
3 by using any mortgage assistance relief service;
- 4 (K) The total cost to purchase any mortgage  
5 assistance relief service; or
- 6 (L) The terms, conditions, or limitation of any offer  
7 of mortgage assistance relief the distressed  
8 property consultant obtains from the distressed  
9 property owner's residential loan holder or  
10 servicer, including the time period in which the  
11 distressed property owner must decide to accept  
12 the offer;
- 13 (3) Make any representation, expressly or by implication,  
14 about the benefits, performance, or efficacy of any  
15 mortgage assistance relief service unless, at the time  
16 such representation is made, the provider possesses  
17 and relies upon competent and reliable evidence that  
18 substantiates that the representation is true. For  
19 the purposes of this paragraph, "competent and  
20 reliable evidence" means tests, analyses, research,  
21 studies, or other evidence based on the expertise of



- 1 professionals in the relevant area, that have been  
2 conducted and evaluated in an objective manner by  
3 individuals qualified to do so, using procedures  
4 generally accepted in the profession to yield accurate  
5 and reliable results;
- 6 (4) Conceal any material fact;
- 7 (5) Induce or attempt to induce a distressed property  
8 owner to waive any provision of this chapter;
- 9 (6) Make any promise or guarantee not fully disclosed in  
10 the distressed property consultant contract;
- 11 (7) Engage or attempt to engage in any activity or act  
12 concerning the distressed property not fully disclosed  
13 in the distressed property consultant contract;
- 14 (8) Induce or attempt to induce a distressed property  
15 owner to engage in any activity or act not fully  
16 disclosed in the distressed property consultant  
17 contract;
- 18 (9) Take, ask for, claim, demand, charge, collect, or  
19 receive any compensation until after the distressed  
20 property consultant has fully performed each service



- 1 the distressed property consultant contracted to  
2 perform or represented would be performed;
- 3 (10) Take, ask for, claim, demand, charge, collect, or  
4 receive for any reason, any fee, interest, or any  
5 other compensation that exceeds the two most recent  
6 monthly mortgage installments of principal and  
7 interest due on the loan first secured by the  
8 distressed property or the most recent annual real  
9 property tax charged against the distressed property,  
10 whichever is less;
- 11 (11) Take or ask for a wage assignment, a lien of any type  
12 on real or personal property, or other security to  
13 secure the payment of compensation. This type of  
14 security is void and not enforceable;
- 15 (12) Receive any consideration from any third party in  
16 connection with services rendered to a distressed  
17 property owner unless the consideration is fully  
18 disclosed in the distressed property consultant  
19 contract;
- 20 (13) Acquire any interest, directly or indirectly, or by  
21 means of a subsidiary or affiliate, in a distressed



- 1           property from a distressed property owner with whom  
2           the distressed property consultant has contracted;
- 3       (14)   Require or ask a distressed property owner to sign any  
4           lien, encumbrance, mortgage, assignment, or deed  
5           unless the lien, encumbrance, mortgage, assignment, or  
6           deed is fully described in the distressed property  
7           consultant contract, including all disclosures  
8           required by this chapter;
- 9       (15)   Take any power of attorney from a distressed property  
10          owner for any purpose, except to inspect documents  
11          concerning the distressed property as allowed by law;
- 12       (16)   Advise or instruct a distressed property owner to stop  
13          making payments to any lending party if that property  
14          owner is not in receipt of a written notice that the  
15          property owner's residential loan has been  
16          accelerated;
- 17       (17)   Fail to disclose, at the time the distressed property  
18          consultant furnishes the distressed property owner  
19          with the lending party's written offer for mortgage  
20          assistance relief, the following information:



1            "This is an offer of mortgage assistance we  
2            obtained from your lender [or servicer]. You may  
3            accept or reject the offer. If you reject the  
4            offer, you do not have to pay us. If you accept  
5            the offer, you will have to pay us [same amount  
6            as disclosed in the distressed property  
7            consultant contract] for our services."

8            The disclosure required by this paragraph shall be  
9            made in a clear and prominent manner, on a separate  
10           written page, and preceded by the heading:

11                    "IMPORTANT NOTICE: Before buying this service,  
12                    consider the following information."

