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Testimony in Support

SB2958

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

Charlotte A. Carter-Yamauchi, Director
Legislative Reference Bureau

Presented to the Senate Committee on Judiciary

Thursday, February 15, 2024, 9:30 a.m.
Conference Room 016

Chair Rhoads and Members of the Committee:

Good morning Chair Rhoads and members of the Committee. My name is Charlotte Carter-Yamauchi, and I am the Director of the Legislative Reference Bureau and the Revisor of Statutes. Thank you for providing the opportunity to submit testimony in support of Senate Bill No. 2958, Relating to Statutory Revision. Bills such as Senate Bill No. 2958 have come to be known as the "statutory revision bill" and are prepared and submitted by the Legislative Reference Bureau pursuant to our statute revision functions, set forth in chapter 23G of the Hawaii Revised Statutes.

All amendments in the measure are intended to be technical in nature to correct errors, omissions, or obsolete law. They either contain no substantive change to the law, or if they do have substantive effect, they are intended to correct the types of errors noted in the memorandum attached to this testimony. Please note that the memorandum explains the rationale for each amendment proposed by this bill. Also, please note that the bill was reviewed prior to introduction by the Department of the Attorney General and no problems were identified.

The Bureau would be pleased to assist the Committee in preparing the committee report and making any changes to the revision bill that the Committee deems appropriate. Should the Committee have any follow-up questions, please contact John Morsey, Assistant Director for Revision of Statutes, by phone at (808) 587-0670 or by e-mail at j.morsey@capitol.hawaii.gov.

Attachment

**MEMORANDUM CONCERNING PROPOSED
STATUTORY REVISIONS FOR THE 2024 REGULAR LEGISLATIVE SESSION
TO BE CONTAINED IN A BILL ENTITLED
"A BILL FOR AN ACT RELATING TO STATUTORY REVISION:
AMENDING OR REPEALING VARIOUS PROVISIONS OF
THE HAWAII REVISED STATUTES OR THE SESSION LAWS OF HAWAII
FOR THE PURPOSES OF CORRECTING ERRORS AND REFERENCES,
CLARIFYING LANGUAGE, OR DELETING OBSOLETE OR
UNNECESSARY PROVISIONS"**

**Prepared by the Legislative Reference Bureau
Pursuant to Section 23G-20, Hawaii Revised Statutes**

COMMENT

The definition of "federal postcard application" in section 15D-2, HRS, refers to "42 U.S.C. section 1973ff(b)(2)". However, 42 United States Code section 1973ff was reclassified as 52 United States Code section 20301. Accordingly, the definition of "federal postcard application" in section 15D-2, HRS, should be amended by changing "42 U.S.C. section 1973ff(b)(2)" to "52 United States Code section 20301(b)(2)".

The definition of "federal write-in absentee ballot" in section 15D-2, HRS, refers to "42 U.S.C. section 1973ff-2". However, 42 United States Code section 1973ff-2 was reclassified as 52 United States Code section 20303. Accordingly, the definition of "federal write-in absentee ballot" in section 15D-2, HRS, should be amended by changing "42 U.S.C. section 1973ff-2" to "52 United States Code section 20303".

SECTION 1. Section 15D-2, Hawaii Revised Statutes, is amended as follows:

1. By amending the definition of "federal postcard application" to read:

"Federal postcard application" means the application prescribed under section 101(b)(2) of the Uniformed and Overseas Citizens Absentee Voting Act, [~~42 U.S.C. section 1973ff(b)(2).~~] 52 United States Code section 20301(b)(2)."

2. By amending the definition of "federal write-in absentee ballot" to read:

"Federal write-in absentee ballot" means the ballot described in section 103 of the Uniformed and Overseas Citizens Absentee Voting Act, [~~42 U.S.C. section 1973ff-2.~~] 52 United States Code section 20303."

