
A BILL FOR AN ACT

RELATING TO FRAUD.

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

1 SECTION 1. The legislature finds that the house of
2 representatives adopted House Resolution No. 9, Regular Session
3 of 2022, to establish the commission to improve standards of
4 conduct. The resolution requests that the commission ensure
5 state laws and rules relating to standards of conduct of public
6 officers and employees contain clear standards, enforcement, and
7 penalties and provide recommendations to increase awareness of,
8 compliance with, and deterrent effects of the code of ethics,
9 lobbying laws, campaign finance laws, and other relevant laws
10 and rules.

11 Pursuant to House Resolution No. 9, the commission to
12 improve standards of conduct convened regularly throughout 2022
13 to diligently review, discuss, and consider the issues
14 presented; submit an interim report to the house of
15 representatives outlining areas of immediate and long-term
16 focus; receive input from the public and invited individuals and



1 agencies; and issue a final report with various recommendations
2 and accompanying proposed legislation.

3 The legislature also finds that the strength and stability
4 of our democratic government rely upon the public's trust in
5 government institutions, including the expectation that officers
6 act ethically with prudence, integrity, and sound judgement.
7 Therefore, an essential goal of the commission was to provide
8 recommendations that would help restore public trust in state
9 government and increase the level of transparency in its
10 operations and accountability of individuals.

11 Accordingly, the purpose of this Act is to implement
12 recommendations of the commission to improve standards of
13 conduct relating to combatting fraud by establishing a general
14 fraud statute that is intended to cover schemes or artifices to
15 defraud or to obtain money or property by means of false or
16 fraudulent pretenses, representations, or promises. This Act
17 also disqualifies a person convicted of fraud from receiving
18 public financing for elections for a period of ten years. The
19 Act is modeled after the following federal general fraud
20 statutes:

21 (1) Title 18 United States Code section 1341 (mail fraud);



- 1 (2) Title 18 United States Code section 1343 (wire fraud);
2 (3) Title 18 United States Code section 1344 (bank fraud);
3 and
4 (4) Title 18 United States Code section 1346 (definition
5 of "scheme or artifice to defraud").

6 Therefore, in application of this Act, State courts and counsel
7 should look to federal case law and precedent for direction. It
8 should be noted that the references in the federal statutes to
9 "mail" and "wire" are merely the jurisdictional "hooks" for
10 federal jurisdiction.

11 SECTION 2. Chapter 708, Hawaii Revised Statutes, is
12 amended by adding a new section to part IV to be appropriately
13 designated and to read as follows:

14 "§708- Fraud. (1) A person commits the offense of
15 fraud if, with the intent to defraud, the person executes or
16 attempts to execute any scheme or artifice to defraud or to
17 obtain money or property by means of false or fraudulent
18 pretenses, representations, or promises.

19 (2) Application of this section shall be based on title 18
20 United States Code sections 1341, 1343, 1344, and 1346, and any
21 relevant federal case law and precedent.



1 (3) For the purposes of this section, "scheme or artifice
2 to defraud" includes a scheme or artifice to deprive another of
3 the intangible right of honest services.

4 (4) Fraud is a class B felony. A person charged under
5 this section shall be eligible for a deferred acceptance of
6 guilty plea or nolo contendere plea under chapter 853. A person
7 who is convicted under this section shall be disqualified from
8 receiving public financing under part XIII, subpart J of chapter
9 11 for a period of ten years from the date of conviction."

10 SECTION 3. Section 11-428, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "~~§~~11-428~~§~~ **Eligibility requirements for public funds.**

13 (a) In order to be eligible to receive public funds for an
14 election, a candidate shall certify that the candidate will meet
15 all the following requirements:

16 (1) The candidate and any candidate committee authorized
17 by the candidate shall not incur campaign expenses in
18 excess of the expenditure limitations imposed by
19 section 11-423;

20 (2) The candidate has qualified to be on the election
21 ballot in a primary or general election;



- 1 (3) The candidate has filed a statement of intent to seek
2 qualifying contributions. A contribution received
3 before the filing of a statement of intent to seek
4 public funds shall not be considered a qualifying
5 contribution;
- 6 (4) The candidate or candidate committee authorized by the
7 candidate has received the minimum qualifying
8 contribution amounts for the office sought by the
9 candidate as set forth in section 11-429;
- 10 (5) The aggregate of contributions certified with respect
11 to any person under paragraph (4) does not exceed
12 \$100;
- 13 (6) The candidate agrees to obtain and furnish any
14 evidence relating to expenditures that the commission
15 may request;
- 16 (7) The candidate agrees to keep and furnish records,
17 books, and other information that the commission may
18 request;
- 19 (8) The candidate agrees to an audit and examination by
20 the commission pursuant to section 11-434 and to pay



1 any amounts required to be paid pursuant to that
2 section; and
3 (9) Each candidate and candidate committee in receipt of
4 qualifying contributions that may be taken into
5 account for purposes of public funding shall maintain,
6 on a form prescribed by the commission, records that
7 show the date and amount of each qualifying
8 contribution and the full name and mailing address of
9 the person making the contribution. The candidate and
10 the candidate committee authorized by the candidate
11 shall transmit to the commission all reports with
12 respect to these contributions that the commission may
13 require.

14 (b) A person who is convicted for fraud under section
15 708- shall be disqualified from receiving public financing
16 under this subpart for a period of ten years from the date of
17 conviction."

18 SECTION 4. This Act does not affect rights and duties that
19 matured, penalties that were incurred, and proceedings that were
20 begun before its effective date.



1 SECTION 5. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

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

4



Report Title:

Commission to Improve Standards of Conduct; Fraud;
Disqualification; Public Financing; Conviction

Description:

Establishes the offense of fraud as a class B felony.
Disqualifies a person charged with fraud from receiving public
financing for elections for a period of ten years. (HD1)

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