13            The heading shall be in boldface type that is two-  
14            point type larger than the type size of the required  
15            disclosure;

16            (18) Fail to provide, at the time the distressed property  
17            consultant furnishes the distressed property owner  
18            with the written agreement specified in paragraph  
19            (17), a notice from the lending party that describes  
20            all material differences between the terms,  
21            conditions, and limitations associated with the





1 distressed property owner's current residential loan  
2 and the terms, conditions, and limitations associated  
3 with the distressed property owner's residential loan  
4 if the owner accepts the lending party's offer,  
5 including but not limited to differences in the  
6 loan's:

- 7 (A) Principal balance;
- 8 (B) Contract interest rate, including the maximum  
9 rate and any adjustable rates, if applicable;
- 10 (C) Amount and number of the owner's scheduled  
11 periodic payments on the loan;
- 12 (D) Monthly amounts owed for principal, interest,  
13 taxes, and any mortgage insurance on the loan;
- 14 (E) Amount of any delinquent payments owing or  
15 outstanding;
- 16 (F) Assessed fees or penalties; and
- 17 (G) Term[+]. [+]

18 The notice required by this paragraph shall be made in  
19 a clear and prominent manner, on a separate written  
20 page, and preceded by the heading: "IMPORTANT  
21 INFORMATION FROM [YOUR] [name of lender or servicer]"



1 ABOUT THIS OFFER." The heading shall be in boldface  
2 type that is two-point type larger than the type size  
3 of the required disclosure;

4 (19) Fail to disclose in the notice specified in paragraph  
5 (18), in cases where the offer of mortgage assistance  
6 relief obtained by the distressed property consultant  
7 from the lending party is a trial residential loan  
8 modification, the terms, conditions, and limitations  
9 of the offer, including but not limited to:

10 (A) The fact that the distressed property owner may  
11 not qualify for a permanent loan modification;  
12 and

13 (B) The likely amount of the scheduled periodic  
14 payments and any arrears, payments, or fees that  
15 the distressed property owner would owe in  
16 failing to qualify; or

17 (20) File any document in the bureau of conveyances of the  
18 State of Hawaii that purports to modify, reduce,  
19 eliminate, discharge, contest, or otherwise affect any  
20 mortgage, lien, or encumbrance of record without  
21 either the express written consent of the lending



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1 party or lienholder or a court order permitting or  
 2 directing the document to be filed, with the exception  
 3 of a notice of pendency of action or lis pendens."

4 SECTION 28. Section 501-23, Hawaii Revised Statutes, is  
 5 amended to read as follows:

6 "§501-23 **Application, form, and contents.** The application  
 7 shall be in writing, signed, and sworn to by the applicant or by  
 8 some person duly authorized in the applicant's behalf. If there  
 9 is more than one applicant, the application shall be signed and  
 10 sworn to by, or in behalf of, each. [~~It~~] The application shall  
 11 contain a description of the land, with a statement of the  
 12 estate or interest of the applicant in the land. [~~It~~] The  
 13 application shall state whether the applicant is married, and if  
 14 married, the name in full of the wife or husband, the time and  
 15 place of marriage, and the name and office of the officer  
 16 performing the marriage ceremony; and if unmarried, whether the  
 17 applicant has been married, and if so, when and how the marriage  
 18 relation terminated; and if by divorce, when, where, and by what  
 19 court the divorce was granted. [~~It~~] The application shall also  
 20 state the name in full and the address of the applicant and also  
 21 the names and addresses of the adjoining owners and occupants,



1 if known; and if not known, [~~it~~] the application shall state  
 2 what search has been made to find them. If the applicant has  
 3 been known by more than one name, the applicant shall state all  
 4 of the applicant's names in full. [~~it~~] The application may be  
 5 in form as follows:

6 State of Hawaii.

7 To the Honorable Judge of the Land Court:

8 I (or we), the undersigned, hereby apply to have the land  
 9 herein described brought under the operation and provisions of  
 10 chapter 501 of the Hawaii Revised Statutes and to have my (or  
 11 our) title therein registered and confirmed as an absolute  
 12 (qualified or possessory) title. And I (or we) declare:

13 (1) That I am (or we are) the owner (or owners) in fee  
 14 simple of a certain parcel of land, with the buildings  
 15 (if any, and if not, strike out the clause), situate  
 16 in (here insert accurate description).

17 (2) That the land at the last assessment for taxation was  
 18 assessed at....dollars; and the buildings (if any)  
 19 at....dollars.

20 (3) That I (or we) do not know of any mortgage or  
 21 encumbrance affecting the land, or that any other



1 person has any estate or interest therein, legal or  
2 equitable, in possession, remainder, reversion, or  
3 expectancy. (If any, add "other than as follows," and  
4 set forth each clearly.)