COMMENT

Section 15D-4(a) and (d), HRS, refers to "42 U.S.C. section 1973ff". However, 42 United States Code section 1973ff was reclassified as 52 United States Code section 20301. Accordingly, section 15D-4(a) and (d), HRS, should be amended by changing "42 U.S.C. section 1973ff" to "52 United States Code section 20301".

Additionally, section 15D-4(d), HRS, uses the term "overseas-military ballot". However, section 15D-2, HRS, defines the term "military-overseas ballot". Accordingly, section 15D-4(d), HRS, should be amended to change "an overseas-military ballot" to "a military-overseas ballot".

Additional technical nonsubstantive amendments are made for purposes of clarity, consistency, and style.

SECTION 2. Section 15D-4, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) The chief election officer shall be the state official responsible for implementing this chapter and the State's responsibilities under the Uniformed and Overseas Citizens Absentee Voting Act, [~~42 U.S.C. section 1973ff~~] 52 United States Code section 20301 et seq."

2. By amending subsection (d) to read:

"(d) The chief election officer shall accept forms prescribed by the Uniformed and Overseas Citizens Absentee Voting Act, [~~42 U.S.C. section 1973ff~~] 52 United States Code section 20301 et seq., for use by a covered voter [~~+~~that~~+~~ ~~contains~~] contain the prescribed standard declaration to swear or affirm specific representations pertaining to the voter's identity, eligibility to vote, status as a covered voter, and timely and proper completion of [~~an overseas-military~~] a military-overseas ballot."

COMMENT

Section 30-1, HRS, sets forth paragraph designations, but is not formatted to reflect the paragraph designations. Section 30-1, HRS, should be amended to conform to the customary drafting convention for purposes of clarity and consistency. Additional technical nonsubstantive amendments are made for purposes of consistency and style.

SECTION 3. Section 30-1, Hawaii Revised Statutes, is amended to read as follows:

"~~[+]~~**§30-1**~~[+]~~ **Declaration of purpose.** The legislature declares it to be the purpose of this chapter to promote the orderly transfer of the executive power in connection with the expiration of the term of office of a governor and the

inauguration of a new governor. The interest of the State requires that such transitions be accomplished so as to assure continuity in the conduct of the affairs of the state government. Any disruption occasioned by the transfer of the executive power could produce results detrimental to the safety and well-being of the State and its people. Accordingly, it is the intent of the legislature that appropriate actions be authorized and taken to avoid or minimize any disruption. In addition to the specific provisions contained in this chapter directed toward that purpose, it is the intent of the legislature that all officers of the state government so conduct the affairs of the state government for which they exercise responsibility and authority as:

- (1) [~~to~~] To be mindful of problems occasioned by transitions in the office of governor[~~7~~];
- (2) [~~to~~] To take appropriate lawful steps to avoid or minimize disruptions that might be occasioned by the transfer of the executive power[~~7~~]; and
- (3) [~~otherwise~~] Otherwise to promote orderly transitions in the office of governor."

COMMENT

The definition of "Federal Food, Drug, and Cosmetic Act" in section 161-3, HRS, refers to "Public Law 75-675". However, the appropriate reference for that federal Act is Public Law 75-717. Accordingly, the definition of "Federal Food, Drug, and Cosmetic Act" in section 161-3, HRS, should be amended by changing "Public Law 75-675" to "Public Law 75-717".

The definition of "misbranded" in section 161-3, HRS, sets forth subparagraph designations under paragraphs (7) and (9), but is not formatted to reflect the subparagraph designations. The definition of "misbranded" in section 161-3, HRS, should be amended to conform to the customary drafting convention for purposes of clarity and consistency.

Additional technical nonsubstantive amendments are made for purposes of clarity, consistency, and style.

SECTION 4. Section 161-3, Hawaii Revised Statutes, is amended as follows:

1. By amending the definition of "Federal Food, Drug, and Cosmetic Act" to read:

"Federal Food, Drug, and Cosmetic Act" means the federal Act so entitled, approved June 25, 1938 (Public Law [~~75-675~~;] 75-717; 52 Stat. 1040; 21 U.S.C.A. section 301 et seq.), and all amendments to that Act."

2. By amending the definition of "misbranded" to read:

"Misbranded" includes any poultry or poultry product in one or more of the following circumstances:

- (1) Its labeling is false or misleading in any particular.
- (2) It is offered for sale under the name of another food.
- (3) It is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word "imitation" and immediately thereafter the name of the food imitated.
- (4) Its container is made, formed, or filled as to be misleading.
- (5) It is in a package or other container, unless it bears a label showing:
 - (A) The name and place of business of the manufacturer, packer, or distributor; and
 - (B) An accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; provided that the board may permit reasonable variations~~[7]~~ and may prescribe exemptions for small packages.
- (6) Any word, statement, or other information required by this chapter to appear on the label or other labeling is not prominently placed with adequate conspicuousness, as compared with other words, statements, designs, or devices, on the labeling, and in adequate terms to be likely to be read and understood by the ordinary individual under customary conditions of purchase and use.
- (7) It purports to be or is represented as a food for which a definition and standard of identity or composition has been prescribed by the board under this chapter, unless:
 - (A) ~~[it]~~ It conforms to that definition and standard~~[7]~~; and
 - (B) ~~[its]~~ Its label bears the name of the food specified in the definition and standard, and bears the common names of optional ingredients, as may be required, other than spices, flavoring, and coloring, present in the food.
- (8) It purports to be or is represented as a food for which a standard or standards of fill of container have been prescribed by the board under this chapter, and it falls below the applicable standard of fill of container, unless its label bears, in the manner and form that the board prescribes, a statement that it falls below that standard.
- (9) It is not subject to ~~[item]~~ paragraph (7), unless its label bears~~[7]~~:

- (A) [~~the~~] The common or usual name of the food, if any~~;~~ and~~;~~
 - (B) [~~in~~] In case it is fabricated from two or more ingredients, the common or usual name of each ingredient, except that, when authorized by the board, spices, flavorings, and colorings may~~;~~ ~~when authorized by the board,~~ be designated as spices, flavorings, and colorings without naming each; provided that to the extent that compliance with this requirement is impracticable, or results in deception or unfair competition, exemptions shall be established by the board.
- (10) It purports to be or is represented for special dietary uses, unless its label bears information concerning its vitamin, mineral, and other dietary properties that the board, after consultation with the United States Secretary of Agriculture, determines to be and prescribes as necessary, in order to fully inform purchasers as to its value for such uses.
 - (11) It bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact; provided that to the extent that compliance with this requirement is impracticable, exemptions shall be established by the board.
 - (12) It fails to bear, directly on it or on its container, as the board may prescribe, the inspection legend and, unrestricted by any of the foregoing, other information as the board may require, to assure that the labeling will not be false or misleading and that the public will be informed of the manner of handling required to maintain the poultry or poultry products in a wholesome condition."

COMMENT

Section 161-25(2), HRS, sets forth subparagraph designations, but is not formatted to reflect the subparagraph designations. Section 161-25, HRS, should be amended to conform to the customary drafting convention for purposes of clarity and consistency. Additional technical nonsubstantive amendments are made for purposes of clarity, consistency, and style.