5 (4) That I (or we) obtained title (if by deed, state name  
6 of grantor, date, and place of record, and file the  
7 deed, or state reason for not filing. If in any other  
8 way, state it).

9 (5) That the land is....occupied (state name in full,  
10 residence and post office address of occupant and the  
11 nature of the occupancy. If unoccupied, insert  
12 "not").

13 (6) That the names in full and addresses as far as known  
14 to me (or us) of the occupants of all lands adjoining  
15 the land are as follows: (give post office address,  
16 street, and number wherever possible. If names not  
17 known, state whether inquiry has been made, and what  
18 inquiry.)

19 (7) That the names and addresses so far as known to me (or  
20 us) of the owners of all lands adjoining above land  
21 are as follows: (same directions as above.)



1 (8) That I am (or we are) married (follow literally the  
2 directions given in section 501-23.)

3 (9) That my (or our) full name (or names), residence and  
4 post office address are as follows:  
5

6 Dated: .....

7 (Schedule of documents.)  
8

9 .....  
10 (Signature).  
11

12 State of Hawaii } ss.  
13

14 Dated: .....

15 Then personally appeared the above named.....known  
16 to me to be the signer (or signers) of the foregoing  
17 application, and made oath before me[7] that the statements made  
18 therein, so far as made of the [~~signer (or signers)~~] signer's  
19 (or signers') own knowledge, are true[7] and, so far as made  
20 upon information and belief, that the signer (or signers)  
21 believes them to be true.

1 ..... , Notary Public."

2 SECTION 29. Section 502-95, Hawaii Revised Statutes, is  
3 amended to read as follows:

4 "§502-95 Validation of defective certificates. The record  
5 made prior to May 14, 1943, in the bureau of conveyances at  
6 Honolulu of any instrument otherwise authorized to be recorded  
7 therein, notwithstanding any defect in the form of the  
8 certificate of acknowledgment or proof, or the failure to make  
9 the notations required by section 502-61, or the failure to  
10 append thereto the certificate of authority required by section  
11 502-46, or any defect in the form of the certificate, shall be  
12 in all respects as valid and effectual as though the certificate  
13 of acknowledgment or proof or certificate of authority had been  
14 in proper form or the certificate [~~of~~] of authority had been  
15 appended to the instrument, or such notations had been made;  
16 provided that [~~in~~]:

17 (1) In any case of a defect in the certification of the  
18 authority of the officer to take the acknowledgment or  
19 proof, at the time of taking and in the place where  
20 the same was taken (whether because of a defect in the  
21 officer's certificate or because of a defect in or



1 failure to append the certificate of the officer's  
2 authority, when required), the burden shall be on the  
3 party relying on ~~[such]~~ the record to prove ~~[such]~~ the  
4 authority, in any proceeding where ~~[such]~~ the fact is  
5 in dispute; ~~[provided further that with]~~ and

6 (2) With respect to any interlineation, erasure, or other  
7 change, not initialed and noted as required by section  
8 502-61, the burden shall be on the party relying on  
9 ~~[such]~~ the record~~[,]~~ to prove that the change was made  
10 before acknowledgment of the instrument, in any  
11 proceeding where ~~[such]~~ the fact is asserted by ~~[such]~~  
12 the party and is in dispute."

13 SECTION 30. Section 505-4, Hawaii Revised Statutes, is  
14 amended to read as follows:

15 "**§505-4 Fees.** Unless otherwise provided by rules  
16 established by the department of land and natural resources,  
17 pursuant to chapter 91, the fees payable under this chapter are  
18 as follows:

19 (1) For each notice of federal tax lien in the bureau of  
20 conveyances, \$10; and





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1        (2) For each certificate of release, partial release, or  
 2                    discharge of a federal tax lien in the bureau of  
 3                    conveyances, \$10."

4            SECTION 31. Section 506-10, Hawaii Revised Statutes, is  
 5 amended by amending subsection (c) to read as follows:

6            "(c) As used in this section, "reverse mortgage loan"  
 7 [means] :

8            (1) Means a loan that:

9            ~~[(1)]~~ (A) Is a nonrecourse loan wherein the committed  
 10                    principal amount is secured by a mortgage on  
 11                    residential property owned by the borrower;

12            ~~[(2)]~~ (B) Is due upon ~~[sale]~~ :

13                    (i) Sale of the property securing the loan ~~[, or~~  
 14                    ~~upon the]~~ ;

15                    (ii) The death of the last surviving borrower ~~[, or~~  
 16                    ~~or upon the]~~ ;

17                    (iii) The borrower terminating use of the real  
 18                    property as a principal residence ~~[,]~~ ; or  
 19                    ~~[upon the]~~

20                    (iv) The borrower's default;



- 1        [~~3~~] (C) Provides cash advances to the borrower based upon  
 2                                the equity or the value in the borrower's owner-  
 3                                occupied principal residence;
- 4        [~~4~~] (D) Requires no payment of principal or interest  
 5                                until the entire loan becomes due and payable;  
 6                                and
- 7        [~~5~~] (E) Is made by a lender licensed or chartered under  
 8                                state or federal law~~[-]~~; and
- 9        (2) [~~For purposes of this section, "reverse mortgage loan"~~  
 10                                ~~shall~~] Shall not include a loan:
- 11        [~~1~~] (A) Insured by the United States Department of  
 12                                Housing and Urban Development;
- 13        [~~2~~] (B) Intended for sale to the Federal National  
 14                                Mortgage Association (also known as "Fannie Mae")  
 15                                or to the Federal Home Loan Mortgage Corporation  
 16                                (also known as "Freddie Mac"); or
- 17        [~~3~~] (C) For which mortgage counseling is required under  
 18                                other state or federal laws."

19        SECTION 32. Section 507-43, Hawaii Revised Statutes, is  
 20        amended by amending subsection (d) to read as follows:



1           "(d) Owner acting through attorney-in-fact. In cases  
2 where materials have been furnished or labor was performed at  
3 the request, or upon the order, of a person acting under a duly  
4 executed and acknowledged power of attorney from the owner and:

5           (1)   ~~[the]~~ The power of attorney has not been revoked~~[,]~~i  
6                    or

7           (2)   ~~[the]~~ The power of attorney has been revoked  
8                    subsequent to the furnishing of materials and labor  
9                    upon request or order and the owner cannot be found  
10                  within the State,

11 service of the Application and Notice upon the person acting  
12 under the power of attorney shall be deemed service upon the  
13 owner."

14           SECTION 33. Section 507-61, Hawaii Revised Statutes, is  
15 amended by amending the definition of "occupant" to read as  
16 follows:

17           ""Occupant" means a person, or the person's sublessee,  
18 successor, or assign, ~~[or]~~ who is entitled to the use of  
19 designated or individual storage space at a self-service storage  
20 facility under a rental agreement, to the exclusion of others."



1 SECTION 34. Section 514B-143, Hawaii Revised Statutes, is  
2 amended by amending subsection (e) to read as follows:

3 "(e) The declaration, bylaws, or the board may require the  
4 association to carry any other insurance, including workers'  
5 compensation, employment practices, environmental hazards, and  
6 equipment breakdown, that the board considers appropriate to  
7 protect the association, the unit owners, or officers,  
8 directors, or agents of the association. Flood insurance shall  
9 also be maintained if the property is located in a special flood  
10 hazard area as delineated on flood maps issued by the Federal  
11 Emergency Management Agency. The flood insurance policy shall  
12 comply with the requirements of the National Flood Insurance  
13 Program and the Federal Insurance and Mitigation  
14 Administration."

15 SECTION 35. Section 514E-5, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "§514E-5 Geographic limitations. (a) Except as provided  
18 in this section, time share units, time share plans, and  
19 transient vacation rentals are prohibited.



1        [~~1~~] (b) Existing time share units, time share plans, and  
2 transient vacation rentals are not impaired by the provisions of  
3 this section.

4        [~~2~~] (c) Time share units, time share plans, and  
5 transient vacation rentals are allowed:

6        [~~A~~] (1) In areas designated for hotel use, resort use,  
7 or transient vacation rentals, pursuant to county  
8 authority under section 46-4, or where the county, by  
9 its legislative process, designates hotel, transient  
10 vacation rental, or resort use;

11        [~~B~~] (2) In a hotel where the county explicitly approves  
12 such use, in advance, as a nonconforming use; or

13        [~~C~~] (3) In a county with a population in excess of five  
14 hundred thousand, in an existing hotel [~~which~~] that  
15 is a valid nonconforming use under county ordinance."