SECTION 5. Section 161-25, Hawaii Revised Statutes, is amended to read as follows:

"~~[§]~~§161-25~~[§]~~ Slaughter, processing, transportation, and selling. No person ~~[shall]~~, with respect to any poultry or poultry product~~[÷]~~, shall:

- (1) Slaughter any ~~[such]~~ poultry or process any ~~[such]~~ poultry or poultry products ~~[which]~~ that are capable of use as human food, at any establishment processing ~~[such]~~ poultry or poultry products solely for intrastate commerce, except in compliance with the requirements of this chapter~~[÷]~~;
- (2) Sell, transport, offer for sale or transportation, or receive for transportation, in intrastate commerce~~[÷]~~:
 - (A) ~~[any such]~~ Any poultry or poultry products ~~[which]~~ that are capable of use as human food~~[÷]~~ and are adulterated or misbranded at the time of ~~[such]~~ sale, transportation, offer for sale or transportation, or receipt for transportation; or
 - (B) ~~[any]~~ Any poultry or poultry products required to be inspected under this chapter unless they have been so inspected and passed~~[÷]~~; or
- (3) Do, with respect to any ~~[such]~~ poultry or poultry products ~~[which]~~ that are capable of use as human food, any act while they are being transported in intrastate commerce or held for sale after such transportation~~[÷, which]~~ that is intended to cause or has the effect of causing ~~[such]~~ the poultry or poultry product to be adulterated or misbranded."

COMMENT

The reference to "the farming or ranching or any plant" in the definition of "aquacultural activities" in section 166E-2, HRS, should be changed to "the farming or ranching of any plant" to correct what appears to be an inadvertent clerical error.

SECTION 6. Section 166E-2, Hawaii Revised Statutes, is amended by amending the definition of "aquacultural activities" to read as follows:

"Aquacultural activities" means the farming or ranching ~~[of]~~ of any plant or animal species in a controlled salt, brackish, or freshwater environment; provided that the farm or ranch is on or directly adjacent to land."

COMMENT

Section 171-14.5(a), HRS, defines "nonindividual concern" for purposes of that section. However, section 171-14.5(b), HRS, uses the term "nonindividual farm

concern". Accordingly, section 171-14.5(a), HRS, should be amended to change "nonindividual concern" to "nonindividual farm concern" to accurately reflect the term's use in that section. Additional technical nonsubstantive amendments are made for the purpose of style.

SECTION 7. Section 171-14.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Whenever used in this section, unless otherwise apparent from the context:

"Farm" also means "ranch" and "farmer" also means "rancher".

"Individual" means a natural person who is not a part of a partnership, corporation, or joint venture [~~which~~] that is a potential bidder under this section.

"Nonindividual farm concern" means a partnership, corporation, or joint venture properly formed under law and [~~which~~] that is a potential bidder under this section."

COMMENT

Section 171-50(a), HRS, sets forth paragraph designations, but is not formatted to reflect the paragraph designations. Section 171-50(a), HRS, should be amended to conform to the customary drafting convention for purposes of clarity and consistency. Additional technical nonsubstantive amendments are made for purposes of consistency and style.

SECTION 8. Section 171-50, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Purpose. No exchange of public land for private land shall be made except for public purposes, including but not limited to:

- (1) [~~consolidation~~] Consolidation of holdings of public lands;
- (2) [~~straightening~~] Straightening of boundaries of public lands;
- (3) [~~acquisition~~] Acquisition of adequate access for landlocked public lands [~~which~~] that have development potential; or
- (4) [~~acquisition~~] Acquisition of lands suitable for residential use.

Exchanges shall be effected without public auction. Public notice of any proposed exchange shall be given in accordance with the applicable provisions set forth in section 171-16(d). All private lands conveyed to the State by way of exchanges shall thereafter become public lands."

COMMENT

The definition of "'flood control project', 'federal flood control project', and 'state flood control project'" in section 179-2, HRS, sets forth multiple definitions, with each definition applicable to a certain term. Section 179-2, HRS, should be amended to individually define the terms "flood control project", "federal flood control project", and "state flood control project" to conform to the customary drafting convention for purposes of clarity and consistency. An additional technical nonsubstantive amendment is made for the purpose of style.

SECTION 9. Section 179-2, Hawaii Revised Statutes, is amended as follows:

1. By adding two new definitions to be appropriately inserted and to read:

"Federal flood control project" means a flood control project authorized and implemented pursuant to the Federal Flood Control Act of 1936 or the Watershed Protection and Flood Prevention Act of 1958, as amended or supplemented.

"State flood control project" means a flood control project sponsored and financed by the State and authorized and implemented pursuant to section 179-4(3)."

2. By amending the definition of "'Flood control project', 'federal flood control project', and 'state flood control project'" to read:

~~"Flood control project" [, "federal flood control project", and "state flood control project" mean, respectively: (1)] means specific flood control works [which] that comprise all or a portion of the works needed to complete a specific flood control program[; (2) a flood control project authorized and implemented pursuant to the Federal Flood Control Act of 1936 or the Watershed Protection and Flood Prevention Act of 1958, as amended or supplemented, and (3) a flood control project sponsored and financed by the State and authorized and implemented pursuant to section 179-4(3)]."~~

COMMENT

Act 56, Session Laws of Hawaii 2023, made amendments to section 235-2.3(b), HRS, that resulted in what appears to be an inadvertent clerical error in which a reference to section "1397F" in subchapter U of the federal Internal Revenue Code was changed to section "1379F". Accordingly, section 235-2.3(b)(42) should be amended by changing "1379F" to "1397F".

SECTION 10. Section 235-2.3, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The following Internal Revenue Code subchapters, parts of subchapters, sections, subsections, and parts of subsections shall not be operative for the purposes of this chapter, unless otherwise provided:

- (1) Subchapter A (sections 1 to 59A) (with respect to determination of tax liability), except section 1(h)(2) (relating to net capital gain reduced by the amount taken into account as investment income), except sections 2(a), 2(b), and 2(c) (with respect to the definition of "surviving spouse" and "head of household"), except section 41 (with respect to the credit for increasing research activities), except section 42 (with respect to low-income housing credit), except sections 47 and 48, as amended, as of December 31, 1984 (with respect to certain depreciable tangible personal property), and except section 48(d)(3), as amended, as of February 17, 2009 (with respect to the treatment of United States Department of Treasury grants made under section 1603 of the American Recovery and Reinvestment Tax Act of 2009). For treatment, see sections 235-110.91, 235-110.7, and 235-110.8;
- (2) Section 78 (with respect to dividends received from certain foreign corporations by domestic corporations choosing foreign tax credit);
- (3) Section 86 (with respect to social security and tier 1 railroad retirement benefits);
- (4) Section 91 (with respect to certain foreign branch losses transferred to specified 10-percent owned foreign corporations);
- (5) Section 103 (with respect to interest on state and local bonds). For treatment, see section 235-7(b);
- (6) Section 114 (with respect to extraterritorial income). For treatment, any transaction as specified in the transitional rule for 2005 and 2006 as specified in the American Jobs Creation Act of 2004 section 101(d) and any transaction that has occurred pursuant to a binding contract as specified in the American Jobs Creation Act of 2004 section 101(f) are inoperative;
- (7) Section 120 (with respect to amounts received under qualified group legal services plans). For treatment, see section 235-7(a)(9) to (11);
- (8) Section 122 (with respect to certain reduced uniformed services retirement pay). For treatment, see section 235-7(a)(3);