16        SECTION 36. Section 515-4, Hawaii Revised Statutes, is  
17 amended by amending subsection (b) to read as follows:

18        "(b) Nothing in section 515-3 shall be deemed to prohibit  
19 refusal[~~7~~] because of sex, including gender identity or  
20 expression, sexual orientation, or marital status, to rent or  
21 lease housing accommodations:



- 1 (1) Owned or operated by a religious institution and used
- 2 for church purposes as that term is used in applying
- 3 exemptions for real property taxes; or
- 4 (2) [~~which~~] That are part of a religiously affiliated
- 5 institution of higher education housing program
- 6 [~~which~~] that is operated on property that the
- 7 institution owns or controls[~~7~~] or [~~which~~] that is
- 8 operated for its students pursuant to Title IX of the
- 9 [~~Higher Education Act~~] Education Amendments of
- 10 1972 [~~7~~], P.L. 92-318."

11 SECTION 37. Section 526-6, Hawaii Revised Statutes, is  
 12 amended by amending subsection (a) to read as follows:

13 "(a) In this section:

14 [~~(1)~~] "~~Time of distribution" means the time when a~~  
 15 ~~disclaimed interest would have taken effect in possession or~~  
 16 ~~enjoyment.~~

17 [~~(2)~~] "Future interest" means an interest that takes effect  
 18 in possession or enjoyment, if at all, later than the time of  
 19 its creation.

20 "Time of distribution" means the time when a disclaimed  
 21 interest would have taken effect in possession or enjoyment."



1 SECTION 38. Section 560:3-906, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3 "(a) Unless a contrary intention is indicated by the will,  
4 the distributable assets of a decedent's estate shall be  
5 distributed in kind to the extent possible through application  
6 of the following provisions:

7 (1) A specific devisee is entitled to distribution of the  
8 thing devised to that person, and a spouse, reciprocal  
9 beneficiary, or child who has selected particular  
10 assets of an estate as provided in section [~~560:2-402~~]  
11 560:2-403 shall receive the items selected;

12 (2) Any homestead or family allowance or devise of a  
13 stated sum of money may be satisfied in kind;  
14 provided[+] that:

15 (A) The person entitled to the payment has not  
16 demanded payment in cash;

17 (B) The property distributed in kind is valued at  
18 fair market value as of the date of its  
19 distribution; and



1 (C) No residuary devisee has requested that the asset  
2 in question remain a part of the residue of the  
3 estate;

4 (3) For the purpose of valuation under paragraph (2),  
5 securities regularly traded on recognized exchanges,  
6 if distributed in kind, are valued at the price for  
7 the last sale of like securities traded on the  
8 business day prior to distribution, or if there was no  
9 sale on that day, at the median between amounts bid  
10 and offered at the close of that day. Assets  
11 consisting of sums owed the decedent or the estate by  
12 solvent debtors as to which there is no known dispute  
13 or defense are valued at the sum due with accrued  
14 interest or discounted to the date of distribution.  
15 For assets [~~which~~] that do not have readily  
16 ascertainable values, a valuation as of a date not  
17 more than thirty days prior to the date of  
18 distribution, if otherwise reasonable, controls. For  
19 purposes of facilitating distribution, the personal  
20 representative may ascertain the value of the assets  
21 as of the time of the proposed distribution in any





1 reasonable way, including the employment of qualified  
2 appraisers, even if the assets may have been  
3 previously appraised; and

4 (4) The residuary estate shall be distributed in any  
5 equitable manner."

6 SECTION 39. Section 571-52.6, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "§571-52.6 Child support order, judgment, or decree;  
9 accident and health or sickness insurance coverage. Each order,  
10 judgment, or decree under this chapter or chapter 576B, 580, or  
11 584 ordering a person to pay child support shall include the  
12 following provisions:

13 (1) Both the obligor and the obligee are required to file  
14 with the state case registry, through the child  
15 support enforcement agency, upon entry of the child  
16 support order and to update as appropriate,  
17 information on the identity and location of the party,  
18 including social security number, residential and  
19 mailing addresses, telephone number, driver's license  
20 number if different from social security number, and



1 name, address, and telephone number of the party's  
2 employer; and

3 (2) The liability of that person for accident and health  
4 or sickness insurance coverage when available at  
5 reasonable cost."

6 SECTION 40. Section 572-22, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "§572-22 Contracts. (a) A married person may make  
9 contracts, oral and written, sealed and unsealed, with [~~her or~~  
10 ~~his~~] the married person's spouse, or any other person, in the  
11 same manner as if [~~she or he~~] the married person were sole.