- (9) Section 135 (with respect to income from United States savings bonds used to pay higher education tuition and fees). For treatment, see section 235-7(a)(1);
- (10) Section 139C (with respect to COBRA premium assistance);
- (11) Subchapter B (sections 141 to 150) (with respect to tax exemption requirements for state and local bonds);
- (12) Section 151 (with respect to allowance of deductions for personal exemptions). For treatment, see section 235-54;
- (13) Section 179B (with respect to expensing of capital costs incurred in complying with Environmental Protection Agency sulphur regulations);
- (14) Section 181 (with respect to special rules for certain film and television productions);
- (15) Section 196 (with respect to deduction for certain unused investment credits);
- (16) Section 199 (with respect to the U.S. production activities deduction);
- (17) Section 199A (with respect to qualified business income);
- (18) Section 222 (with respect to qualified tuition and related expenses);
- (19) Sections 241 to 247 (with respect to special deductions for corporations). For treatment, see section 235-7(c);
- (20) Section 250 (with respect to foreign-derived intangible income and global intangible low-taxed income);
- (21) Section 267A (with respect to certain related party amounts paid or accrued in hybrid transactions or with hybrid entities);
- (22) Section 280C (with respect to certain expenses for which credits are allowable). For treatment, see section 235-110.91;
- (23) Section 291 (with respect to special rules relating to corporate preference items);
- (24) Section 367 (with respect to foreign corporations);
- (25) Section 501(c)(12), (15), (16) (with respect to exempt organizations); except that section 501(c)(12) shall be operative for companies that provide potable water to residential communities that lack any access to public utility water services;
- (26) Section 515 (with respect to taxes of foreign countries and possessions of the United States);

- (27) Subchapter G (sections 531 to 565) (with respect to corporations used to avoid income tax on shareholders);
- (28) Subchapter H (sections 581 to 597) (with respect to banking institutions), except section 584 (with respect to common trust funds). For treatment, see chapter 241;
- (29) Section 642(a) and (b) (with respect to special rules for credits and deductions applicable to trusts). For treatment, see sections 235-54(b) and 235-55;
- (30) Section 646 (with respect to tax treatment of electing Alaska Native settlement trusts);
- (31) Section 668 (with respect to interest charge on accumulation distributions from foreign trusts);
- (32) Subchapter L (sections 801 to 848) (with respect to insurance companies). For treatment, see sections 431:7-202 and 431:7-204;
- (33) Section 853 (with respect to foreign tax credit allowed to shareholders). For treatment, see section 235-55;
- (34) Section 853A (with respect to credits from tax credit bonds allowed to shareholders);
- (35) Subchapter N (sections 861 to 999) (with respect to tax based on income from sources within or without the United States), except sections 985 to 989 (with respect to foreign currency transactions). For treatment, see sections 235-4, 235-5, and 235-7(b), and 235-55;
- (36) Section 1042(g) (with respect to sales of stock in agricultural refiners and processors to eligible farm cooperatives);
- (37) Section 1055 (with respect to redeemable ground rents);
- (38) Section 1057 (with respect to election to treat transfer to foreign trust, etc., as taxable exchange);
- (39) Sections 1291 to 1298 (with respect to treatment of passive foreign investment companies);
- (40) Subchapter Q (sections 1311 to 1351) (with respect to readjustment of tax between years and special limitations), except for section 1341 (with respect to computation of tax where taxpayer restores substantial amount held under claim of right);
- (41) Subchapter R (sections 1352 to 1359) (with respect to election to determine corporate tax on certain international shipping activities using per ton rate);
- (42) Subchapter U (sections 1391 to [~~1379F~~] 1397F) (with respect to designation and treatment of empowerment

- zones, enterprise communities, and rural development investment areas). For treatment, see chapter 209E;
- (43) Subchapter W (sections 1400 to 1400C) (with respect to District of Columbia enterprise zone);
 - (44) Section 14000 (with respect to education tax benefits);
 - (45) Section 1400P (with respect to housing tax benefits);
 - (46) Section 1400R (with respect to employment relief);
 - (47) Section 1400T (with respect to special rules for mortgage revenue bonds);
 - (48) Section 1400U-1 (with respect to allocation of recovery zone bonds);
 - (49) Section 1400U-2 (with respect to recovery zone economic development bonds); and
 - (50) Section 1400U-3 (with respect to recovery zone facility bonds)."

COMMENT

Section 237D-6.5(b) defines the term "fiscal year" as that term is used in subsection (b). However, the term "fiscal year" was deleted as part of amendments made to subsection (b) by Act 1, Special Session of 2021. Accordingly, section 237D-6.5(b) should be amended by deleting the definition of "fiscal year".

SECTION 11. Section 237D-6.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Except for the revenues collected pursuant to section 237D-2(e), revenues collected under this chapter shall be distributed in the following priority, with the excess revenues to be deposited into the general fund:

- (1) \$1,500,000 shall be allocated to the Turtle Bay conservation easement special fund beginning July 1, 2015, for the reimbursement to the state general fund of debt service on reimbursable general obligation bonds, including ongoing expenses related to the issuance of the bonds, the proceeds of which were used to acquire the conservation easement and other real property interests in Turtle Bay, Oahu, for the protection, preservation, and enhancement of natural resources important to the State, until the bonds are fully amortized;
- (2) \$11,000,000 shall be allocated to the convention center enterprise special fund established under section 201B-8;
- (3) An allocation shall be deposited into the tourism emergency special fund, established in

section 201B-10, in a manner sufficient to maintain a fund balance of \$5,000,000 in the tourism emergency special fund; and

- (4) \$3,000,000 shall be allocated to the special land and development fund established under section 171-19; provided that the allocation shall be expended in accordance with the Hawaii tourism authority strategic plan for:
 - (A) The protection, preservation, maintenance, and enhancement of natural resources, including beaches, important to the visitor industry;
 - (B) Planning, construction, and repair of facilities; and
 - (C) Operation and maintenance costs of public lands, including beaches, connected with enhancing the visitor experience.

All transient accommodations taxes shall be paid into the state treasury each month within ten days after collection and shall be kept by the state director of finance in special accounts for distribution as provided in this subsection.

~~[As used in this subsection, "fiscal year" means the twelve-month period beginning on July 1 of a calendar year and ending on June 30 of the following calendar year.]"~~

COMMENT

Act 66, Session Laws of Hawaii 2017, in part, added a new subsection (c) to section 329-38, HRS, related to initial concurrent prescriptions for opioids and benzodiazepines. Section 6 of Act 66 also provided that the amendments made to section 329-38, HRS, would be repealed and reenacted on June 30, 2023. This meant that under the repeal and reenactment condition of section 6 of Act 66, section 329-38(c), HRS, would be repealed. However, Act 256, Session Laws of Hawaii 2019, amended section 329-38(c) and exempted its amendment from the repeal and reenactment condition of Act 66. Accordingly, the Revisor included section 329-38(c), HRS, in the 2023 HRS Cumulative Supplement to reflect the exemption from repeal and reenactment provided in Act 256. This amendment should be ratified.

SECTION 12. Section 329-38, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"[+] (c) Initial concurrent prescriptions for opioids and benzodiazepines shall not be for longer than seven consecutive days unless the prescription is issued for a qualified patient pursuant to chapter 327L or a supply of longer than seven days is determined to be medically necessary for the treatment of:

- (1) Pain experienced while the patient is in post-operative care;
- (2) Chronic pain and pain management;
- (3) Substance abuse or opioid or opiate dependence;
- (4) Cancer;
- (5) Pain experienced while the patient is in palliative care; or
- (6) Pain experienced while the patient is in hospice care; provided that if a prescribing practitioner issues a concurrent prescription for more than a seven-day supply of an opioid and benzodiazepine, the practitioner shall document in the patient's medical record the condition for which the practitioner issued the prescription and that an alternative to the opioid and benzodiazepine was not appropriate treatment for the condition. [†]"

COMMENT

The reference in section 421I-3(b)(1), HRS, to "shareholder of the cooperation" should be changed to "shareholder of the corporation" to correct what appears to be an inadvertent clerical error.

SECTION 13. Section 421I-3, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

- "(b) Every member of the board of directors shall be:
- (1) A shareholder of the [~~cooperation~~] corporation;
 - (2) A spouse of a shareholder; or
 - (3) A trust beneficiary, if the shareholder is a trustee."