12 (b) An agreement between spouses providing for periodic  
13 payments for the support and maintenance of one spouse by the  
14 other, or for the support, maintenance, and education of  
15 children of the parties, when the agreement is made in  
16 contemplation of divorce or judicial separation, is valid;  
17 provided that [~~the~~]:

18 (1) The agreement shall be subject to approval by the  
19 court in any subsequent proceeding for divorce or  
20 judicial separation; and [~~that future~~]

1       (2) Future payments under an approved agreement shall  
2           nevertheless be subject to increase, decrease, or  
3           termination from time to time upon application and a  
4           showing of circumstances justifying a modification  
5           thereof.

6       (c) All contracts made between spouses, whenever made,  
7       whether before or after June 6, 1987, and not otherwise invalid  
8       because of any other law, shall be valid."

9       SECTION 41. Section 577-28, Hawaii Revised Statutes, is  
10      amended by amending subsection (e) to read as follows:

11       "(e) The consent authorized by this section shall not be  
12      applicable for purposes of the Individuals with Disabilities  
13      Education Act (20 U.S.C. [~~section~~] 1400 et seq.) or section 504  
14      of the Rehabilitation Act of 1973 [~~(29 U.S.C. section 791).~~] (29  
15      U.S.C. 794)."

16       SECTION 42. Section 578-8, Hawaii Revised Statutes, is  
17      amended by amending subsection (a) to read as follows:

18       "(a) No decree of adoption shall be entered unless a  
19      hearing has been held at which the petitioner or petitioners,  
20      and any legal parent married to a petitioner, and any subject of  
21      the adoption whose consent is required, have personally appeared



1 before the court, unless expressly excused by the court. After  
2 considering the petition and [~~such~~] any evidence as the  
3 petitioners and any other properly interested person may wish to  
4 present, the court may enter a decree of adoption if it is  
5 satisfied that:

6 (1) [~~that the~~] The individual is adoptable under sections  
7 578-1 and 578-2[~~7~~];

8 (2) [~~that the~~] The individual is physically, mentally, and  
9 otherwise suitable for adoption by the petitioners[~~7~~];

10 (3) [~~that the~~] The petitioners are fit and proper persons  
11 and financially able to give the individual a proper  
12 home and education, if the individual is a child[~~7~~];  
13 and

14 (4) [~~that the~~] The adoption will be for the best interests  
15 of the individual,

16 which decree shall take effect [~~upon such~~] on the date [~~as may~~  
17 ~~be~~] fixed therein by the court, [~~such date~~] to be not earlier  
18 than the date of the filing of the petition and not later than  
19 six months after the date of the entry of the decree."

20 SECTION 43. Act 105, Session Laws of Hawaii 2014, as  
21 amended by section 1 of Act 152, Session Laws of Hawaii 2015, as



1 amended by section 2 of Act 65, Session Laws of Hawaii 2017, as  
2 amended by section 2 of Act 32, Session Laws of Hawaii 2018, is  
3 amended by amending section 6 to read as follows:

4 "SECTION 6. This Act shall take effect on July 1, 2014;  
5 provided that [section]:

6 (1) Section 3 shall be repealed on June 30, 2021~~[+~~  
7 ~~provided further that the]~~, except that section 3(g)  
8 shall be repealed on June 30, 2022; and

9 (2) The amendment made to section 149A-13.5(b), Hawaii  
10 Revised Statutes, under section 2 of this Act shall  
11 not be repealed when section 149A-13.5(b), Hawaii  
12 Revised Statutes, is repealed and reenacted on  
13 June 30, 2015, by section 4 of Act 168, Session Laws  
14 of Hawaii 2010."

15 SECTION 44. Statutory material to be repealed is bracketed  
16 and stricken. New statutory material is underscored.

17 SECTION 45. This Act shall take effect upon its approval;  
18 provided that the amendments made to section 171-41.6(a), Hawaii  
19 Revised Statutes, by section 2 of this Act shall not be repealed



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1 when that section is reenacted on June 30, 2028, pursuant to  
2 section 7 of Act 149, Session Laws of Hawaii 2018.

3

INTRODUCED BY:

A handwritten signature in black ink, appearing to be 'J. Kim', written over a horizontal line.

JAN 23 2019



# H.B. NO. 1268

**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.*