COMMENT

The reference in section 490:9-628(b), HRS, to "because of its the status as secured party" should be changed to "because of its status as secured party" to correct what appears to be an inadvertent clerical error.

The reference in section 490:9-628(c), HRS, to "based on its the reasonable reliance" should be changed to "based on its reasonable reliance" to correct what appears to be an inadvertent clerical error.

SECTION 14. Section 490:9-628, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

"(b) Subject to subsection (f), a secured party shall not be liable because of its [~~the~~] status as secured party to:

- (1) A person that is a debtor or obligor, unless the secured party knows:
 - (A) That the person is a debtor or obligor;

- (B) The identity of the person; and
- (C) How to communicate with the person; or
- (2) A secured party or lienholder that has filed a financing statement against a person, unless the secured party knows:
 - (A) That the person is a debtor; and
 - (B) The identity of the person.
- (c) A secured party shall not be liable to any person, and a person's liability for a deficiency shall not be affected, because of any act or omission arising out of the secured party's reasonable belief that a transaction is not a consumer-goods transaction or a consumer transaction or that goods are not consumer goods, if the secured party's belief is based on its ~~the~~ reasonable reliance on:
 - (1) A debtor's representation concerning the purpose for which collateral was to be used, acquired, or held; or
 - (2) An obligor's representation concerning the purpose for which a secured obligation was incurred."

COMMENT

Section 7 of Act 23, Session Laws of Hawaii 2023, refers to "section 3 of this Act" in relation to amendments made to section 709-906, HRS. However, section 4 of Act 23, not section 3, amends section 709-906, HRS. Accordingly, section 7 of Act 23, Session Laws of Hawaii 2023, should be amended by changing "section 3 of this Act" to "section 4 of this Act".

SECTION 15. Act 23, Session Laws of Hawaii 2023, is amended by amending section 7 to read as follows:

"SECTION 7. This Act shall take effect upon its approval; provided that the amendments made to section 709-906, Hawaii Revised Statutes, by ~~[section 3]~~ section 4 of this Act shall not be repealed when that section is reenacted on June 30, 2026, pursuant to:

- (1) Section 15 of Act 19, Session Laws of Hawaii 2020; and
- (2) Section 4 of Act 238, Session Laws of Hawaii 2021."

TAX FOUNDATION OF HAWAII

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SUBJECT: INCOME, TRANSIENT ACCOMMODATIONS, Revisor's Bill

BILL NUMBER: SB 2958, HB 2660

INTRODUCED BY: SB by KOUCHI; HB by SAIKI

EXECUTIVE SUMMARY: Amends or repeals various provisions of the Hawai'i Revised Statutes or the Session Laws of Hawai'i for the purposes of correcting errors and references, clarifying language, or deleting obsolete or unnecessary provisions.

SYNOPSIS: Section 10 amends section 235-2.3(b)(42), HRS by replacing IRC Subchapter U section 1379F with 1397F, with respect to empowerment zones, enterprise communities, and rural development investment areas.

Section 11 amends section 237D-6.5(b), HRS by removing the definition for "fiscal year," which is limited to a July to June fiscal year.

EFFECTIVE DATE: Upon approval.

STAFF COMMENTS: This bill is submitted annually by the revisor of statutes for the purposes of correcting errors and references, clarifying language, or deleting obsolete or unnecessary provisions. See section 23G-20, HRS.

Our comments are directed at tax related provisions only.

For income tax purposes, the bill corrects a typographical error.

For transient accommodations tax purposes, the definition of "fiscal year" in HRS section 237D-6.5 may have made sense for some of the county revenue sharing earmark previously in this section. After county revenue sharing was removed by Act 1, SLH 2021 (Sp. Sess.), the definition is out of place and may create confusion with other sections such as 237D-6 relating to tax returns, which section allows for taxpayer fiscal years other than July 1 to June 30.

Digested: 2/12/2024